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Cost of Service/
Rate Design

Meisenheimer/Direct

Public Counsel

GR-2006-0387

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Missouri Public
Service Commission

DIRECT TESTIMONY

OF

BARBARA A. MEISENHEIMER

Submitted on Behalf of the Office of the Public Counsel

ATMOS ENERGY CORPORATION

CASE NO. GR-2006-0387

September 26, 2006

OPC Exhibit No. 200
Case No(s). GR-2006-0387
Date 11-30-06 Rptr PF

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Atmos Energy)	
Corporation's Tariff Revision Designed)	
to Consolidate Rates and Implement a)	Case No. GR-2006-0387
General Rate Increase for Natural Gas)	
Service in the Missouri Service Area)	
of the Company.)	

AFFIDAVIT OF BARBARA A. MEISENHEIMER

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Barbara A. Meisenheimer, of lawful age and being first duly sworn, deposes and states:


1. My name is Barbara A. Meisenheimer. I am Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my direct testimony consisting of pages 1 through 20 and Schedules 1-8.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Barbara A. Meisenheimer

Subscribed and sworn to me this 30th day of June 2006.



JERENE A. BUCKMAN
My Commission Expires
August 10, 2009
Cole County
Commission #05754036


Jerene A. Buckman
Notary Public

My Commission expires August 10, 2009.

**DIRECT TESTIMONY
OF
BARBARA A. MEISENHEIMER**

ATMOS ENERGY CORPORATION

(RATE DESIGN)

CASE NO. GR-2006-0387

Introduction and Summary

Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

A. Barbara A. Meisenheimer, Chief Utility Economist, Office of the Public Counsel (OPC or Public Counsel), P. O. Box 2230, Jefferson City, Missouri 65102. I am also employed as an adjunct Economics and Statistics Instructor for William Woods University.

Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS CASE?

A. No.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. In this testimony I will present Public Counsel's recommendations regarding rate design and class cost of service. I will also discuss the economic basis and development of the allocation factor for transmission and distribution mains that I used in the class cost of service study.

1 **Q. DID THE COMPANY PREPARE A CLASS COST OF SERVICE STUDY (CCOS) IN THIS**
2 **CASE OR DEVELOP REASONABLY COMPREHENSIVE DISTRICT SPECIFIC COST**
3 **MEASURES?**

4 A. No. The Company has requested substantial changes to both intraclass and
5 interclass rates with little, if any, cost support for its proposals. In response to a
6 number of data requests that I sent to the Company requesting district and class
7 specific cost and cost causative information, I received numerous responses
8 stating that the information was "not readily available."

9 **Q. WHAT IS THE RELATIVE IMPORTANCE OF CCOS STUDY RESULTS IN RATE DESIGN?**

10 A. A CCOS study provides the Commission with a general guide for a service based
11 on costs to determine the just and reasonable rate. Other relevant factors must
12 also be considered when setting rates, such as the value of a service, the
13 affordability of service, the rate impact, and rate continuity, to highlight a few.
14 The Commission must on a case by case basis balance the results of a cost of
15 service study with other relevant factors that go into the rate making decision
16 process. The company has failed to affirmatively address this vital factor or its
17 rate case. It failed to conduct a CCOS or show sufficient data to support its rate
18 proposals.

19 **Rate Design**

20 **Q. WHAT IS YOUR PRIMARY RECOMMENDATION WITH RESPECT TO RATE DESIGN IN**
21 **THIS CASE?**

1 A. Without district specific class cost of service information it is difficult to evaluate
2 if the changes in the relative class revenue responsibility (either within or across
3 districts) are reasonable. Atmos controls properties previously owned by at least
4 three different gas companies. The service area previously served by Greeley Gas
5 has never had a Missouri rate review. The service areas previously owned by
6 United Cities Gas have not had the rates reviewed since about 1994. The
7 properties previously owned by Associated Natural Gas have not had rates review
8 since about 1997. The Commission should reject the Company's proposal and
9 any other proposals to realign base rates among classes within a district or to
10 blend district rates without an adequate cost based showing that such changes are
11 warranted. Issues of class shifts within a district or potential district
12 consolidations should be addressed in a separate rate design case in which the
13 Company should develop and present comprehensive cost support and customer
14 impact analyses.

15 **Q. DO YOU PROPOSE ANY CHANGE IN THE RESIDENTIAL CUSTOMER CHARGE?**

16 A. No. The lack of district specific information such as the actual cost of meters by
17 customer type and district specific actual service cost by customer type provide
18 insufficient support for altering the existing customer charge rates.

1 Q. IN ABSENSE OF THIS DISTRIC SPECIFIC INFORMATION, WOULD IT BE
2 REASONABLE TO IMPLEMENT ANY CHANGES IN DISTRICT REVENUE
3 REQUIREMENTS AS AN EQUAL PERCENTAGE CHANGE TO ALL OTHER RATE
4 ELEMENTS?

5 A. Yes. Because the Company provided inadequate support for its proposed rate
6 design so an across the board adjustment by district seems reasonable as the best
7 option.

8 Class Cost of Service Studies

9 Q. IF THE COMMISSION DECIDES TO IMPLEMENT CLASS COST OF SERVICE
10 ADJUSTMENTS IN THIS CASE, DO YOU HAVE CLASS COST OF SERVICE STUDIES
11 AND A RATE DESIGN RECOMMENDATION FOR THE COMMISSION TO CONSIDER?

12 A. Yes, I have prepared CCOS studies and formulated a rate designed
13 recommendation. Although I think that a greater level of cost detail is needed
14 prior to realigning class rates, I developed class cost of service studies for the
15 districts using the information that is currently available. With respect to rate
16 design, these studies should be used as a guide and must be weighed against
17 considerations of customer rate impact and affordability.

18 Q. WHAT CONCLUSIONS ARE SUGGESTED BY PUBLIC COUNSEL'S COST OF SERVICE
19 STUDY?

20 A. Based on the results of my class cost of service studies, (BAM DIRECT Schedule
21 1 through BAM DIRECT Schedule 7), the following conclusions can be drawn,

1 the Residential class ranges from about 2.79% above cost of service in the United
2 Cities district to about 17% below cost of service in the Greeley district.

3 The Small General Service class ranges from about 4 ½ % above cost of service
4 in the Kirksville district to about 35% above cost of service in the Greeley
5 district.

6 Large customers, including the Large General Service and Large Volume classes,
7 range from about 50% below cost of service in the Palmyra district to 40% above
8 cost of service in the Greeley district.

9 Special Contract customers in the SEMO and United Cities districts appear to be
10 paying substantially below cost of service.

11 The percent above or below cost of service is shown for each class, by district on
12 Line 27 in schedules BAM DIRECT Schedule 1 through BAM DIRECT Schedule
13 7.

14 **Q. WHAT RATE DESIGN WOULD YOU PROPOSE BASED ON YOU CCOS STUDY**
15 **RESULTS?**

16 **A.** Where the existing revenue structure departs greatly from the class cost of
17 service, the Commission should impose, at a maximum, class revenue shifts equal
18 to one half of the "revenue neutral shifts" indicated by Public Counsel's class cost
19 of service study. Revenue neutral shifts are shifts that hold overall company
20 revenue at the existing level but allow for the share attributed to each class to be
21 adjusted to reflect the cost responsibility of the class. In addition to moving half
22 way to the revenue neutral shifts, I recommend that if the Commission determines

1 that an overall increase in revenue requirement is necessary, then no customer
2 class should receive a net decrease as the combined result of: (1) the revenue
3 neutral shift that is applied to that class, and (2) the share of the total revenue
4 increase that is applied to that class. Likewise, if the Commission determines that
5 an overall decrease in revenue requirement is necessary, then no customer class
6 should receive a net increase as the combined result of: (1) the revenue neutral
7 shift that is applied to that class, and (2) the share of the total revenue decrease
8 that is applied to that class.

9 **Q. IF THE COMMISSION DETERMINES IT REASONABLE IN THIS CASE, CAN YOUR**
10 **RATE DESIGN METHODOLOGY BE APPLIED TO DIFFERENT REVENUE**
11 **REQUIREMENTS?**

12 **A. Yes, it can. This method could be utilized to calculate class revenue requirements**
13 **for any practical level of overall revenue requirement.**

14 **Class Cost of Service Studies**

15 **Q. WHAT IS THE REGULATORY PURPOSE OF A CLASS COST OF SERVICE STUDY?**

16 **A. A Class COS Study is a tool used by regulators to aid in determining an**
17 **appropriate rate structure. A class cost of service study can be used as a guide in**
18 **identifying, on a cost causative basis, the cost of serving a particular group of**
19 **customers. A Class COS Study can also be used to evaluate the relative cost of**
20 **service among classes. This comparison of relative cost is the focus of Public**
21 **Counsel's study and is reflected in the study assumption that the company's**
22 **revenue requirement is equal to the level of current revenue.**

1

2 **Q. WHAT ARE THE REPRESENTATIVE CLASSES INCLUDED IN PUBLIC COUNSEL'S**
3 **CLASS COS STUDY?**

4 A. In performing a Class COS Study, customers are grouped into "classes" based on
5 type of customer and utilization patterns. Public Counsel's Class COS Study
6 identifies five distinct classes of customers: Residential, Small General Services,
7 Large General Services, Large Volume and Special Contract. These are the same
8 classes identified by Staff in its Class COS Study with the exception of the
9 Special Contract class.

10 **Q. WHAT DISTRICTS ARE USED IN YOUR STUDIES?**

11 A. I prepared a class cost of service study for the Butler, Greeley, Kirksville,
12 Neelyville, Southeast MO (SEMO), Palmyra, and United Cities Districts.

13 **Q. PLEASE DESCRIBE THE ASSIGNMENT OF COST TO THE CUSTOMER CLASSES.**

14 A. The assignment of costs to customer classes is a three-step process in which costs
15 are first functionalized, then classified, and finally allocated. Public Counsel's
16 Class COS Study primarily reflects the booked cost incurred through the test year.

17 **Q. PLEASE DESCRIBE THE FUNCTIONALIZATION OF COSTS.**

18 A. Functionalization is achieved by categorizing cost accounts by associated
19 function. Functional categories include; Production, Storage, Transmission,
20 Distribution, Customer Accounts and Administrative and General (A&G). Some

1 functional categories contain accounts that are identifiable as being directly or
2 jointly caused by particular customer classes. Other functional categories contain
3 costs associated with common facilities or common overheads.

4 **Q. PLEASE DESCRIBE THE CLASSIFICATION OF COSTS.**

5 A. Classification is achieved by further categorizing costs into customer related,
6 commodity related, demand related or "other related" costs.

7 **Q. PLEASE DESCRIBE CUSTOMER RELATED COSTS.**

8 A. Customer related costs vary directly with the number of customers served.
9 Examples of customer related costs include: expenses associated with metering,
10 reading, billing, and the costs associated with metering equipment and service
11 connections

12 **Q. PLEASE DESCRIBE COMMODITY RELATED COSTS.**

13 A. Commodity related costs vary with the quantity of gas purchased. Historically,
14 commodity related costs primarily have included purchased gas cost. Today local
15 distribution companies recover purchased gas cost through the PGA but other
16 plant accounts may still be categorized as commodity related.

17 **Q. PLEASE DESCRIBE DEMAND RELATED COSTS.**

18 A. Demand related costs vary with the capacity requirement of plant or equipment.
19 They are related to the maximum system requirements that reflect the capacity
20 necessary to serve demand during peak periods. Demand related costs include:

1 production, transmission and storage costs and expenses associated with these
2 types of plant. In addition, some distribution plant and related expenses are
3 demand related costs.

4 **Q. PLEASE DESCRIBE THE ALLOCATION PROCESS.**

5 A. Following functionalization and classification, allocation factors are applied to
6 distribute a reasonable share of jurisdictional costs to each customer class. Some
7 allocation factors are based on a simple ratio of a particular class' share of total
8 costs. Other allocation factors are based on usage, sales, or weighted share of
9 customers. Allocation factors are designed to reflect the appropriate classification
10 in allocating costs.

11 **Q. ARE PURCHASED GAS COSTS TREATED DIFFERENTLY THAN OTHER COSTS?**

12 A. Yes. The Company's base tariff rates recover only its non-gas or margin costs. A
13 purchased gas adjustment cost factor is used to recover gas costs. The cost of
14 service study will develop the non-gas or margin costs incurred by the LDC in
15 delivering gas from the city-gate to its customers.

16 **Q. ON WHAT DATA IS YOUR CLASS COS STUDY BASED?**

17 A. The Missouri Public Service Commission Staff (Staff) Accounting Schedules that
18 were filed with the Staff's non-rate design testimony were the source of most of
19 the financial data that I utilized in preparing my studies. Most of the billing
20 determinant information that I utilized was also provided by the Commission
21 Staff. This data is from the year ending Sept, 30, 2005. I have also utilized data

1 received from Atmos in response to Public Counsel's Data Requests. My use of
2 this information should not be viewed as an endorsement of either Staff's or the
3 Company's methods for calculating accounting costs, billing determinants or peak
4 demands. I have used this information because it contained the best level of detail
5 available to perform my studies.

6 **Q. IS THERE IS POSSIBILITY THAT SOME INFORMATION USED IN YOUR STUDY WILL**
7 **BE UPDATED AND REVISED AS THIS CASE PROGRESSES?**

8 A. Yes. I will update my studies to reflect any significant changes.

9 **Q. HOW ARE INTANGIBLE PLANT ACCOUNTS ALLOCATED?**

10 A. Intangible plant accounts include expenses related to organizing the enterprise,
11 obtaining franchise and consent and other miscellaneous items. These costs are
12 not attributable to a particular subset of customer classes, instead they are
13 considered to be common costs and are allocated on the basis of the portion of
14 total non-general plant cost assigned to each customer class.

15 **Q. HOW ARE GAS STORAGE COSTS ALLOCATED?**

16 A. Gas storage costs are allocated on the basis of weather normalized sales volumes.

17 **Q. HOW ARE TRANSMISSION PLANT ACCOUNTS ALLOCATED?**

18 A. Transmission plant is allocated on the basis of the modified RSUM allocation
19 factor discussed in this testimony.

1 **Q. HOW ARE DISTRIBUTION PLANT ACCOUNTS ALLOCATED?**

2 A. Land and Land Rights, Structures and Improvements, and Mains Plant (Accounts
3 374, 375, and 376) are allocated on the basis of a distribution mains allocator.

4 Measuring and Regulating Station Equipment (Accounts 378 and 379) are
5 classified as commodity related and allocated on the basis of annual margin sales.
6 Accounts 380 through 386 are customer related. The following summary
7 identifies the allocation factor for each account.

8 **Table 1.**

<u>Account</u>	<u>Description</u>	<u>Allocator</u>
380	Services	Services Allocator
381	Meters	Meter Allocator
382	Meter Installations	Meter Allocator
383	House Regulators	Regulator Allocator
384	House Regulators Installation	Regulator Allocator
385	Meas. and Reg. Station Equip. - Industrial	Commercial and Industrial Customers

9 **Q. HOW ARE GENERAL PLANT ACCOUNTS ALLOCATED?**

10 A. General plant accounts are allocated on the basis of the overall class cost of
11 service.

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1 Q. PLEASE DESCRIBE HOW OPERATION AND MAINTENANCE EXPENSES ARE
2 ALLOCATED?

3 A. For allocating most of the accounts in this category, I used the "expenses follow
4 plant principle".

5 Q. HOW ARE CUSTOMER ACCOUNTS, CUSTOMER SERVICE, AND SALES PROMOTION
6 EXPENSES ALLOCATED?

7 A. Customer service expenses are customer related and are allocated on the basis of
8 number of customer bills. Sales promotion expenses are allocated on the basis of
9 the overall class cost of service and the following summary outlines the allocation
10 of customer accounts expenses.

11 Table 2.

<u>Account</u>	<u>Description</u>	<u>Allocator</u>
901	Supervision	Meter Weighted Customers Allocator
902	Meter Reading Expenses	Meter Reading Weighted Customers
903	Customer Records and Collections	Meter Weighted Customers Allocator
904	Uncollectible Accounts	Class Cost of Service
905	Misc. Customer Accounts	Meter Weighted Customer Allocator

1 **Q. HOW ARE ADMINISTRATIVE AND GENERAL (A & G) EXPENSES ALLOCATED?**

2 A. Property insurance (Account 924) is allocated on the basis of gross non-general
3 plant. Injuries and damages and employee pensions and benefits (Accounts 925
4 and 926) are allocated on the basis of payroll. The remainder of A & G expenses
5 are allocated on the basis of the overall class cost of service.

6 **Q. HOW ARE TAXES ALLOCATED?**

7 A. Property taxes are allocated on the basis of the total plant previously allocated to
8 each class. Franchise taxes are allocated on the basis of rate base. Payroll taxes
9 are allocated as a function of payroll expense. Income taxes are allocated
10 according to the rate base attributable to each class.

11 **Mains Cost Economies of Scale Factor**

12 **Q. WHAT ARE THE CHARACTERISTICS OF MAINS COST?**

13 A. Mains are "shared" in the sense that they are facilities generally available and
14 used to provide service to multiple customers and customer classes. Therefore,
15 from an economic perspective, they should be treated as a shared cost recovered
16 from all customers and classes that benefit from the facilities availability. Local
17 distribution companies (LDCs) are generally believed to be natural monopolies.
18 For natural monopolies, operation of fewer producers tends to result in the most
19 cost effective market structure for providing service. One such cost reducing
20 characteristic typical to natural monopolies such as LDCs is called "economies of

1 scope". The term "economies of scope" refers to the ability to achieve cost
2 savings by utilizing the same equipment, facilities and/or expertise to provide
3 multiple products at lower cost than if the products were produced on a stand-
4 alone basis. In this case, the Company's investment in transmission and
5 distribution mains provides the Company with the means to deliver natural gas to
6 the locations of all customer classes in response to its customers' year-round
7 demands for natural gas or have it available as a back-up fuel sources.

8 Another such cost reducing characteristic typical to natural monopolies such as
9 LDCs is the presence of "economies of scale." The term "economies of scale"
10 describes the phenomenon where larger scale production can achieve cost
11 savings. In this case, the average cost of producing goods or services declines as
12 the output level increases. According to various flow formulas, with other factors
13 held constant, a 4" pipe has a flow capacity of about 6 times of that of a 2" pipe
14 while, the per foot cost to install the 4" pipe may be less than 2 times the cost to
15 install the 2" pipe. This means that the cost of the incremental capacity needed to
16 serve during higher demand periods (peak periods) is less expensive than the
17 average cost of capacity. Taking advantage of economies of scale benefits the
18 utility by increasing use of facilities and in turn increasing revenues. It benefits
19 those who do not use the system as much in peak periods because any revenue
20 generated above incremental cost helps offset costs that would otherwise have to
21 be recovered during normal use periods. It can also benefit the peak period user if
22 some of the cost savings are reflected as per unit rate reductions. The cost study
23 OPC has prepared and submitted includes an adjustment to allocating mains cost

1 to reflect the economies of scale inherent in providing service during peak
2 periods.

3 Since all customers benefit from the existence of the system, all customers should
4 contribute to the recovery of the cost of the system. Economic theory suggests
5 that if each customer or class of customers is responsible for at least the
6 incremental cost that this customer brings to the system, and that if no customer
7 or class of customers is responsible for more than the stand alone cost that would
8 be needed to serve this customer individually, then there is no cross-subsidy and
9 the allocation of cost can be acceptable. However, both the incremental cost and
10 the stand-alone cost of each customer class are hard to measure or determine. To
11 accurately pinpoint the cost responsibility of each specific customer class is
12 inherently impossible.

13 **Q. HOW SHOULD ECONOMIES OF SCOPE RELATED TO THE COST OF MAINS BE**
14 **REFLECTED IN THE ALLOCATION OF MAINS?**

15 **A.** When economies of scope are present, the total cost of the transmission and
16 distribution system for delivering gas to the residential, commercial and industrial
17 classes would be less than the sum of the stand-alone costs of the separate
18 distribution systems for delivering gas to each of the customer classes. Generally,
19 when allocating the shared cost of joint production, the general principle is that no
20 cross subsidization should be present. The term cross subsidization, in this
21 context, describes a situation where the revenue earned on part of the total output
22 of the industry is more than the stand-alone production cost of that part. This
23 general principle attempts to ensure that no group of customers should pay more
24 than they would have paid if they were to provide their own products and services

1 using the best available production technique. Similarly, for utilities that are
2 "one-way" in nature, the revenue requirement for any customer class should be at
3 least as large as the incremental cost to provide services to this class because
4 otherwise somebody else will be forced to pay for more than its stand-alone cost.

5 The implication of this characteristic is that a just and reasonable cost allocation
6 to a customer class ranges from the incremental cost to the stand-alone cost of
7 providing services to that class. A judgment call is required to determine which
8 point along this range is the most appropriate cost allocation. In fact, different
9 viewpoints about whether the stand alone cost, the incremental cost, or a cost that
10 is somewhere in the middle should be allocated to a product or a customer is one
11 of the main reasons why different parties have different cost of service study
12 results and different rate designs to recover the costs. However, absent other
13 policy considerations, a just and reasonable solution should ask each customer
14 class to pay for more than their respective incremental cost. The total cost will
15 not be covered if each class only pays for its incremental cost.

16 **Q. HOW SHOULD ECONOMIES OF SCALE RELATED TO THE COST OF MAINS BE**
17 **REFLECTED IN THE ALLOCATION OF MAINS?**

18 **A:** When economies of scale are present, there is not a one-to-one relationship
19 between the incremental cost burden that the system peak load imposes upon the
20 transmission and distribution system and that imposed by the average load.
21 Therefore, we should not allocate cost corresponding to demand as if there is a
22 direct one to one relationship between costs and the level of demand. Instead, we
23 need to develop an allocation of mains costs that reflects an appropriate non-linear
24 relationship. For example, if the peak demand is twice the average demand,

1 simply allocating half of the total cost of mains to customers who use natural gas
2 at the peak period and half to customers who use at the base period does not
3 reasonably apportion the per unit savings associated with production levels that
4 achieve economies of scale. A better method would be to estimate the cost that
5 are incurred to satisfy the increment of peak demand over average demand and
6 allocate that portion of cost to those customers who use natural gas in the peak
7 period. In this manner they receive an offsetting cost benefit associated with
8 driving the system to higher use where economies of scale are achieved.

9 **Q. PLEASE DISCUSS THE ORIGIN AND OF OPC'S NON-LINEAR ECONOMIES OF SCALE**
10 **FACTOR USED IN THE ALLOCATION OF MAINS?**

11 A. Barry Hall, an engineer that worked for our office during the 1990s, initially
12 developed the basis for OPC's non-linear allocator. Using Company data, and
13 mathematical and engineering relationships, he identified a nonlinear relationship
14 between capacities and cost which he attributed to economies of scale.

15 **Q. HAVE YOU UPDATED OPC'S NON-LINEAR ECONOMIES OF SCALE FACTOR FOR USE**
16 **IN THIS CASE?**

17 A. Yes, I have. For this case, I have performed a study to update OPC's economies
18 of scale factor using information provided by the Staff and Company. The result
19 of my study is an economies of scale factor of .24, which I used in OPC's cost of
20 service study. Appendix 1 contains a description of the methods used to estimate
21 this factor. Plots of the data points illustrating the declining cost per capacity unit
22 and the functional form of the cost equation related to Appendix 1 are provided in
23 BAM DIRECT Schedule 8.

Appendix 1

Q. Please describe the mathematical and engineering relationships relied upon to develop the economies of scale factor.

A. Based on page 6 of the direct testimony of Barry Hall in Case No. GR-97-393, the flow capacity (Q) of a pipe is related to the diameter (d) according to the equation;

$$(1) \quad Q = 28.05[(p_i^2 - p_o^2)d^{5.33}/sL]^{-.5}$$

where L is the pipe length, p_i and p_o are the inlet and outlet pressures respectively and s is the gravity of the gas. Assuming the inlet and outlet pressures, and the length and gravity of the gas are constants the flow capacity in (1) can be expressed as;

$$(2) \quad Q = \alpha d^{2.665}$$

where α is a constant.

Based on review of data plots of the general relationship between capacity and cost, I relied on an equation of the following form to fit a curve to express cost as a function of capacity;

$$(3) \quad C(Q_o) = \beta * Q_o^r;$$

β is a constant.

From (2) we know $Q_o = \alpha d^{2.665}$. Since α is a constant, it is the exponent r that causes differences in the relative costs at different diameters and in turn causes different capacity levels. Therefore, the exponent r embodies the "economies of

1 scale" effect that causes cost to increase at a decreasing rate. In order to
2 determine r it is acceptable to use the simplifying assumption $d^{2.665} = Q$.¹ This
3 yields the equation;

4 (4) $C(Q) = bQ^r$

5 where $Q = d^{2.665}$.

6 In order to estimate r , since equation (4) is non-linear, I applied the natural log
7 (\ln), which allows for estimation of r based on a linear regression;

8 (5) $\ln C(Q) = \ln\{bQ^r\}$ or $\ln C(Q) = \ln b + r \ln Q$.

9 This is a linear equation of the form;

10 (6) $y = a + mx$

11 where a is a constant and $m=r$.

12 I performed two regressions utilizing data on steel and PE mains. I n averaged the
13 two r values to obtain $r=.24$ which is the factor I used in my class cost of service
14 study.

¹ $C(d) = a \alpha^r * (d^{2.665})^r = b_1 * (d^{2.665})^r$. A constant b exists such that $C(d) = C(Q)$ when $Q = d^{2.665}$.

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1 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

2 **A. Yes.**

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY CORP.
BUTLER DISTRICT

Line		TOTAL	RESIDENTIAL	SMALL GS	LARGE GS
1	O & M Expenses	567,416	388,269	121,662	57,485
2	Depreciation Expense	101,368	71,911	22,346	7,111
3	Taxes	184,091	117,582	42,413	24,096
4	TOTAL EXPENSES AND TAXES	\$852,875	\$577,762	\$186,421	\$88,691
5					
6	TOTAL RATE BASE	\$3,728,560	\$2,326,841	\$889,485	\$512,234
7					
8	IMPLICIT RATE OF RETURN	8.33%	6.38%	13.93%	7.48%
9					
10	OPERATING INCOME WITH				
11	EQUALIZED RATES OF RETURN	310,566	\$193,811	\$74,089	\$42,666
12					
13	TOTAL COST OF SERVICE	1,163,441	771,574	260,510	131,357
14	LESS OTHER REVENUE	6,427	4,011	1,714	702
15	REQUIRED RATE REVENUE	\$1,157,014	\$767,563	\$258,795	\$130,656
16					
17	CURRENT NON-GAS RATE REVENUES				
18	Purchased Gas	0	0	0	0
19	Non-gas margin	1,157,014	722,109	308,618	126,287
20	TOTAL RATE REVENUE	\$1,157,014	\$722,109	\$308,618	\$126,287
21					
22	REVENUE SHIFTS TO EQUALIZE				
23	CLASS RATES OF RETURN				
24	(assuming constant revenues)	\$0	\$45,454	(\$49,823)	\$4,369
25					
26	PERCENTAGE MARGIN REVENUE CHANGE				
27	TO EQUALIZE RATES OF RETURN	0.00%	6.29%	-16.14%	3.46%
28					
29	CURRENT REVENUE PERCENTAGES	100.00%	62.41%	26.67%	10.91%
30					
31	COS INDICATED REVENUE PERCENTAGES	100.00%	66.34%	22.37%	11.29%

BAM DIRECT SCHEDULE 1

BARB MEISENHEIMER'S DIRECT
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PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY CORP.
GREELY DISTRICT

Line		TOTAL	RESIDENTIAL	SMALL GS
1	O & M Expenses	75,173	60,259	14,914
2	Depreciation Expense	26,131	20,318	5,813
3	Taxes	27,985	21,710	6,274
4	TOTAL EXPENSES AND TAXES	\$129,289	\$102,288	\$27,002
5				
6	TOTAL RATE BASE	\$667,034	\$522,724	\$144,310
7				
8	IMPLICIT RATE OF RETURN	8.93%	4.78%	23.98%
9				
10	OPERATING INCOME WITH			
11	EQUALIZED RATES OF RETURN	59,598	\$46,704	\$12,894
12				
13	TOTAL COST OF SERVICE	188,887	148,992	39,895
14	LESS OTHER REVENUE	1,352	911	441
15	REQUIRED RATE REVENUE	\$187,535	\$148,081	\$39,454
16				
17	CURRENT NON-GAS RATE REVENUES			
18	Purchased Gas	0	0	0
19	Non-gas margin	187,535	126,374	61,161
20	TOTAL RATE REVENUE	\$187,535	\$126,374	\$61,161
21				
22	REVENUE SHIFTS TO EQUALIZE			
23	CLASS RATES OF RETURN			
24	(assuming constant revenues)	\$0	\$21,707	(\$21,707)
25				
26	PERCENTAGE MARGIN REVENUE CHANGE			
27	TO EQUALIZE RATES OF RETURN	0.00%	17.18%	-35.49%
28				
29	CURRENT REVENUE PERCENTAGES	100.00%	67.39%	32.61%
30				
31	COS INDICATED REVENUE PERCENTAGES	100.00%	78.96%	21.04%

BAM DIRECT SCHEDULE 2

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY CORP.
KIRKSVILLE DISTRICT

Line		TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME
1	O & M Expenses	623,194	392,135	139,671	29,797	61,591
2	Depreciation Expense	131,828	88,136	30,320	4,607	8,766
3	Taxes	235,787	131,705	56,818	15,045	32,219
4	TOTAL EXPENSES AND TAXES	\$990,809	\$611,976	\$226,809	\$49,448	\$102,575
5						
6	TOTAL RATE BASE	\$5,079,532	\$2,661,471	\$1,274,929	\$362,656	\$780,476
7						
8	IMPLICIT RATE OF RETURN	7.67%	4.58%	8.90%	16.08%	12.32%
9						
10	OPERATING INCOME WITH					
11	EQUALIZED RATES OF RETURN	389,766	\$204,222	\$97,829	\$27,828	\$59,888
12						
13	TOTAL COST OF SERVICE	1,380,575	816,198	324,638	77,276	162,463
14	LESS OTHER REVENUE	9,497	5,048	2,341	741	1,367
15	REQUIRED RATE REVENUE	\$1,371,078	\$811,150	\$322,297	\$76,535	\$161,096
16						
17	CURRENT NON-GAS RATE REVENUES					
18	Purchased Gas	0	0	0	0	0
19	Non-gas margin	1,371,078	728,728	337,966	107,026	197,359
20	TOTAL RATE REVENUE	\$1,371,078	\$728,728	\$337,966	\$107,026	\$197,359
21						
22	REVENUE SHIFTS TO EQUALIZE					
23	CLASS RATES OF RETURN					
24	(assuming constant revenues)	\$0	\$82,422	(\$15,669)	(\$30,491)	(\$36,262)
25						
26	PERCENTAGE MARGIN REVENUE CHANGE					
27	TO EQUALIZE RATES OF RETURN	0.00%	11.31%	-4.64%	-28.49%	-18.37%
28						
29	CURRENT REVENUE PERCENTAGES	100.00%	53.15%	24.65%	7.81%	14.39%
30						
31	COS INDICATED REVENUE PERCENTAGES	100.00%	59.16%	23.51%	5.58%	11.75%

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY CORP.
NEELYVILLE DISTRICT

Line		TOTAL	RESIDENTIAL	SMALL GS
1	O & M Expenses	77,873	56,854	21,019
2	Depreciation Expense	36,685	26,509	10,176
3	Taxes	2,857	1,938	919
4	TOTAL EXPENSES AND TAXES	\$117,414	\$85,301	\$32,113
5				
6	TOTAL RATE BASE	\$619,221	\$426,325	\$192,896
7				
8	IMPLICIT RATE OF RETURN	1.75%	0.76%	3.94%
9				
10	OPERATING INCOME WITH			
11	EQUALIZED RATES OF RETURN	10,824	\$7,452	\$3,372
12				
13	TOTAL COST OF SERVICE	128,238	92,753	35,485
14	LESS OTHER REVENUE	0	0	0
15	REQUIRED RATE REVENUE	\$128,238	\$92,753	\$35,485
16				
17	CURRENT NON-GAS RATE REVENUES			
18	Purchased Gas	0	0	0
19	Non-gas margin	128,238	88,528	39,710
20	TOTAL RATE REVENUE	\$128,238	\$88,528	\$39,710
21				
22	REVENUE SHIFTS TO EQUALIZE			
23	CLASS RATES OF RETURN			
24	(assuming constant revenues)	\$0	\$4,225	(\$4,225)
25				
26	PERCENTAGE MARGIN REVENUE CHANGE			
27	TO EQUALIZE RATES OF RETURN	0.00%	4.77%	-10.64%
28				
29	CURRENT REVENUE PERCENTAGES	100.00%	69.03%	30.97%
30				
31	COS INDICATED REVENUE PERCENTAGES	100.00%	72.33%	27.67%

BAM DIRECT SCHEDULE 4

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY CORP.
PALMYRA DISTRICT

Line		TOTAL	RESIDENTIAL	SMALL GS	LARGE VOLUME
1	O & M Expenses	222,414	152,597	47,151	22,666
2	Depreciation Expense	92,899	61,294	20,735	10,871
3	Taxes	(10,873)	(9,549)	(1,670)	346
4	TOTAL EXPENSES AND TAXES	\$304,440	\$204,342	\$66,216	\$33,883
5					
6	TOTAL RATE BASE	\$1,438,435	\$1,045,427	\$290,769	\$102,240
7					
8	IMPLICIT RATE OF RETURN	5.22%	4.40%	12.08%	-5.88%
9					
10	OPERATING INCOME WITH				
11	EQUALIZED RATES OF RETURN	75,142	\$54,611	\$15,189	\$5,341
12					
13	TOTAL COST OF SERVICE	379,582	258,954	81,405	39,224
14	LESS OTHER REVENUE	63,877	42,135	17,053	4,690
15	REQUIRED RATE REVENUE	\$315,705	\$216,819	\$64,352	\$34,534
16					
17	CURRENT NON-GAS RATE REVENUES				
18	Purchased Gas	0	0	0	0
19	Non-gas margin	315,705	208,246	84,282	23,178
20	TOTAL RATE REVENUE	\$315,705	\$208,246	\$84,282	\$23,178
21					
22	REVENUE SHIFTS TO EQUALIZE				
23	CLASS RATES OF RETURN				
24	(assuming constant revenues)	\$0	\$8,573	(\$19,929)	\$11,356
25					
26	PERCENTAGE MARGIN REVENUE CHANGE				
27	TO EQUALIZE RATES OF RETURN	0.00%	4.12%	-23.65%	49.00%
28					
29	CURRENT REVENUE PERCENTAGES	100.00%	65.96%	26.70%	7.34%
30					
31	COS INDICATED REVENUE PERCENTAGES	100.00%	68.68%	20.38%	10.94%

BAM DIRECT SCHEDULE 5

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY CORP.
SEMO DISTRICT

Line		TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME	SPECIAL CONTRACT
1	O & M Expenses	3,893,051	2,525,492	655,655	65,970	303,272	342,662
2	Depreciation Expense	1,882,151	1,154,690	335,972	35,509	166,850	189,130
3	Taxes	1,674,433	979,833	291,613	34,238	172,123	196,625
4	TOTAL EXPENSES AND TAXES	\$7,449,635	\$4,660,015	\$1,283,239	\$135,717	\$642,246	\$728,417
5							
6	TOTAL RATE BASE	\$25,759,184	\$14,393,849	\$4,620,841	\$572,347	\$2,880,842	#####
7							
8	IMPLICIT RATE OF RETURN	6.49%	3.59%	14.87%	19.86%	13.26%	-0.86%
9							
10	OPERATING INCOME WITH						
11	EQUALIZED RATES OF RETURN	1,670,618	\$933,517	\$299,686	\$37,120	\$186,838	\$213,458
12							
13	TOTAL COST OF SERVICE	9,120,253	5,593,532	1,582,925	172,837	829,083	941,876
14	LESS OTHER REVENUE	63,877	36,253	13,800	1,747	7,174	4,903
15	REQUIRED RATE REVENUE	\$9,056,376	\$5,557,279	\$1,569,126	\$171,090	\$821,909	\$936,973
16							
17	CURRENT NON-GAS RATE REVENUES						
18	Purchased Gas	0	0	0	0	0	0
19	Non-gas margin	9,056,376	5,139,948	1,956,489	247,643	1,017,176	695,120
20	TOTAL RATE REVENUE	\$9,056,376	\$5,139,948	\$1,956,489	\$247,643	\$1,017,176	\$695,120
21							
22	REVENUE SHIFTS TO EQUALIZE						
23	CLASS RATES OF RETURN						
24	(assuming constant revenues)	\$0	\$417,331	(\$387,363)	(\$76,553)	(\$195,267)	\$241,853
25							
26	PERCENTAGE MARGIN REVENUE CHANGE						
27	TO EQUALIZE RATES OF RETURN	0.00%	8.12%	-19.80%	-30.91%	-19.20%	34.79%
28							
29	CURRENT REVENUE PERCENTAGES	100.00%	56.76%	21.60%	2.73%	11.23%	7.68%
30							
31	COS INDICATED REVENUE PERCENTAGES	100.00%	61.36%	17.33%	1.89%	9.08%	10.35%

BAM DIRECT SCHEDULE 6

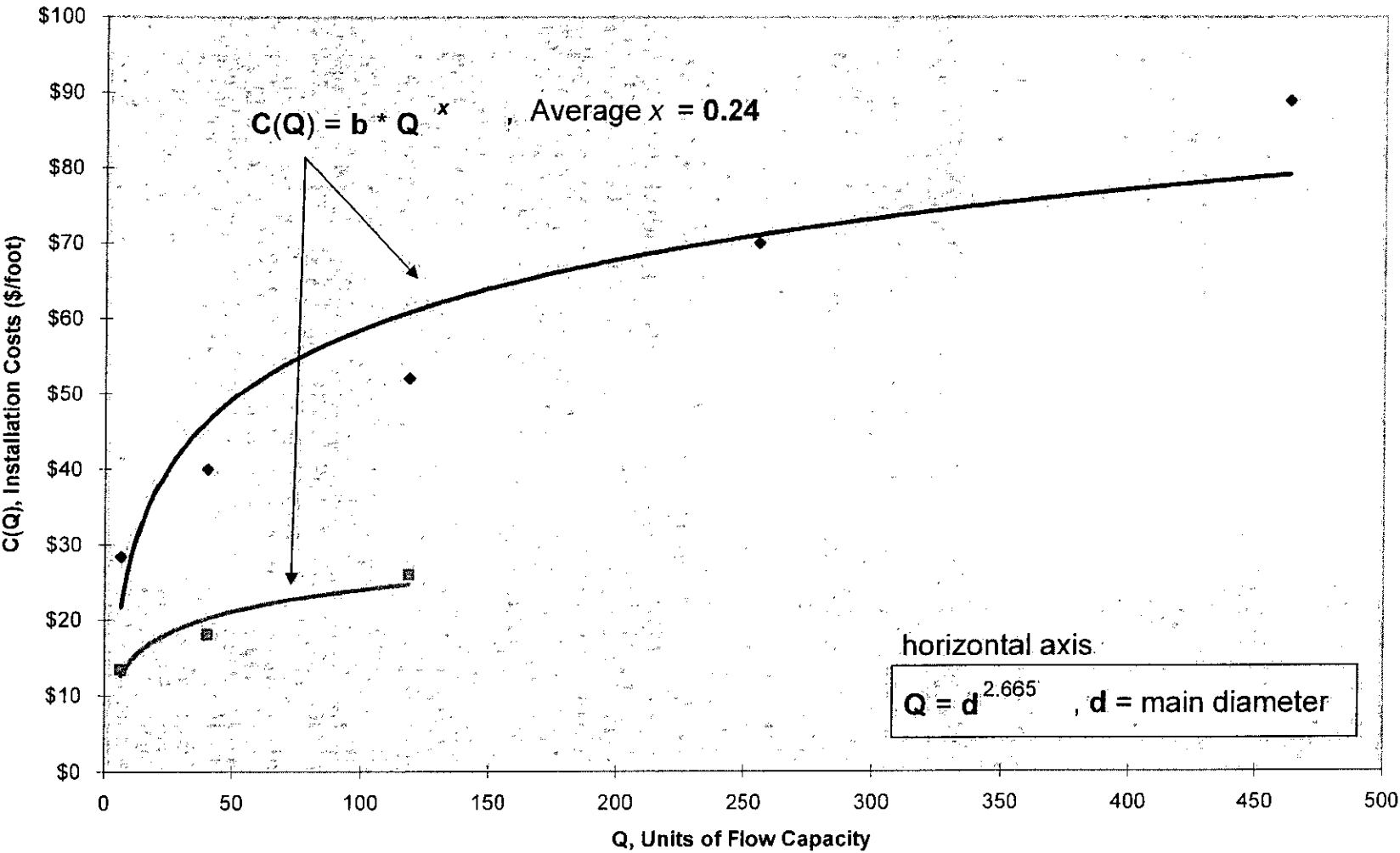
BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY CORP.
UNITED CITIES DISTRICT

Line		TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME	SPECIAL CONTRACT
1	O & M Expenses	1,917,175	1,278,397	390,878	68,112	46,797	132,992
2	Depreciation Expense	1,606,712	1,032,384	342,185	63,101	43,798	125,244
3	Taxes	757,504	476,658	163,455	31,547	22,150	63,694
4	TOTAL EXPENSES AND TAXES	\$4,281,391	\$2,787,439	\$896,518	\$162,760	\$112,745	\$321,929
5							
6	TOTAL RATE BASE	\$17,143,785	\$10,647,372	\$3,757,837	\$737,009	\$516,617	\$1,484,949
7							
8	IMPLICIT RATE OF RETURN	4.89%	5.77%	11.39%	-3.13%	-8.85%	-9.11%
9							
10	OPERATING INCOME WITH						
11	EQUALIZED RATES OF RETURN	838,436	\$520,722	\$183,781	\$36,044	\$25,266	\$72,623
12							
13	TOTAL COST OF SERVICE	5,119,827	3,308,161	1,080,299	198,804	138,011	394,552
14	LESS OTHER REVENUE	62,464	41,504	16,161	1,705	818	2,276
15	REQUIRED RATE REVENUE	\$5,057,363	\$3,266,657	\$1,064,138	\$197,099	\$137,193	\$392,276
16							
17	CURRENT NON-GAS RATE REVENUES						
18	Purchased Gas	0	0	0	0	0	0
19	Non-gas margin	5,057,363	3,360,356	1,308,482	138,022	66,203	184,300
20	TOTAL RATE REVENUE	\$5,057,363	\$3,360,356	\$1,308,482	\$138,022	\$66,203	\$184,300
21							
22	REVENUE SHIFTS TO EQUALIZE						
23	CLASS RATES OF RETURN						
24	(assuming constant revenues)	\$0	(\$93,699)	(\$244,344)	\$59,077	\$70,990	\$207,976
25							
26	PERCENTAGE MARGIN REVENUE CHANGE						
27	TO EQUALIZE RATES OF RETURN	0.00%	-2.79%	-18.67%	42.80%	107.23%	112.85%
28							
29	CURRENT REVENUE PERCENTAGES	100.00%	66.44%	25.87%	2.73%	1.31%	3.64%
30							
31	COS INDICATED REVENUE PERCENTAGES	100.00%	64.59%	21.04%	3.90%	2.71%	7.76%

BAM DIRECT SCHEDULE 7

Cost of Mains vs. Units of Flow Capacity



EXHIBIT

#201

Exhibit No.:

Issue(s):

Rate Design/Misc. Charges/

Rate Design Proposal-Risk Reduction

Witness/Type of Exhibit: Meisenheimer/Rebuttal

Sponsoring Party: Public Counsel

Case No.: GR-2006-0387

FILED³

DEC 20 2006

Missouri Public
Service Commission

REBUTTAL TESTIMONY

OF

BARBARA A. MEISENHEIMER

Submitted on Behalf of the Office of the Public Counsel

ATMOS ENERGY CORPORATION

CASE NO. GR-2006-0387

October 31, 2006

OPC Exhibit No. 201
Case No(s) GR-2006-0387
Date 11-30-06 Rptr PF

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Atmos Energy)
Corporation's Tariff Revision Designed)
to Consolidate Rates and Implement a)
General Rate Increase for Natural Gas)
Service in the Missouri Service Area)
of the Company.)

Case No. GR-2006-0387

AFFIDAVIT OF BARBARA A. MEISENHEIMER

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Barbara A. Meisenheimer, of lawful age and being first duly sworn, deposes and states:


1. My name is Barbara A. Meisenheimer. I am Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony consisting of pages 1 through 40 and Schedules BAM 1-11.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Barbara A. Meisenheimer

Subscribed and sworn to me this 31st day of October 2006.



JERENE A. BUCKMAN
My Commission Expires
August 10, 2009
Cole County
Commission #05754036


Jerene A. Buckman
Notary Public

My Commission expires August 10, 2009.

REBUTTAL TESTIMONY
OF
BARBARA MEISENHEIMER
CASE NO. GR-2006-0387
ATMOS ENERGY CORPORATION

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. Barbara A. Meisenheimer, Chief Utility Economist, Office of the Public Counsel, P.O. 2230,
3 Jefferson City, Missouri 65102.

4 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.**

5 A. I hold a Bachelor of Science degree in Mathematics from the University of Missouri-
6 Columbia (UMC) and have completed the comprehensive exams for a Ph.D. in Economics
7 from the same institution. My two fields of study are Quantitative Economics and Industrial
8 Organization. My outside field of study is Statistics. I have taught Economics courses for
9 the following institutions: University of Missouri-Columbia, William Woods University, and
10 Lincoln University. I have taught courses at both the undergraduate and graduate level.

11 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

12 A. My rebuttal testimony addresses the following issues;

- 13 1. The Staff proposes drastic rate design changes and rate area consolidation
14 in this case that will substantially increase the rates for many residential and
15 small business customers despite proposing an overall decrease in total
16 revenue requirement. The rate design proposal would collect all non-gas
17 revenue in a flat fixed "delivery charge" eliminating the current rate structure
18 that recovers a portion of non-gas costs in a fixed customer charge and the
19 remainder of costs in volumetric rates. For good reasons, a delivery charge
20 rate structure was rejected by Staff's Senior Economist Dr. Michael Proctor

1 just a few years ago. Dr. Proctor argued that such a rate structure would be
2 detrimental to low use customers. He was absolutely correct. Based on an
3 evaluation of actual customer specific sample data, I have found that a low
4 use residential customer may pay almost three times as much in non-gas
5 revenue under the Staff proposal while a high use customer may pay only
6 about 60% of what they do under the current structure. Additionally, the
7 Staff's proposed demand charges are directly linked to the Staff's proposed
8 revenue requirement in this case. If the Commission were to approve the
9 Company's proposed revenue increase, the Staff's residential delivery charge
10 would need to be 5% to 20% higher depending on the district.

11 2. The Staff proposes to deny necessary winter heating to seasonal residential
12 and small business customers unless those customers pay the Company the
13 same non-gas revenue as customers receiving year-round service. For most
14 of its service territory the Company already has a provision to recover lost
15 customer charges from seasonal customers. The Staff's proposal would
16 eliminate a customer's ability to avoid current non-gas volumetric based
17 charges by forgoing service in the summer.

18 3. The Staff seeks to divide the small general service class at 2,000 Ccf per
19 year and impose its inescapable delivery charge on the low use businesses
20 while allowing high use businesses to maintain a traditional rate structure.
21 Staff proposes that SGS customers using 2,000 Ccf or less will pay the same
22 delivery charge as residential customers. Those customers using more than
23 2,000 Ccf will retain the current rate structure of a fixed customer charge and
24 volumetric rates. The Staff's proposed split of the small general service class
25 at 2,000 Ccf will result in substantial discontinuity of recovery within the
26 class. Based on an evaluation of small general service class data, I have
27 found that depending on the Commission approved revenue requirement the
28 Staff's proposal will result in customers using 2,001 Ccf paying roughly two
29 to three times as much in non-gas rates as a customer using 2,000 Ccf.

30 4. The Company proposes a weather mitigation rate design that would
31 correct for any past revenue lost from customer conservation or warmer than
32 normal weather on a going forward basis by way of a variable adder to the
33 non-gas volumetric rate. To the customer attempting to lower his/her bill
34 through conservation measures, the Company's proposal would be more
35 aptly labeled a conservation mitigation rate design.

36 5. Both the Company and Staff rate design proposals insulate the Company
37 from virtually all weather risk while proposing no meaningful protection for

1 customers from upward volatility of gas commodity prices that constitute the
2 lion's share of a customer's bill. Further, these "weather proof" rate design
3 proposals are not accompanied by symmetric proposals to lower the
4 Company's rate of return to reflect the elimination of risk.

5 6. The Company failed to perform any district specific cost studies in order
6 to evaluate the cost differences between the existing structures and proposed
7 structures. In fact, the Company was unable to produce copies of the cost
8 studies performed in the most recent rate cases for any of its districts and
9 claims that district specific cost studies are not important in setting rates.

10 7. The Company proposes to reduce its administrative burden by
11 consolidating districts and realigning non-gas base rates with little or no cost
12 justification and without due consideration for the rate impacts on customers.
13 The Staff proposes similar consolidation.

14 8. The Company proposes to reduce its administrative burden by
15 consolidating PGA rates outside of the normal PGA process with little or no
16 cost justification and without due consideration for the rate impacts on
17 customers. The Staff proposes similar consolidation.

18 9. The Company seeks to remove the cap on Uncollectibles by shifting
19 recovery to the PGA and risk to consumers.

20 10. The Company proposes to reduce its administrative burden by creating
21 statewide miscellaneous charges that in many cases vary substantially from
22 the existing district rates for those services. The Staff proposes similar
23 consolidation of miscellaneous charges but lower rates.

24 11. The Company proposes to implement an economic development rider
25 that would force residential and small business customers to subsidize
26 industry discounts once such discounts are incorporated into rates.

27 12. The Company proposes to implement a Research and Development
28 surcharge that would force residential and small business customers to
29 subsidize research that should be treated as a Company investment.

30 13. The Company proposes to eliminate the minimum line extension
31 currently recovered in rates, opting instead to potentially charge every new
32 residential and small business customer an up front fee for main extensions.

33 The Staff generally supports the proposal with modifications.

1 14. The Company proposes to replace the current penalty structure with a
2 fee and payment schedule for imbalances caused by a transport customer
3 taking more or less gas from the system than the transport customer
4 contracted for from its upstream suppliers. The Staff generally supports the
5 proposal.

6 15. The Company proposes to allow third parties to create pools that would
7 allow pool members to offset imbalances, thereby avoiding fees for
8 imbalances. The Staff supports this proposal.

9 16. The Company proposes to revise the current calculation of line loss
10 recovered as a component of transport rates. The result will place a larger
11 burden for line loss recovery on residential and small business customers.

12 17. The Company seeks to recover discounts granted to special contract
13 customers from residential and small business customers even though
14 residential and small business customers had no input into negotiating the
15 discounts.

16 My testimony will also explain why these changes are neither necessary nor desirable. The
17 Staff's review of earnings indicates that the Company is successfully recovering its cost.
18 Even if the Commission determines that a moderate increase is appropriate, this Company
19 has managed to maintain and expand its operations in Missouri based on the current rate
20 structures for years without a rate case. There is no compelling evidence that the traditional
21 rate structure and earnings review process can not sustain the Company's future operations.
22 My testimony will demonstrate that the Staff and Company rate design proposals will
23 impose unnecessary and detrimental impacts on residential and small business customers.
24 Such changes should not be forced on consumers absent full consideration of those impacts
25 and any underlying cost justification.

1 Public Counsel is not opposed to considering district consolidation or alternative rate designs
2 that balance the interests of customers with those of the Company. However, the Company
3 has failed to generate sufficient data upon which to base significant deviations from the
4 current rate structures previously deemed just and reasonable by the Commission. In my
5 direct testimony I proposed establishing a separate investigation into rate design issues and
6 implementing any district increase or decrease approved in this case as an equal percentage
7 change on all existing rate elements except the customer charge. I continue to believe this to
8 be a fairer and more reasonable outcome than those proposed by either the Company or the
9 Staff.

10 **Q. HAVE YOU REVISED THE CLASS COST OF SERVICE STUDIES FILED IN YOUR DIRECT**
11 **TESTIMONY?**

12 **A.** Yes. I have incorporated revised special contract revenues provided to me by the Staff. I
13 have also corrected computation errors in my spreadsheets that affect the allocation of
14 manufactured gas production related O&M expenses for the United Cities Gas-
15 /Hannibal/Canton/Bowling Green area and the Depreciation and Amortization expense
16 allocations for the Southeast Missouri (SEMO) district and the United Cities Gas-
17 /Hannibal/Canton/Bowling Green areas. The only change that had a significant impact on
18 my study results was updating the special contract revenues.

19 **Q. PLEASE SUMMARIZE THE STAFF'S BASE RATE DESIGN PROPOSALS.**

1 A. Staff witness Anne Ross proposes that Atmos's residential customers pay a fixed delivery
2 charge designed to recover all district specific non-gas costs. (Ross Direct, Page 9, Line 13-
3 14) Staff proposes district specific delivery charges for each of the Staff's consolidated
4 districts based on the Staff's proposed revenue requirement. The delivery charge for each
5 district would be calculated by dividing the annual residential class rate revenues by the
6 number of bills. The effect would be that the Company would collect from each residential
7 customer exactly the same non-gas revenue regardless of consumption. The delivery charge
8 for the Northeast service territory consisting of the Kirksville, Palmyra, Hannibal, Canton
9 and Bowling Green areas would be \$21.79. The delivery charge for the Midwest territory
10 consisting of the Butler and Greeley service areas would be \$19.43. The delivery charge for
11 the Southeast territory consisting of the SEMO service area and Neelyville would be \$14.77.

12
13 Staff proposes to split the small business class into a small and a medium general
14 service class. Small general service customers using 2,000 Ccf or less annually will pay the
15 same delivery charge as outlined above for residential customers. Those business customers
16 using more than 2,000 Ccf but less than 75,000 Ccf annually will be classified as medium
17 general service and retain the current rate structure of a fixed customer charge and
18 volumetric rates. Sales customers using more than 75,000 Ccf annually will be classified as
19 large general service and retain the current rate structure of a fixed customer charge and
20 volumetric rates.

1 In addition to the delivery charge, Staff witness Michael Ensrud presents Staff's
2 proposal for recouping all non-gas revenues associated with seasonal disconnects. Under
3 this proposal a reconnecting residential or small business customer would be required to pay
4 all delivery charges for the months the customer was disconnected. This would result in
5 seasonal customers paying the Company the same non-gas revenue as customers receiving
6 year-round service.

7 **Q. WHAT DISTRICT CONSOLIDATIONS ARE PROPOSED IN THIS CASE?**

8 A. Currently the Atmos service area is comprised of 6 districts for purposes of setting non-gas
9 rates. These include Butler, Greeley, Kirksville, Southeast Missouri (SEMO) and the old
10 Unites Cities Gas (UCG) properties including UCG-Palmyra, UCG-Hannibal/Canton/
11 Bowling Green/Neelyville. The Company and Staff propose to consolidate its districts for
12 purposes of setting non-gas rates into 3 districts, a Northeast, Southeast and Western district.
13 The Northeast service territory would include the areas of Kirksville, Palmyra, and UCG
14 Hannibal/Canton/Bowling Green. The Western territory would include the Butler and
15 Greeley service areas. The Southeast territory would include the SEMO and Neelyville
16 service areas.

17 **Q. DO YOU HAVE CONCERNS WITH CONSOLIDATING DISTRICTS FOR PURPOSES OF SETTING**
18 **NON-GAS RATES?**

19 A. Yes. As I explained in my direct testimony, the Company failed to perform district specific
20 class cost of service studies and failed to provide sufficient information to evaluate the

1 reasonableness of changing the relative class revenue responsibility either within or across
2 districts. In response to my data request the Company claimed that district specific cost
3 studies were not needed as a basis for setting rates since it was not proposing major changes
4 in class recovery.

5 The Staff performed district specific cost studies for its three proposed consolidated
6 geographic areas but was forced to rely on statewide information in developing district cost
7 allocators. In some cases the Staff appears less than confident in the results. Daniel Beck,
8 the Staff's Supervisor of the Engineering Analysis Section, Energy Department, Utility
9 Operations Division, explains that deficiencies in the Company provided class service and
10 meter allocations should be recognized as a factor in the accuracy of the class cost of service
11 studies. At pages 4, beginning at Line 11, of Mr. Beck's direct rate design testimony he
12 describes his recommendation related to deficiencies with the service allocators:

13 **Q. BASED ON THAT REVIEW, WHAT DO YOU RECOMMEND REGARDING**
14 **SERVICE LINE ALLOCATORS?**

15
16 **A. I recommend that the Company's allocators for service lines be used**
17 **but the relative accuracy of the Class Cost-of-Service be recognized since**
18 **service lines accounts for approximately 25% of the cost-of-service. I**
19 **also recommend that Atmos perform a typical service cost study that is**
20 **based on a reasonable sample size of customers from each customer**
21 **class. Since the Staff is proposing an additional class of customers and some**
22 **consolidation of the current rates, any study for its next rate case should**
23 **include all classes that result from the current case. (Emphasis Added)**

1 At pages 4, beginning at Line 20, of Mr. Beck's direct rate design testimony he discusses
2 concerns with the regulator and meter allocators developed by the Company:

3 **Q. HOW WERE THE COSTS ASSOCIATED WITH METERS AND**
4 **REGULATORS ALLOCATED?**
5

6 A. Meters and regulators were allocated by using the allocators
7 developed by the Company in this case. The Company's analysis was
8 reviewed and compared to Staff's allocators in previous cases. Based on that
9 review, I determined that the Company's allocators for meters and regulators
10 produced reasonable allocations to the residential and Small General Service
11 classes. **However, as with services, meters and regulators can vary**
12 **greatly for large customers. Therefore, I recommend that the**
13 **Company's allocators for meters and regulators be used but the relative**
14 **accuracy of the Class Cost-of-Service be recognized since services**
15 **accounts for approximately 15% of the cost-of-service. I also**
16 **recommend that Atmos perform a typical service cost study that is based**
17 **on a reasonable sample size of customers from each customer class.**
18 **(Emphasis Added)**

19 While he states that the residential and small general service class allocators produce what
20 appear to be reasonable results, allocators assign total cost to each class based on proportions
21 and incorrectly estimating the large customer proportional cost could allocate too much or to
22 little to other classes such as residential and small general services.

23 Mr. Beck also explained that the Staff did not use its typical method for developing
24 class peaks. It is my understanding from his testimony that the Staff spread the large
25 customer use over more days per month thereby creating an estimate that is conservative in
26 terms of favoring large customers over other classes. At pages 5, beginning at Line 9, of his
27 direct rate design testimony he describes the development of class peak demand allocators:

1 **Q. HOW WERE PEAK DEMANDS CALCULATED?**
2

3 A. To develop various allocators for use in Staff's Class Cost-of-Service
4 Study, monthly peak demands were required. For the Residential (RES) and
5 Small General Service (SGS) Classes, Staff developed monthly peak Heating
6 Degrees (HDD) by averaging the coldest day of the month for each of the 30
7 years in the historical data base. These monthly peak HDDs were then
8 combined with the per customer usage coefficients that were determined by
9 the Staff's weather normalization process to determine peak customer usage
10 for the RES and SGS classes.

11 For the larger customers, I used the monthly sales developed by Staff
12 witness Anne Ross as the basis for calculating monthly peak demands.
13 **Typically, the Staff develops a peak day monthly demand by taking into**
14 **account the fact that there are approximately 20 working days in a**
15 **month. However, in this case, the Staff used the conservative**
16 **assumption that the large customers' peak day usage is simply their**
17 **monthly usage divided by the number of days in a month. (Emphasis**
18 **Added)**

19 The allocations of services, regulators, meters and mains based on peak demand constitute a
20 large portion of costs. Although Mr. Beck recommends consideration of the accuracy of the
21 Staff cost studies, the Staff rate design appears not to account for these potential
22 inaccuracies.

23 **Q. WHAT ARE YOUR PRIMARY CONCERNS WITH THE STAFF'S RESIDENTIAL RATE PROPOSAL?**

24 A. I have a number of concerns with the Staff's residential rate proposal.

25 **Q. PLEASE DISCUSS YOUR FIRST CONCERN.**

26 A. The Staff proposed delivery charge will substantially increase the non-gas rates paid by
27 many residential customers despite the Staff's position that the Company is over earning.

1 The Staff Accounting Schedules sponsored by Staff witness Steve Rackers indicates that
2 based on the Staff's range for rate of return of 7.13% - 7.47%, the Company is over earning
3 between approximately \$1.18 million and \$1.48 million. In light of the Staff's position on
4 the Company's earnings, I see no compelling reason to be overly concerned with its ability
5 to earn an adequate return.

6 **Q. HAVE YOU PERFORMED AN ANALYSIS TO EVALUATE THE IMPACT OF THE STAFF'S RATE**
7 **DESIGN PROPOSAL ON RESIDENTIAL CUSTOMERS?**

8 **A.** Yes. In Staff Data Request No. 158.1 Staff witness Ross obtained a sample of district
9 specific actual residential customer use data. The data includes monthly volumes for
10 customers categorized by ranges of annual use. The ranges for each district include annual
11 use of up to 200 Ccf, 201-500 Ccf, 501-750 Ccf, 751-1,000 Ccf and over 1,000 Ccf. Based
12 on a two year period drawn from this data set, I evaluated the customers' expenditures on
13 non-gas costs under the current rate structure compared to expenditures on non-gas costs
14 they would pay under the Staff's delivery charge proposal. The complete results are
15 illustrated in Schedule BAM REB 8. I found that the lowest use customers were all harmed
16 and would pay between 52% to 173% more under the Staff's proposed delivery charge
17 mechanism depending on the district they reside in. This result reflects results from the
18 SEMO, Butler, Greeley, Kirksville, UCG-Palmyra and UCG Hannibal/Canton/Bowling
19 Green districts. The impact on the highest use customers is mixed. In SEMO, Butler and the
20 UCG Hannibal/Canton/Bowling Green district, the high use customers included in the study

1 would pay between 17% and 59% less while in Palmyra and Kirksville the highest use
2 customers would pay between 43% and 62% more. The mixed results for high use
3 customers in Palmyra and Kirksville are not attributable to the structure of the delivery
4 charge but arise from the Staff's proposed district consolidation. Kirksville and Palmyra
5 currently have the lowest residential volumetric rates while the UCG
6 Hannibal/Canton/Bowling Green area has the second highest of all the Company's districts.
7 By consolidating Palmyra and Kirksville with the UCG Hannibal/Canton/Bowling Green
8 properties, Palmyra and Kirksville ratepayers will be required to cover proportionally higher
9 costs. The study results for customers falling between the highest use and lowest use
10 categories are as I would expect. Lower levels of use correlate with higher payments under
11 the Staff's delivery charge proposal.

12 **Q. HAS THE STAFF PREVIOUSLY REJECTED PROPOSALS TO RECOVER ALL NON-GAS COSTS**
13 **THROUGH A FIXED CHARGE DUE TO CONCERNS REGARDING THE POTENTIAL DETRIMENT**
14 **TO LOW USE CUSTOMERS?**

15 A. The detrimental impact on low use customers was foreseen by Staff witness Dr. Michael
16 Proctor in his Surrebuttal in Laclede Gas Case No. GR-2002-356. In testimony responding
17 to Laclede's proposed weather mitigation rate design proposal, Dr. Proctor explained:
18 "While the Staff favors using rate design as a weather mitigation measure, because of the
19 detrimental impact on small users, the **Staff was not willing to recommend recovering all**
20 **of the non-gas costs in either the customer charge, first block rate or a combination of**

1 these rate components....” Although the Staff has spruced its proposal up with a new name;
2 “delivery charge”, the effect is the same, it is a mechanism designed to collect all non-gas
3 costs through a customer charge. This rate structure was previously rejected by Staff due to
4 a perception that the structure might have a detrimental impact on low use customers. Ms.
5 Ross had access to the same data I did from which I concluded the delivery charge would be
6 detrimental to low use customers. I assume she reviewed the information since she
7 requested it from the Company. Despite access to this information, the Staff fails to explain
8 its complete turn-about in policy and why the detrimental impact to small users identified by
9 Dr. Proctor is no longer a concern to Staff. The delivery charge proposal should be rejected.

10
11 **Q. WHAT IS YOUR NEXT CONCERN WITH THE STAFF’S DELIVERY CHARGE PROPOSAL?**

12 **A. The proposal would collect all non-gas revenue in a flat fixed “delivery charge” eliminating**
13 the current non-gas rate structure under which customers who use more pay more. At page
14 15, line 10, Staff witness Ross acknowledges that customers may feel that such a structure is
15 unfair but then dismisses potential customer concerns with the rate structure by arguing that
16 customers are used to rate structures like the delivery charge for other services they buy such
17 as cable television, phone service and trash service.

18 **Q. PLEASE RESPOND TO WITNESS ROSS’S CLAIM THAT CUSTOMERS ARE USED TO A DELIVERY**
19 **CHARGE LIKE PAYMENT STRUCTURE FOR CABLE TV, PHONE SERVICE AND TRASH SERVICE.**

1 A. This is both an over simplistic notion and inaccurate. Cable television and phone service are
2 more like the traditional rate structure for gas services than they are like the all you can eat
3 buffet of the proposed delivery charge. Cable television and phone service include both fixed
4 and a variable rate components. Even trash pick-up in certain cases costs more for greater
5 use. Cable television and satellite television rates are set so that as I demand either more
6 services "over the pipe" or "a larger pipe" I pay more. I can only subscribe to basic satellite
7 or basic cable for a fixed minimum charge. In order to receive a greater variety of channels,
8 pay-per-view movies or high speed internet I pay additional incremental charges...The more
9 services and capacity I demand, the more I pay. One might argue that in these cases, I am
10 demanding more services akin to the gas commodity but again, this type of argument over
11 simplifies the payment structure. Cable and Satellite companies are both retail service
12 providers and access providers. In addition to charging you a monthly fee for a minimum
13 bundle of broadcasting, they also receive compensation from other service companies that
14 offer you additional programming for an incremental charge. A portion of a customer
15 payment of these incremental charges for additional programming flows back to the
16 underlying access provider. This is also true with respect to phone service. For example, my
17 telephone provider offers basic service that costs about \$20 per month including fees and
18 taxes. The same phone line is used to provide DSL, vertical and custom calling features and
19 long distance service. Using my local company's long-distance or subscribing to custom
20 calling features increases my monthly charges. If I use a different provider for long distance
21 service a portion of the payment made directly to that provider flows back to my local phone

1 company in the form of access rates that are generally charged as per minute rates to
2 alternative providers using my local company's service lines. In the case of DSL it is even
3 clearer that the more I use, the more I pay. Demand for higher speed access in the phone
4 world is akin to demanding more capacity in the gas world. My local telephone company
5 provides DSL over existing phone lines. To subscribe to access at 256 kbps costs \$24.95,
6 access at 1.5 Mbps costs \$39.95 per month and access at 3.0 Mbps costs \$49.95. The faster
7 access I demand the more I pay. Even the rate for trash service may not be as simple as Ms.
8 Ross believes. I live in a city where a minimum trash service is provided as a utility service
9 through the City. However, this minimum service includes only once a week pick-ups and
10 occasional collection of large items such as discarded appliances. I recently had the shingles
11 on my roof replaced. When I contacted the City office to arrange for collection of the old
12 shingles I found that I had to pay at least an extra \$100 for use of a dumpster and hauling to
13 the local dump. The larger the dumpster I would need and the longer it was needed, the
14 higher the cost. Likewise, if I need a discarded appliance hauled away anytime other than
15 during the regularly scheduled collections I must pay an additional \$20. Even in the case of
16 trash service, when I use more than the basic service, I pay more.

17 **Q. WHAT IS YOUR NEXT CONCERN WITH THE STAFF'S DELIVERY CHARGE PROPOSAL?**

18 **A.** Staff's proposed demand charges are directly linked to the Staff's proposed revenue
19 requirement in this case. If the Commission were to approve a higher revenue requirement,

1 the Staff proposed, residential delivery charges could increase up to 20% depending on the
2 district and revenue level approved.

3 **Q. HAVE YOU EVALUATED THE CHANGES IN THE STAFF'S DELIVERY CHARGE UNDER HIGHER**
4 **REVENUE REQUIREMENT SCENARIOS?**

5 A. Yes. Schedule BAM REB 9 illustrates the residential delivery charge that would result from
6 setting rates to recover various levels of revenue requirement. For each district the delivery
7 charge per district is shown by district for 4 different levels. The first is the delivery charge
8 at the Company's proposed revenues for the district. The second is the delivery charge at the
9 current revenues for the district. The third and fourth show the delivery charge at the Staff's
10 proposed revenues for the district at the high end and mid point of the Staff's range for rate
11 of return. As illustrated in the Schedule BAM REB 9, if the Commission were to approve a
12 delivery charge structure and the Company's district specific residential revenues, the
13 delivery charge for the Northeast district, which is already the highest, would be over 20%
14 higher than what the Staff has characterized in testimony. This would further exacerbate the
15 impact on the low use customers in Kirksville and Palmyra that I discussed earlier in my
16 testimony.

17 **Q. WHAT IS YOUR NEXT CONCERN REGARDING THE PROPOSED DELIVERY CHARGE?**

18 A. The Staff has made no recommendation to lower the Company's return to reflect lower risk.

19 **Q. HAS OPC OFFERED ADDITIONAL TESTIMONY ON THIS ISSUE?**

1 A. Yes. OPC witness Russell Trippensee recommends an appropriate reduction in the rate of
2 return in the event that the Commission approves either the Company's proposed weather
3 mitigation rate design or the Staff's delivery charge proposal.

4 **Q. IN CASE GR-2002-356 WHERE A WEATHER MITIGATING RATE DESIGN WAS APPROVED, WAS**
5 **REDUCED RISK CONSIDERED IN ESTABLISHING THE REVENUE REQUIREMENT?**

6 A. Yes. In settling the Laclede rate case in which Laclede secured an experimental weather
7 mitigation rate design the parties specifically considered reduced level of risk resulting from
8 the rate design is crafting a settlement. As was explained in the Stipulation; "It is also
9 understood that the impact of such weather mitigation rate design on the Company's risk has
10 been given consideration in the settlement of the issues in this case."

11 **Q. WHAT IS THE STAFF'S STATED JUSTIFICATION FOR ITS DELIVERY CHARGE PROPOSAL?**

12 A. Ms. Ross lists what she refers to as two "significant current issues" affecting the natural gas
13 distribution market that the Staff believes the delivery charge will address. The first she
14 claims is that it will remove disincentives for utilities to encourage and assist customers in
15 making conservation and efficiency investments. She goes on to argue that the second issue
16 the delivery charge will address is to reduce the effects of weather on utility revenues and
17 customer bills and to provide utilities the "opportunity to earn their Commission-ordered
18 non-gas revenue requirement – no more, and no less – in a rapidly changing environment."
19 (Ross Page 9, Line 21- Page 10, Line 6)

1 **Q. DOES PUBLIC COUNSEL BELIEVE THAT EITHER OF THE ABOVE ARGUMENTS IS VALID?**

2 A. No.

3 **Q. PLEASE RESPOND TO THE CLAIM THAT A DELIVERY CHARGE WILL REMOVE DISINCENTIVES**
4 **FOR UTILITIES TO ENCOURAGE AND ASSIST CUSTOMERS IN MAKING CONSERVATION AND**
5 **EFFICIENCY INVESTMENTS.**

6 A. The first point I would like to make is that the Staff's delivery charge proposal creates a
7 trade off between dollars the customer could save under the current structure and those he
8 might save associated with unspecified activities of the Company in the future. Today, a
9 customer can reduce the **non-gas volumetric** and **commodity** portions of his bill by
10 reducing consumption. He can also avoid **customer charges** by forgoing service if he
11 resides in the old United Cities service areas.¹ The Staff's delivery charge proposal coupled

¹ The Company has the ability to recover customer charges even for months a customer was disconnected for most of its service area. The old United Cities Gas properties are the only areas where a seasonal customer can avoid paying summer customer charges by disconnecting.

1 with its proposal to allow the Company to recoup all revenue from seasonal disconnects
2 would eliminate any ability for a customer to reduce either **non-gas volumetric** or **customer**
3 **charges** even for customers in the United Cities area. Without requiring specific Company
4 actions that will result in actual customer savings, the customer's incentive to conserve
5 actually diminishes under the Staff's proposal.

6 It is also not clear that any incentive created by granting a Company "guaranteed"
7 recovery of non-gas costs will spur it to eagerly or even willingly pursue and promote
8 customer conservation that results in savings on the commodity portion of customers' bills.
9 Instead, a Company would likely still have disincentives to encourage conservation and
10 efficiency unless it was also granted recovery of all conservation related costs as well as
11 compensation for any net loss in purchased gas cost. While it is an interesting academic
12 debate as to whether guaranteed recovery does or does not create some incentive for a
13 Company to promote conservation and efficiency, in this case, proposals to enhance the
14 Company's ability to secure revenues have not tipped the scale in favor of conservation and
15 efficiency because they are not accompanied by tangible proposals to benefit consumers.
16 For example, in this case, Atmos requests a weather mitigation rate design that coupled with
17 the ability to collect summer season customer charges in all areas but the old United Cities
18 properties, will enhance its ability to recovery non-gas costs. Atmos has not, however,
19 proposed any conservation or efficiency programs in this case. Likewise, the Staff proposes
20 assured recovery of non-gas costs but has proposed no conservation or efficiency programs.

1 The Company and Staff proposals are one-sided benefiting the Company through guaranteed
2 recovery and inaction. They should be rejected.

3 One incentive to the Company associated with the delivery charge proposal is that it
4 would still have an incentive to grow customer base and promote additional uses for gas
5 services in order to generate return on additional investments. Encouraging more potential
6 customers to use gas or existing customers to use more gas appliances will not lower
7 commodity prices in the natural gas market.

8 **Q. PLEASE RESPOND TO THE CLAIM THAT A DELIVERY CHARGE WILL REDUCE THE EFFECTS**
9 **OF WEATHER ON UTILITY REVENUES AND WILL PROVIDE UTILITIES THE OPPORTUNITY TO**
10 **EARN THEIR “COMMISSION-ORDERED NON-GAS REVENUE REQUIREMENT – NO MORE, AND**
11 **NO LESS – IN A RAPIDLY CHANGING ENVIRONMENT.”**

12 **A.** Contrary to witness Ross’s apparent logic, the Commission’s ordered non-gas revenue
13 requirement is not a fixed or guaranteed level of revenue that a Company is entitled to
14 recovery each year. Instead, the level of revenue requirement approved by the Commission
15 is a target level of costs including expenses, taxes and return on investment that an efficiently
16 run company, barring unforeseen events has the opportunity to recover under long term
17 average weather conditions. The Commission approved revenue requirement accounts for
18 and is intricately related to potential weather variations that may affect costs and revenues
19 from year to year. The process of normalizing demand determinates to account for weather
20 and establishing a rate of return sufficient to attract investment despite the risk of weather

1 variations are probably the two most obvious elements linking weather variations to revenue
2 requirement. After the revenue requirement is determined, rates are set at a level anticipated
3 to recover the target level of costs. However, the ratemaking process only reflects the
4 anticipated cost and revenues at a snap shot in time. It does not guarantee or limit levels of
5 either future costs or revenues and is not designed or intended to provide uniform recovery
6 each year. Once rates are set, by efficiency or luck a Company has an opportunity to earn a
7 return above that incorporated in the revenue requirement. Likewise by inefficiency or luck
8 a Company faces the potential to earn a return below that incorporated in the revenue
9 requirement. This process mimics a competitive business environment by creating incentives
10 for the Company to minimize costs.

11 Neither the Company's weather mitigation rate design nor the Staff's delivery charge
12 proposal is consistent with the purposes of utility regulation. Utility regulation does not
13 create an "entitlement" for the utility to earn a Commission determined return that fully
14 compensates the utility for its cost of service. If that were the case, there would be no reason
15 to determine an appropriate level of a risk adjusted return that should be included in a
16 utility's rates. Instead, utility regulation is intended to mimic the outcomes and market
17 environment that is faced by competitive firms. The use of utility regulation to simulate a
18 competitive environment and encourage the benefits that would accrue if the industry were
19 suitable for a competitive structure has been referred to as the competitive market paradigm.

1 This paradigm was described by Dr. James Bonbright on page 93 of *Principles of Public*
2 *Utility Rates* in the following manner:

3 Regulation, it is said, is a substitute for competition. Hence its
4 objective should be to compel a regulated enterprise, despite its
5 possession of complete or partial monopoly, to charge rates
6 approximating those which it would charge if free from regulation
7 but subject to market forces of competition. In short, regulation
8 should be not only a substitute for competition, but a closely imitative
9 substitute.

10 While viewed by investors as undesirable, earnings uncertainty serves an important
11 role in the efficient operation of competitive markets by providing inherent protections for
12 consumers. Earnings uncertainty motivates competitive business entities to minimize costs
13 and to strive for customer satisfaction. Eliminating earnings uncertainty in a regulated
14 environment would have a similar detrimental affect on consumers as would eliminating
15 earnings uncertainty in an unregulated market. However, in a competitive environment,
16 consumers retain the ability to reduce or forgo purchases in response to excessive prices or
17 poor service.

18 In recognition and in consideration of the service it provides as a natural monopoly, a
19 local gas distribution company is granted an additional concession not ordinarily available in
20 a competitive business environment. It is allowed to request a rate review to, when justified,
21 realign revenue to costs. This concession together with other concessions made by the PSC
22 and other governmental entities more than adequately addresses issues of potential under
23 earnings. For example, direct pass through of costs such as those flowed through the PGA,

1 have substantially shifted weather related risks to consumers. It is undesirable and
2 unnecessary to shift all earnings risk to consumers.

3 **Q. CAN YOU CITE ANY ANALYSIS BY A RECOGNIZED UTILITY INDUSTRY EXPERT THAT**
4 **SUPPORTS YOUR BELIEF THAT UTILITY COMMISSIONS GENERALLY SET RATES AT A LEVEL**
5 **WHICH ALLOWS UTILITIES THE OPPORTUNITY (AS OPPOSED TO A GUARANTEE) TO ATTAIN**
6 **THEIR AUTHORIZED RETURN?**

7 A. Yes, the following quote from page 202 of A. J. G. Priest's *Principles of Public Utility*
8 *Regulation* supports this widely recognized regulatory principle:

9 ...the utility's return allowance might be compared with a fishing or hunting license
10 with a limit on the catch. Such a license does not guarantee that the holder will catch
11 anything at all; it simply makes the catch legal (up to a specified limit) provided the
12 holder is successful in his own efforts.

13 **Q. PLEASE RESPOND TO THE CLAIM THAT A DELIVERY CHARGE WILL REDUCE**
14 **THE EFFECTS OF WEATHER ON CUSTOMERS BILLS.**

15 A. I agree that that a delivery charge will reduce the affect of weather on customers' bills but I
16 disagree that mandatory imposition of such an affect as would occur under the Staff's
17 delivery charge proposal is desirable. There are alternatives to the Staff's delivery charge
18 scheme that can reduce undesirable effects of weather on customers' bills while preserving
19 an individual customer's ability to control the charges they pay. Voluntary level payment
20 plans can assist customers in budgeting for high costs associated with cold weather while
21 retaining the ability to save by reducing or forgoing consumption when they choose to do so

1 and by benefiting from reduced costs during periods of above normal temperatures. Under
2 the Staff's delivery charge proposal customers will be even more captive to a monopoly
3 utility than they are today. They will have no ability to reduce the none gas portion of the
4 bill. Further, low use customers will likely pay substantially more whether or not they want
5 or need the same level of service as high use customers. If they disconnect, when they
6 return that will be forced to pay not only the Company's lost revenue from customer charges
7 but also revenues currently recovered in volumetric charges. The traditional concept of
8 those who use more should pay more will be eliminated with respect to non-gas cost. The
9 Staff's delivery charge is not customer friendly and should be rejected.

10 **Q. DO YOU HAVE ANY FINAL CONCERN WITH THE STAFF'S DELIVERY CHARGE PROPOSAL?**

11 A. Yes, I am concerned that Atmos' customers have not been appropriately notified that this
12 drastic departure from traditional rulemaking is being proposed in this case. Implementing
13 Ms. Ross' delivery charge will blindside customers and will have prevented customers from
14 offering comments on the charges they may face. At the very least, the Commission should
15 solicit additional comments regarding Staff's proposal from the public.

16 **Q. WHAT ARE YOUR PRIMARY CONCERNS WITH THE STAFF'S SMALL GENERAL SERVICE RATE**
17 **PROPOSAL?**

18 A. The Staff seeks to divide the small general service class at 2,000 Ccf per year. Customers at
19 or below 2,000 Ccf would pay the same district delivery charge as is charged to residential
20 consumers. Customers using more than 2,000 Ccf per year will retain the traditional rate

1 structure. I have a number of concerns with this rate design proposal. Foremost, the
2 proposal will result in harmful impacts to low use customers and will result in rate
3 discontinuity. The Staff has not adequately explained why small general service customers
4 should pay a delivery charge but medium and large general service customers should not.

5 **Q. PLEASE DISCUSS YOUR FIRST CONCERN.**

6 A. The Staff's proposed split of the small general service class will be detrimental to low use
7 small general service customers and will result in substantial discontinuity of recovery
8 within the class. Based on an evaluation of small general service class data, I found that
9 depending on the Commission approved revenue requirement, the Staff's proposal will result
10 in customers using 2,001 Ccf paying roughly two to three times as much in non-gas rates as
11 a customer using 2,000 Ccf.

12 **Q. PLEASE DESCRIBE THE EVALUATION YOU PERFORMED ON THE SMALL GENERAL SERVICE**
13 **CLASS DATA.**

14 A. Using the summary data discussed on page 16 beginning at line 14 of witness Ross's direct
15 rate design testimony, for various levels of the combined SGS class revenues I determined
16 the proportion of those revenues that would be collected from customers using up to 2,000
17 Ccf and the remaining proportion that would need to be collected from customers within the
18 class that use more than 2,000 Ccf. Of the remaining revenues, I calculated the portion that
19 would be collected in the customer charge paid by customers with use of more than 2,000
20 Ccf. I then used the upper bound for each usage group to develop an estimate of the

1 volumetric charge. Finally, I calculated the monthly non-gas cost to a customer using 2,001
2 Ccf and compared it to the monthly delivery charge that would apply to a customer using
3 2,000 Ccf.

4 **Q. PLEASE DESCRIBE THE RESULTS OF YOUR STUDY.**

5 A. Schedule BAM REB 10 illustrates, step-by-step, the process I used to develop my
6 comparison and the results. For each district the applicable delivery charge for 2,000 Ccf use
7 and the traditional rate structure charges for 2,001 Ccf are compared at 4 different levels.
8 The first comparison shows the delivery charge the traditional rate structure charges at the
9 Company's proposed revenues for the district. The second shows the delivery charge and
10 the traditional rate structure charges at current revenues for the district. The third and fourth
11 show the delivery charge and the traditional rate structure charges at Staff's proposed
12 revenues for the district at the high end and mid point of the Staff's range for rate of return.
13 As illustrated in the Schedule BAM REB 10, if the Commission were to approve a delivery
14 charge structure for SGS customers with up to 2,000 Ccf annual use and the Company's
15 district specific SGS revenues then customers using 2,001 Ccf would pay roughly two to
16 three as much.

17
18 **Q. IN SUPPORT OF THE PROPOSED DELIVERY CHARGE WITNESS ROSS REFERENCES A NARUC**
19 **RESOLUTION THAT IDENTIFIES COMPANIES IN OTHER STATES THAT HAVE ENERGY**
20 **EFFICIENT TARIFFS AND DECOUPLING TARIFFS THAT NARUC CITES AS POTENTIALLY**

1 **PROMOTING ENERGY EFFICIENCY AND ENERGY CONSERVATION AND SLOWING THE RATE**
2 **OF DEMAND GROWTH OF NATURAL GAS, ESPECIALLY IN THE SHORT TERM. HOW DO THE**
3 **RATE DESIGNS IN THE STATES MENTIONED COMPARE TO THE STAFF'S RATE DESIGN**
4 **PROPOSAL IN THIS CASE?**

5 A. I reviewed information for each company listed in the resolution; Northwest Natural Gas in
6 Oregon, Baltimore Gas & Electric, Washington Gas in Maryland, Southwest Gas in
7 California, Piedmont Natural Gas in North Carolina, States Power in North Dakota, Atlanta
8 Gas Light in Georgia and Oklahoma Natural Gas. Only one has opted for a delivery charge
9 mechanism like that proposed by the Staff that would collect all non-gas costs through a
10 uniform fixed rate. In that case the parties stipulated to present the North Dakota
11 Commission with two options. The first option included a traditional customer charge,
12 volumetric rate and a higher overall revenue requirement. The second option included a
13 delivery charge and lower overall revenue requirement.

14 Q. **WOULD YOUR CHARACTERIZATION DIFFER FROM COMPANY WITNESS GARY SMITH'S**
15 **CHARACTERIZATION THAT THE CUSTOMER CHARGE IS "FIXED" FOR ATLANTA GAS LIGHT**
16 **IN GEORGIA?**

17 A. Yes. Based on a description of the calculation of the customer charge available on the
18 Atlanta Gas Light website, it is my understanding that the customer charge is constructed of
19 a flat rate element and an element based on the demand characteristics of a particular
20 household. While residential customers pay for all non-gas charges in a flat rate, it is not a

1 common fixed rate paid by all customers as would occur under the Staff's delivery charge
2 proposal.

3 **Q. DOES IT APPEAR THAT THE COMPANY'S PROPOSED WEATHER NORMALIZATION**
4 **ADJUSTMENT (WNA) WILL ADJUST FOR CHANGES IN CONSUMPTION DUE TO BOTH WEATHER**
5 **VARIATIONS AND CONSERVATION?**

6 **A.** Yes, it does. The Company proposes to annually adjust the heat sensitive factor which
7 appears to be set in a manner that would reset the WNA rate factor per Ccf to recover all
8 sales revenues deviations from those established in the last rate case. This would result in
9 any short term customer savings resulting in conservation being factored in as an upward
10 adjustment to the weather sensitivity factor for the following year.

11 **Q. DO YOU ANTICIPATE THAT CUSTOMERS WOULD BE CONFUSED BY A RATE THAT APPEARS TO**
12 **CHANGE EACH BILLING CYCLE DEPENDING ON THE ACTUAL HEATING DEGREE DAYS**
13 **VARIATION FROM NORMAL HEATING DEGREE DAYS?**

14 **A.** Yes. Customers will likely be resistant to a rate that appears to increase in warmer than
15 normal weather.

16 **Q. DO YOU ANTICIPATE THAT IF THE COMPANY'S ALTERNATIVE PROPOSAL TO ADJUST**
17 **VOLUMES WAS IMPLEMENTED THAT CUSTOMERS WOULD BE CONFUSED BY WHAT WOULD**
18 **APPEAR TO BE A DIFFERENCE IN BILLED VOLUMES COMPARED TO THOSE A CUSTOMER**
19 **READING THEIR OWN METER WOULD CALCULATE ?**

1 A. Yes. Customers would likely be confused about the difference.

2 Q. THE COMPANY PROPOSES A STATEWIDE CUSTOMER CHARGE SET AT \$9. DO YOU AGREE WITH
3 THESE RECOMMENDATIONS?

4 A. No. In the event that the Commission agrees with Staff that the Company is over earning,
5 there is no reason to create increase any rate. The customer charge currently varies from a
6 low of \$5 in Greeley to a high of \$9.05 in Palmyra. Adjusting the customer charge and
7 volumetric rates will create winners and losers within each district. Based on the same
8 customer specific information used for Schedule BAM REB Schedule 8 I have calculated the
9 impacts on those same customers of changing the current customer charge to the \$9
10 statewide rate proposed by the Company. The impact ranges from almost no increase in
11 Palmyra to a 34% increase on the low use Greeley customer. The Company has failed to
12 quantify the impacts on individual customers although they are substantial.

13 Q. IS THIS THE FIRST CASE WHERE THE COMMISSION HAS BEEN ASKED TO APPROVE A
14 WEATHER MITIGATION ADJUSTMENT?

15 A. No. Missouri Gas Energy (MGE) asked this Commission to approve a WMC in Case No.
16 GT-95-429 and its request was denied. Laclede operates under a weather mitigation rate
17 design resulting from a Stipulation & Agreement.

18 Q. WHY DID THE COMMISSION DENY MGE'S REQUEST FOR A WEATHER NORMALIZATION
19 CLAUSE?

1 A. The Commission found that "the weather normalization clause tariff, as proposed, is unjust,
2 unreasonable, and contrary to the law and should be rejected." (Order at p. 5)

3 Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE COMPANY'S PROPOSED WEATHER
4 MITIGATION ADJUSTMENT (WMA).

5 A. The WMA adjusts the rate that will apply to customers in future rate periods based on how
6 much the margin revenues collected in the past have varied from the amount that would have
7 been collected if the weather was "normal" as measured by heating degree days (HDDs).
8 This adjustment of future rates to account for past revenue variations due to abnormal
9 weather is made by adjusting the revenues collected from the volumetric charge.

10 Q. CAN YOU PROVIDE AN ANALOGY OF HOW SUCH A CHARGE MIGHT BE IMPLEMENTED BY A
11 BUSINESS OUTSIDE OF THE UTILITY AREA?

12 Yes. Suppose that a concert promoter previously organizes an outdoor Jazz concert where
13 the total costs (including a return for her entrepreneurial skills) were expected to be
14 \$100,000. The promoter estimates that she would sell 10,000 tickets at \$10 each and recover
15 all of her expenses so long as weather is normal and her concert attendance was not
16 adversely impacted by excessive heat or rain. The promoter also knew that on past days
17 when it reached 105 degrees as a result of the abnormal weather, attendance was only 5,000
18 people and the promoter was only able to recover \$50,000 of her total costs of \$100,000.
19 And when it reached 100 degrees attendance was 7,500 people and the promoter was only
20 able to recover \$75,000 of her total costs of \$100,000.

1 Now assume that the concert promoter has a franchise to be the only concert promoter in St.
2 Louis and as part of this franchise, the promoter has a WMA that permits the promoter to
3 charge variable prices depending on the weather during the next outdoor Jazz concert. The
4 promoter would develop variable rate schedule to recoup its total cost under each weather
5 scenario and customers would not know the price of the ticket until the weather on the day of
6 the concert was known.

7 **Q. WOULD THE PROPOSED WEATHER NORMALIZATION ADJUSTMENT RESULT IN AN EFFECTIVE**
8 **CHANGE IN THE RATES THAT ARE CHARGED DURING BILLING PERIODS WHEN THE**
9 **WEATHER IS NOT PRECISELY NORMAL?**

10 **A.** Yes, such effective changes in rates would occur in nearly every winter billing period for
11 nearly every residential and small general service customer.

12 **Q. EARLIER IN THIS TESTIMONY, YOU DISCUSSED THE COMMISSION'S DENIAL OF MGE'S**
13 **REQUEST FOR A WEATHER NORMALIZATION CLAUSE IN CASE NO. GT-95-249. DID THE**
14 **COMMISSION FIND THAT MGE'S PROPOSAL IN THAT CASE WOULD RESULT IN AN EFFECTIVE**
15 **CHANGE IN RATES?**

16 **A.** Yes, the Commission stated in its order:

17 The Commission further finds that approval of the WNC tariff would result
18 in a de facto change in MGE's rates. Under the weather normalization
19 clause a customer would pay for more gas than he actually used in an
20 unusually warm month. In that month, the customer would have paid an
21 effective per unit rate for his usage greater than MGE's current tariffed rate.

1 In an unusually cold month, the customer would have paid a lower unit rate
2 for his actual usage than MGE's current tariffed rate. (ORDER AT P. 4)

3 Q. WOULD THE RESULT OF THE COMPANY'S PROPOSAL BE TO CREATE FLUCTUATING
4 EFFECTIVE RATES?

5 A. Yes.

6 Q. HAVE OTHERS FOUND THAT WEATHER NORMALIZATION CLAUSES LEAD INDIRECTLY TO AN
7 ADJUSTMENT IN THE RATE THAT WOULD APPLY ABSENT THE CLAUSE?

8 A. Yes, a December 1994 issue of a newsletter entitled *A.G.A. Financial Analysis*, published by
9 the American Gas Association refers to WNCs as "rate adjustment mechanisms." This
10 reference was included in a paragraph under the heading "UPDATE ON WEATHER
11 NORMALIZATION CLAUSES" on page one (see Schedule RK-1) of the December 1994
12 issue of *A.G.A. Financial Analysis*. This same paragraph explains that WNCs are "an
13 example of a regulatory mechanism known as an adjustment clause" and that these
14 adjustment clauses are "[d]esigned to allow rates to fluctuate in response to certain specific
15 criteria..."

16 Q. PLEASE SUMMARIZE THE REASONS WHY PUBLIC COUNSEL OPPOSES ATMOS' WEATHER
17 MITIGATION ADJUSTMENT PROPOSAL.

18 A. This proposal would:

19 1) Virtually eliminate Atmos' weather risk, but it would not provide significant benefits to
20 Atmos' customers.

1 2) Not be consistent with the purposes of regulation.

2 3) Essentially charge customers in future periods for gas that was not consumed in prior
3 periods.

4 4) Dilute the price signal that now exists between the quantity of gas consumed and the
5 amount charged for this consumption.

6 5) Increase the complexity of the rate structure and make it more difficult for customers to
7 determine the basis for the charges on their monthly bills.

8 6) Remove some of the risk of being in the gas utility business without giving sufficient
9 recognition to this reduced risk in the determination of the appropriate rate of return that
10 should be used when rates are set.

11 7) Create rates that discriminate between customers in different divisions of Atmos' service
12 territory and between customers within the different divisions of Atmos' service territory.

13 **Q. PLEASE DISCUSS THE FOURTH REASON LISTED ABOVE. WILL THE WNA DILUTE SIGNALS FOR**
14 **CONSUMERS TO CONSERVE?**

15 **A.** Yes. Since the WNA will make it virtually impossible for customers to know the margin rate
16 that they are effectively being charged prior to consumption, it will be more difficult for
17 consumers to make both long-run and short-run choices regarding the amount of gas that
18 they will consume. The long run decisions that consumers make about the size and level of

1 energy efficiency of the structure that they will inhabit and the efficiency level of gas
2 furnaces and other gas-fueled appliances will not be based on readily available prices for
3 utility service. Likewise, the lack of readily available prices for utility service will make it
4 more difficult to make decisions regarding short-run decisions like where to set the furnace
5 thermostat.

6 **Q. WILL THE WNA MAKE BILLS HARDER FOR CUSTOMERS TO CALCULATE?**

7 A. Yes. Currently, it is fairly simple for a residential customer to calculate the charges that will
8 apply for the margin portion of their bill. The customer only needs to know the customer
9 charge and the block rates that apply for the current season. Public Counsel sometimes gets
10 inquiries from customers about how to calculate the margin rates that appear on their
11 monthly bills and we post these rates for all of the Missouri investor owned gas utilities on
12 our web site (<http://www.mo-opc.org/gas/gasbill.htm>) in order to help customers understand
13 how their monthly bills are calculated. If the WNA is approved, customers could calculate
14 the margin charges that would appear on their monthly bill only if they also knew the actual
15 and normal heating degree days.

16 **Q. PLEASE DESCRIBE THE COMPANY PROPOSAL TO CONSOLIDATE THE PGA.**

17 A. The Company currently has 6 net PGA rates; Butler, Greeley, Kirksville, SEMO, UCG-
18 Neelyville and UCG-Hannibal/ Palmyra/Bowling Green. For residential customers, the PGA
19 rate net of ACA adjustments varies from a low of .7279 of for UCG-Neelyville to a high of

1 1.2775 for Greeley. The Company proposes to consolidate statewide resulting in a single
2 uniform rate.

3 **Q. WHAT IS THE STAFF'S PROPOSAL?**

4 A. The Staff proposes to consolidate the existing rates into 3 rates generally based on the
5 underlying pipeline serving each area.

6 **Q. DO YOU AGREE WITH EITHER OF THESE PROPOSALS?**

7 A. No. Although I find the Staff's proposal is more reasonable than the Company's there is no
8 compelling reason to alter the PGA structure simply to reduce administrative burden on the
9 Company. The rates vary significantly. The Neelyville rate is only about 65% of the rate in
10 SEMO. Blending the rates will affect customers. Gas cost represent 73%-82% of a
11 customer's bill so even minor changes in the net PGA rate can have significant affects on
12 consumers. There is no compelling reason to alter the existing PGA structure.

13 **Q. WHAT CHANGES DOES THE COMPANY PROPOSE TO THE RECOVERY OF UNCOLLECTIBLE**
14 **EXPENSES?**

15 A. The Company seeks to remove the cap on Uncollectibles by shifting recovery to the PGA.
16 This would free the Company from more risk by allowing automatic recovery though the
17 PGA. This is another unnecessary concession that would shift greater risk of bill volatility to
18 consumers. Mr. Trippensee also discusses Public Counsel's objections in his rebuttal
19 testimony.

1 **Q. WHAT HAVE THE COMPANY AND STAFF PROPOSED WITH RESPECT TO MISCELLANEOUS**
2 **SERVICE CHARGES?**

3 A. The Company requests that a statewide rate replace the district specific charges for a number
4 of miscellaneous services. Company witness Ellis discusses these charges in pages 4-6 of
5 his direct testimony. He proposes an activation (Connection, Reconnection) charge of \$30
6 for service during business hours and \$60 after hours, a transfer charge \$25 for service
7 during business hours and \$55 after hours, an insufficient funds charge of \$30. The Staff
8 proposes alternative rates but generally agrees with allowing a single statewide rate for these
9 services.

10 **Q. WHAT IS YOUR POSITION ON ADJUSTMENTS TO THESE RATE PROPOSALS?**

11 A. As with other rates under review in this case, these rates vary substantially by district.
12 Connection, Reconnection and Insufficient Funds charges may have a greater impact on
13 lower income customers' ability to receive service. There is no compelling reason to alter or
14 raise the existing rates.

15 **Q. ARE THERE BENEFITS TO KEEPING THE CONNECTION FEE AT A MORE AFFORDABLE LEVEL**
16 **THAN THE RATE PROPOSED BY THE COMPANY?**

17 A. Yes. I believe there are significant benefits to maintaining a more affordable connection
18 charge. The connection charge facilitates new customers using the system potentially for
19 many years into the future. This in turn produces an ongoing revenue stream for the
20 Company and potentially offsets fixed system costs that might have otherwise been

1 recovered from fewer customers. While a lower connection charge seems an obvious benefit
2 to the new customer in terms of the dollar savings, I would like the Commission to also
3 consider another factor in weighing the benefit to a newly subscribing customer. If a
4 customer is moving into a home or apartment it is likely that the customer may be facing
5 connection charges and potentially up-front deposit requirements for other utility services
6 such as electric service and telephone service. For low and moderate income customers the
7 initial cost to starting up multiple services may pose at best a hardship and at worst an
8 insurmountable barrier to establishing independent residency. Customers most likely to be
9 adversely affected by higher connection fees are single parent households, young couples
10 without an established credit history, widowed individuals living on fixed incomes and low-
11 income disabled consumers. It is interesting to note that the Federal Communications
12 Commission (FCC) after considering the affordability to low-income consumers and system
13 benefits associated with increased subscription authorized federal funding of a 50% discount
14 of up to \$30 toward service connection fees for basic local telephone subscription for low-
15 income consumers.²

16 Unless a connection charge can be shown to be priced below incremental cost, there
17 is little support for the notion that existing customers are made significantly worse off by
18 retaining a lower connection charge for new customers.

² This program is known as the Federal Link Up Program.

1 **Q. ARE THERE SIMILAR BENEFITS TO KEEPING THE RECONNECTION FEE AT MORE**
2 **AFFORDABLE LEVELS THAN THE RATE PROPOSED BY THE COMPANY?**

3 **A. Yes. Many of the same consumer groups financially vulnerable to increased connection fees**
4 **are also financially vulnerable to increased reconnection fees. In addition, where the**
5 **reconnection fee at the proposed level may pose an insurmountable obstacle for a customer**
6 **to reinstate service, I find it reasonable to assume the Company would face an increased risk**
7 **of writing off uncollected bill accounts. Ultimately, this write off would flow through to the**
8 **remaining customer base.**

9 Given that the Company through the ratemaking process is allowed the opportunity
10 earn a normal rate of return, I see no compelling reason to allow targeted recovery through
11 increased connection fees that may pose a significant detriment to financially vulnerable
12 customers.

13 **Q. IF THE COMMISSION DOES ALLOW THE COMPANY TO IMPLEMENT UNIFORM STATEWIDE**
14 **RATES FOR THESE SERVICES, WOULD YOU OBJECT TO THE RATES PROPOSED BY MR.**
15 **ENSRUD?**

16 **A. No.**

17 **Q. DO YOU HAVE CONCERNS WITH THE COMPANY'S PROPOSAL TO ALTER THE LINE**
18 **EXTENSION POLICY?**

1 A. Yes. The Company proposes to eliminate the minimum line extension currently recovered
2 in rates. Instead every new residential and small business customer may be subjected to a
3 feasibility review resulting in an up front fee for main extensions. The Staff supports the
4 proposal if a refund provision is incorporated.

5 **Q. DO YOU SUPPORT THE PROPOSAL?**

6 A. No. A reasonable fee-free line extension is both a reasonable obligation to impose on a
7 public utility and an investment in future earnings for the utility.

8 **Q. DO YOU HAVE CONCERNS WITH THE COMPANY'S PROPOSALS RELATED TO LARGE**
9 **CUSTOMER'S?**

10 A. Yes. The Company proposes to replace the current penalty structure with a fee and payment
11 schedule for imbalances caused by a transport customers taking more or less gas from the
12 system than the transport customer contracted for from its upstream suppliers. Further, it
13 would allow third parties to create pools that would allow pool members to offset
14 imbalances. In all districts but Greeley the Company appears to have protections or penalties
15 in place to restrict imbalances. The Company's proposal would allow transport customers to
16 treat gas secured for serving firm sales customers as a bank from which they can borrow or
17 repay as they choose. Why a reasonable payment for gas withdrawn it is important to ensure
18 that they can not avoid fees for imbalances.

19 **Q. DO YOU SUPPORT THE COMPANY'S PROPOSAL ON LINE LOSS?**

1 A. The Company proposes to revise the current calculation of line loss recovered as a
2 component of transport rates. The result will place a larger burden for line loss recovery on
3 residential and small business customers. The Staff generally supports a 2% proposal with
4 modifications geared at corrective action. I support the corrective action proposed by Staff.
5 It seems reasonable that residential and small business should be held harmless from
6 excessive line loss in the event that an investigation reveals actual line loss instead of faulty
7 read equipment.

8 **Q. DO YOU SUPPORT THE EDR RIDER OR R&D RIDER PROPOSED BY THE COMPANY?**

9 A. Research and Development surcharge that would force residential and small business
10 customers to subsidize research that should be treated as a Company investment. Public
11 Counsel could support an economic development rider funded by shareholders.

12 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

13 A. Yes.

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
BUTLER DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS
O & M Expenses	567,416	388,269	121,662	57,485
Depreciation Expense	101,368	71,911	22,346	7,111
Taxes	184,091	117,582	42,413	24,096
TOTAL EXPENSES AND TAXES	\$852,875	\$577,762	\$186,421	\$88,691
TOTAL RATE BASE	\$3,728,560	\$2,326,841	\$889,485	\$512,234
IMPLICIT RATE OF RETURN	8.33%	6.38%	13.93%	7.48%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	310,566	\$193,811	\$74,089	\$42,666
TOTAL COST OF SERVICE	1,163,441	771,574	260,510	131,357
LESS OTHER REVENUE	6,427	4,011	1,714	702
REQUIRED RATE REVENUE	\$1,157,014	\$767,563	\$258,795	\$130,656
CURRENT NON-GAS RATE REVENUES				
Purchased Gas	0	0	0	0
Non-gas margin	1,157,014	722,109	308,618	126,287
TOTAL RATE REVENUE	\$1,157,014	\$722,109	\$308,618	\$126,287
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$45,454	(\$49,823)	\$4,369
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	6.29%	-16.14%	3.46%
CURRENT REVENUE PERCENTAGES	100.00%	62.41%	26.67%	10.91%
COS INDICATED REVENUE PERCENTAGES	100.00%	66.34%	22.37%	11.29%

BAM REB SCHEDULE 1

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
GREELY DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS
O & M Expenses	75,173	60,259	14,914
Depreciation Expense	26,131	20,318	5,813
Taxes	27,985	21,710	6,274
TOTAL EXPENSES AND TAXES	\$129,289	\$102,288	\$27,002
TOTAL RATE BASE	\$667,034	\$522,724	\$144,310
IMPLICIT RATE OF RETURN	8.93%	4.78%	23.98%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	59,598	\$46,704	\$12,894
TOTAL COST OF SERVICE	188,887	148,992	39,895
LESS OTHER REVENUE	1,352	911	441
REQUIRED RATE REVENUE	\$187,535	\$148,081	\$39,454
CURRENT NON-GAS RATE REVENUES			
Purchased Gas	0	0	0
Non-gas margin	187,535	126,374	61,161
TOTAL RATE REVENUE	\$187,535	\$126,374	\$61,161
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$21,707	(\$21,707)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	17.18%	-35.49%
CURRENT REVENUE PERCENTAGES	100.00%	67.39%	32.61%
COS INDICATED REVENUE PERCENTAGES	100.00%	78.96%	21.04%

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
KIRKSVILLE DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME
O & M Expenses	623,194	392,135	139,671	29,797	61,591
Depreciation Expense	131,828	88,136	30,320	4,607	8,766
Taxes	235,787	131,705	56,818	15,045	32,219
TOTAL EXPENSES AND TAXES	\$990,809	\$611,976	\$226,809	\$49,448	\$102,575
TOTAL RATE BASE	\$5,079,532	\$2,661,471	\$1,274,929	\$362,656	\$780,476
IMPLICIT RATE OF RETURN	7.67%	4.58%	8.90%	16.08%	12.32%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	389,766	\$204,222	\$97,829	\$27,828	\$59,888
TOTAL COST OF SERVICE	1,380,575	816,198	324,638	77,276	162,463
LESS OTHER REVENUE	9,497	5,048	2,341	741	1,367
REQUIRED RATE REVENUE	\$1,371,078	\$811,150	\$322,297	\$76,535	\$161,096
CURRENT NON-GAS RATE REVENUES					
Purchased Gas	0	0	0	0	0
Non-gas margin	1,371,078	728,728	337,966	107,026	197,359
TOTAL RATE REVENUE	\$1,371,078	\$728,728	\$337,966	\$107,026	\$197,359
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$82,422	(\$15,669)	(\$30,491)	(\$36,262)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	11.31%	-4.64%	-28.49%	-18.37%
CURRENT REVENUE PERCENTAGES	100.00%	53.15%	24.65%	7.81%	14.39%
COS INDICATED REVENUE PERCENTAGES	100.00%	59.16%	23.51%	5.58%	11.75%

BAM REB SCHEDULE 3

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
NEELYVILLE DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS
O & M Expenses	77,873	56,854	21,019
Depreciation Expense	36,685	26,509	10,176
Taxes	2,857	1,938	919
TOTAL EXPENSES AND TAXES	\$117,414	\$85,301	\$32,113
TOTAL RATE BASE	\$619,221	\$426,325	\$192,896
IMPLICIT RATE OF RETURN	1.75%	0.76%	3.94%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	10,824	\$7,452	\$3,372
TOTAL COST OF SERVICE	128,238	92,753	35,485
LESS OTHER REVENUE	0	0	0
REQUIRED RATE REVENUE	\$128,238	\$92,753	\$35,485
CURRENT NON-GAS RATE REVENUES			
Purchased Gas	0	0	0
Non-gas margin	128,238	88,528	39,710
TOTAL RATE REVENUE	\$128,238	\$88,528	\$39,710
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$4,225	(\$4,225)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	4.77%	-10.64%
CURRENT REVENUE PERCENTAGES	100.00%	69.03%	30.97%
COS INDICATED REVENUE PERCENTAGES	100.00%	72.33%	27.67%

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
PALMYRA DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE VOLUME
O & M Expenses	222,414	152,597	47,151	22,666
Depreciation Expense	92,899	61,294	20,735	10,871
Taxes	(10,873)	(9,549)	(1,670)	346
TOTAL EXPENSES AND TAXES	\$304,440	\$204,342	\$66,216	\$33,883
TOTAL RATE BASE	\$1,438,435	\$1,045,427	\$290,769	\$102,240
IMPLICIT RATE OF RETURN	5.22%	4.40%	12.08%	-5.88%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	75,142	\$54,611	\$15,189	\$5,341
TOTAL COST OF SERVICE	379,582	258,954	81,405	39,224
LESS OTHER REVENUE	63,877	42,135	17,053	4,690
REQUIRED RATE REVENUE	\$315,705	\$216,819	\$64,352	\$34,534
CURRENT NON-GAS RATE REVENUES				
Purchased Gas	0	0	0	0
Non-gas margin	315,705	208,246	84,282	23,178
TOTAL RATE REVENUE	\$315,705	\$208,246	\$84,282	\$23,178
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$8,573	(\$19,929)	\$11,356
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	4.12%	-23.65%	49.00%
CURRENT REVENUE PERCENTAGES	100.00%	65.96%	26.70%	7.34%
COS INDICATED REVENUE PERCENTAGES	100.00%	68.68%	20.38%	10.94%

EAM REB SCHEDULE 5

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL, COS SUMMARY
ATMOS ENERGY COMPANY
SEMO DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME
O & M Expenses	3,893,051	2,536,831	655,082	65,333	298,634
Depreciation Expense	847,591	585,592	153,749	12,323	45,746
Taxes	1,674,433	980,292	291,590	34,212	171,936
TOTAL EXPENSES AND TAXES	\$6,415,074	\$4,102,715	\$1,100,421	\$111,868	\$516,316
TOTAL RATE BASE	\$25,759,184	\$14,355,139	\$4,622,796	\$574,523	\$2,896,676
IMPLICIT RATE OF RETURN	9.99%	7.48%	18.82%	23.94%	17.54%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	2,574,255	\$1,434,587	\$461,981	\$57,415	\$289,481
TOTAL COST OF SERVICE	8,989,329	5,537,302	1,562,402	169,283	805,796
LESS OTHER REVENUE	63,877	36,785	14,002	1,772	7,280
REQUIRED RATE REVENUE	\$8,925,452	\$5,500,516	\$1,548,400	\$167,511	\$798,517
CURRENT NON-GAS RATE REVENUES					
Purchased Gas	0	0	0	0	0
Non-gas margin	8,925,452	5,139,948	1,956,489	247,643	1,017,176
TOTAL RATE REVENUE	\$8,925,452	\$5,139,948	\$1,956,489	\$247,643	\$1,017,176
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$360,568	(\$408,089)	(\$80,133)	(\$218,659)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	7.02%	-20.86%	-32.36%	-21.50%
CURRENT REVENUE PERCENTAGES	100.00%	57.59%	21.92%	2.77%	11.40%
COS INDICATED REVENUE PERCENTAGES	100.00%	61.63%	17.35%	1.88%	8.95%

BARB MEISENHEIMER'S DIRECT
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
UNITED CITIES DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME
O & M Expenses	1,919,128	1,280,717	390,985	68,022	46,703
Depreciation Expense	1,077,130	702,269	226,973	40,537	27,896
Taxes	757,504	476,647	163,458	31,548	22,151
TOTAL EXPENSES AND TAXES	\$3,753,762	\$2,459,633	\$781,416	\$140,108	\$96,751
TOTAL RATE BASE	\$17,143,785	\$10,641,111	\$3,759,762	\$738,017	\$517,445
IMPLICIT RATE OF RETURN	7.90%	8.86%	14.45%	-0.05%	-5.75%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	1,353,503	\$840,117	\$296,834	\$58,266	\$40,852
TOTAL COST OF SERVICE	5,107,265	3,299,750	1,078,250	198,375	137,603
LESS OTHER REVENUE	62,464	41,607	16,201	1,709	820
REQUIRED RATE REVENUE	\$5,044,801	\$3,258,142	\$1,062,048	\$196,666	\$136,784
CURRENT NON-GAS RATE REVENUES					
Purchased Gas	0	0	0	0	0
Non-gas margin	5,044,801	3,360,356	1,308,482	138,022	66,203
TOTAL RATE REVENUE	\$5,044,801	\$3,360,356	\$1,308,482	\$138,022	\$66,203
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	(\$102,214)	(\$246,434)	\$58,643	\$70,581
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	-3.04%	-18.83%	42.49%	106.61%
CURRENT REVENUE PERCENTAGES	100.00%	66.61%	25.94%	2.74%	1.31%
COS INDICATED REVENUE PERCENTAGES	100.00%	64.58%	21.05%	3.90%	2.71%

BAM REB SCHEDULE 7

Two-Year Residential Customer Impact Examples

(Based on a Sample of Actual Customer Data)

Line		Customer Use In CCF				
		Up to 200	201-500	501-750	751-1000	>1000
SEMO	Cost Under Current Structure	\$ 220.00	\$ 276.25	\$ 308.45	\$ 378.74	\$ 436.62
	Cost Under Delivery Charge	\$ 334.08	\$ 334.08	\$ 334.08	\$ 334.08	\$ 334.08
	Delivery Percent of Current	151.86%	120.93%	108.31%	88.21%	76.51%
	Percentage Increase/Decrease	52%	21%	8%	-12%	-23%
Butler	Cost Under Current Structure	\$ 176.44	\$ 261.81	\$ 404.99	\$ 426.18	\$ 564.07
	Cost Under Delivery Charge	\$ 466.42	\$ 466.42	\$ 466.42	\$ 466.42	\$ 466.42
	Delivery Percent of Current	264.36%	178.15%	115.17%	109.44%	82.69%
	Percentage Increase/Decrease	164%	78%	15%	9%	-17%
Greeley	Cost Under Current Structure	NA	\$ 283.75	\$ 561.13	\$ 698.07	NA
	Cost Under Delivery Charge	NA	\$ 466.42	\$ 466.42	\$ 466.42	NA
	Delivery Percent of Current	NA	164%	83%	67%	NA
	Percentage Increase/Decrease	NA	64%	-17%	-33%	NA
Kirksville	Cost Under Current Structure	\$ 192.75	\$ 238.05	\$ 260.33	\$ 280.31	\$ 324.83
	Cost Under Delivery Charge	\$ 526.04	\$ 526.04	\$ 526.04	\$ 526.04	\$ 526.04
	Delivery Percent of Current	272.91%	220.98%	202.07%	187.66%	161.94%
	Percentage Increase/Decrease	173%	121%	102%	88%	62%
Palmyra	Cost Under Current Structure	\$ 231.14	\$ 258.05	\$ 312.46	\$ 327.68	\$ 368.82
	Cost Under Delivery Charge	\$ 526.04	\$ 526.04	\$ 526.04	\$ 526.04	\$ 526.04
	Delivery Percent of Current	227.58%	203.85%	168.35%	160.54%	142.63%
	Percentage Increase/Decrease	128%	104%	68%	61%	43%
Other UCG	Cost Under Current Structure	\$ 248.07	\$ 381.55	\$ 508.71	\$ 600.98	\$ 1,297.70
	Cost Under Delivery Charge	\$ 526.04	\$ 526.04	\$ 526.04	\$ 526.04	\$ 526.04
	Delivery Percent of Current	212.05%	137.87%	103.41%	87.53%	40.54%
	Percentage Increase/Decrease	112%	38%	3%	-12%	-59%

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Residential Class Delivery Charges by District Revenue Requirement

Line		Residential Revenue	Residential Delivery Charge
	NORTHEAST* (Kirksville, Palmyra, UCG)		
1	Company Request	\$5,197,186	\$24.93
2	Staff Current Margin Revenue	\$4,297,368	\$21.92
3	Staff Margin Revenue at 7.47%	\$4,569,519	\$21.79
4	Staff Margin Revenue at 7.3%	\$4,543,595	\$20.61
5	Test Year No Of Bills	208481	
7			
8			
	WESTERN* (Butler, Greeley)	Residential Revenue	Residential Delivery Charge
9	Company Request	\$1,011,124	\$23.16
10	Current Margin Revenue	\$848,483	\$19.43
11	Staff Margin Revenue at 7.47%	\$964,539	\$22.09
12	Staff Margin Revenue at 7.3%	\$959,097	\$21.97
13	Test Year No Of Bills	43659	
16			
	SOUTHEAST* (SEMO, Neelyville)	Residential Revenue	Residential Delivery Charge
17	Company Request	\$6,133,504	\$16.32
18	Current Margin Revenue	\$5,228,476	\$13.92
19	Staff Margin Revenue at 7.47%	\$5,580,602	\$14.85
20	Staff Margin Revenue at 7.3%	\$5,551,283	\$14.77
21	Test Year No Of Bills	375723	

SGS Class Proposed Delivery Charge Impacts

(Based on actual SGS volumes by district)

Line	Res and Small SGS<=2000 Ccf Delivery Charge	Total CCOS SGS Revenue	76% of SGS Pay Delivery Charge	Remaining 24% of SGS Must Recover	SGS Customer Charge For Remaining 24%	Remaining SGS Revenues Less Customer Charge	Total CCFs For Customers Above 2000	Volumetric Charge Required To Recover Remaining Revenue	SGS Cost For Using 2001 Ccf
1	NORTHEAST*								
2	Company Request	\$24.93	\$2,152,103	\$1,713,254	\$12.50	\$1,621,820	7239500	\$0.2240	\$49.86
3	Staff Current Margin Revenue	\$21.92	\$1,730,932	\$1,345,083	\$12.50	\$1,253,649	7239500	\$0.1732	\$41.38
4	Staff Margin Revenue at 7.47%	\$21.79	\$1,604,909	\$1,221,248	\$12.50	\$1,129,814	7239500	\$0.1561	\$38.52
5	Staff Margin Revenue at 7.3%	\$20.61	\$1,594,306	\$1,231,438	\$12.50	\$1,140,004	7239500	\$0.1575	\$38.76
6	Test Year No Of Bills	30478	23163	7315		7315			
7	*Customer charges vary from \$9.05 to \$15 based on district and season. I used \$12.50 as an estimate.								
8	WESTERN*								
9	Company Request	\$23.16	\$389,518	\$286,864	\$11.94	\$272,694	792500	\$0.3441	\$69.32
10	Current Margin Revenue	\$19.43	\$369,779	\$283,637	\$11.94	\$269,467	792500	\$0.3400	\$68.64
11	Staff Margin Revenue at 7.47%	\$22.09	\$246,669	\$148,745	\$11.94	\$134,574	792500	\$0.1698	\$40.26
12	Staff Margin Revenue at 7.3%	\$21.97	\$245,329	\$147,957	\$11.94	\$133,786	792500	\$0.1688	\$40.09
13	Test Year No Of Bills	6592	5405	1187		1187			
14	*Actual customer weighted customer charge is \$11.94								
15									
16	SOUTHEAST*								
17	Company Request	\$16.32	\$2,683,467	\$2,115,383	\$12.50	\$1,998,937	8017000	\$0.2493	\$54.08
18	Current Margin Revenue	\$13.92	\$1,996,199	\$1,511,939	\$12.50	\$1,395,492	8017000	\$0.1741	\$41.53
19	Staff Margin Revenue at 7.47%	\$14.85	\$1,513,840	\$996,965	\$12.50	\$880,519	8017000	\$0.1098	\$30.81
20	Staff Margin Revenue at 7.3%	\$14.77	\$1,504,316	\$990,157	\$12.50	\$873,711	8017000	\$0.1090	\$30.67
21	Test Year No Of Bills	51754	42438	9316		9316			
22	*Used SEMO customer charge								

Two-Year Residential Customer Impact Examples-Change in Customer Charge to \$9

(Based on a Sample of Actual Customer Data)

Line		Customer Use In CCF				
		Up to 200	201-500	501-750	751-1000	>1000
SEMO	Cost Under \$9 Customer Charge	\$ 268.00	\$ 324.25	\$ 356.45	\$ 426.74	\$ 484.62
	Cost Under Current Customer Charge	\$ 220.00	\$ 276.25	\$ 308.45	\$ 378.74	\$ 436.62
	Percent of Current	121.82%	117.38%	115.56%	112.67%	110.99%
	Percentage Increase/Decrease	22%	17%	16%	13%	11%
Butler	Cost Under \$9 Customer Charge	\$ 224.44	\$ 309.81	\$ 452.99	\$ 474.18	\$ 612.07
	Cost Under Current Customer Charge	\$ 176.44	\$ 261.81	\$ 404.99	\$ 426.18	\$ 564.07
	Percent of Current	127.20%	118.33%	111.85%	111.26%	108.51%
	Percentage Increase/Decrease	27%	18%	12%	11%	9%
Greeley	Cost Under \$9 Customer Charge	NA	\$ 379.75	\$ 657.13	\$ 794.07	NA
	Cost Under Current Customer Charge	NA	\$ 283.75	\$ 561.13	\$ 698.07	NA
	Percent of Current	NA	\$ 466.42	\$ 466.42	\$ 466.42	NA
	Percentage Increase/Decrease	NA	34%	17%	14%	NA
Kirksville	Cost Under \$9 Customer Charge	\$ 240.75	\$ 286.05	\$ 308.33	\$ 328.31	\$ 372.83
	Cost Under Current Customer Charge	\$ 192.75	\$ 238.05	\$ 260.33	\$ 280.31	\$ 324.83
	Percent of Current	124.90%	120.16%	118.44%	117.12%	114.78%
	Percentage Increase/Decrease	25%	20%	18%	17%	15%
Palmyra	Cost Under \$9 Customer Charge	\$ 229.94	\$ 256.85	\$ 311.26	\$ 326.48	\$ 367.62
	Cost Under Current Customer Charge	\$ 231.14	\$ 258.05	\$ 312.46	\$ 327.68	\$ 368.82
	Percent of Current	99.48%	99.53%	99.62%	99.63%	99.67%
	Percentage Increase/Decrease	-1%	0%	0%	0%	0%
Other UCG	Cost Under \$9 Customer Charge	\$ 290.07	\$ 423.55	\$ 550.71	\$ 642.98	\$ 1,339.70
	Cost Under Current Customer Charge	\$ 248.07	\$ 381.55	\$ 508.71	\$ 600.98	\$ 1,297.70
	Percent of Current	116.93%	111.01%	108.26%	106.99%	103.24%
	Percentage Increase/Decrease	17%	11%	8%	7%	3%

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Atmos Energy)
Corporation's Tariff Revision Designed)
to Consolidate Rates and Implement a)
General Rate Increase for Natural Gas)
Service in the Missouri Service Area)
of the Company.)

Case No. GR-2006-0387

AFFIDAVIT OF BARBARA A. MEISENHEIMER

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

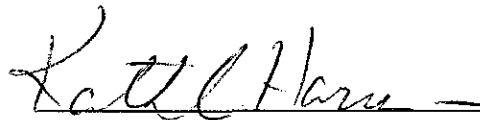
Barbara A. Meisenheimer, of lawful age and being first duly sworn, deposes and states:

1. My name is Barbara A. Meisenheimer. I am Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony consisting of pages 1 through 13 and Schedules 1-7.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Barbara A. Meisenheimer

Subscribed and sworn to me this 13th day of November 2006.




Kathleen Harrison
Notary Public

My Commission expires January 31, 2010.

**SURREBUTTAL TESTIMONY
OF
BARBARA A. MEISENHEIMER**

ATMOS ENERGY CORPORATION

(RATE DESIGN)

CASE NO. GR-2006-0387

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. Barbara A. Meisenheimer, Chief Utility Economist, Office of the Public Counsel (OPC
3 or Public Counsel), P. O. Box 2230, Jefferson City, Missouri 65102. I am also employed
4 as an adjunct Economics and Statistics Instructor for William Woods University.

5 **Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS CASE?**

6 A. Yes. I filed direct testimony and rebuttal testimony on the issues of class cost of
7 service and rate design.

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. In this testimony I will respond to the rebuttal testimony of Staff witnesses Steve
10 Rackers, Anne Ross and Tom Imhoff and Company witness Gary Smith.

11 **Q. WHAT IS THE STAFF'S POSITION ON THE REVENUE REQUIREMENT?**

12 A. The Staff updated its calculation of revenue requirement in rebuttal testimony. Staff
13 witness Rackers explains in his rebuttal testimony (p. 1-2) that, the Staff continues to
14 believe the Company is recovering an excess of approximately \$1.2 million in earnings
15 on a total company basis.

1 **Q. PLEASE COMMENT ON THE STAFF'S POSITION THAT A ZERO REVENUE**
2 **REQUIRMENT INCREASE WILL RESULT IN JUST AND REASONABLE RATES AND**
3 **THAT DESPITE ITS IDENTIFICATION OF \$1.2 MILLION IN EXCESS REVENUE, THE**
4 **STAFF STATES THAT IT DOES NOT INTEND TO FILE AN OVERCHARGE CASE.**

5 **A. Public Counsel is very concerned about the Staff's position which appears to**
6 **concede 1.2 million dollars despite maintaining its belief that the Company is**
7 **over-earning by this amount. The Staff's position is even more troubling given**
8 **the Staff's rate design proposal in which the Staff proposes to eliminate virtually**
9 **all weather related risk but proposes no offsetting reduction in the rate of return.**
10 **Public Counsel encourages the Commission to reject the Staff's rate design and to**
11 **reduce rates by the amount of any overings it finds in this case.**

12 **Q. PLEASE COMMENT ON THE PROPOSAL BY STAFF WITNESS IMHOFF THAT NO**
13 **SHIFTS BETWEEN RATE CLASSES OCCUR AT A ZERO REVENUE REQUIREMENT**
14 **INCREASE.**

15 **A. On page 3 of his rebuttal testimony, Mr. Imhoff states:**

16 **Q. Does Staff have any comments regarding the direct**
17 **testimony of OPC witness Barbara Meisenheimer?**

18 **A. Yes. Over half of the difference between Staff's CCOS**
19 **and OPC witness Meisenheimer's CCOS is related to the**
20 **mains allocator. However, since the rebuttal testimony of**
21 **Staff witness Steve Rackers indicates that a zero increase**
22 **in revenue requirement is appropriate, I recommend that**
23 **there be no shifts between classes in this case as proposed**
24 **by Atmos.**

25 **Q. Are there other reasons for no shifts between the rate**
26 **classes?**

1 A. Yes. The proposed consolidation of districts and rate
2 design changes would have rate impacts within the classes
3 even without shifts in class revenue responsibilities. The
4 additional rate shifts between the classes would result in
5 further impacts, and therefore, a zero increase in revenue
6 requirement would support no class revenue shifts.

7 From Mr. Imhoff's testimony it appears that Staff recommends consolidation, but
8 proposes that the recovery from each consolidated rate class be limited to the sum
9 of the current recovery from the district rate classes.

10 As stated in my rebuttal testimony, Public Counsel strongly opposes consolidation
11 and even more strongly opposes the Staff's proposed delivery charge. To isolate
12 the consolidation let's set aside the issues of the delivery charge recovery
13 mechanism for a moment. Public Counsel could agree with Mr. Imhoff's
14 proposal if the Commission allows the Company to consolidate and approves a
15 zero total Company revenue requirement increase. If the Commission adopts
16 Public Counsel's recommendation to reject consolidation at this time, the
17 retention of the current class proportions of revenue would still be appropriate. In
18 direct testimony, I raised concerns regarding the lack of comprehensive data on
19 which to base consolidation or district specific class shifts. Staff witness Dan
20 Beck raises more concerns regarding allocation methods that impact district class
21 revenues. By maintaining the current class revenue proportions, the Commission
22 need not address class shifts in this proceeding and can wait until sufficient data is
23 available to reasonably support any proposed class shifts.

1 **Q. HAVE YOU ANALYZED THE RESIDENTIAL CUSTOMER IMPACTS OF**
2 **CONSOLIDATION ASSUMING A ZERO REVENUE INCREASE?**

3 A. Yes. Using the Staff reported customer count and Company reported customer
4 charges and volumetric rates, I calculated the difference in the average bill under
5 current rates versus the average bill assuming consolidation. Under consolidation,
6 the average bill ranges from 29% less to 67% more depending on the district.
7 There is no reason to substantially impact customers simply to reduce some
8 perceived, company administrative burden.

9 **Q. THE COMPANY POINTS OUT THAT YOUR MAINS ALLOCATION METHOD WAS**
10 **PREVIOUSLY REJECTED BY THIS COMMISSION. WAS IT YOUR INTENTION TO**
11 **RAISE THE SAME ISSUES RELATED TO THE MAINS ALLOCATOR?**

12 A. No. Although I continue to believe that the RSUM method is reasonable, I do not
13 intend to rehash an issue that Commission rejected in the last Laclede case, so
14 although Mr. Imhoff's proposal for a zero revenue increase retains current class
15 revenue proportions would make the need for class cost of service studies moot.

16 I revised my class cost of service studies to utilize the Staff's method for
17 allocating mains. The results of my revised studies are illustrated in Schedules
18 BAM SUR 1-7.

19 The mains allocators used in my studies and those used by Staff are
20 differences in the Residential and SGS peaks and an adjustment to the number of
21 days used to compute the large customer peaks. In direct testimony, I used Staff's

1 Residential and SGS peaks on its original regression analysis. The Staff later
2 used a different method for calculating Residential and SGS peaks. Staff's
3 change in method has little effect on the mains allocator.

4 The second difference between OPC and Staff relates to the number of
5 days used to calculate the large customer peaks. The Staff usually uses 20 instead
6 of 30 days to calculate the peaks, but, according to Staff witness Dan Beck's
7 testimony; this change in the number of days was not intentional. I used more
8 conservative 23 days rather than the Staff's traditional 20 days, this makes my
9 allocators less favorable to Residential and SGS if the Staff had used 20 days.
10 See Table 1 for a summary of the differences in the mains between Staff's
11 unadjusted mains allocators and those that would result if the Staff's allocators
12 were adjusted for 23 instead of 30 days. Table 1 also illustrates differences
13 between the Staff's consolidated districts and the existing districts and the
14 differences in use of Special Contracts as a unique class.

Table 1.

StaffWestCentral	RES	SGS	LGS	LVS	Contact
Unadjusted	64.24%	24.45%	11.31%	0.00%	NA
Adjusted for# days	62.08%	23.63%	14.29%	0.00%	NA
Adjusted for# days w Sp Contract	62.08%	23.63%	14.29%	0.00%	0.00%
OPC Butler Adjusted w Sp Contract	60.76%	23.48%	15.76%	0.00%	0.00%
OPC Greeley Adjusted w Sp Contract	74.91%	25.09%	0.00%	0.00%	0.00%
StaffSoutheast	RES	SGS	LGS	LVS	Contact
Unadjusted	49.78%	22.26%	2.20%	25.76%	NA
Adjusted for# days	45.81%	20.49%	2.65%	31.05%	NA
Adjusted for# days w Sp Contract	45.61%	20.40%	3.06%	14.09%	16.85%
OPC SEMO Adjusted w Sp Contract	45.57%	20.60%	2.65%	14.21%	16.97%
OPC Neelyville Adjusted w Sp Contract	94.69%	5.31%	0.00%	0.00%	0.00%
StaffNortheast	RES	SGS	LGS	LVS	Contact
Unadjusted	53.68%	30.62%	4.38%	11.32%	NA
Adjusted for# days	51.23%	29.22%	5.46%	14.09%	NA
Adjusted for# days w Sp Contract	51.23%	29.22%	5.46%	8.53%	5.57%
OPC Kirksville Adjusted w Sp Contract	45.80%	30.48%	7.64%	16.08%	0.00%
OPC Palmyra Adjusted w Sp Contract	50.81%	30.43%	0.00%	18.76%	0.00%
OPC UCG Adjusted w Sp Contract	54.18%	28.28%	5.15%	3.17%	9.23%

Q. DID YOU MAKE ANY OTHER CHANGES TO YOUR STUDIES?

A. Yes. I corrected a cell error that affected Other Revenues for UCG and also adjusted the SGS revenues for Greeley based on additional discussions with Staff.

Q. IN STAFF WITNESS ROSS'S REBUTTAL TESTIMONY (P. 2) SHE STATES THAT IT IS REASONABLE TO CONCLUDE THAT THE COST TO SERVE SIMILARLY SITUATED CUSTOMERS IN CONTIGUOUS DISTRICTS IS APPROXIMATELY THE SAME. DO YOU AGREE WITH THIS CONCLUSION?

A. No. Ms. Ross stated that while costs support may be informative it is unnecessary because the costs are substantially the same. I believe that if the Staff had prepared cost studies for each of the districts instead of consolidating them into

1 three, it would have found significant differences in the portion of mains allocated
2 to classes.

3 Contrary to the implication in Staff witness Ross's testimony ,mains costs
4 constitute a significant share of costs, and,the share per customer varies
5 significantly by district. In particular, Ms. Ross argues in her testimony that the
6 Company does not purchase things like meters and mains in the exact quantity needed to
7 serve one district. However, she fails to take into account that the cost of meters and
8 mains as well as other plant costs and associated expenses that a Company can be
9 recovered in a rate case, depend on the original investment, the depreciation rates, the
10 values previously depreciated and adjustments. Current rates were set to recover those
11 embedded costs on a district specific basis. Ms Ross has not submitted evidence that
12 demonstrates that the embedded district costs are the same. For example, she has not
13 submitted evidence that the Company has replaced a substantial amount of mains at equal
14 costs per customer in Butler and Rich Hume. Her conclusion ignores factors that affect
15 the allocation of costs to classes in a district. For example, density is one relevant factor'
16 generally, the lower the density, the higher the cost allocated to each customer. Ms Ross
17 simply assumes away the real differences in embedded costs and factors that affect cost
18 allocations.

19 **Q. ON PAGE 3, OF STAFF WITNESS ROSS'S REBUTTAL TESTIMONY SHE SEEMS**
20 **CONFUSED BY YOUR REFERENCE TO THE LACK OF ACTUAL METER COST DATA BY**
21 **CUSTOMER TYPE. SHE THEN ATTEMPTS TO DISCREDIT YOUR POSITION THAT THE**
22 **CUSTOMER CHARGE SHOULD NOT CHANGE WITHOUT CONSIDERATION OF SUCH**
23 **DATA. IN THIS ATTEMPT SHE REFERENCES A COMPANY DATA REQUEST**

1 **RESPONSE PROVIDED BY THE COMPANY THAT SHE CLAIMS INDICATES THE COST**
2 **OF METERS, REGULATORS AND SERVICE LINES, IS THE SAME FOR ALL DISTRICTS.**
3 **PLEASE RESPOND TO HER STATEMENT.**

4 A. Any confusion about the need for such data can be clarified by reviewing Staff
5 witness Dan Beck's direct testimony. He indicates that similar information by
6 customer type would be useful in determining the appropriate costs. The
7 importance of identifying costs by customer type is that costs are allocated based
8 on the classes' relative share of costs. Underestimating one class's share of costs
9 leads to over allocation to other classes.

10 My rebuttal testimony references Mr. Beck's testimony where he
11 discusses deficiencies in the Company data, ' apparently he had the same concern
12 regarding the accuracy of the cost study results. Although he recommended that
13 the Company's allocators for service lines be used in the cost studies, he
14 recommended caution about the relative accuracy of the class cost of service
15 since service lines accounts for approximately 25% of the cost-of-service. He also
16 recommends that Atmos perform a typical service cost study based on a
17 reasonable sample size of customers from each customer class. , His rate design
18 direct testimony (page 4, line 20) he discusses concerns with the Company's
19 regulator and meter allocators. His initial review indicated that the Company's
20 allocators for meters and regulators produced reasonable allocations to the
21 residential and Small General Service classes and they can be used in the class
22 cost of service studies. But he acknowledged that the relative accuracy of the class

1 cost of service be recognized since they account for approximately 15% of the
2 cost-of-service. Here again, he recommends that Atmos perform a typical service
3 cost study that is based on a reasonable sample size of customers from each
4 customer class.

5 Ms. Ross references a data request answer but she did not provide the DR
6 response number. My review of DR responses led me to Staff DR No. 0110 response
7 which refers to a file containing the Company's meter cost analysis. But the contains a
8 study that estimates the typical cost of investment, installation and overheads associated
9 with a Residential installation. It does not purport to represent the embedded cost by
10 district.

11 **Q. HAVE YOU PERFORMED AN ANALYSIS IN THIS CASE THAT COMPARES LOW-INCOME**
12 **HOUSEHOLD USE TO AVERAGE USE PER CUSTOMER?**

13 **A.** Yes. For each district, I compared the average LIHEAP customer use to the average
14 customer use and found them to be very similar in every district.

15 **Q. STAFF WITNESS ROSS LISTS 6 REASONS SHE OPPOSES YOUR RATE DESIGN**
16 **RECOMMENDATIONS. (REBUTTAL, P. 6) PLEASE RESPOND TO THE FIRST.**

17 **A.** For her first reason, she claims that retaining the current rate design forces residential
18 customers greater than average usage to pay more than the cost required to serve them,
19 while smaller customers underpay their cost-of-service. Ms. Ross has not provided
20 calculations based on embedded costs or district specific customer information to support
21 this assertion. With the exceptions of the service line and meter costs, the majority of an
22 LDC's plant investments are best characterized as joint and common costs that are not

1 attributable to any particular customer and must be allocated based on some reasonable
2 mechanism.

3 Ms. Ross apparently believes that the sole value of service provided by the
4 Company is access to natural gas. Typical rate designs composed of a customer charge
5 and volumetric charge are supportable based on the value of service is both in access to
6 gas as well as in use of gas. In my opinion, recovery through a customer charge and
7 volumetric rate is reasonable and fair from both economic and policy perspectives.
8 Historically, the Commission has found that it is appropriate for those who use more to
9 pay more. Public Counsel encourages the Commission to retain the status quo.

10 **Q. PLEASE RESPOND TO HER SECOND REASON FOR OPPOSITION THAT THE EXISTING**
11 **RATE DESIGN DISCRIMINATES BETWEEN IDENTICAL RESIDENTIAL CUSTOMERS IN**
12 **CONTIGUOUS DISTRICTS BY CHARGING DIFFERENT NON-GAS MARGIN RATES.**

13 A. The existing residential rates vary. The Commission found that the differences between
14 residential rates in the different districts are just and reasonable based on cost and other
15 non-cost based factors it considered when the rates were implemented. Since the Staff
16 did not prepare district specific cost studies, I can not illustrate the significant differences
17 between contiguous districts that I believe a Staff study would show. However, from
18 Staff's accounting data, I can show an example of the significant differences in per
19 customer bill mains investment by contiguous district. The results are illustrated in
20 Table 2.

Table 2.			
	Palmyra	UCG	Kirksville
Distribution Mains Investment	\$1,027,705	\$14,257,517	\$2,694,466
Distribution Mains Reserve	<u>\$409,964</u>	<u>\$5,755,538</u>	<u>\$837,403</u>
Net Plant -Distribution Mains	\$617,741	\$8,501,979	\$1,857,063
Sales Customer Bills	16961	150638	71564
Net Distribution Mains Plant per	\$36.42	\$56.44	\$25.95

Table 2 shows that based on embedded costs there may be significant differences between districts. Ms. Ross did not submit evidence that it is appropriate to aggregate districts with such dissimilar investment. Further, she did not submit evidence that current rates are not appropriate based on embedded costs. In reviewing the revenues from the sales classes included in Table 2, I found some general consistency in the revenue per bill versus the net distribution mains plant per bill. Kirksville's revenue per bill was lowest, as is its dollars of net distribution mains, followed in both net distribution mains plant and revenue by Palmyra and finally in both cases by UCG.

Q. PLEASE RESPOND TO HER THIRD POSITION THAT THE EXISTING RATE DESIGN CREATES UNNECESSARY VOLATILITY IN CUSTOMER BILLS BY COLLECTING A LARGER PORTION OF CUSTOMERS' COST-OF-SERVICE IN THE WINTER.

A. While I agree that the current rate structure increases the possibility of higher recovery of non gas costs in colder than normal winters, I do not consider creating an inescapable fixed delivery charge to be a better option. As I explained in rebuttal testimony, the delivery charge proposal could nearly double the non gas

1 recovery on some low use customers' bills who do not have the ability to avoid
2 the increase by curbing use.

3 **Q. PLEASE RESPOND TO HER FOURTH CLAIM THAT THE EXISTING RATE DESIGN**
4 **PROVIDES NO INCENTIVE FOR UTILITIES TO AGGRESSIVELY PROMOTE**
5 **CUSTOMER EFFICIENCY AND CONSERVATION SINCE THAT IS CONTRARY TO ITS**
6 **SHAREHOLDERS' INTERESTS.**

7 **A.** I address this issue in my rebuttal testimony. There is no assurance that the
8 delivery charge proposal instead of the current rate structure will secure an LDC's
9 support of conservation or align its interests with those of its customers without
10 further concessions. The Staff has not proposed a specific program to promote
11 conservation; and instead, Staff appears willing to rely on the Company to come
12 forward with conservation proposals in the future. That reliance is misplaced
13 since the Company has not done so. The delivery charge proposal shifts
14 additional risk to rate payers based on a hope of promoting conservation. In
15 previous cases, the Staff has supported concrete proposals to promote
16 conservation without the large concessions it now seems willing to accept. Public
17 Counsel states to the Commission that an inescapable delivery charge mechanism
18 and the concession of \$1.2 million in conceded and foregone rate reductions are
19 too high for consumers to pay.

20 **Q. PLEASE RESPOND TO HER FIFTH CLAIM THAT THE EXISTING RATE DESIGN SENDS**
21 **INCORRECT PRICE SIGNALS TO RESIDENTIAL CUSTOMERS.**

1 A. My responses to Ms. Ross's first and second claim address this claim on cost
2 considerations. Ms. Ross sees paying more when you use more as a distortion of
3 price signals, but is unconcerned by the "all-you-can-eat-buffet" price signal sent
4 by the Staff's delivery charge proposal. The non gas portion of the bill is small
5 compared to the commodity portion of the bill, but I see merit in sending a correct
6 price signal through the non gas portion of the bill at issue in this case.

7 **Q. PLEASE RESPOND TO HER SIXTH CLAIM THAT THE EXISTING RATE DESIGN DOES**
8 **NOTHING TO ADDRESS SENATE BILL 179.**

9 A. In my opinion, taking no action in response to Senate Bill 179 in this case is
10 preferable to taking the wrong action. For example, in the "straw-man" rule
11 posted on the Commission Chair's webpage, there is a provision that would allow
12 the Commission to consider reductions in return based on any reduction in risk.
13 The Staff did not make a proposal to reduce the return even though it proposed a
14 weather mitigation rate design even more attractive to the Company than the
15 Company's own request. The Staff's delivery charge proposal is the wrong
16 action. Public Counsel urges the rejection the delivery charge proposal.

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

18 A. Yes.

BARB MEISENHEIMER SURREBUTTAL
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
BUTLER DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS
O & M Expenses	567,416	409,773	118,420	39,223
Depreciation Expense	101,368	74,327	21,982	5,059
Taxes	184,091	126,991	40,995	16,105
TOTAL EXPENSES AND TAXES	\$852,875	\$611,092	\$181,396	\$60,387
TOTAL RATE BASE	\$3,728,560	\$2,527,247	\$859,271	\$342,042
IMPLICIT RATE OF RETURN	8.33%	4.55%	15.01%	19.47%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	310,566	\$210,504	\$71,572	\$28,490
TOTAL COST OF SERVICE	1,163,441	821,596	252,968	88,877
LESS OTHER REVENUE	6,427	4,011	1,714	702
REQUIRED RATE REVENUE	\$1,157,014	\$817,585	\$251,254	\$88,176
CURRENT NON-GAS RATE REVENUES				
Purchased Gas	0	0	0	0
Non-gas margin	1,157,014	722,109	308,618	126,287
TOTAL RATE REVENUE	\$1,157,014	\$722,109	\$308,618	\$126,287
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$95,476	(\$57,364)	(\$38,112)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	13.22%	-18.59%	-30.18%
CURRENT REVENUE PERCENTAGES	100.00%	62.41%	26.67%	10.91%
COS INDICATED REVENUE PERCENTAGES	100.00%	70.66%	21.72%	7.62%

BARB MEISENHEIMER SURREBUTTAL
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
GREELY DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS
O & M Expenses	75,173	61,194	13,979
Depreciation Expense	26,131	20,793	5,338
Taxes	27,985	22,247	5,738
TOTAL EXPENSES AND TAXES	\$129,289	\$104,233	\$25,056
TOTAL RATE BASE	\$667,034	\$532,975	\$134,059
IMPLICIT RATE OF RETURN	4.49%	4.36%	5.02%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	29,959	\$23,938	\$6,021
TOTAL COST OF SERVICE	159,248	128,171	31,077
LESS OTHER REVENUE	1,352	1,082	270
REQUIRED RATE REVENUE	\$157,896	\$127,089	\$30,807
CURRENT NON-GAS RATE REVENUES			
Purchased Gas	0	0	0
Non-gas margin	157,896	126,374	31,522
TOTAL RATE REVENUE	\$157,896	\$126,374	\$31,522
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$715	(\$715)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	0.57%	-2.27%
CURRENT REVENUE PERCENTAGES	100.00%	80.04%	19.96%
COS INDICATED REVENUE PERCENTAGES	100.00%	80.49%	19.51%

BARB MEISENHEIMER SURREBUTTAL
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
KIRKSVILLE DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME
O & M Expenses	623,194	408,221	149,208	22,756	43,008
Depreciation Expense	131,828	90,533	31,741	3,558	5,997
Taxes	235,787	140,206	61,858	11,324	22,398
TOTAL EXPENSES AND TAXES	\$990,809	\$638,960	\$242,807	\$37,638	\$71,404
TOTAL RATE BASE	\$5,079,532	\$2,865,105	\$1,395,657	\$273,529	\$545,241
IMPLICIT RATE OF RETURN	7.67%	3.31%	6.99%	25.64%	23.35%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	389,766	\$219,847	\$107,093	\$20,989	\$41,838
TOTAL COST OF SERVICE	1,380,575	858,808	349,900	58,626	113,241
LESS OTHER REVENUE	9,497	5,048	2,341	741	1,367
REQUIRED RATE REVENUE	\$1,371,078	\$853,760	\$347,559	\$57,885	\$111,874
CURRENT NON-GAS RATE REVENUES					
Purchased Gas	0	0	0	0	0
Non-gas margin	1,371,078	728,728	337,966	107,026	197,359
TOTAL RATE REVENUE	\$1,371,078	\$728,728	\$337,966	\$107,026	\$197,359
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$125,032	\$9,593	(\$49,141)	(\$85,484)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	17.16%	2.84%	-45.91%	-43.31%
CURRENT REVENUE PERCENTAGES	100.00%	53.15%	24.65%	7.81%	14.39%
COS INDICATED REVENUE PERCENTAGES	100.00%	62.27%	25.35%	4.22%	8.16%

BARB MEISENHEIMER SURREBUTTAL
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
NEELYVILLE DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS
O & M Expenses	77,873	66,027	11,846
Depreciation Expense	36,685	31,095	5,590
Taxes	2,857	2,517	340
TOTAL EXPENSES AND TAXES	\$117,414	\$99,640	\$17,775
TOTAL RATE BASE	\$619,221	\$538,999	\$80,222
IMPLICIT RATE OF RETURN	1.75%	-2.06%	27.34%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	10,824	\$9,421	\$1,402
TOTAL COST OF SERVICE	128,238	109,061	19,177
LESS OTHER REVENUE	0	0	0
REQUIRED RATE REVENUE	\$128,238	\$109,061	\$19,177
CURRENT NON-GAS RATE REVENUES			
Purchased Gas	0	0	0
Non-gas margin	128,238	88,528	39,710
TOTAL RATE REVENUE	\$128,238	\$88,528	\$39,710
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$20,533	(\$20,533)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	23.19%	-51.71%
CURRENT REVENUE PERCENTAGES	100.00%	69.03%	30.97%
COS INDICATED REVENUE PERCENTAGES	100.00%	85.05%	14.95%

BARB MEISENHEIMER SURREBUTTAL
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
PALMYRA DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE VOLUME
O & M Expenses	222,414	155,771	49,644	16,999
Depreciation Expense	92,899	64,003	21,518	7,378
Taxes	(10,873)	(9,803)	(1,783)	714
TOTAL EXPENSES AND TAXES	\$304,440	\$209,970	\$69,379	\$25,092
TOTAL RATE BASE	\$1,438,435	\$1,108,737	\$305,200	\$24,498
IMPLICIT RATE OF RETURN	1.10%	0.12%	5.28%	-6.44%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	15,848	\$12,215	\$3,362	\$270
TOTAL COST OF SERVICE	320,288	222,185	72,741	25,361
LESS OTHER REVENUE	4,583	3,023	1,223	336
REQUIRED RATE REVENUE	\$315,705	\$219,162	\$71,518	\$25,025
CURRENT NON-GAS RATE REVENUES				
Purchased Gas	0	0	0	0
Non-gas margin	315,705	208,246	84,282	23,178
TOTAL RATE REVENUE	\$315,705	\$208,246	\$84,282	\$23,178
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$10,916	(\$12,764)	\$1,847
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	5.24%	-15.14%	7.97%
CURRENT REVENUE PERCENTAGES	100.00%	65.96%	26.70%	7.34%
COS INDICATED REVENUE PERCENTAGES	100.00%	69.42%	22.65%	7.93%

BARB MEISENHEIMER SURREBUTTAL
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
SEMO DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME
O & M Expenses	3,893,051	2,683,909	705,542	55,704	209,648
Depreciation Expense	847,591	606,781	161,019	10,936	32,926
Taxes	1,674,433	1,066,757	321,255	28,551	119,622
TOTAL EXPENSES AND TAXES	\$6,415,074	\$4,357,448	\$1,187,815	\$95,191	\$362,196
TOTAL RATE BASE	\$25,759,184	\$15,810,641	\$5,122,151	\$479,234	\$2,016,062
IMPLICIT RATE OF RETURN	9.99%	5.18%	15.28%	32.18%	32.85%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	2,574,255	\$1,580,043	\$511,884	\$47,892	\$201,476
TOTAL COST OF SERVICE	8,989,329	5,937,491	1,699,700	143,083	563,672
LESS OTHER REVENUE	63,877	36,785	14,002	1,772	7,280
REQUIRED RATE REVENUE	\$8,925,452	\$5,900,705	\$1,685,698	\$141,311	\$556,393
CURRENT NON-GAS RATE REVENUES					
Purchased Gas	0	0	0	0	0
Non-gas margin	8,925,452	5,139,948	1,956,489	247,643	1,017,176
TOTAL RATE REVENUE	\$8,925,452	\$5,139,948	\$1,956,489	\$247,643	\$1,017,176
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$760,757	(\$270,791)	(\$106,332)	(\$460,783)
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	14.80%	-13.84%	-42.94%	-45.30%
CURRENT REVENUE PERCENTAGES	100.00%	57.59%	21.92%	2.77%	11.40%
COS INDICATED REVENUE PERCENTAGES	100.00%	66.11%	18.89%	1.58%	6.23%

BARB MEISENHEIMER SURREBUTTAL
GR-2006-0387

PUBLIC COUNSEL COS SUMMARY
ATMOS ENERGY COMPANY
UNITED CITIES DISTRICT

	TOTAL	RESIDENTIAL	SMALL GS	LARGE GS	LARGE VOLUME
O & M Expenses	1,919,128	1,331,533	413,487	55,773	31,639
Depreciation Expense	1,077,130	732,785	240,486	33,181	18,850
Taxes	757,504	500,781	174,145	25,731	14,997
TOTAL EXPENSES AND TAXES	\$3,753,762	\$2,565,099	\$828,118	\$114,684	\$65,487
TOTAL RATE BASE	\$17,143,785	\$11,196,951	\$4,005,897	\$604,023	\$352,669
IMPLICIT RATE OF RETURN	7.90%	7.47%	12.40%	4.15%	0.44%
OPERATING INCOME WITH EQUALIZED RATES OF RETURN	1,353,503	\$884,000	\$316,266	\$47,688	\$27,843
TOTAL COST OF SERVICE	5,107,265	3,449,099	1,144,384	162,372	93,330
LESS OTHER REVENUE	62,464	41,607	16,201	1,709	820
REQUIRED RATE REVENUE	\$5,044,801	\$3,407,491	\$1,128,182	\$160,663	\$92,510
CURRENT NON-GAS RATE REVENUES					
Purchased Gas	0	0	0	0	0
Non-gas margin	5,044,801	3,360,356	1,308,482	138,022	66,203
TOTAL RATE REVENUE	\$5,044,801	\$3,360,356	\$1,308,482	\$138,022	\$66,203
REVENUE SHIFTS TO EQUALIZE CLASS RATES OF RETURN (assuming constant revenues)	\$0	\$47,135	(\$180,300)	\$22,640	\$26,308
PERCENTAGE MARGIN REVENUE CHANGE TO EQUALIZE RATES OF RETURN	0.00%	1.40%	-13.78%	16.40%	39.74%
CURRENT REVENUE PERCENTAGES	100.00%	66.61%	25.94%	2.74%	1.31%
COS INDICATED REVENUE PERCENTAGES	100.00%	67.54%	22.36%	3.18%	1.83%

EXHIBIT

FILED³

DEC 20 2006

Missouri Public
Service Commission

203

Exhibit No.:

Issue(s): Rate Design Proposal – Risk Reduction/
Negative Amortization of Depreciation Reserve/
Uncollectible Expense Inclusion in PGA

Witness:

Trippensee/Rebuttal

Sponsoring Party:

Public Counsel

Case No.:

GR-2006-0387

REBUTTAL TESTIMONY

OF

RUSSELL W. TRIPPENSEE

Submitted on Behalf of
the Office of the Public Counsel

ATMOS ENERGY CORPORATION

Case No. GR-2006-0387

October 31, 2006

OPC Exhibit No. 203
Case No(s) GR-2006-0387
Date 11-30-06 Rptr PF

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Atmos Energy Corporation's)
Tariff Revision Designed to Consolidate Rates)
and Implement a General Rate Increase for)
Natural Gas Service in the Missouri Service)
Area of the Company.)

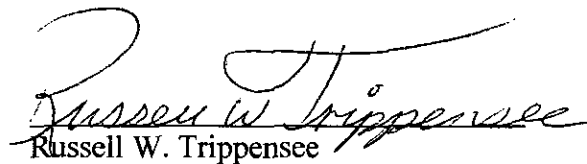
Case No. GR-2006-0387

AFFIDAVIT OF RUSSELL W. TRIPPENSEE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

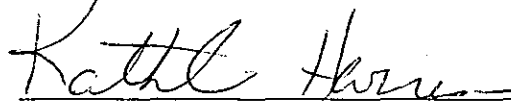
Russell W. Trippensee, of lawful age and being first duly sworn, deposes and states:

1. My name is Russell W. Trippensee. I am the Chief Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony consisting of pages 1 through 18 and Schedule RWT-1.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Russell W. Trippensee

Subscribed and sworn to me this 31st day of October 2006.




Kathleen Harrison
Notary Public

My commission expires January 31, 2010.

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REBUTTAL TESTIMONY
OF
RUSSELL W. TRIPPENSEE
ATMOS ENERGY CORPORATION
CASE NO. GR-2006-0387

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. Russell W. Trippensee. I reside at 1020 Satinwood Court, Jefferson City, Missouri 65109, and my
3 business address is P.O. Box 2230, Jefferson City, Missouri 65102.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am the Chief Utility Accountant for the Missouri Office of the Public Counsel (OPC or Public
6 Counsel).

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

8 A. I attended the University of Missouri at Columbia, from which I received a BSBA degree, major in
9 Accounting, in December 1977. I also acquired the requisite hours for a major in Finance. I attended
10 the 1981 NARUC Annual Regulatory Studies Program at Michigan State University.

11 **Q. ARE YOU A CERTIFIED PUBLIC ACCOUNTANT?**

12 A. Yes, I hold certificate/license number 2004012797 in the State of Missouri.

13 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

14 A. From May through August, 1977, I was employed as an Accounting Intern by the Missouri Public
15 Service Commission (MPSC or Commission). In January 1978 I was employed by the MPSC as a
16 Public Utility Accountant I. I left the MPSC Staff (Staff) in June 1984 as a Public Utility Accountant
17 III and assumed my present position.

18 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL AFFILIATIONS.**

1 A. I served as the chairman of the Accounting and Tax Committee for the National Association of State
2 Utility Consumer Advocates from 1990-1992 and am currently a member of the committee. I am a
3 member of the Missouri Society of Certified Public Accountants.

4 Q. PLEASE DESCRIBE YOUR WORK WHILE YOU WERE EMPLOYED BY THE MPSC
5 STAFF.

6 A. Under the direction of the Chief Accountant, I supervised and assisted with audits and examinations
7 of the books and records of public utility companies operating within the State of Missouri with
8 regard to proposed rate increases.

9 Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES WITH THE OFFICE OF
10 THE PUBLIC COUNSEL?

11 A. I am responsible for the Accounting section of the Office of the Public Counsel and coordinating our
12 activities with the rest of our office and other parties in rate proceedings. I am also responsible for
13 performing audits and examinations of public utilities and presenting the findings to the MPSC on
14 behalf of the public of the State of Missouri.

15 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE THE MPSC?

16 A. Yes. I filed testimony in the cases listed on Schedule RWT-1 of my testimony on behalf of the
17 Missouri Office of the Public Counsel or MPSC Staff.

18 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

19 A. To address the revenue requirement implications of the proposed changes in rate design contained in
20 the direct testimony of Staff witness Anne Ross and Atmos Energy Corporation (Atmos or Company)
21 witness Gary L Smith. These witnesses have proposed rate design changes that will significantly
22 reduce the risk associated with the Company's ability to earn its authorized rate of return. However

neither the Staff nor the Company direct case make any allowance in their return on equity recommendation to recognize these proposed dramatic changes in the rate structure for the weather sensitive customer classes. Inherent in return on equity is a risk component and the change in this risk must be accounted for, if the proposed change in rate design is adopted.

I will also address the recommendation of Staff witness Guy C. Gilbert in which he proposes to utilize monies previously paid by ratepayers to the Company, as a "return of" the investment Atmos has in Missouri, to be used to reduce current rates. Such a process will require that future ratepayers repay these monies. Public Counsel does not believe it is appropriate to use monies paid by previous ratepayers in order to reduce current rates with the result being that future ratepayers will be required to repay these monies.

In the last section of my testimony, I will set out the basis for Public Counsel's opposition to the Company's proposal to include uncollectible expense in the Purchase Gas Adjustment clause which should only be used for direct expenditures by Atmos in order to secure natural gas for distribution.

Rate Design Proposal – Risk Reduction

Q. PLEASE EXPLAIN HOW PUBLIC COUNSEL'S WITNESSES WILL ADDRESS CONCERNS REGARDING THE RATE DESIGN PROPOSALS OF STAFF AND ATMOS.

A. I will address the revenue requirement impacts of the rate design proposals. Public Counsel witness Barb Meisenheimer will also address specific concerns with the rate design proposals as crafted by Staff and Atmos.

1 Q. PLEASE EXPLAIN THE RELATIONSHIP BETWEEN REVENUE REQUIREMENT
2 AND THE RATE DESIGN PROPOSALS BY STAFF AND ATMOS.

3 A. Under traditional regulatory processes used in Missouri, the revenue requirement is only minimally
4 affected by the rate design. In fact, even though mechanisms such as the Infrastructure Replacement
5 Surcharge reduce a utility's risk, explicit adjustments to return on equity are not usually proposed.
6 Rate structures are not used as a vehicle for virtually guaranteeing that a utility will earn its authorized
7 return on equity. In this case, both the Staff and Company have proposed rate designs that
8 significantly change the risks faced by Atmos with respect to variability of earnings. The return on
9 equity is an integral part of the revenue requirement. Elimination of the earnings variability has a
10 major impact on the appropriate rate of return this Commission should authorize for Atmos.

11 Q. COULD YOU DEFINE THE RISK AND THEN EXPLAIN THE FUNDAMENTAL
12 DIFFERENCES BETWEEN BUSINESS RISK AND FINANCIAL RISK?

13 A. Yes. Risk can be defined as the possibility that actual earnings from an asset or an investment may
14 differ from expected earnings. The wider the range of possible earnings, the greater the risk
15 associated with that asset or investment.

16 **Business risk** is the uncertainty (variability) associated with earnings due to fundamental business
17 conditions faced by the company, such as cyclical markets, weather-sensitive sales, changing
18 technology, unforeseen events, or competition. Business risk is the *inherent riskiness of a firm's*
19 *assets* due to the operations of the company and the industry in which it operates. In other words,
20 business risk is not connected to the way the firm finances its assets. The following summarizes
21 business risk.

1 Business risk is defined as the uncertainty inherent in the projections of future
2 returns on assets (ROA), and it is the single most important determinant of capital
3 structure.

4 (Fundamentals of Financial Management, Eugene F Brigham & Joel F. Houston,
5 Eighth edition, page 493)

6 **Financial risk** is the uncertainty associated with earnings available to common shareholders due to
7 debt and/or preferred stock being used to finance the firm's assets. This additional risk stems from
8 the fact that cash flows to common shareholders are subordinate to a firm's required debt service (i.e.
9 a firm must pay its debt service and any preferred dividends before it can pay common dividends.)
10 From a common shareholder's perspective, a firm with less debt and preferred stock in its capital
11 structure has fewer bills to pay before it can allocate earnings to common dividends, and is therefore
12 less risky. The following summarizes financial risk.

13 financial risk is the additional risk placed on the common stockholders as a result of
14 financial leverage.

15 (Fundamentals of Financial Management, Eugene F Brigham & Joel F. Houston,
16 Eighth edition, page 498)

17 **Q. DO THE RATE DESIGN PROPOSALS OF BOTH STAFF AND THE COMPANY**
18 **SIGNIFICANTLY REDUCE THE VARIABILITY OF REVENUES?**

19 **A.** Yes. Staff witness Anne Ross proposes that all non-gas costs be recovered from customers on a
20 100% fixed customer charge (Ms. Ross uses the term Delivery Charge) for the weather sensitive
21 customer classes, specifically residential and small general service customers. That is, the total non-
22 gas cost paid by the individual customer will not change, regardless of usage. Absent a decline in the
23 number of customers connected to the system, the Commission determined non-gas revenue
24 requirement (including ROE) intended to be collected will in fact be collected.

1 Q. WHAT IS THE IMPLICATION OF A FIXED DELIVERY CHARGE ON THE
2 EARNINGS OF THE COMPANY?

3 A. For the customer classes in which customers are paying a fixed delivery charge as proposed by Ms
4 Ross, the revenues (including the imbedded earnings in the class cost of service) anticipated to be
5 collected from these customers will be collected with virtual certainty. Since the gas cost associated
6 with serving the customer is collected in total through a process that includes the Purchase Gas
7 Adjustment Clause and the Actual Cost Adjustment Clause (PGA), Atmos would effectively be
8 guaranteed earn the authorized rate of return for serving these customer classes. Thus the risk of
9 earnings variability will be virtually eliminated for these customer classes and greatly reduced for its
10 Missouri jurisdictional operations.

11 Q. HAS THE COMPANY ALSO PROPOSED A RATE DESIGN THAT CREATES A
12 REDUCTION IN THE VARIABILITY OF EARNINGS AND THUS THE RISK
13 THE ATMOS FACES?

14 A. Yes. Atmos has proposed a Weather Normalization Adjustment (WNA) that levelizes revenues by
15 adjusting the tariff rate charged to weather sensitive customers by a factor dependent on actual
16 weather heating degree days compared to the normalized heating degree days used in the
17 determination of the tariff rate. The request for a WNA is contained in the direct testimony of
18 Company witness Gary L. Smith.

19 Q. DOES PUBLIC COUNSEL SUPPORT A WNA IN THIS CASE?

20 A. No. Public Counsel does not believe the Commission should authorize a WNA prior to the enactment
21 of rules implementing Senate Bill 179 passed by the 93rd General Assembly and signed into law by
22 Governor Matt Blunt that authorized the Commission to consider;

1 rate adjustments outside of general rate proceedings to reflect the non-gas revenue
2 effects of increases or decreases in residential and commercial customer usage due to
3 variations in either weather, conservation, or both.
4 (Section 386.266.3 RSMo 2005 Supp.)

5 The MPSC was also authorized to promulgate rules prior to the implementation of any such
6 mechanism.

7 **Q. TO DATE, HAS THE COMMISSION AUTHORIZED SUCH RULES?**

8 A. No. A draft of the rules addressing a weather normalization clause can be found on the MPSC
9 website but proposed rules have not been put out for public comment.

10 **Q. IS THE COMMISSION OBLIGATED TO AUTHORIZE WEATHER**
11 **NORMALIZATION CLAUSE AS A RESULT OF SB179?**

12 A. No. The language in the statutes allows the Commission to "approve, modify, or reject adjustment
13 mechanisms".

14 **Q. SHOULD THE ELIMINATION OR SIGNIFICANT REDUCTION OF BUSINESS**
15 **RISK RESULTING FROM A WNA HAVE AN IMPACT ON THE RATE OF**
16 **RETURN ON EQUITY AUTHORIZED BY THE MPSC?**

17 A. Yes. Failure to recognize the reduction in business risk resulting from a significant decline in the
18 potential variability of earnings would result in rates being paid by customers that compensate
19 stockholders for a risk they no longer have, therefore such rates would not be just and reasonable.

20 **Q. HAVE OTHER AUTHORITIES AND UTILITIES RECOGNIZED THAT A**
21 **PROCESS THAT MITIGATES THE IMPACT OF WEATHER ON EARNINGS**
22 **SHOULD BE CONSIDERED IN THE AUTHORIZED RATE OF RETURN?**

23 A. Yes. SB179 contained the following language

1 The commission may take into account any change in business risk to the
2 corporation resulting from implementation of the adjustment mechanism in setting
3 the corporation's allowed return in any rate proceeding, in addition to any other
4 changes in business risk experienced by the corporation.
5 (Section 386.266.8 RSMo 2005 Supp.)

6 The following statement is attributable to Laclede Gas Company in the First Amended Partial
7 Stipulation and Agreement filed in Case No. GR-2002-356:

8 The Company agrees that the adoption of a weather mitigation rate design in an
9 LDC's rate structure reduces its weather-related business risk and therefore the
10 business risk of the utility.
11 (Attachment B, Page 4 of 7)

12 The draft rule found on the Commission's web site also contains language mirroring the language
13 found in SB179 regarding the reduction in risk.

14 **Q. IF THE COMMISSION AUTHORIZES A RATE DESIGN THAT SIGNIFICANTLY**
15 **REDUCES VARIABILITY IN EARNINGS, WHAT OTHER RISK OR COST**
16 **CONSIDERATIONS SHOULD BE TAKEN INTO ACCOUNT WHEN AUTHORIZING**
17 **A RETURN ON EQUITY?**

18 **A.** The primary consideration should be the components of risk inherent in a rate of return beginning
19 with the risk free rate of return. I agree with Staff witness Matt Barnes where he quantifies the risk
20 free rate as being equal to the Thirty-Year U.S. Treasury Bond with an average yield of 5.13%
21 (Barnes Direct, page 16, lines 17 -20). A second consideration should be the cost of long-term debt
22 included in the capital structure supporting rate base. Mr. Barnes has quantified this cost as 6.03%
23 (Barnes direct, Schedule 21).

24 **Q. WHY IS THE COST OF LONG-TERM DEBT A CONSIDERATION?**

1 A. As previously stated, financial risk recognizes that cash flows for stockholders are subordinate to the
2 legal rights of debt holders. Therefore in order to compensate equity investors, the return opportunity
3 provided should be in excess of the cost of debt.

4 Q. DOES THE STAFF'S RATE DESIGN PROPOSAL ELIMINATE FINANCIAL
5 RISK?

6 A. No. Common stock's subordinate status to secured debt with respect to debt service is a legal
7 principle that is not changed by rate design or other actions by this Commission.

8 Q. IS BUSINESS RISK THE FINAL CONSIDERATION THAT SHOULD BE TAKEN
9 INTO ACCOUNT?

10 A. Yes. However as previously discussed, a rate design as proposed by Staff or Atmos will significantly
11 reduce business risk. A rate design that dramatically alters the assurance of the level of revenue
12 recovery and reduces the variability of earnings should be recognized if this Commission is going to
13 fulfill its obligation to ensure that ratepayers pay just and reasonable rates.

14 Q. DOES PUBLIC COUNSEL BELIEVE THAT STAFF'S RETURN ON EQUITY
15 RECOMMENDATION HAS TAKEN THIS RISK REDUCTION INTO
16 CONSIDERATION?

17 A. No. A review of Mr. Barnes' testimony does not address the significant change in rate design
18 proposed by the Staff. Likewise, a review of his analysis and calculations of a Discounted Cash Flow
19 model (DCF) and a Capital Asset Pricing Model (CAPM) fail to indicate any consideration of the
20 fixed delivery charge rate design change proposed by Staff.

1 Q. DOES PUBLIC COUNSEL BELIEVE THAT ATMOS'S RETURN ON EQUITY
2 RECOMMENDATION HAS TAKEN THIS RISK REDUCTION INTO
3 CONSIDERATION?

4 A. No. Atmos witness Smith claims that a Weather Normalization Adjustment does not reduce risk. He
5 states:

6 Q. Does a WNA reduce the Company's risk?

7 A. No. WNA reduces a downside risk only if actual weather is warmer than
8 normal. However, it also removes an upside opportunity when weather is colder
9 than normal.

10 (Smith Direct, page 10, lines 11 – 14)

11 Incredibly, Mr. Smith's rationale in support of his assertion that risk is not reduced is in the basic
12 definition of risk. Mr. Smith fails to recognize that variability is risk and that the lack of variability
13 results in a reduction in risk.

14 Q. DO YOU AGREE WITH STAFF WITNESS ROSS'S ASSERTION THAT
15 "EVERYBODY LOSES" UNDER TRADITIONAL RATE DESIGN?

16 (Ross direct, page 12, lines 5 – 21)

17 A. No. Ms. Ross's answer beginning on line 16 appears to be predicated on the assumption that only
18 downside risk exists. If rates are based on the appropriate weather normal, there will be equal periods
19 above and below the normal weather used to develop rates in the regulatory process. Using a
20 fundamental concept that the investor market is comprised of informed investors, they would be well
21 aware of regulatory practices and the variability of earnings that result from business risks such as
22 weather. The one-way only trend of earnings envisioned by Ms. Ross does not equate to actual
23 expectations of the market.

1 Q. DOES RISK ALSO PROVIDE AN IMPORTANT INCENTIVE TO STOCKHOLDERS
2 AND MANAGEMENT OF THE COMPANY?

3 A. Yes. It is reasonable to believe that utility managers are risk adverse. Therefore, in order to mitigate
4 the effects of risks such as weather, management has an incentive to take steps to operate the utility in
5 an efficient manner. If a level of earnings is assured via a rate design such as that proposed by Ms.
6 Ross, the incentive to operate the utility efficiently is also reduced because the risk to which
7 management would be adverse has been reduced or eliminated. It could be argued that the reduction
8 in risk as a result of a change in rate design would similarly reduce the incentive to find new
9 efficiencies or at least reduce the level of priority placed on such activities. Public Counsel does not
10 believe ratepayers are protected by removing financial incentives for management efficiency leaving
11 only the possibility of after-the-fact regulatory oversight through prudency reviews as an incentive for
12 management efficiency.

13 Q. DOES PUBLIC COUNSEL HAVE A RECOMMENDATION ON THE APPROPRIATE
14 RETURN ON EQUITY IF THE COMMISSION STEPS OFF INTO UNCHARTED
15 REGULATORY PRACTICES, ABANDONS PROVEN RATE DESIGN PRINCIPLES,
16 AND ADOPTS THE STAFF'S PROPOSED RATE DESIGN FOR A DELIVERY
17 CHARGE?

18 A. Yes. Public Counsel would recommend the Commission use a 7% return on equity. Public
19 Counsel's recommendation utilizes the spread (.87%) between the risk free rate (5.13%, Barnes
20 Direct, page 16, lines 17 -20) and cost of debt (6.03%, Barnes direct, Schedule 21) and incorporates
21 that spread between the cost of debt and its equity recommendation with the result ($6.03\% + .87\% =$
22 6.90%) rounded up to 7%.

Negative Depreciation Expense – Reversal of Accumulated Depreciation Reserve

**Q. PLEASE EXPLAIN THE STAFF'S PROPOSED ADJUSTMENT THAT CREATES
NEGATIVE DEPRECIATION EXPENSE AND RESULTS IN A REVERSAL OF
THE ACCUMULATED DEPRECIATION RESERVE.**

A. Staff witness Gilbert proposes that the Commission authorize Atmos to continue using the current authorized depreciation rates for all districts except Greeley for which the Commission should authorize the use of the depreciation rates authorized for the Butler district. Staff uses these depreciation rates to determine its traditional depreciation expense. Mr. Gilbert then goes on to recommend (Gilbert direct, page 9, lines 9 – 13) that the Commission recognize the result of the Company's proposed depreciation expense calculation by reducing the annual depreciation expense accrual resulting from Staff's proposal by the amount of \$591,000 as contained in the direct testimony of Company witness Donald S. Roff (Rolf direct, page 3, line 8).

Staff's calculated annual depreciation expense using the depreciation rates proposed is \$3,037,871 (Staff accounting schedules 7, 9, & 10) after recognition of the capitalized portion of depreciation expense. This amount will accrue to (increase) the Accumulated Depreciation Reserve and is a "return of" the capital investment of the utility by the customers. Staff's proposal to accept the result of Atmos's proposed depreciation rates results in a reduction in the Accumulated Depreciation Reserve, thus a reversal of the "return of" the capital investment by the customers, in effect requiring the Company to reinvest monies they previously received from ratepayers in order to hold current rates lower.

**Q. WHY DOES PUBLIC COUNSEL OPPOSE A REDUCTION IN THE ACCUMULATED
DEPRECIATION RESERVE?**

1 A. The Accumulated Depreciation Reserve represents the total dollars that ratepayers have provided
2 from the inception of the utility to pay for the plant-in-service currently used to serve customers.
3 Once paid, the customers are no longer required to pay a "return on" that portion of plant-in-service
4 that has been paid for via depreciation expense. The regulatory accounting for this can be found on
5 Schedule 2 of the Staff's Accounting Schedules, lines 2, 3, and 4. The Staff's proposal would utilize
6 a portion of the Accumulated Depreciation Reserve dollars (line 2 of Schedule 2) to reduce current
7 rates by reversing prior year entries to record depreciation expense by the amount of \$591,000 via a
8 negative amortization on an annual basis. The result is that monies paid to the Company by prior
9 ratepayers will be taken back and used to reduce current depreciation expense (determined by
10 multiplying authorized depreciation rates applied to plant-in-service) and thus current revenue
11 requirement and the resulting tariff rates. However, future ratepayers will be required to repay these
12 monies as the Company, under normal circumstances, has the right to a "return of" its investment
13 while the property is in-service. Future ratepayers will also have to pay a "return on" these
14 investments until such time as the "re-return of" these funds is completed.

15 **Q. PLEASE EXPLAIN THE TERMS "RETURN OF" AND "RETURN ON."**

16 A. If an expenditure is recorded on the income statement as an expense it is compared dollar for dollar to
17 revenues. This comparison is referred to as a "return of" because a dollar of expense is matched by a
18 dollar of revenue in the determination of revenue requirement.

19 "Return on" occurs when an expenditure is capitalized within the balance sheet because it increased
20 the value of a balance sheet asset or investment. This capitalization is then included in the rate base
21 calculation, which is a preliminary step in determining the earnings the company achieves on its total
22 regulatory investment.

1 Q. IS THE \$591,000 REDUCTION IN DEPRECIATION EXPENSE BASED ON A
2 DEPRECIATION STUDY BY THE COMPANY AND ADDRESSED IN ITS DIRECT
3 TESTIMONY?

4 A. Yes.

5 Q. IS THE COMPANY'S DEPRECIATION STUDY BASED ON COMPANY SPECIFIC
6 INFORMATION REQUIRED TO DO A DEPRECIATION STUDY?

7 A. No. Company witness Roff stated:

8 "Because the existing mortality characteristics are not known, only generalizations
9 can be made regarding the effect of the current study parameters on the
10 recommended depreciation rates."

11 (Roff direct, page 3, lines 12 - 15)

12 Mortality characteristics are the parameters necessary to calculate depreciation rates.

13 (Roff direct, page 7, line 14)

15 Q. DOES STAFF WITNESS GILBERT ALSO ACKNOWLEDGE THAT THE BOOKS
16 AND RECORDS OF THE COMPANY ARE INADEQUATE TO PERFORM A
17 DEPRECIATION STUDY?

18 A. Yes. Mr. Gilbert states:

19 "My testimony also addresses what the staff believes to be a Commission rule
20 violation by Atmos regarding the Company's lack of property and property
21 retirement data."

22 (Gilbert direct, page 1, line 23 - page 2, line 2)

23 "The mortality records of property and property retirement are incomplete."

24 (Gilbert direct, page 3, line 1)

25
26 Mr. Gilbert makes several other references to the problems with the Company's continuing property
27 records over the next several pages of his testimony.

1 Q. DOES MR. GILBERT ASSERT THAT ATMOS IS IN VIOLATION OF
2 COMMISSION RULES REGARDING ITS PROPERTY RECORDS?

3 A. Yes. On page 2, lines 1 – 10, Mr. Gilbert discusses Staff belief that Atmos is in violation of 4 CSR
4 240-40.040 (3). Mr. Gilbert goes on to state that:

5 "In violation of the Commission's rules, there does not appear to be any property
6 retirements listed in the CPR. Specifically, 4 CSR 240-40.040 (3)(A) requires a
7 company to:

8 Maintain plant records of the year of each unit's retirement as part of the
9 "continuing plant inventory records," as the term is otherwise defined in
10 Part 201 Definitions, 8. and paragraph 20,001.8:"

11 (Gilbert direct, page 4, line 22 – page 5, line 5)

12 Q. ARE YOU FAMILIAR WITH THE TERM "THEORETICAL DEPRECIATION
13 RESERVE"?

14 A. Yes. Simply stated, the Theoretical Depreciation Reserve is the level that the Accumulated
15 Depreciation Reserve should equal given that the related plant-in-service has been depreciated at rates
16 equal to the depreciation rates currently estimated to be appropriate. The result is that the actual
17 Accumulated Depreciation Reserve will be alleged to have either excess funds or have a deficiency.
18 The resulting difference is referred to as a theoretical excess or deficiency.

19 Based on my experience, utilities have sometimes asserted that any identified accumulated
20 depreciation reserve deficiency should be recovered from ratepayers over a time period less than the
21 estimated remaining life of the property. The utilities would propose a positive amortization to
22 depreciation expense to accomplish the recovery from ratepayers of the alleged deficiency.

23 Q. WOULD A POSITIVE AMORTIZATION OF A THEORETICAL RESERVE
24 DEFICIENCY REPRESENT A "RETURN OF" THE INVESTMENT IN PLANT-IN-
25 SERVICE?

1 A. Yes.

2 Q. DOES STAFF WITNESS GILBERT BELIEVE THAT SUFFICIENT DATA
3 EXISTS TO MAKE A CALCULATION OF A THEORETICAL DEPRECIATION
4 RESERVE?

5 A. No. Mr. Gilbert states:

6 Because of the lack of data to perform an accurate depreciation analysis, it was not
7 possible for Staff to accurately determine a theoretical reserve for each account.
8 (Gilbert direct, page 8, lines 15 - 17)

9 Q. DOES PUBLIC COUNSEL BELIEVE THE \$591,000 NEGATIVE
10 DEPRECIATION ADJUSTMENT IS BASED ON KNOWN AND MEASUREABLE
11 DATA?

12 A. No, based on our review of the direct testimony of Staff witness Gilbert and the direct testimony of
13 Atmos witness Roff.

14 Q. DOES PUBLIC COUNSEL BELIEVE THE \$591,000 WOULD RESULT IN THE
15 UTILITY HAVING TO PROVIDE CAPITAL IN ORDER TO REDUCE CURRENT
16 RATES?

17 A. Yes.

18 Q. SHOULD THE COMMISSION ADOPT STAFF'S PROPOSAL?

19 A. No.

20 Uncollectible Expense in Purchase Gas Adjustment

21 Q. WHAT IS THE COMPANY REQUESTING REGARDING THE REGULATORY
22 TREATMENT OF UNCOLLECTIBLE EXPENSE?

1 A. Atmos is requesting to classify Uncollectible Expense (often referred to as bad debt expense) as a cost
2 of natural gas and include the costs in the Purchase Gas Adjustment (PGA) charge to customers.
3 Company's request is contained in the direct testimony of Atmos witness Patricia J. Childers (page 3,
4 line 22 -- page 8, line 22).

5 **Q. PLEASE SET OUT HOW PUBLIC COUNSEL WILL ADDRESS THIS ISSUE.**

6 A. Public Counsel witness Barb Meisenheimer and I will both address the Company's position regarding
7 uncollectible expense.

8 **Q. DOES PUBLIC COUNSEL SUPPORT THE INCLUSION OF UNCOLLECTIBLE**
9 **EXPENSE IN THE PGA?**

10 A. No. Uncollectible expense does not represent an expenditure of cash by the Atmos. It is a paper
11 entry recorded on the Company's financial records in anticipation that some customers may not pay
12 an obligation to Atmos. It is not a cost of gas that merits inclusion in the PGA. The Uniform System
13 of Accounts (USOA) clearly defines Uncollectible Expense:

14 904 Uncollectible Accounts

15 This account shall be charged with amounts sufficient to provide for losses from
16 uncollectible utility revenues. Concurrent credits shall be made to account 144,
17 Accumulated Provision for Uncollectible Accounts -- Credit. Losses from
18 uncollectible accounts shall be charged to account 144.

19 Account 904 is included under the general heading Customer Accounts Expense.

20 **Q. DOES THE USOA SET OUT SPECIFIC ACCOUNTS FOR PURCHASED GAS**
21 **EXPENSE?**

22 A. Yes. Account 807, Purchase Gas Expense, is the account that applies to gas distribution companies
23 such as Atmos's Missouri operations.

1 807 Purchase gas expense

2 A. This account shall include expenses incurred directly in connection with the
3 purchase of gas for resale.

4 (emphasis added by OPC)

5 Q. DESPITE THE USOA, DOES ATMOS ASSERT THAT UNCOLLECTIBLE
6 EXPENSE IS A GAS COST?

7 A. Yes. Ms. Childers asserts that:

8 Q. Can a reasonable argument be made that gas costs somehow become
9 something other than gas costs if customers do not reimburse the Company for such
10 costs?

11 A. Absolutely not. In fact, it defies logic to argue that such costs are gas costs
12 at the time they are incurred but somehow become something different if the
13 Company is not reimbursed for them by customers. There is no logical support for
14 an argument that would define a cost on the basis of whether or not a customer pays
15 their bill for such cost.

16 (Childers direct, page 6, lines 1 – 8)

17
18 Q. IS MS. CHILDERS POSITION CONSISTENT WITH THE USOA AND
19 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES?

20 A. No. As set out in her testimony, she fails to differentiate between cash expenses of the Company and
21 the inability for whatever reason to collect revenues from customers.

22 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

23 A. Yes.

Rebuttal Testimony
Russell W. Trippensee
Case No. GR-2006-0387

Missouri Power & Light Company, Steam Dept., Case No. HR-82-179
Missouri Power & Light Company, Electric Dept., Case No. ER-82-180
Missouri Edison Company, Electric Dept., Case No. ER-79-120
Southwestern Bell Telephone Company, Case No. TR-79-213
Doniphan Telephone Company, Case No. TR-80-15
Empire District Electric Company, Case No. ER-83-43
Missouri Power & Light Company, Gas Dept., Case No. GR-82-181
Missouri Public Service Company, Electric Dept., Case No. ER-81-85
Missouri Water Company, Case No. WR-81-363
Osage Natural Gas Company, Case No. GR-82-127
Missouri Utilities Company, Electric Dept., Case No. ER-82-246
Missouri Utilities Company, Gas Dept., Case No. GR-82-247
Missouri Utilitites Company, Water Dept., Case No. WR-82-248
Laclede Gas Company, Case No. GR-83-233
Great River Gas Company, Case No. GR-85-136 (OPC)
Northeast Missouri Rural Telephone Company, Case No. TR-85-23 (OPC)
United Telephone Company, Case No. TR-85-179 (OPC)
Kansas City Power & Light Company, Case No. ER-85-128 (OPC)
Arkansas Power & Light Company, Case No. ER-85-265 (OPC)
KPL/Gas Service Company, GR-86-76 (OPC)
Missouri Cities Water Company, Case Nos. WR-86-111, SR-86-112 (OPC)
Union Electric Company, Case No. EC-87-115 (OPC)
Union Electric Company, Case No. GR-87-62 (OPC)
St. Joseph Light and Power Company, Case Nos. GR-88-115, HR-88-116 (OPC)
St. Louis County Water Company, Case No. WR-88-5 (OPC)
West Elm Place Corporation, Case No. SO-88-140 (OPC)
United Telephone Long Distance Company, Case No. TA-88-260 (OPC)
Southwestern Bell Telephone Company, Case No. TC-89-14, et al. (OPC)
Osage Utilities, Inc., Case No. WM-89-93 (OPC)
GTE North Incorporated, Case Nos. TR-89-182, TR-89-238, TC-90-75 (OPC)
Contel of Missouri, Inc., Case No. TR-89-196 (OPC)
The Kansas Power and Light Company, Case No. GR-90-50 (OPC)
Southwestern Bell Telephone Company, Case No. TO-89-56 (OPC)
Capital City Water Company, Case No. WR-90-118 (OPC)
Laclede Gas Company, Case No. GR-90-120 (OPC)
Southwestern Bell Telephone Company, Case No. TR-90-98 (OPC)

Rebuttal Testimony
Russell W. Trippensee
Case No. GR-2006-0387

Empire District Electric Company, Case No. ER-90-138 (OPC)
Associated Natural Gas Company, Case No. GR-90-152 (OPC)
Southwestern Bell Telephone Company, Case No. TO-91-163
Union Electric Company, Case No. ED-91-122
Missouri Public Service, Case Nos. EO-91-358 and EO-91-360
The Kansas Power and Light Company, Case No. GR-91-291
Southwestern Bell Telephone Co., Case No. TO-91-163
Union Electric Company, EM-92-225 and EM-92-253
Southwestern Bell Telephone Company, TO-93-116
Missouri Public Service Company, ER-93-37, (January, 1993)
Southwestern Bell Telephone Company, TO-93-192, TC-93-224
Saint Louis County Water Company, WR-93-204
United Telephone Company of Missouri, TR-93-181
Raytown Water Company, WR-94-300
Empire District Electric Company, ER-94-174
Raytown Water Company, WR-94-211
Missouri Gas Energy, GR-94-343
Capital City Water Company, WR-94-297
Southwestern Bell Telephone Company, TR-94-364
Missouri Gas Energy, GR-95-33
St. Louis County Water Company, WR-95-145
Missouri Gas Energy, GO-94-318
Alltel Telephone Company of Missouri, TM-95-87
Southwestern Bell Telephone Company, TR-96-28
Steelville Telephone Exchange, Inc., TR-96-123
Union Electric Company, EM-96-149
Imperial Utilites Corporation, SC-96-247
Laclede Gas Company, GR-96-193
Missouri Gas Energy, GR-96-285
St. Louis County Water Company, WR-96-263
Village Water and Sewer Company, Inc. WM-96-454
Empire District Electric Company, ER-97-82
UtiliCorp d/b/a Missouri Public Service Company, GR-95-273
Associated Natural Gas, GR-97-272
Missouri Public Service, ER-97-394, ET-98-103
Missouri Gas Energy, GR-98-140

Rebuttal Testimony
Russell W. Trippensee
Case No. GR-2006-0387

St. Louis County Water, WO-98-223
United Water Missouri, WA-98-187
Kansas City Power & Light/Western Resources, Inc. EM-97-515
St. Joseph Light & Power Company, HR-99-245
St. Joseph Light & Power Company, GR-99-246
St. Joseph Light & Power Company, ER-99-247
AmerenUE, EO-96-14, (prepared statement)
Missouri American Water Company, WR-2000-281
Missouri American Water Company, SR-2000-282
UtiliCorp United Inc./St. Joseph Light & Power Company, EM-2000-292
UtiliCorp United Inc./Empire District Electric Company, EM-2000-369
St. Joseph Light & Power Company, EO-2000-845
St. Louis County Water Company, WR-2000-844
Union Electric Company, EO-2001-245
Laclede Gas Company, GM-2001-342
Empire District Electric Company, ER-2001-299
Missouri-American Water Company, et. al., WM-2001-309
AmerenUE, EC-2002-152, GC-2002-153
UtiliCorp United Inc., ER-2001-672
Aquila, Inc., GO-2002-175
AmerenUE, ER-2002-001
Laclede Gas Company, GA-2002-429
AmerenUE, GR-2003-0517
Algonquin Water Resources of Missouri & Silverleaf Resort, Inc. WO-2005-0206
Kansas City Power & Light Company, Case No. EO-2005-0329
Empire District Electric Company, Case No. ER-2006-0315
Kansas City Power & Light Company, Case No. ER-2006-0314
Atmos Energy Corporation, Case No. GR-2006-0387

FILED³

DEC 20 2006

Corrections Testimony of Barbara Meisenheimer
Case No. GR-2006-0387

Missouri Public
Service Commission

Direct Testimony

Delete "so" on Line 6, Page 4.
Change "company's" to "Company's" on Line 21, Page 6.

Rebuttal Testimony

Delete "create" on Line 5, Page 29.
Delete "(see Schedule RK-1)" on Line 11, Page 32.
Replace "3" with "4" on Line 4, Page 35.
Replace the text on Line 17, Page 39, with "repay as they choose. A reasonable payment for gas withdrawn is important to ensure"
Begin the answer on Line 9, Page 40, with "I do not support a"

Surrebuttal Testimony

Replace "." with "," on Line 15, Page 4.
Replace "are differences" with "differ" on Line 19-20, Page 4.
Insert "than" following "SGS" on Line 9, Page 5.
Delete "in the mains" on Line 10, Page 5.
Replace " " with ", " on Line 15, Page 7.
Replace ", ' apparently" with ". Apparently" on Line 15, Page 7.
Replace ", His" with "In" on Line 17, Page 8.
Replace ". But" with "that" on Line 7, Page 9.
Insert "with" following "customers" on Line 18, Page 9.

OPC Exhibit No. 204
Case No(s) GR-2006-0387
Date 11-30-06 Rptr PR

0001

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
4
5 TRANSCRIPT OF PROCEEDINGS
6 Hearing
7 November 30, 2006
8 Jefferson City, Missouri
9 Volume 7

9

10

11 In the Matter of Atmos Energy)
Corporation's Tariff Revision)
12 Designed to Consolidate Rates)
and Implement a General Rate) Case No. GR-2006-0387
13 Increase for Natural Gas)
Service in the Missouri)
14 Service Area of the Company)

15

16 NANCY DIPPELL, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE
17 JEFF DAVIS, Chairman,
CONNIE MURRAY,
18 STEVE GAW,
ROBERT M. CLAYTON, III
19 LINWARD "LIN" APPLING,
COMMISSIONERS.

20

21

22

REPORTED BY:

23

PAMELA FICK, RMR, RPR, CCR #447, CSR
24 MIDWEST LITIGATION SERVICES

25

0002

1 APPEARANCES:

2

3 JAMES M. FISCHER, Attorney at Law

4 LARRY DORITY, Attorney at Law

5 FISCHER & DORITY

6 101 Madison, Suite 400

7 Jefferson City, MO 65101

8 (573) 636-6758

9 FOR: Atmos Energy Corporation.

10

11 ROBIN E. FULTON

12 Attorney at Law

13 SCHNAPP, FULTON, FALL, SILVEY & REID, L.L.C.

14 135 East Main Street

15 P.O. Box 151

16 Fredericktown, Missouri 63645

17 (573) 783-7212

18

19 FOR: Noranda Aluminum.

20

21

22 MARK POSTON, Public Counsel

23 P.O. Box 2230

24 200 Madison Street, Suite 650

25 Jefferson City, MO 65102-2230

(573) 751-4857

FOR: Office of the Public Counsel
and the Public.

18

19 ROBERT S. BERLIN, Associate General Counsel

20 KEVIN THOMPSON, General Counsel

21 LERA SHEMWELL, Senior Counsel

22 STEVEN REED, Senior Counsel

23 P.O. Box 360

24 200 Madison Street

25 Jefferson City, MO 65102

(573) 751-3234

23

24 FOR: Staff of the Missouri Public
Service Commission.

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1 P R O C E E D I N G S

2 JUDGE DIPPELL: This is Case Number
3 GR-2006-0387 in the matter of Atmos Energy
4 Corporation's Tariff Division Design to Consolidate
5 Rates and Implement a General Rate Increase for
6 Natural Gas Service in the Missouri Service Area of
7 the Company.

8 My name is Nancy Dippell. I'm the
9 regulatory law judge assigned to this case, and we've
10 come here today for an evidentiary hearing in this
11 matter. It is -- we're having a winter storm outside
12 so I appreciate everyone braving the weather to be
13 here today, and we're gonna work our schedule around
14 that as we go along.

15 So I'd like to begin with entries of
16 appearance. Can we start with Staff?

17 MR. BERLIN: Yes, Judge. Appearing on
18 behalf of the Staff of the Public Service Commission,
19 Robert S. Berlin, Kevin Thompson, Lera Shemwell,
20 Steve Reed, Post Office Box 360, Jefferson City,
21 Missouri 65102.

22 JUDGE DIPPELL: And Public Counsel?

23 MR. POSTON: Thank you. Appearing on
24 behalf of the Office of Public Counsel and the
25 public, Mark Poston, P.O. Box 2230, Jefferson City

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1 Missouri 65102.

2 JUDGE DIPPELL: And Atmos?

3 MR. FISCHER: Appearing on behalf of
4 Atmos Energy Corporation, James M. Fischer and
5 Larry W. Dority with the law firm of Fischer &
6 Dority. Our address is 101 Madison Street, Suite
7 400, Jefferson City, Missouri 65101. Also appearing
8 today is Doug Walter who is in-house counsel with
9 Atmos out of Dallas, Texas and he will be assisting
10 as well.

11 JUDGE DIPPELL: Okay. Remind everybody
12 to turn off your cell phones and other wireless
13 devices, Palm Pilots, PDA's. Sometimes they
14 interfere with our internet transmission. And
15 Noranda?

16 MR. FULTON: Yes. Rob Fulton appearing
17 on behalf of Noranda Aluminum. My address is P.O.
18 Box 151, Fredericktown, Missouri 63645.

19 JUDGE DIPPELL: And is anyone present
20 for Hannibal Regional Hospital?

21 (NO RESPONSE.)

22 JUDGE DIPPELL: Okay. I had a call this
23 morning. Actually I had a message this morning -- it
24 may have been a call yesterday -- from Mr. Woodsmall
25 on behalf of Hannibal Regional, and he asked to be

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1 excused from the hearing. And he may or may not be
2 present today. While I can't actually excuse him
3 from the hearing, I will state that I will not hold
4 any penalties against him. However, anyone who's not
5 present gives up any right to cross-examination or
6 recitation of evidence at that point in the hearing
7 and loses rights to objections and so forth.

8 Okay. We had a partial nonunanimous
9 stipulation and agreement filed yesterday, and I just
10 wanted to have a brief statement from the parties as
11 to what that covers and give us a little bit of
12 background on that. Mr. Berlin, would you like to --
13 or Atmos, whichever?

14 MR. BERLIN: Judge, going back to the
15 filing of the joint issues, list of witnesses and the
16 order of cross-examination, that filing was done on
17 the 14th of November, and in that filing the parties
18 indicated that there were seven resolved issues. The
19 seven resolved issues formed the basis of this
20 partial nonunanimous stipulation and agreement. The
21 partial stipulation was signed by Staff, Public
22 Counsel and Atmos. In looking at this, and I would
23 refer you to this, I presume you have a copy of it in
24 front of you?

25 JUDGE DIPPELL: Yes, I do.

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1 MR. BERLIN: Okay. Roman numeral I,
2 Billing Determinants, the parties have agreed to
3 those billing determinants as represented in
4 Attachment A to this stipulation. I have Roman
5 Numeral II, Other Post-Retirement Benefits
6 Contribution. The parties have agreed that, as
7 stated, Atmos has made a catch-up contribution in the
8 amount stated and will begin funding the annual OPEB
9 cost for its operations in Missouri.

10 Roman Numeral III -- and I'm kind of
11 water-skiing over this --

12 JUDGE DIPPELL: That's fine.

13 MR. BERLIN: -- but I would like to just
14 add that we do have Staff witnesses who can discuss
15 this in greater technical detail, but I can't at this
16 point. But Roman Numeral III is the class share of
17 revenue by district and class cost of service, and I
18 think it's important to note the parties have agreed
19 there will be no revenue shifts among the classes,
20 and that the normalized present gas not -- let me go
21 back.

22 The "normalized present non-gas revenues
23 of each customer class" shall be the amount shown in
24 Attachment A which represents the weather-normalized
25 class test year revenues.

1 And I think it's important to note Roman
2 Numeral III, paragraph B, that Atmos has agreed that
3 they will file a class cost-of-service study
4 consistent with the Commission's decision regarding
5 however this Commission decides on the issue of
6 district consolidation. And they will do that class
7 cost-of-service study as part of a filing -- its
8 filing in the next general rate case.

9 And then you can see there's language in
10 there whereby the company agrees to submit certain
11 data to the Staff and to Public Counsel so that Staff
12 and Public Counsel may perform their own study. And
13 so this we believe is adequately covered.

14 Roman Numeral IV deals with customer
15 service requirements and reporting, and there are
16 certain -- there are certain requirements in here
17 that Atmos must meet with regard to customer service,
18 certain reporting requirements to Staff and to Public
19 Counsel and I won't get into all of these, but we do
20 have a Staff representative, Lisa Kremer, who is a
21 Staff witness who can address this in greater detail.

22 I know one of the Commissioners will
23 have probably some questions on this, but Roman
24 Numeral V has to do with the PGA minimum filing
25 requirement, and what we've asked Atmos to do is that

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1 concurrently with its annual cost adjustment filing
2 it will provide certain documentation to support the
3 company's ACA that will be used to reconcile the
4 company's actual gas cost with its billed revenues.
5 And you can see that from paragraph A through
6 paragraph D, we have pretty well defined what that
7 documentation is that Atmos is to provide in its PGA
8 filing.

9 Roman Numeral VI deals with the subject
10 of depreciation recordkeeping and reporting, that
11 Atmos will make certain -- will perform certain
12 actions with regard to addressing the current
13 depreciation rates that serve -- the plants that
14 serve all Missouri operations.

15 And this -- this particular paragraph
16 just basically addresses any of the concerns that
17 Staff and Public Counsel had with regard to
18 recordkeeping and reporting. And again, Staff
19 witness Guy Gilbert could certainly address that if
20 there's technical questions on that issue.

21 We also settled the issue of gas loss
22 reporting, Roman Numeral VII, and permit Atmos to use
23 its proposed 2 percent methodology. And we are
24 asking Atmos to actually make reports to Staff
25 regarding its progress with regard to managing gas

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1 loss reporting. And so we feel we have certain
2 management protections in place so that the
3 customer's protected from unaccounted for gas loss.
4 And that is a topic or subject issue area that Staff
5 witness Mike Ensrud could answer some more detailed
6 questions on.

7 And with regard to Roman Numeral VIII,
8 the nonsignatory parties, Noranda and Hannibal
9 Regional Hospital. And then, of course, Roman
10 Numeral IX is the general boilerplate language of the
11 stipulation agreement. I kind of water-skied over
12 that I know, but that's just the gist of this
13 particular stipulation and agreement.

14 JUDGE DIPPELL: I appreciate that.
15 Thank you very much. Okay. With that, I will also
16 say that we did -- I issued an order earlier and the
17 parties premarked the exhibits with exhibit numbers,
18 and we will accept those exhibit numbers.

19 MR. BERLIN: Judge, if I may interrupt?

20 JUDGE DIPPELL: Excuse me, yes.

21 MR. BERLIN: We do have a revised
22 November 30th exhibit list that we will --

23 JUDGE DIPPELL: Okay.

24 MR. BERLIN: We've been scrutinizing our
25 list of exhibits and have tried to correct certain

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1 details with regard to the prefiled testimony. Do
2 you have that? And Judge, I have a copy.

3 JUDGE DIPPELL: Okay. Yes, if you
4 could -- are there major revisions or --

5 MR. BERLIN: No, no major revisions.

6 JUDGE DIPPELL: Okay. Okay. We'll try
7 to follow those as we go along. I think we'll do
8 each parties' exhibits as we go, and prior to going
9 on the record, the parties indicated they would be
10 willing to waive the preliminary address, name and so
11 forth of the witnesses as they come up, and would
12 there be any objection to that procedure to save
13 time?

14 (NO RESPONSE.)

15 JUDGE DIPPELL: I see no -- no
16 objection. Are there any other preliminary matters
17 that we should resolve before beginning with opening
18 statements?

19 MR. BERLIN: Judge, I just want to alert
20 you to -- and unless the situation has changed, one
21 key Staff witness, Anne Ross, is coming in from out
22 in the country north of Columbia --

23 JUDGE DIPPELL: All right.

24 MR. BERLIN: -- will be coming in late,
25 and while I look at the order of issues, I don't

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1 think that will present a problem, and I would expect
2 that she would be able to be here because I think
3 that particular issue is the last issue scheduled for
4 today.

5 JUDGE DIPPELL: Well, like I say, we'll
6 work around people being able to be here. I don't
7 want anyone risking life or limb to be here today.
8 We actually have a whole week reserved next week for
9 this hearing still, so we'll work around people and
10 their traveling.

11 MR. FISCHER: Judge, I would also
12 request, the list of issues and order of witnesses
13 has Don Murray going first for the company. He's our
14 ROE witness. However, Pat Childers is actually the
15 policy witness that gives the overview of the company
16 and addresses the overall situation on revenue
17 requirement. And with the approval of the parties,
18 I'd put her up first just to give a broader
19 perspective on that.

20 JUDGE DIPPELL: Is there any objection
21 to the change in the order of witness?

22 (NO RESPONSE.)

23 JUDGE DIPPELL: Seeing none, that would
24 be allowed. All right, then, let's go ahead and
25 begin with opening statements, and the parties

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1 previously agreed to the order of that, and we'll
2 begin with Atmos. And you may stay at your seat, if
3 you'd rather, than come to the podium, that's fine.
4 Wherever you're speaking from, I'd appreciate it if
5 you would speak into the microphone.

6 MR. FISCHER: May it please the
7 Commission, my name is Jim Fischer and I'm
8 representing Atmos Energy Corporation today. I also
9 have with me my partner, Larry Dority, and I wanted
10 to introduce Doug Walter who's in-house counsel to
11 the company out of Dallas. Doug was actually with
12 the Office of the General Counsel here at the
13 Missouri Public Service Commission back in the
14 1980's, and he's back here right behind my seat.

15 Atmos is the largest pure natural gas
16 distribution company in the United States. It has
17 its offices located in Dallas, Texas but it has
18 regional and state offices for Missouri operations in
19 Hannibal, Jackson and Sikeston.

20 Atmos serves about 60,000 customers in
21 Missouri including residential, commercial and
22 industrial customers. It has a Missouri-based work
23 force of approximately 75 employees, and its plant in
24 Missouri covers -- or includes about 2,150 miles of
25 both mains and distribution facilities.

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1 The Missouri operations are actually
2 compromised of six districts located in the
3 northeast, the southeast and west-central areas of
4 Missouri. I noticed on the screen whenever I came
5 in that there was a map that may be used later in
6 the hearing that shows exactly where those areas
7 are.

8 The company came together as a result of
9 three acquisitions: The Greeley Gas Company was
10 purchased in 1993, the United Cities Gas Company was
11 purchased in 1997, and more recently, the Associated
12 Natural Gas Company was purchased in the year 2000.

13 Now, Atmos has not filed a rate case
14 since acquiring these particular service areas, so
15 all the rates that exist today go back to those days
16 when the other companies owned the systems. So for
17 example, Greeley, which serves a small number of
18 companies in western Missouri, they haven't had a
19 rate increase in that area since before Greeley Gas
20 Company actually acquired that system from the Rich
21 Hill Hume Gas Company back in 1994.

22 The last time the rates for the Greeley
23 district were actually increased was in 1983, nearly
24 23 years ago. The last rate increase for United
25 Cities Gas was filed in 1994 or about 12 years ago,

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1 and the last rate increase for the Associated area,
2 Associated Natural Gas, was in 1997. So it's been
3 about a decade since the most recent look at any of
4 these areas, and some of these rates have been in
5 effect for almost 23 years.

6 In 2002, the Commission approved the
7 consolidation of the company's rules and regulations
8 in its tariff so that at least the rules and the
9 regulations for this company are uniform
10 throughout -- throughout the state.

11 But more importantly, the rates and the
12 miscellaneous charges are not uniform in Missouri.
13 They all go back to that time when Greeley set them
14 years ago, United Cities rate case and then the
15 Associated Natural Gas case. And those rates are
16 still the ones that are in effect in the Atmos tariff
17 today.

18 As a result, each of these Atmos
19 districts have different margin or base rates, and
20 they also have different PGA rates and tariffs
21 relating to how the PGA operates and also how the
22 transportation rates are implemented.

23 At present, Atmos has six sets of
24 non-gas rates or margin rates and six sets of PGA
25 rates. Even the miscellaneous charges, like bad debt

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1 charges, reconnection fees and other miscellaneous
2 charges are not uniform throughout the state.

3 While the company's made every effort to
4 operate as efficiently as possible and it is proud of
5 its well deserved reputation as one of the lowest-
6 cost providers of natural gas service in the United
7 States, since the last United Cities rate case, the
8 company has invested more than \$22 million in direct
9 Missouri gross plant, including additions that have
10 occurred since the acquisition of the Associated
11 Natural Gas properties.

12 Atmos has also made significant
13 technological investments in customer call centers
14 and billing systems since that last look at its rates
15 in the Associated case.

16 On April 7th, 2006, Atmos filed tariffs
17 in this case which proposed to increase the rates by
18 approximately \$3.4 million. Now, one of the primary
19 reasons the company filed this rate case was an
20 attempt to consolidate these rates and to make the
21 miscellaneous charges uniform throughout the --
22 throughout the state of Missouri.

23 It also sought to make rate design
24 changes that would mitigate the effects of weather on
25 the customers' bills and on the company's earnings.

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1 In that regard, one of the original recommendations
2 contained in the Atmos testimony in this case was the
3 recommendation that the Commission permit the company
4 to use a weather normal -- weather normalization
5 adjustment mechanism similar to the type of mechanism
6 that has already been approved for the company in
7 four of its other jurisdictions.

8 As I'm gonna discuss in a minute,
9 however, Atmos has changed its position on this
10 particular issue and is now supporting the Staff's
11 rate design recommendations which will also mitigate
12 the effects of weather on the customers' bills and on
13 the company's earnings.

14 As is discussed in the rebuttal
15 testimony of Atmos witness Pat Childers, the company
16 has thoroughly reviewed and compared its case with
17 the Staff's case, has analyzed and compared the
18 various adjustments to the test period in both cases
19 and has considered the impact of the Staff's proposed
20 rate design on the company as we reviewed our various
21 cases.

22 The company has concluded that if the
23 Commission approves the Staff's proposed rate design
24 and the other positions enunciated by Staff in its
25 testimony and accepted by the company, then Atmos

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1 believes it will have a reasonable opportunity to
2 earn a fair return without the need for rate increase
3 in this case.

4 With only a couple of very minor
5 exceptions, Staff and company have no areas of
6 disagreement remaining in the case. Specifically,
7 with regard to the overall revenue requirement, Staff
8 witness Steve Rackers, who I think was the head
9 auditor in the audit, has testified that -- and I'm
10 gonna quote it: "The Staff believes that no change
11 in cost of service on a total company basis will
12 still result in just and reasonable rates as a result
13 of this case."

14 The company has accepted this
15 recommendation in light of the rate design proposals
16 that are being suggested by the -- by the Staff.
17 While the Office of the Public Counsel did not file
18 any direct testimony in this case regarding the
19 overall revenue requirement, its accountant, Mr. Russ
20 Trippensee, has sponsored rebuttal testimony on the
21 subject of cost of equity suggesting that the
22 Commission approve a 7 percent rate of return on
23 equity for Atmos in this proceeding.

24 I think the evidence will show that
25 Mr. Trippensee did not perform any discounted cash

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1 flow analysis or other traditional analysis of the
2 cost of capital issue. Instead, his testimony
3 recommends that the Commission lower the ROE
4 recommended by Staff as an apparent response to the
5 Staff's proposed delivery charge on the rate design
6 issue.

7 Obviously, a 7 percent ROE is much lower
8 than any ROE previously authorized by the Commission,
9 at least in the last 30 years or so that I can
10 remember. Both Staff witness Matt Barnes and Atmos
11 witness Don Murray thoroughly discuss and rebut
12 Mr. Trippensee's calculation of the appropriate cost
13 of capital for Atmos.

14 Regarding Public Counsel's approach and
15 the punitive ROE recommendation, Dr. Murray observes
16 in his surrebuttal, "That is not analysis. This is
17 just unorthodox opinion." Mr. Trippensee's
18 recommendation is not supported by a commonly
19 accepted rate of return analysis. He did not analyze
20 the cost of equity of the companies that have similar
21 risk to Atmos.

22 In fact, he didn't acknowledge in his
23 testimony that many of the comparable companies
24 analyzed by Staff and the company have weather
25 mitigation rate designs that minimize the effects of

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1 weather on the -- on the customers' bills and on the
2 company's earnings.

3 As Dr. Murray explains in his
4 surrebuttal testimony, seven of the eight companies
5 that Mr. Barnes identified as comparable to Atmos
6 Energy operate under some type of revenue
7 stability -- or excuse me, revenue stabilization
8 mechanisms for their residential and small commercial
9 customers.

10 Finally, the other legal flaw in the
11 Public Counsel's position on the revenue requirement
12 issue in this case is that the Office of the Public
13 Counsel has not filed a complaint against the
14 reasonableness of Atmos's existing rates.

15 As the Commission knows, according to
16 Section 386.270, all rates of a public utility that
17 have been approved by the Commission are prima facie
18 lawful and reasonable until found otherwise in a suit
19 brought for that purpose pursuant to the provisions
20 of Chapter 386.

21 The Office of Public Counsel has chosen
22 not to file a complaint against the reasonableness of
23 existing rates of the company. As a result, there is
24 no pending complaint proceeding alleging that Atmos's
25 existing rates are unjust and unreasonable, and, of

1 course, if they did file a complaint case, the
2 complainant would have the burden of proof. So we're
3 basically at a point here, from our perspective, that
4 we have a revenue-neutral rate design proceeding that
5 we are asking the Commission to resolve.

6 Now, on the rate design issue, Staff has
7 recommended that the Commission combine the current
8 districts into three -- three different districts:
9 The northeast, the southeast and the midwest.
10 Staff's proposal to consolidate base rates into three
11 geographic areas is quite similar to the company's
12 original recommendations offered in the testimony of
13 Pat Childers, and Atmos supports the Staff's
14 proposal.

15 Atmos also supports the Staff's proposal
16 to consolidate the PGA part of the tariff into four
17 areas. Although we had originally proposed a
18 state-wide consolidation so there would just be one
19 PGA, we are certainly accepting the Staff's proposal
20 to have four, which is certainly a step in the right
21 direction.

22 Staff is also recommending that the
23 non-gas or the margin part of the rate, the margin
24 costs, be recovered through a fixed monthly charge
25 which is known as a delivery charge for residential

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1 and small commercial customers.

2 As Anne Ross explains in her testimony,
3 the delivery charge removes the disincentives for
4 utilities to encourage and assist customers in making
5 conservation and efficiency investments, and
6 secondly, reduces the effects of weather on the
7 utilities' revenues and on customers' bills.

8 I think she explains very well the many
9 benefits to customers in her testimony, and I would
10 encourage you to review her testimony and ask her
11 questions about the impact for consumers and the
12 benefits. This type of rate structure would provide
13 Atmos with the opportunity to earn on its non-gas
14 revenue requirement without regard to the weather
15 impacts from any given year.

16 While the company's original proposal
17 contained this weather normalization adjustment
18 mechanism, which is sometimes shorthand as a WNA,
19 after carefully considering the Staff's proposal on
20 the delivery charge rate structure, the company is
21 now supporting the adoption of Staff's rate design
22 proposals in lieu of its original weather
23 normalization adjustment mechanism.

24 Atmos does recommend one minor
25 modification to the Staff's proposal, and that is

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1 that it would seasonably sculpt that delivery charge
2 so that it would be slightly higher in the winter and
3 slightly lower in the summer. However, Atmos can
4 accept Staff's delivery charge as its proposed if
5 that's the preference of the Commission. Our
6 witness, Gary Smith, can discuss that sculpting
7 proposal.

8 The company is committed to educating
9 customers about the delivery charge prior to and
10 during the implementation to ensure that customers
11 understand the delivery charge will exist and the
12 basis for that and understanding what it's all about.
13 And Pat Childers can talk to you about that if you
14 have an interest in that.

15 In addition, the company has reviewed
16 Ann Ross's rebuttal testimony encouraging the company
17 to initiate energy audits for all residential
18 customers, or at least to make them available to all
19 residential customers.

20 She also recommends the development of a
21 home weatherization program for at least 30
22 low-income customers on an annual basis. Pat
23 Childers, in her surrebuttal testimony, accepts that
24 proposal and agrees to implement these proposals as
25 described by the Staff.

1 Now, having reviewed the Staff's
2 proposed customer classes, including the proposal to
3 split the general service into a small and a
4 general -- and a medium general service class, and
5 also its proposal to set the classes on a uniform
6 basis across the State of Missouri, the company has
7 agreed or is willing to accept the Staff's proposal
8 on rate design in that regard as well.

9 Now, Atmos does oppose the rate design
10 proposal that's being advocated by the Office of the
11 Public Counsel in this proceeding. That proposal
12 would essentially maintain the status quo. Under
13 Public Counsel's recommendation, there would be no
14 progress toward the consolidation of these base rates
15 in the PGA areas, and the company would not have an
16 opportunity to mitigate the effects of weather on its
17 customers' bills or on the company's earnings.

18 Public Counsel also opposes the economic
19 development rider and many of the other miscellaneous
20 proposals that I'm gonna discuss shortly.

21 Atmos is willing to accept the Staff's
22 proposals on the miscellaneous utility-related
23 charges. Staff supports Mike Ensrud's
24 recommendations in that regard regarding the
25 reconnection fee to offset any delivery charges

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1 avoided by customers when they disconnect from the
2 system.

3 There are also a number of other
4 miscellaneous areas which Staff and Atmos are in
5 agreement. These include changes to the
6 transportation tariffs including what are known as
7 cash-out provisions for the transportation tariff.
8 Staff also supports in their testimony the proposed
9 economic development rider that is endorsed by Atmos.

10 Staff and Atmos are also in agreement, I
11 think, on the company's main extension policy. Staff
12 has advocated only one exception to the company's
13 main extension policy by proposing some additional
14 language regarding refunds, and Atmos has accepted
15 Staff's position on that and is willing to add the
16 language suggested by Mike Ensrud in that -- in their
17 final tariffs in this case.

18 Now, as you just heard from Mr. Berlin
19 yesterday, Atmos, the Staff and Public Counsel filed
20 a stipulation and agreement which resolved a number
21 of issues, and I'm not gonna repeat that at this
22 point, but we'd be happy to answer any questions
23 about that.

24 We've withdrawn the proposal that we had
25 included in our testimony on the research development

1 rider and our suggestion that the uncollectible
2 expense be recovered through the PGA. Also, issues
3 related to the Noranda contract have been resolved.

4 As more fully described in our
5 prehearing brief, Atmos and the Staff have no
6 significant areas of disagreement remaining in this
7 case. While the Office of the Public Counsel
8 continues to object to the delivery charge rate
9 design advocated by Staff, such objections have been
10 thoroughly discussed and rebutted by the prefiled
11 testimony of Staff and the company witnesses.

12 Resolution of this particular issue in
13 favor of the Staff and Atmos's position will result
14 in just and reasonable rates, and it's certainly
15 going to be in the public interest.

16 As stated by the Staff witness Anne Ross
17 who sponsors this testimony, Staff believes that its
18 rate design is a simple, understandable, appropriate
19 recovery mechanism that decouples the cost of
20 serving the customer from the customers' energy
21 consumption.

22 I want to point out that this is a
23 wonderful opportunity for this Commission to do a
24 great deal of good for a great number of people. We
25 have an opportunity in Missouri to align the interest

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1 of shareholders and customers.

2 Judge, on that point more than any
3 other, I think the company would agree with Staff,
4 and we would strongly urge you to accept this
5 delivery charge proposal that the Staff has
6 suggested. This proposal is progressive and it
7 results in benefits to consumers as well as to the
8 company. It will reduce the volatility of the
9 company's earnings, and it will give the customer the
10 opportunity to better manage his energy bill in the
11 future.

12 Thank you very much for your attention,
13 and we'll be happy to answer any questions.

14 JUDGE DIPPELL: Thank you, Mr. Fischer.
15 An opening statement from Staff?

16 MR. BERLIN: Just a minute, Judge.
17 We're trying to get ready technically. We're making
18 an attempt to use the Smart Board technology. I'm
19 gonna have my assistant pull up a -- an overhead of
20 the state that depicts the service area that
21 Mr. Fischer talked about, and I have a copy that I
22 can pass out.

23 JUDGE DIPPELL: Thank you.

24 MR. BERLIN: Judge, I think the Smart
25 Board has outsmarted us.

1 JUDGE DIPPELL: I applaud you for giving
2 it a try.

3 MR. BERLIN: What we're attempting to do
4 is put this overview of Atmos's service areas on the
5 screen so that it would provide an easy reference to
6 pointing out these particular areas. Okay. Thank
7 you, Sarah.

8 During my opening comments, I'll
9 probably use two other charts that are part of Ann
10 Ross's surrebuttal and rebuttal testimony just for
11 purposes of illustration.

12 Good morning. I'm Bob Berlin, and may
13 it please the Commission, I am assisted today as a
14 lead attorney by Kevin Thompson who will be
15 addressing the issue of rate of return, return on
16 equity and revenue requirement; Lera Shemwell who
17 will be addressing the issue of depreciation; Steve
18 Reed who will be addressing the issue of tariff
19 charges and miscellaneous charges and related tariff
20 issues. I will be addressing the issue of rate
21 design and PGA consolidation, district consolidation.

22 I would like to begin my statement by
23 saying that we have a really unique case here. In
24 fact, this is a case of first impression and a case
25 of first impression for a number of reasons which I

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1 will go into.

2 Mr. Fischer talked about some of those
3 reasons, and I will attempt to flesh those reasons
4 out, and attempt to make it very clear what this case
5 is about.

6 First, I think we need to take a look at
7 Atmos's service areas on the map on the screen and
8 the map that is before you, and understand today that
9 Atmos is composed of seven separate districts that
10 are spread across three distinct geographic service
11 areas: We have northeast Missouri, southeast
12 Missouri, and we have western Missouri or west
13 central Missouri on the opposite end of the state.

14 Now, in northeast Missouri -- and I'm
15 pointing to it now -- you can see that there are
16 three separate districts in that geographic area.
17 Kirksville area district on the western side is part
18 of the old Associated Natural Gas Company acquired by
19 Atmos in 2000. In the middle is Hannibal, Canton,
20 Bowling Green. That district is part of the old
21 United Cities Gas that was purchased by Atmos in
22 1997.

23 And on the far side of the northeast
24 Missouri area is the Palmyra district. That too is
25 part of the old United Cities Gas Company acquired in

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1 1997.

2 Going to southeast Missouri, there are
3 two separate districts. Now, on your map you can see
4 that on the far western southwestern corner of
5 southeast Missouri appear to be two counties that are
6 bolden out. You should see a bold line. Those two
7 counties represent approximately the service area of
8 the Neelyville district. Neelyville -- and I'm
9 pointing to it -- is part of the old United Cities
10 Gas Company bought in 1997.

11 The remainder of southeast Missouri that
12 I point to here is part of the old Associated Natural
13 Gas Company acquired in 2000.

14 Going to western Missouri, there's the
15 Butler district. Butler is the larger district and
16 that is -- Butler district is part of the old
17 Associated Natural Gas Company purchased in 2000.

18 The southern western corner is called
19 the Greeley district, and as Mr. Fischer explained,
20 that is the old Greeley Gas Company, and that was
21 purchased by Atmos in 1993.

22 So today what we have is that Atmos is
23 operating seven separate districts across the state.
24 These seven separate districts are based on
25 operational realities of Atmos's three predecessor

0030

1 companies: The Greeley Gas Company purchased in
2 1993, United Cities bought in 1997, and the old
3 Associated Natural Gas Company bought in 2000.

4 What does this mean? Well, with seven
5 districts, you have seven different customer charges,
6 you have seven different volumetric commodity
7 charges, you have seven PGA filings and there are
8 seven sets of miscellaneous charges.

9 In short, what Staff sees here are seven
10 opportunities to create customer confusion, seven
11 opportunities for needless customer confusion over
12 billing, especially among the customers in adjoining
13 or contiguous districts.

14 As I point to the northeast Missouri
15 district, there's three separate districts all
16 adjoining each other. One can only imagine the
17 administrative inefficiencies involved in managing
18 seven separate districts.

19 In short, Atmos is an amalgamation, much
20 like many of this state's utilities, but it operates
21 a hodgepodge of old LDC's whose costs represent
22 operational realities of the past. Atmos Energy has
23 never appeared in a general rate case before this
24 Commission.

25 Greeley Gas Company that I mentioned in

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1 the western part of Missouri, acquired in 1993, never
2 had a rate case before this Commission. Its rates
3 were actually set on nonexistent costs in an
4 application case. United Cities Gas, acquired in
5 1997, had its last rate case in 1994 in which its
6 rates were implemented in 1995. Associated Natural
7 Gas, acquired in 2000, had its last rate case in 1997,
8 and its rates were implemented that same year.

9 Now, Staff believes quite strongly that
10 the time is now to consolidate districts. Staff
11 proposes the consolidation of these seven separate
12 districts into three separate operating areas and
13 four separate PGA districts, and let me explain
14 again.

15 For purposes of determining cost of
16 operations, cost of service to the customer, Atmos
17 will have the three geographic areas that you see on
18 the screen or on your map: Northeast Missouri,
19 southeast Missouri and western Missouri. And again,
20 I can't emphasize enough that these three operational
21 areas represent today's operational realities and
22 today's operational costs.

23 Now, going to PGA, Atmos, in Staff's
24 opinion and Staff's proposal, should have four
25 separate PGA districts. Now, why the number four?

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1 Well, let me explain: The number of PGA districts
2 was determined by Staff based upon how the interstate
3 pipelines serve those particular areas, or where the
4 gas supply comes from, what particular supply basin
5 the pipeline brings the gas.

6 Staff witness Tom Imhoff can provide
7 many of the answers to any questions you have with
8 regard to the cost of those interstate pipelines and
9 how they relate.

10 I would like to point out that with four
11 PGA districts, the geographical area that will have
12 two districts for PGA purposes is northeast Missouri.
13 There will be a Kirksville PGA district, and the
14 remainder of the northeast Missouri service area will
15 be another district. The driver, again, for that is
16 how the interstate pipelines serve those areas and
17 the costs related to those interstate pipelines.

18 I would also like to mention that on a
19 statewide basis the Staff proposes that miscellaneous
20 charges which are based on Atmos's true cost of
21 operations, true cost of service, that the services
22 related to those charges such as things like
23 reconnection or insufficient funds, that those
24 charges be uniform throughout the state. It just
25 makes sense.

1 Now, when I started my opening
2 statement, I said this is a case of first impression,
3 and I need to go into the other reasons why this --
4 this case is a case of first impression. It is
5 certainly a landmark case for Staff. And why is
6 that? Well, to begin with, this is a zero revenue
7 requirement case. The Staff's proposed rate design
8 in a zero revenue requirement situation, customers
9 will pay no more to Atmos than what they are paying
10 now. Atmos will take the same amount of revenue from
11 the State as they are taking today.

12 Now, in its direct case, Atmos filed for
13 a \$3.6 million rate increase. The Staff, based on
14 its audit and analysis, determined in its direct case
15 a negative \$1.2 million revenue requirement. After
16 holding a rate design technical conference and a
17 week-long settlement conference, Staff became aware
18 of the various positions of the parties on many
19 different issues.

20 And in consideration of the positions of
21 the parties on other issues, Staff firmly believes
22 that the current rates are just and reasonable under
23 this revenue requirement. And let me give you an
24 example. Staff developed its \$1.2 million negative
25 requirement in its direct case using a 9.0 return on

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1 equity.

2 Staff -- Staff recognizes that this
3 Commission has never awarded a single-digit return on
4 equity. Though Staff believes that it can defend its
5 9.0 return on equity, we are being realistic and
6 recognize that this Commission has, in the past,
7 awarded any number from 10 to 10.5 on return on
8 equity. And I understand that the Commission
9 recently awarded 11 percent return on equity in a
10 past rate case. I believe it might have been Empire.

11 Now, that was just one piece of it.
12 There was a couple other issues. There was the issue
13 of amortization, the issue of uncollectibles. When
14 considering the positions of the parties on those
15 issues, all three of those issues, it's quite
16 possible that if the Commission were to adopt those
17 positions, that that negative \$1.2 million would be
18 erased and could possibly move this case into a
19 positive revenue requirement. That is possible.

20 Now, Staff witness Steve Rackers can
21 fully explain how these different positions affect
22 the revenue requirement. But what I have tried to
23 explain is that there is a certain flex in that
24 number. Staff firmly believes that that number
25 represents -- the number of the zero revenue

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1 requirement -- represents a very fair revenue
2 requirement at just and reasonable rates.

3 I think that you will see that Staff,
4 based on its prefiled testimony and any evidence from
5 the testimony presented here today, that that zero
6 revenue requirement is, indeed, just and reasonable.

7 Now, moving forward, the real
8 centerpiece of Staff's case here, what makes this
9 truly a case of first impression, is Staff's rate
10 design proposal. Staff's rate design is a design
11 that strikes the greatest fairness for all customers
12 of Atmos.

13 Staff proposes a simple two-part rate
14 design. First, we break out the fixed delivery
15 charges to cover the cost of service, simply the cost
16 of providing gas service to the customer. That cost
17 of service. The other piece of a customer's bill is
18 the PGA. That is the pass-through to the customer,
19 the actual cost of the gas that that customer uses.

20 We believe that is simple -- that is a
21 simple approach, certainly one that would be easily
22 understood. But as Mr. Fischer talked about, Staff
23 really believes it strikes the very best fair and
24 equitable approach to rate design for the customer.

25 And yes, it does balance the interest of

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1 the customer with the shareholder. And I'll talk a
2 little bit more about that in a minute, but I think
3 it's important now to take a look at what is an
4 average residential customer and what does that
5 customer use, what do they use gas for and how much
6 do they use? And so I'd like to go to -- can you,
7 Sarah? And what -- what she's bringing up is the
8 average residential annual CCF usage and typical
9 residential usage that is part of Staff witness Anne
10 Ross's testimony. That's okay. I think we can go
11 there. And I do have copies of that too, to provide
12 to you.

13 What you see on the screen and on the
14 handout that I just passed out to you is a graph
15 prepared by Anne Ross in her surrebuttal testimony
16 just showing the average residential annual CCF gas
17 usage by service territory, the service territory
18 being the three geographic areas in the state:
19 Northeast Missouri, west-central or southeast
20 Missouri.

21 And you can see what the average gas
22 consumption is per residence. Sarah, if you could
23 scroll down. Now, what are typical residential end
24 uses? And this is on Anne Ross's surrebuttal, I
25 should point out for the record, on page 6.

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1 Well, pretty easy to understand that
2 space heating is the big driver of gas consumption,
3 640 CCF annual. The next big driver is water heating
4 at 288, gas fireplace inserts, 84, and then stove
5 cooking, 24. I don't know if that includes barbecue
6 grills or not, but --

7 COMMISSIONER APPLING: At least we hope
8 so.

9 MR. BERLIN: But if you've got a
10 gas-fired barbecue grill, you can understand a little
11 bit about what you're consuming as a result of using
12 it. And that's a snapshot of what a typical resident
13 uses gas for and how much they use it in each of the
14 three geographic service areas served by Atmos.

15 Now, I think we should take a look at
16 the status quo. What is happening today? What you
17 see on the screen, I believe on the second page of
18 this handout, is today's situation, and I'd like to
19 just walk you through this.

20 This is also part of Anne Ross's -- this
21 is part of her rebuttal testimony, but this gives you
22 an overview of what's happening today. You can see
23 that we've broken this out by the seven operating
24 districts served by Atmos today.

25 We can take a look here and see, for

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1 example, the northeast service area. We have the
2 Kirksville district, the Palmyra district, and then
3 that Hannibal/Canton/Bowling Green district. And you
4 can see that the -- there's a variety of customer
5 charges there: \$7 at Kirksville, 9.05 in Palmyra and
6 seven and a quarter over at Hannibal/Canton/Bowling
7 Green. Each of those districts also has a different
8 volumetric rate that is charged to the commodity.
9 You can see that it varies from seven and a half
10 cents all the way to over 25 cents.

11 So what does that mean in terms of what
12 the customer is paying in the non-gas margin costs?
13 Well, if you're -- if you live in Kirksville, you're
14 getting a pretty good deal because during the year,
15 if you're using 720 CCF, that is, a year, you're only
16 gonna pay \$138 in margin costs.

17 However, if you happen to live in
18 Hannibal, Canton or Bowling Green, you will pay
19 substantially more in non-gas margin costs at the
20 same amount of gas consumption at \$269. And you can
21 see, going down that chart, the western district --
22 western operating area or western service area of
23 Greeley district and Butler district, there's a
24 really low service charge for Greeley, but of course,
25 we know that that was set in an application case back

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1 in 1993.

2 But they make up for it, though, when
3 you look at their volumetric commodity charge there
4 at 31 -- almost 32 cents. That cost of service for
5 non-gas margin is \$290. Butler's is a little bit
6 more reasonable at 213, certainly still far ahead of
7 Kirksville. Going to southeast Missouri, you can see
8 pretty much similar results. If you live in
9 Neelyville, you're paying a lot more. If you're
10 living in Sikeston or New Madrid, you got a good
11 deal.

12 That's today's rate design. That is the
13 status quo rate design. That is the rate design that
14 Public Counsel is embracing for Missouri customers.

15 Now, Staff believes that this is the
16 best time for this Commission to recognize these
17 inequities caused by the status quo, and that the
18 rate that Public Counsel wants to inflict on
19 customers, well, it's just time to make a change,
20 it's time to do the right thing.

21 And before I -- I leave this topic, I'd
22 kind of like to give you a little bit of background
23 on the why and how these different charges came into
24 being because in light of today's environment, they
25 just radiate, you know, a question of why. How is

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1 this reflective of what is happening today? What are
2 the operational cost realities we experience today?

3 Well, I think it's important to know
4 that these rates were set long ago, back in the day
5 when utilities were developing and implementing huge
6 capital investments, huge capital investments that
7 were needed to achieve a critical mass so that they
8 could offer gas service to customers in their
9 respective certificated areas.

10 Utilities we all know are capital-
11 intensive businesses. And as any business person
12 knows, you can't make money or get any return on your
13 investment unless you have a customer who is willing
14 to buy your service and, of course, a customer who
15 actually pays for your service.

16 Why did the utilities price their
17 service charges so low? Well, back in that day, it
18 was needed to attract customers, possibly customers
19 who were using propane service. Perhaps they were
20 all electric. But those low service charges were
21 needed to bring them onboard. And the utility needed
22 those customers to help pay for that massive capital
23 investment.

24 And they did that knowing that they
25 would recover their fixed cost or a portion of them

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1 in that service charge, but they also knew at the
2 time that they'd recover hopefully the balance of
3 their fixed costs, their cost of service from the
4 commodity charge, a commodity charge passed onto
5 customers, paid by customers based upon the amount of
6 gas that they bought, whether they're firing up a
7 barbecue grill or whether they're space and
8 water-heating their homes.

9 And this made perfect -- perfectly good
10 sense back then because, as you remember, most of us,
11 many of us were around back then, those were the days
12 of very cheap gas, a cheap commodity that was priced
13 very attractively in the market and could entice
14 customers to come onboard the gas utility.

15 And that old pricing mechanism, the one
16 that is in effect today, allowed the recovery of
17 fixed cost and let the utility offer truly low and
18 unrealistic service charges in light of today's
19 costs.

20 Now, we know the days of cheap gas are
21 long gone. Gas costs today are about 80 percent of a
22 customer's bill. There's been a turnaround in what
23 that bill looks like. Customers are getting walloped
24 on cost of gas. Service charges are but a small
25 portion of customers' bills today. The service

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1 charges are approximately 20 percent. It's an 80/20
2 break, couple percent either way.

3 Now, Staff proposes a fixed delivery
4 charge for the cost of service for each of the three
5 geographical areas. Those three service areas are
6 based -- or the customer charge would be based on the
7 company's cost of providing service to that area.

8 Now, what Staff's rate design does, is
9 that it represents the operational realities of
10 today. It ensures that each customer pays the right
11 price for gas service, the true price, and that no
12 customer overpays for service, no customer underpays.
13 Similarly situated residential customers will pay the
14 same delivery charge. What does that mean?

15 It means that if I'm space and
16 water-heating my home and using gas to cook with, and
17 fire up a fireplace, it means that my cost of that
18 service will be the same as that customer that has
19 decided to only use it for cooking or maybe even a
20 fireplace purpose.

21 Because when you think of this, the cost
22 of providing service to one house is the same cost of
23 providing that gas service to another house. Cost of
24 providing gas service to a resident is not a function
25 of how much gas flows through the line; it's a

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1 function of all the fixed cost that the company has
2 to put that service -- bring that service to
3 residents.

4 Now, Staff believes its rate design is
5 truly a sea change from the way business was done in
6 the past. We know that. You know, it's never too
7 late to make the right decision, and this is what
8 Staff believes that it is doing with this rate design
9 because it is simply the most efficient way to price
10 service to customers. It's the best way to send a
11 very clear price message and to allow that customer
12 to make their own decisions regarding how they use
13 gas or whether they use gas.

14 Staff's design is all about fairness.
15 No customer subsidizes another. Each customer pays
16 their fair share. Now, with this hodgepodge of old
17 gas LDC's that make up today's Atmos, and today's
18 operational cost realities and the unique opportunity
19 that a zero revenue requirement case presents to this
20 Commission, Staff believes quite strongly its rate
21 design offers the fairest deal to customers.

22 It not only balances the interest of
23 customers with the shareholders, but it truly
24 balances the interests of the customers so that the
25 customer who uses more gas need not subsidize that

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1 customer who uses less gas for some discretionary
2 purpose. And a customer who uses -- and we know the
3 customer who uses the most gas is one who's using it
4 for space and water heating. This is about equity,
5 it's about fairness.

6 And before I close, I want to address
7 how Staff's rate design affects this issue of
8 business risk. Much is talked about business risk,
9 and it's certainly a valid issue. Staff's design
10 does remove weather as a business risk when compared
11 against today's status quo rate design because
12 Staff's rate design is intended for the company to
13 have an opportunity, not a guarantee, but an
14 opportunity to recover its fixed costs of service in
15 a -- in a fixed delivery charge as opposed to a
16 commodity charge.

17 Now, much is talked about this reduction
18 of business risk, but it is a two-way street here.
19 Staff's rate design also removes risk from the
20 customer with regard to bad weather because under
21 today's rate design, and the ways of the old rate
22 design with high fixed commodity charges that are
23 passed through to that customer on buying, the
24 situation is, you've got the gas utility in one
25 corner of the room, you have the customer in the

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1 other, they come to the middle and they sit at the
2 table and place their bets today.

3 The gas utility bets on, well, we sure
4 hope that we don't have a warmer-than-normal winter
5 because we're not gonna recover our fixed costs, our
6 cost of service. The customer, on the other hand,
7 and not much is ever talked about this, and there's a
8 pretty obvious reason why, because we have been
9 fortunate and experienced warmer-than-normal weather.

10 But when that cold weather hits, that
11 customer will be pulling out cash out of its pockets
12 and throwing it at the utility and the utility will
13 be glad to take that money because that's the way the
14 rate design today is designed.

15 And there is a fairness issue involved
16 here. I don't think that's fair. And I think,
17 recognizing that today's rate design, the status quo
18 is designed to recover fixed costs on a volumetric
19 basis, those costs are paid by the customer today in
20 four months of the year.

21 And so when you look at Staff's rate
22 design, you have to understand that those costs are
23 spread out across the year. And so the customer,
24 most customers will experience lower gas bills in the
25 winter, because under the volumetric design, when

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1 you're buying the most gas and the customer needs the
2 most help, you're not -- you won't be paying as much
3 when you're -- as when -- in the current way where
4 you front all those costs during a four-month period
5 when you're just sucking gas out of a line to heat
6 your house.

7 We have Staff witness Anne Ross who will
8 provide the testimony on rate design and
9 consolidation, and the other witnesses that I have
10 talked about who will be present today.

11 And in closing, I would just like to
12 urge this Commission that now is the opportunity to
13 do the right thing. Now is the opportunity to strike
14 a truly fair balance of interest and to protect
15 customers and to remove the situation where one high-
16 use customer may subsidize the low discretionary use
17 of another customer, and it is simply the fairest
18 pricing mechanism that can be made to that customer.
19 And we think it's the right thing for this Commission
20 to do to protect Missouri customers.

21 And I appreciate your attention, and
22 that concludes my opening remarks, and we are
23 available to answer questions as may be needed.

24 JUDGE DIPPELL: Thank you, Mr. Berlin.
25 I just have a couple questions for you before you

0047

1 step down.

2 MR. BERLIN: Sure.

3 JUDGE DIPPELL: Is the map that you have
4 of the service territories, is that what you had
5 premarked on your exhibit list as Exhibit 100?

6 MR. BERLIN: Correct.

7 JUDGE DIPPELL: Okay. And in your --
8 the information that you put up also that was out of
9 Ms. Ross's testimony, there was a slight discrepancy,
10 and maybe this is accounted for elsewhere, but on the
11 presentation information, the very beginning it said
12 northeast, the average residential annual CCF usage
13 was 836, and I believe in her testimony it says 835.
14 Is that just an error?

15 MR. BERLIN: I would have to have her
16 answer the difference of 835 and 836. I can't answer
17 that.

18 JUDGE DIPPELL: Okay. We'll -- we'll
19 clarify that when we get to her testimony which
20 number is correct there. Okay. That's all. I also
21 just wanted to state for those of you that noticed,
22 before we begin, Ms. Shemwell did hand me a Diet
23 Coke, and if anyone thinks that that will bias me
24 toward Staff, I just want to get that on the record.

25 COMMISSIONER APPLING: Judge, can I ask

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1 one?

2 JUDGE DIPPELL: Oh, sure. Commissioner
3 Appling, you had a question?

4 COMMISSIONER APPLING: Mr. Berlin, will
5 you step back one step and put your map back up there
6 again?

7 MR. BERLIN: Sure. Sarah, are you able
8 to call that back up?

9 COMMISSIONER APPLING: If you can't,
10 then I think everybody probably has a copy of it. I
11 just -- this is just serving as a reminder, and I'm
12 not trying to get ahead of anyone here. And what I
13 hear you saying, there is just and reasonable rates
14 and I will listen to OPC very carefully.

15 But I just want this to serve as a
16 reminder that the south part of this map down there
17 in Moreland and Caruthersville and all that, if
18 you've been down there lately or earlier or years
19 ago, you realize that this is one of the most
20 economic depressed areas in the whole state.

21 And I get in front of the company, you
22 or anyone else here, I'm just saying as we march down
23 the road to the south, just before we get to
24 Arkansas, we need to be reminded that this is a low,
25 depressed economical area. Just keep that in mind.

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1 Thank you very much, sir.

2 JUDGE DIPPELL: Thank you. Is there an
3 opening statement from Public Counsel?

4 MR. POSTON: Yes, thank you. Good
5 morning. My name is Mark Poston, and I'm here on
6 behalf of the Office of Public Counsel and the
7 public. And I wish I could point to a team of
8 attorneys behind me that were supporting me here but
9 I'm all you're gonna get today.

10 As you know, Mr. Fischer -- as
11 Mr. Fischer stated, Atmos came in originally asking
12 for a more than \$3 million increase in rates. And
13 after a thorough review, the Commission's Staff
14 replied that not only is that Atmos entitled -- not
15 entitled to any revenue increase, but Atmos is
16 earning more from ratepayers than necessary by
17 approximately \$1.2 million annually.

18 Despite this, Staff and Atmos appeared
19 to have agreed to no increase and no decrease. This
20 begs the question, why is Staff not pursuing the
21 \$1.2 million of annual over-earnings? We haven't
22 seen any agreement filed between Staff and Atmos
23 where concessions have been made, but apparently
24 concessions have been made.

25 And what does Atmos get out of this

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1 deal? Atmos gets a lot. First, they get Staff to
2 back off and not file a complaint due to Atmos's
3 excess earnings. Second, Atmos gets Staff's support
4 for a rate design proposal that would essentially
5 guarantee Atmos will receive more than a mere
6 opportunity to earn a fair return as required by law,
7 but will instead guarantee a return by completely
8 removing all weather-related risk, removing all
9 conservation-related risk and other risk factors.

10 And this unprecedented change in rate
11 design was more than enough to convince Atmos to
12 quickly back off every penny of its rate increase and
13 settle with Staff for zero. That alone is very
14 telling of what the rate design proposal will do.

15 Atmos also gets a number of other perks
16 including changes designed to reduce its
17 administrative burden such as consolidated rates and
18 miscellaneous charges up front, recovery of the cost
19 of certain main extensions and more. What does Staff
20 get out of this deal? In our opinion, very little.
21 What do ratepayers get out of the deal? Even less.

22 One of the biggest detriments to Staff's
23 decoupling rate design proposal is that it will
24 eliminate entirely any benefits the customers will
25 receive from conservation related to the service

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1 regulated by this Commission.

2 At a time when NARUC, NASUCA, and state
3 commissions around the company are encouraging
4 conservation and efficiency and implementing programs
5 to achieve those goals, Staff presents the Commission
6 with a rate design proposal that should be labeled a
7 conservation mitigation rate design.

8 Customers expect to be rewarded for
9 their conservation efforts, and the Staff's proposal
10 will deny customers that opportunity and will be
11 contrary to their expectations.

12 Another criticism of the Staff's rate
13 design proposal is that it makes absolutely no
14 adjustment for the reduction in risk that will happen
15 if all weather-related risks are removed and the
16 other risks identified. Staff did not take the
17 reduction of risk into account when it proposed its
18 rate of return which would suggest that the Staff's
19 1.2 million excess calculation should be even
20 greater.

21 Mr. Fischer stated that OPC's 7.0 return
22 on equity proposal was lower than any previously
23 approved by the Commission and I believe he said the
24 past 30 years. I would reply that the Commission has
25 not completely eliminated weather and other risks

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1 like it would do if it approves Staff's decoupling
2 proposal.

3 The evidence presented at this hearing
4 and the argument made in Public Counsel's post
5 hearing brief will show that Staff's decoupling
6 proposal was terribly understudied before its
7 proposal. Decades of ratemaking by this Commission
8 has resulted in a traditional rate design that allows
9 gas distribution companies to recover their margin
10 costs through a two-part rate, a fixed rate element
11 and a volumetric element.

12 This Commission has repeatedly found
13 this former rate design to be just, reasonable in the
14 public interest. Now the Staff wants to make a
15 historical change. Change alone is not bad. There
16 can be better ways to do things, and the Commission
17 must be able to respond to new problems that arise
18 under the old ways of doing things.

19 But to make a huge change to something
20 as important as how you design the rates paid by the
21 public, the public deserves nothing less than a
22 thorough review of all data necessary to fully
23 analyze the impact the change will make on ratepayers
24 in the industry. And the Commission itself
25 deserves -- deserves nothing less than all necessary

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1 data and the best study possible.

2 Unfortunately, the coupling rate design
3 proposal before the Commission was proposed before
4 any real data analysis was performed, and is
5 insufficient to remotely support what is being
6 proposed. Sure, the supporters have come in after
7 the proposal and tried to prop it up, but those
8 attempts are based on unsupported reasoning rather
9 than hard data.

10 And then there's the policy aspect of
11 the recommended change. Is it good public policy for
12 the Commission in a case where the evidence suggests
13 a rate decrease should be the result because the
14 company's over-earning, is it good public policy for
15 the Commission to make a change that could be
16 detrimental to all small low-use customers to the
17 benefit of the larger gas users?

18 In the last MGE rate case, this
19 Commission got it right and concluded just two years
20 ago that dumping cost on low-use customers is
21 contrary to good public policy. Nothing has changed
22 to make this shift to low-use customers suddenly to
23 become good public policy.

24 We see the value in ensuring that Atmos
25 has a reasonable opportunity to earn a fair return,

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1 allowing it to continue providing safe and reliable
2 gas service. In that scenario everyone wins,
3 shareholders and customers alike, but this proposal
4 is extremely lopsided. Where are the consumer
5 protections? What do consumers get? They get
6 Staff's hope that Atmos will encourage conservation
7 efficiency while removing a portion of the economic
8 incentive to customers to conserve.

9 Atmos will be getting a rate design
10 unprecedented in Missouri and unprecedented
11 nationally. Nothing like this exists anywhere and
12 for good reason. Other states that have moved toward
13 to weather mitigation, former rate design, couple
14 that with conservation and efficiency programs.
15 Because when you take away a customer's ability to
16 see benefits from conservation, the customer deserves
17 something in return.

18 The Staff proposes absolutely no new or
19 net customer benefits with its rate design proposal.
20 We ask that you reject this rate design. If there
21 comes a time when the current rate design proves to
22 be insufficient, which it does not appear to be since
23 the company is earning 1.2 million more than
24 necessary, then make changes. But here we have a
25 company over-earning, and in no need of locking in a

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1 rate design that will ensure it continues to
2 over-earn.

3 If the Commission agrees with Staff and
4 wants to guarantee Atmos's recovery of all margin
5 costs, the public deserves that the rates
6 guaranteeing such recovery are initially set to allow
7 recovery of no more than is necessary to cover margin
8 costs. The rates should not be set to cover margin
9 plus 1.2 million.

10 In fact, it's hard to see how the
11 Commission could resolve this case at zero increase
12 and zero decrease without including that certain
13 aspects of Staff's testimony is reasonable and
14 likewise for Atmos's testimony.

15 Staff, however, appears to be saying
16 that our expertise has determined -- or their
17 expertise has determined that Atmos is already
18 recovering more than necessary. We're not going to
19 allow that.

20 Oh, and by the way, for you low-use
21 customers, even though the company's not getting a
22 rate increase and deserves a rate decrease, we're
23 raising your rates by as much as 173 percent. This
24 absolutely does not make sense.

25 Something else that does not make sense

0056

1 is consolidating districts under the extremely false
2 premise that the cost to serve a customer is equal
3 in every -- excuse me, in every district. This
4 premise in Staff's testimony completely ignores a
5 study by another Staff witness that shows there
6 really are differences in costs per district. The
7 costs of each district are different.

8 I'm not going to address each and every
9 remaining issue, but I will address one last issue
10 and that's depreciation. Staff's intentions here are
11 good. They see a benefit from lowering depreciation
12 expense by 591,000. Normally, you would expect
13 Public Counsel to be in favor of a proposal that
14 lowered expenses.

15 But this time we cannot support this
16 proposal for two reasons: One, by taking 591,000
17 from accumulated depreciation reserve and adding it
18 back into rate base, the Commission would essentially
19 be requiring rate fares to once again pay for a plant
20 that already depreciated and force them to pay a
21 return on top of this addition to rate base.

22 The second reason we don't support this
23 proposal is that it would constitute poor accounting
24 practices and we cannot support that. Staff's
25 testimony is clear in stating Atmos has failed to

0057

1 follow the Commission's rules and has failed to keep
2 data to enable anyone, Staff, Atmos, OPC, the
3 Commission, to conduct a proper depreciation analysis
4 based on known and measurable data. Despite this,
5 Staff agrees to go along with the 591,000 reductions
6 to depreciation reserves simply because Atmos --
7 Atmos's management thinks it's a good idea. That
8 reasoning is absurd and it's clearly not supported by
9 any data in this record.

10 I'm the first to admit that depreciation
11 is a very complex issue, so I strongly encourage you
12 to ask Mr. Trippensee to walk you through this
13 reasoning. He's been doing this for a long time, and
14 he can explain this to you even if it takes him
15 getting up on the Smart Board and doing a little
16 accounting 101 which he had to do with me and explain
17 why this proposal should be rejected.

18 In conclusion, we see the most important
19 issue before the Commission to the rate design
20 proposal. I think everyone agrees with that.

21 Staff's decoupling rate design proposal
22 is harmful to consumers because, one, the impact of
23 the proposal is truly not known without sufficient
24 studies; two, customer efforts to conserve energy
25 will be negated; three, no conservation or efficiency

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1 programs have been introduced; and four, it will be
2 contrary to good public policy in that it will shift
3 a substantial portion of the cost to the lowest use
4 customers. We encourage you to reject this proposal
5 and not disrupt customers in a case where the company
6 has backed off its requested rate increase and where
7 no changes are necessary. Thank you.

8 JUDGE DIPPELL: Thank you. Is there an
9 opening statement from Noranda?

10 MR. FULTON: Yes, briefly. May it
11 please the Commission, Commissioner Appling, Noranda
12 is located in that poor -- poor part of the state
13 down in the Boot Heel of Missouri. In testimony
14 filed by Mr. George Swogger, who, unfortunately, was
15 caught up by the weather up in Kingdom City and won't
16 be here, we have spelled out how important Noranda is
17 to the Boot Heel area, not just New Madrid County
18 where it's located and which it supplies over
19 one-third of the revenues -- the tax revenues for the
20 school districts and for the county, but also for the
21 entire region down there.

22 We've also incorporated in there some
23 testimony from two of the representatives down there,
24 the county administrator. And at the hearing in
25 Sikeston, the administrator of the -- director of the

1 sheltered workshop testified about the importance of
2 Noranda.

3 Noranda is a large company. Its a
4 corporation. Its revenues are derived by what the
5 world economy dictates. We do not center on prices,
6 we do not have guaranteed -- well, we don't have the
7 opportunity to earn a fair rate of return if the
8 economy does not see fit to do so.

9 As such, we have to watch what our
10 expenses are. If we do not pare our expense to the
11 bone, we cannot compete, we cannot support our
12 community. We are part of the community, but we have
13 to be able to keep our expenses down. There has been
14 a couple of statements made during the course of
15 these opening statements that I think are important
16 to note.

17 Well, by way of background,
18 approximately four years ago in an effort to keep our
19 costs down, Noranda entered into a special contract
20 with Atmos whereby they'd provide delivery services
21 to us. We purchase our gas elsewhere but they
22 provide the transportation services to us under
23 special contract.

24 In the initial phase of this proceeding,
25 it appeared that the special contract was going to be

0060

1 at issue. However, during the course of a -- some
2 discussions, it was asked of us what does Noranda
3 want? Noranda believes that it's actually paying
4 more than what the cost of service is under the
5 special contract. But we have six more -- we have
6 been under this contract for four years, we have six
7 more years to run. We've met our contract, we're
8 willing to live with our contract notwithstanding
9 it's a little bit above what we believe the costs
10 are.

11 When asked what it was that Noranda
12 wanted at these conferences, we specified we want to
13 be left alone. What you have heard today by
14 Mr. Fischer and also by Mr. Berlin is that they're
15 going to leave Noranda and its contract alone.
16 They're also going to leave alone the management to
17 the Hannibal hospital contract.

18 As such, Noranda no longer has a dog in
19 this fight. They're going -- it's -- the statements
20 are that the rates are just and reasonable, we're
21 prepared to live with that. And as such, we would
22 ask permission of this Commission to go home so we
23 can save Noranda a little bit more money. We will
24 waive our right to cross-examine the witnesses, and
25 we will also waive our right to object to the other

0061

1 testimony. I thank you. Anybody have any questions
2 I'll be happy to answer any.

3 JUDGE DIPPELL: Commissioner Appling,
4 did you have any questions?

5 COMMISSIONER APPLING: I think just a
6 couple. Mr. Fulton, how are you doing this morning?

7 MR. FULTON: I'm doing fine, Judge,
8 Commissioner.

9 COMMISSIONER APPLING: I wish I was
10 a judge, but I'm not, so I'll just stick with the
11 Commissioner for a while.

12 But anyway, what you're telling me this
13 morning that Noranda is pleased with what the Staff
14 is putting forth.

15 MR. FULTON: What -- what we're
16 telling -- what I'm telling you today is Noranda is
17 not taking a position with regards to the other
18 issues before this Commission to specifically -- the
19 rate design issues which is, I really believe, the
20 fundamental thing, that do not impact upon our
21 contract. Those rate design issues do not impact
22 Noranda.

23 COMMISSIONER APPLING: Is that correct,
24 Staff?

25 MR. BERLIN: Yes.

1 COMMISSIONER APPLING: Okay.

2 Mr. Fulton, thank you very much, and you need to stay
3 around a little bit and get a little of this cold
4 weather. It's kind of warm down in your district,
5 okay?

6 MR. FULTON: Well, I'm in Fredericktown,
7 and actually, it's about 50 miles -- 100 miles north
8 of where Noranda is, so I'm going to be getting it
9 too. But I appreciate it, Commissioner. Thank you.

10 COMMISSIONER APPLING: Thank you very
11 much.

12 JUDGE DIPPELL: Thank you. And
13 Mr. Fulton, you -- with the caveat that, of course,
14 you will give up any rights to cross-examine and to
15 present further evidence and so forth, you may be
16 excused from your presence here when you're ready to
17 go. I will ask that if there would happen to be a
18 question tomorrow from some of the Commissioners,
19 that your witnesses be available by telephone if
20 that's possible.

21 MR. FULTON: That's certainly possible,
22 and I will also be available by telephone.

23 JUDGE DIPPELL: All right.

24 MR. FULTON: Thank you.

25 JUDGE DIPPELL: Okay. I think that this

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1 is a good place then to take a short break. We'll
2 break for 15 minutes and we'll come back just like 17
3 after the hour. Thank you.

4 (A RECESS WAS TAKEN.)

5 JUDGE DIPPELL: Okay. Let's go ahead
6 and go back on the record. Remind everyone that if
7 you were using your cell phones while you were out at
8 break, if you'd make sure those are turned back off.

9 Okay. I think we're ready to begin then
10 with Atmos's case, and we've rearranged the order of
11 the witnesses just a little bit. Atmos has given the
12 court reporter a copy of all of its exhibits that
13 were premarked.

14 Mr. Fischer?

15 MR. FISCHER: Yes, your -- well, at any
16 rate, we'll call Pat Childers.

17 JUDGE DIPPELL: Okay. And we also
18 previously dispensed with the preliminaries for the
19 witnesses, but I will swear Ms. Childers in. Please
20 raise your right hand.

21 (The witness was sworn.)

22 DIRECT EXAMINATION BY MR. FISCHER:

23 Q. Good morning, Ms. Childers. I wanted to
24 let you know that your testimony's been marked as
25 Exhibit 5, your direct; rebuttal, 6; and surrebuttal

0064

1 is 7. Do you have any corrections or changes you
2 need to make to any of those testimonies?

3 A. No, I do not.

4 MR. FISCHER: Judge, then I tender her
5 for cross-examination.

6 JUDGE DIPPELL: I did have one question.
7 I notice that her -- on the premarked exhibit list,
8 her testimony was marked as 5 HC and NP, but I didn't
9 see actually that there was any highly confidential;
10 is that correct?

11 MR. FISCHER: There are two schedules
12 that have some special-contracts revenues on the HC
13 version that are redacted from the other, and that's
14 the only change.

15 JUDGE DIPPELL: Okay. Is that the same
16 as filed in EFIS originally?

17 MR. FISCHER: I believe there was a
18 subsequent filing that did clarify that.

19 JUDGE DIPPELL: Oh, okay. Okay. So I
20 just looked at it and it was not confidential on
21 EFIS, but there's a subsequent filing with the
22 confidential information?

23 MR. FISCHER: That's correct.

24 JUDGE DIPPELL: All right, then. Are
25 you offering that?

0065

1 MR. FISCHER: Yes. We would offer
2 Exhibits 5 NP, 5 HC, Exhibit 6 and then Exhibit 7.

3 JUDGE DIPPELL: Would there be any
4 objection to Exhibit 5 NP and HC and 6 and 7?

5 (NO RESPONSE.)

6 JUDGE DIPPELL: Seeing no objection, I
7 will receive it into the record.

8 (EXHIBIT NOS. 5 NP, 5 HC, 6 AND 7 WERE
9 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
10 RECORD.)

11 (TELEPHONIC INTERRUPTION.)

12 COMMISSIONER APPLING: I'm always afraid
13 that's gonna happen to me in church.

14 JUDGE DIPPELL: Okay. It threw me off
15 just a little bit. We will begin with
16 cross-examination then. Staff?

17 MR. THOMPSON: Thank you, Judge.

18 CROSS-EXAMINATION BY MR. THOMPSON:

19 Q. What is it that you do for Atmos?

20 A. I'm the vice president of regulatory
21 affairs.

22 Q. So you would be familiar with what an
23 Atmos bill looks like?

24 A. Yes.

25 Q. Now, from the point of view of a

0066

1 customer, if a customer uses less gas during a
2 billing period than another customer, is the customer
3 that uses less gas, is that bill going to be lower,
4 equal to or higher than the bill of a customer who
5 uses more gas?

6 A. If a customer uses less gas --

7 Q. Yes, ma'am.

8 A. -- is the bill going to be higher or
9 lower?

10 Q. Yes, ma'am.

11 A. It depends on what -- well, what area
12 they're in. You know, we -- right now we have
13 various --

14 Q. Let's say they're in the same area.

15 A. If they're in the same area --

16 Q. Yes, ma'am.

17 A. -- and they use less gas, they would pay
18 the same customer charge, they would pay the same
19 distribution charge and they would pay the same gas
20 rate, the same PGA.

21 Q. Well, now, when you say the same rate,
22 isn't that a charge that's multiplied by the amount
23 of gas that's used to reach the final bill to that
24 customer?

25 A. Yes, they would pay the same unit rates

0067

1 but they would pay a different total dollar bill
2 amount.

3 Q. And is that going to still be true if
4 the rate design that Staff has proposed in this case
5 is implemented?

6 A. That will be true because the customer
7 that uses less gas is still going to be charged
8 volumetrically for the PGA, the gas cost portion of
9 the bill.

10 MR. POSTON: Your Honor, I'd like to
11 object. I believe this is nothing but friendly
12 cross. These parties have no issues where they're in
13 disagreement.

14 MR. THOMPSON: Well, your Honor, first
15 of all, traditionally in Commission proceedings,
16 friendly cross is prohibited in the procedural
17 schedule or in what used to be called the hearing
18 memorandum. I'm not aware of any order issued in
19 this case that has stated that there will not be
20 so-called friendly cross. And secondly, when
21 Mr. Poston stands at that lectern and
22 mischaracterizes the facts for this Commission, I
23 believe we should have an opportunity to bring out
24 the reality and the truth.

25 JUDGE DIPPELL: I'm going to allow you

0068

1 to cross-examine, but I would appreciate it if you
2 would not make it repetitive.

3 MR. THOMPSON: I am absolutely
4 uninterested in repetition, your Honor.

5 JUDGE DIPPELL: Proceed, please.

6 MR. THOMPSON: Thank you.

7 THE WITNESS: Could I further clarify my
8 response? Would that be appropriate?

9 BY MR. THOMPSON:

10 Q. You certainly may.

11 A. The delivery charge that Staff is
12 recommending, the customers would both pay that same
13 delivery charge. But I think it's important to keep
14 in mind that 80 percent of a customer's bill is
15 purchased gas cost. So the customer that's going to
16 use less consumption is going to pay less in the
17 wholesale cost of gas than the customer that uses
18 more. So there would be a total difference in the
19 bill, but it's going to be largely driven by the gas
20 cost itself, not by the delivery charge.

21 Q. So do I understand you to say in answer
22 to my question, that if the rate design that Staff
23 has proposed in this case is implemented, it will, in
24 fact, continue to be true that the customer in the
25 same area that uses more gas will, in fact, pay more

0069

1 money?

2 A. That's correct.

3 Q. So would you agree with me that there is
4 still a reason to practice conservation in gas use?

5 A. Absolutely. The gas cost is, again, 80
6 percent of what a customer pays, so they have every
7 incentive to conserve and use less.

8 MR. THOMPSON: Thank you. No further
9 questions.

10 JUDGE DIPPELL: Thank you. Is there
11 anything from Public Counsel?

12 CROSS-EXAMINATION BY MR. POSTON:

13 Q. Good morning.

14 A. Good morning.

15 Q. I don't have very many questions for you
16 and I'll kind of -- kind of jump around. Has Atmos
17 prepared a class cost-of-service study in this case?

18 A. No, we did not prepare one in this case.

19 Q. Has Atmos prepared a replacement study
20 for the cost of mains in the last ten years?

21 A. Not to my knowledge.

22 Q. Does the design of Atmos's main system
23 include consideration of future load?

24 A. I am probably not the most appropriate
25 witness to ask of that. I believe witness Mike Ellis

0070

1 would be better able to respond to that. That's
2 really outside my area.

3 MR. POSTON: Your Honor, I'd like to
4 approach the witness with a document, a data request.

5 JUDGE DIPPELL: Show it to her attorney
6 and then proceed.

7 BY MR. POSTON:

8 Q. Can you please describe the document I
9 handed you?

10 A. Yes. It appears to be a data request
11 from the office of OPC. Shall I read the question?

12 Q. Yeah. Who is -- it's from OPC to?

13 A. Requested from Josh Stull.

14 Q. And the date of that?

15 A. The date is September 1, 2006.

16 Q. And that's for this case, correct?

17 A. That's correct.

18 Q. Okay. If you could please read the
19 request and the response.

20 A. Certainly. "Please describe in detail
21 how the company designs and plans its main's system
22 to meet design day peak system requirements. Other
23 than design day peak requirements, what factors might
24 enter into the design of the main system?"

25 The response: "The engineering

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1 department designs each major main extension or
2 system modification and would use expected future
3 load information, existing system capacity and would
4 utilize system modeling software to conduct the
5 study."

6 MR. POSTON: Thank you. I have a few
7 more of these that I'd also like to ask that she
8 read, if I may approach as well.

9 BY MR. POSTON:

10 Q. I handed you -- the first one I'm gonna
11 ask you to read is data request 732.

12 A. Yes.

13 Q. If you could identify that document,
14 please?

15 A. Again, this is a data request from the
16 office of OPC requested of Josh Stull. The date of
17 the request is September 1, 2006. The information
18 requested: "Are distribution mains of the size
19 two-inch or below used in serving large volume
20 interruptible or transportation customers? If yes,
21 approximately what percentage of the two-inch or
22 below distribution mains is used in serving customers
23 in each of these classes?"

24 The company responds: "This information
25 is not readily available but we probably do have some

0072

1 large volume accounts served off of two-inch
2 distribution mains. However, if this is the case,
3 the system delivering capacity would have been
4 modeled to make sure it was capable of maintaining
5 deliveries to firm customers."

6 Q. Okay. And data request 704, there is a
7 subpart D. If you could first identify that
8 document?

9 A. Yes. Yes. Again, a data request from
10 Public Counsel requested of Josh Stull. Date of the
11 request, September 1, 2006. Subpart D: "What other
12 factors does the company believe to be relevant in
13 designing the company's rates?"

14 Company response: "Other factors that
15 the company has considered include changing patterns
16 of use such as declining use, the fixed nature of the
17 company's cost of service, the value of service to
18 customers and the risk of customers leaving the
19 system and gradualism in making changes to minimize
20 impact."

21 Q. And the last one, 724?

22 A. Again, a data request from the office of
23 OPC of Josh Stull, date of request, September 1,
24 2006. Information requested: "Please provide any
25 information available in the last five years

0073

1 regarding actual experienced average cost-per-foot
2 cost for various types of main-installation projects
3 on a rolling 12-month basis. Please identify the
4 type of main projects, such as new business
5 extension, relocation, reinforcement, maintenance,
6 replacement, et cetera. Please also explain the
7 approximate proportion of each type of main projects."

8 Company response: "This information is
9 not readily available."

10 Q. Does the design of main system include
11 modeling considerations?

12 A. According to the response, yes.

13 Q. Do those modeling considerations for
14 Atmos include customer density?

15 A. Again, I'm going to defer to witness
16 Mike Ellis. He's much more familiar with mains and
17 services and those types of expenditures than I am.

18 MR. POSTON: Okay. Thank you.

19 JUDGE DIPPELL: Thank you. I did not
20 ask if there were questions from Noranda or Hannibal
21 Regional because those parties are no longer present,
22 so I just wanted to clarify that.

23 Are there any questions from the
24 Commissioners for this witness regarding these
25 issues? Ms. Childers will be testifying about other

0074

1 issues later. Commissioner Appling, did you have
2 anything?

3 CHAIRMAN DAVIS: No, no. Go ahead,
4 Commissioner Appling.

5 QUESTIONS BY COMMISSIONER APPLING:

6 Q. I'm sorry but I missed you. Good to see
7 you again.

8 A. Thank you. Good to see you.

9 Q. I came in a little late then. I didn't
10 adjust my head space in time in order to ask the
11 question that I need to ask, but you'll be back up
12 again, won't you?

13 A. Yes, Commissioner, I will.

14 Q. Color for me again exactly what you done
15 on this case again, please.

16 A. Okay. I am a vice president of
17 regulatory affairs.

18 Q. Right.

19 A. I work with six of the regulatory
20 jurisdictions in which we serve, Missouri being one
21 of those. I have filed direct, rebuttal and
22 surrebuttal testimony on the rate design, utility
23 related charges, things of that matter, which I
24 believe I'll actually be back before you two more
25 times --

0075

1 Q. Okay.

2 A. -- to answer any questions you might
3 have on the rate consolidation for the base portion
4 of the rates, as well as the proposal to consolidate
5 the PGA's.

6 COMMISSIONER APPLING: Okay. Thank you
7 very much. I have some for you the next time you're
8 up then. Thank you.

9 THE WITNESS: You're welcome.

10 JUDGE DIPPELL: Mr. Chairman?

11 QUESTIONS BY CHAIRMAN DAVIS:

12 Q. Ms. Childers, when's the last time Atmos
13 filed a class cost-of-service study in Missouri?

14 A. The last time we had a case was ten
15 years ago, and Chairman, I really cannot tell you
16 whether we filed a cost-of-service study in that case
17 or not. I could probably get that answer for you,
18 and when I come back before you, I could respond to
19 that. My memory is just -- I just can't recall.

20 Q. Okay. When's the last time Atmos filed
21 a class cost-of-service study in another state?

22 A. I believe we have recently filed one
23 perhaps in the states of Tennessee -- again, I can --
24 on the next break I can verify that with some of the
25 other people that are here today with the company.

0076

1 And if I have misspoken, I will be happy to correct
2 that.

3 Q. And then I believe Mr. Poston also
4 inquired if Atmos conducted a study, what was it,
5 main replacement; is that correct, Mr. Poston?

6 A. Not to my knowledge. Again, I believe
7 witness Mike Ellis would know the answer to that if
8 it's different than no, we have not.

9 Q. Okay. So would you have any idea of
10 when Atmos would have ever conducted one in Missouri,
11 if they'd ever conducted one at all?

12 A. No, I would not have that knowledge.

13 Q. Is it Atmos's practice to perform those
14 studies in other states?

15 A. I know that we have ongoing pipe
16 replacement programs in Tennessee and Georgia, and I
17 know we have studies in those states.

18 Q. Do you have an ongoing pipe replacement
19 program in Missouri?

20 A. No, we do not, not a Commission-ordered
21 pipe replacement program. Obviously, we continue to
22 replace pipe in all of the jurisdictions in which we
23 serve.

24 Q. Okay.

25 A. But not a formalized program such as

0077

1 what we have in Tennessee and the state of Georgia.

2 CHAIRMAN DAVIS: Okay. No further
3 questions at this time, Judge.

4 JUDGE DIPPELL: Thank you. Is there any
5 further cross-examination from Staff based on
6 questions from the bench?

7 MR. THOMPSON: No, ma'am.

8 JUDGE DIPPELL: Public Counsel?

9 MR. POSTON: No, your Honor. I'd just
10 like to apologize for asking my questions out of
11 order. She's up here on policy rate of return, and I
12 asked my district consolidation questions, but I hope
13 I didn't throw things off too bad. Thank you.

14 JUDGE DIPPELL: Did you have any policy
15 rate of return --

16 MR. POSTON: No.

17 JUDGE DIPPELL: I'm sorry. I didn't
18 clarify that when we got started that we were going
19 to go by issue the way that...

20 MR. POSTON: No, I have no questions or
21 redirect -- or recross.

22 COMMISSIONER APPLING: Judge, could I
23 ask some questions, just a short question?

24 JUDGE DIPPELL: Certainly.

25 COMMISSIONER APPLING: Sorry to slow you

0078

1 down.

2 JUDGE DIPPELL: That's all right.

3 QUESTIONS BY COMMISSIONER APPLING:

4 Q. Mrs. Childers, Mr. Poston testified this
5 morning -- not testified but spoke to the fact that
6 in one of the areas the percentage will go up about
7 173 percent?

8 A. Yes, that's correct. I would first like
9 to say that I think percentages can be very
10 misleading when you use percentages or you use dollar
11 impact, but I also believe that OPC's analysis
12 excluded the gas cost portion of the bill which,
13 again, represents 80 percent. When you roll back in
14 80 percent of the bill, the customer cost, obviously
15 the percent comes down. But again, I think you have
16 to be careful at looking at percents as opposed to
17 looking at dollar -- dollar impact.

18 Q. Can you answer what one of the areas
19 that he was referring to?

20 A. Well, this might be helpful. Attached
21 to my -- attached to my surrebuttal testimony --

22 Q. Right.

23 A. -- there is page 2 of 2 of Exhibit 2
24 which does show the consolidated delivery charge
25 based on Staff's recommendation and the consolidated

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1 PGA's. The PGA's that are shown on this exhibit are
2 the PGA's that have been most recently filed by the
3 company which are substantially less than the PGA's
4 that are in effect today, which is good news for
5 the -- for the consumer.

6 It also includes that ACA component
7 which is the true-up component.

8 Q. Right.

9 A. And if you, for example, look at --
10 well, let's just say Kirksville, for example, because
11 they currently have the lowest rates. If you look at
12 the impact in Kirksville, the dollar amount is \$105,
13 but the percentage is 12.4. Again, when you
14 calculate percent, not only using the base rate but
15 the gas cost which is a larger portion of the bill,
16 you get a substantially reduced percentage.

17 COMMISSIONER APPLING: Thank you.

18 JUDGE DIPPELL: Is there any further
19 cross based on Commissioner Appling's question from
20 Staff?

21 (NO RESPONSE.)

22 JUDGE DIPPELL: Public Counsel?

23 MR. POSTON: No.

24 JUDGE DIPPELL: Is there redirect from
25 Atmos?

1 MR. FISCHER: Just briefly, your Honor.

2 REDIRECT EXAMINATION BY MR. FISCHER:

3 Q. Ms. Childers, you were asked some
4 questions from the bench regarding Atmos's
5 cost-of-service studies.

6 A. Yes.

7 Q. And is that one of the issues that is
8 the subject -- that is the subject of the partial
9 stipulation and agreement that was filed last night?

10 A. Yes, we have agreed at our next filing
11 to file a cost-of-service study and provide all the
12 information to all parties to assist them in
13 performing the cost-of-service study on their own as
14 well.

15 Q. I believe the chairman wasn't available
16 this morning. That -- that stipulation also includes
17 Staff, Public Counsel and the company, they were
18 signatories; is that right?

19 A. That's correct.

20 Q. You were also asked some questions about
21 past cost-of-service studies. Is it correct that if
22 past cost-of-service studies would have been done,
23 that that would have been done by your predecessor
24 companies, United Cities or Associated Natural Gas
25 and not Atmos?

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1 A. Yes, that's -- that's definitely
2 correct, yes.

3 MR. FISCHER: That's all I have. Thank
4 you.

5 JUDGE DIPPELL: Thank you. I'm gonna
6 allow you to step down, Ms. Childers. We'll have you
7 back for further questions. And some of the
8 Commissioners are not able to be here today, and they
9 may have questions about this topic also tomorrow.

10 THE WITNESS: Thank you.

11 JUDGE DIPPELL: Uh-huh.

12 MR. THOMPSON: I apologize, Judge. Did
13 you admit her testimony into the record?

14 JUDGE DIPPELL: Yes, I did.

15 MR. THOMPSON: Thank you.

16 JUDGE DIPPELL: Okay. Let's move on
17 with the next witness. And we are going -- we are
18 trying to go by issue, revenue requirement, rate of
19 return and return on equity. To begin, I realize the
20 testimony is all -- covers all of the subjects, so
21 obviously, if there was objections to the testimony
22 on other subjects, you should make those when the
23 testimony is offered as a whole instead of trying to
24 offer the testimony piecemeal. Dr. Murray?

25 (The witness was sworn.)

1 JUDGE DIPPELL: Thank you. Mr. Fischer?

2 DIRECT EXAMINATION BY MR. FISCHER:

3 Q. Yes. Dr. Murray, your direct
4 testimony's been marked as Exhibit 14, and your
5 surrebuttal's been marked as Exhibit 15. Do you have
6 any changes or corrections you need to make to those
7 exhibits?

8 A. I have -- I have one minor change to
9 each.

10 Q. Okay.

11 A. On page 10, line 7 of my direct
12 testimony, there is a word 40 and that should be the
13 word 30. And on -- in the rebuttal testimony of
14 page 6, line 8, the word "to" should be the word
15 "from."

16 JUDGE DIPPELL: I'm sorry. What page
17 was that?

18 THE WITNESS: That was in surrebuttal,
19 page 6, line 8.

20 JUDGE DIPPELL: Thank you.

21 BY MR. FISCHER:

22 Q. Any other changes that need to be made?

23 A. No, sir.

24 MR. FISCHER: All right. Your Honor,
25 with that, then, I'd move for the admission of

0083

1 Exhibit 14 and 15 and tender Dr. Murray for cross.

2 JUDGE DIPPELL: Would there be any
3 objection to Exhibits 14 and 15?

4 MR. THOMPSON: No objection.

5 JUDGE DIPPELL: Seeing no objections,
6 then I will enter those into evidence.

7 (EXHIBIT NOS. 14 AND 15 WERE RECEIVED
8 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

9 JUDGE DIPPELL: Sorry. I seem to be
10 losing my voice. Is there cross-examination from
11 Staff?

12 MR. THOMPSON: None, your Honor.

13 JUDGE DIPPELL: Is there
14 cross-examination from Public Counsel?

15 MR. POSTON: No, your Honor.

16 JUDGE DIPPELL: Okay. Is there -- are
17 there any questions from the Commissioners?
18 Commissioner Appling?

19 QUESTIONS BY COMMISSIONER APPLING:

20 Q. Good morning, Dr. Murray.

21 A. Good morning, Commissioner.

22 Q. Where are you from?

23 A. Oklahoma, Norman, Oklahoma.

24 Q. Norman, Oklahoma, huh? That's pretty
25 close to Fort Sill, isn't it?

0084

1 A. Yes.

2 Q. Yeah.

3 A. Have you been to Fort Sill, sir?

4 Q. Yeah. I spent two days too long there.

5 A. We both did.

6 Q. It's redneck country, artillery. That's
7 where we train all our rednecks.

8 A. Yes, sir, I went -- I went through
9 there.

10 Q. Yeah. Oklahoma is a great -- great
11 state and -- did you recommend the ROE on this -- on
12 this -- on this case?

13 A. Yes, sir, I did.

14 Q. Talk to me a little bit about it.

15 A. Well, my -- my testimony and analysis,
16 of course, preceded what I understand is now in
17 agreement with the Staff which states --

18 Q. Do you understand what the Staff and
19 Atmos is talking about right now?

20 A. I can't say that I've analyzed it, but I
21 think I understand some of the basic elements to that
22 agreement.

23 Q. Share your thoughts on it with me,
24 please.

25 A. Well, this is not so much a rate of

0085

1 return response, because I'm not privy to all the
2 issues.

3 Q. Correct.

4 A. And as I understand it, it's a -- I
5 guess we use the term black box agreement, but the
6 stipulation for a straight fixed variable rate, and I
7 know that's one of the issues in this case, now I'm
8 speaking as an economist and my experience which at
9 the time was the Federal Power Commission, and the
10 movement to straight -- straight fixed variable rates
11 for the pipelines, as an economist I view that as an
12 efficient rate schedule.

13 There was much discussion this morning
14 about equity, and I'm not disagreeing with that
15 concept. But as I -- listening to that and thinking
16 back, my recollection in dealing with the regulation
17 pipelines and moving to that sort of rate structure,
18 was to create a stable revenue stream for the
19 investment in maintaining the pipeline system or
20 expanding the system, the capacity requirement, if
21 you will.

22 And if you think about it, that
23 guarantees the revenues that are going into the
24 investment. And so looking at it again now from an
25 investment, economic efficiency standpoint, that made

0086

1 it possible for the pipelines to go into the market
2 and borrow money and maintain the system. I know
3 that was one of the considerations.

4 And in separating that from the
5 volumetric requirement of natural gas, that puts the
6 burden, the cost of the gas on the volumetric charge.
7 And so in that sense, it's dividing those two issues,
8 the capacity requirements and the volumetric charge.

9 Now, as I understand in this agreement,
10 there's also a provision for -- for -- to treat the
11 weather normalization, and I'm using that term, I
12 guess, generically as part of that fixed charge.

13 And as an economist and also looking at
14 the financial issues, to me that also makes sense
15 because you're essentially going to a normal weather
16 basis and smoothing out the variability, the highs
17 and the lows, and looking at those kinds of weather
18 provisions as an -- again, as an economist.

19 And the way an investor would look at
20 it, you're not -- you're not increasing the return to
21 the company. What you're doing is you're reducing
22 the variability. And so it's beneficial on one hand
23 to the ratepayers because they don't get hit with
24 these heavy shocks when the weather is severe, and on
25 the other hand, the company doesn't have to dip into

0087

1 short-term borrowing and periods to cover gas at
2 those points in time.

3 And so it -- it's really narrowing
4 the range of the revenue stream as opposed to
5 raising the revenue stream. And that's my
6 understanding of the agreement, and I think it makes
7 economic sense.

8 COMMISSIONER APPLING: I think that's
9 all I need.

10 THE WITNESS: Yes, sir.

11 COMMISSIONER APPLING: I haven't read
12 your testimony and all that, so I think the rest of
13 the question is somewhat hindsight. Today is the
14 only day you're going to be -- at least you're hoping
15 so, right?

16 THE WITNESS: I was going to say, if I
17 can make a plane in St. Louis and get out today, I...

18 COMMISSIONER APPLING: Yeah, that's the
19 way I felt about Oklahoma is that it's the only way
20 to see Fort Sill was in your rear-view mirror. Thank
21 you very much, sir.

22 THE WITNESS: Yes, sir.

23 JUDGE DIPPELL: Mr. Chairman, do you
24 have questions?

25 CHAIRMAN DAVIS: No.

1 QUESTIONS BY JUDGE DIPPELL:

2 Q. Dr. Murray, I just have one question and
3 it's sort of a basic -- basic question.

4 A. Certainly, your Honor.

5 Q. And that is, in your testimony -- let's
6 see, your direct testimony at page 10, you talked
7 about the comparable companies that you looked at in
8 a group of gas companies, and -- well, let me just
9 ask first, were any of those companies Missouri
10 companies?

11 A. I would have to look to tell you. No,
12 ma'am.

13 Q. And why is that?

14 A. The criteria I used -- well, to begin
15 with, I don't think it's necessary to select a
16 Missouri company or not to select a Missouri company,
17 because we're concerned with the cost of capital in a
18 national capital margin, and so it's country-wide.
19 And so I don't consider that a necessary criterion.

20 And so the selection process that I
21 think was important -- the criteria that I think are
22 important are such things as size of the company and
23 the equity ratios, and the factors that I think
24 investors would look -- look to. Missouri companies
25 didn't fit those criteria.

0089

1 JUDGE DIPPELL: Okay. Thank you.

2 THE WITNESS: Certainly.

3 JUDGE DIPPELL: Is there any further
4 cross-examination based on questions from the bench?

5 MR. THOMPSON: No, your Honor.

6 JUDGE DIPPELL: Public Counsel?

7 MR. POSTON: No, your Honor.

8 JUDGE DIPPELL: Any redirect?

9 MR. FISCHER: Just briefly.

10 REDIRECT EXAMINATION BY MR. FISCHER:

11 Q. You were just asked a question about the
12 comparable companies that you looked at. Did you
13 also look at the comparable companies that Staff
14 included in their testimony?

15 A. I did in my surrebuttal, yes, sir.

16 Q. And why did you do that?

17 A. That was in response to the testimonies
18 I read and the testimony by Mr. Trippensee that
19 essentially accused the Staff witness of ignoring
20 weather adjustments, weather normalizations. And so
21 I looked specifically as to -- as to whether or not
22 those companies had weather provisions, and I
23 detailed that in my surrebuttal testimony.

24 In fact, seven out of the eight of the
25 companies that Staff witness analyzed do have weather

0090

1 normalization provisions of one form or another. And
2 so if you take -- if you take the theoretical
3 implications of the discounted cash flow, for
4 example, which he also used, those data would reflect
5 the fact that these companies had some weather
6 adjustment provision.

7 MR. FISCHER: That's all I have, your
8 Honor. Dr. Murray is available by phone if any of
9 the other Commissioners would have questions, but if
10 possible, we would like to let him get on the road.

11 JUDGE DIPPELL: Okay.

12 MR. FISCHER: The other company
13 witnesses are available, though.

14 JUDGE DIPPELL: I'm -- yeah, I'm gonna
15 try to contact the other Commissioners and make sure
16 that that's gonna work out. And if you'll give us a
17 little bit of time, Dr. Murray, we'll have an answer
18 for you shortly.

19 THE WITNESS: Certainly. I appreciate
20 that.

21 JUDGE DIPPELL: Okay. For now, you can
22 step down.

23 MR. THOMPSON: We would call Steve
24 Rackers, your Honor.

25 (The witness was sworn.)

0091

1 JUDGE DIPPELL: Go ahead, Mr. Thompson.

2 MR. THOMPSON: Thank you, your Honor.

3 DIRECT EXAMINATION BY MR. THOMPSON:

4 Q. Mr. Rackers, you prepared or caused to
5 be prepared Exhibits 103, your direct testimony; 104,
6 your rebuttal testimony; 105, Staff accounting
7 schedules and 106 which is a corrected Schedule 10;
8 is that correct?

9 A. Yes.

10 Q. Do you have any corrections or changes
11 to those four exhibits?

12 A. Yes. On Exhibit 103, my direct
13 testimony, page 2, line 8, the word "Arkansas" should
14 be "associated." And I have the same correction on
15 page 8, line 13. The word "Arkansas" should be
16 "associated."

17 MR. THOMPSON: As I understand it, we
18 are waiving the other standard questions, so at this
19 time I would move for the admission of Exhibits 103
20 through 106 and tender the witness for
21 cross-examination.

22 JUDGE DIPPELL: Would there be any
23 objection to Exhibits 103 through 106?

24 MR. FISCHER: No objection.

25 JUDGE DIPPELL: Seeing no objection, I

0092

1 will enter those into evidence and I guess I just
2 have one question.

3 (EXHIBIT NOS. 103, 104, 105 AND 106 WERE
4 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
5 RECORD.)

6 JUDGE DIPPELL: The accounting schedule
7 105 and then it was later corrected as 106, is -- I
8 guess my question is, do we need both accounting
9 schedules to understand the testimony or the numbers?

10 THE WITNESS: I think the second
11 accounting schedule is just -- might just be a single
12 page.

13 JUDGE DIPPELL: Oh, okay.

14 THE WITNESS: I think from our original
15 direct filing, we were missing a page out of one of
16 the districts.

17 JUDGE DIPPELL: Okay. That's right.
18 I'm sorry. I -- that's probably why I couldn't find
19 the other volume. Okay. Is there any
20 cross-examination from Atmos?

21 MR. FISCHER: Just one, your Honor.

22 CROSS-EXAMINATION BY MR. FISCHER:

23 Q. Mr. Rackers, I quoted your testimony in
24 my opening statement where you indicated that Staff
25 believes that no change in the cost of service on a

0093

1 total company basis would still result in just and
2 reasonable rates as a result of this case. I just
3 wanted to make sure that that's still your present
4 testimony; is that right?

5 A. Yes.

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

7 JUDGE DIPPELL: Is there any
8 cross-examination from Office of Public Counsel?

9 MR. POSTON: Yes, Judge, thank you.

10 CROSS-EXAMINATION BY MR. POSTON:

11 Q. Good morning.

12 A. Good morning.

13 Q. Mr. Rackers, what was the amount of
14 revenue increase requested by Atmos?

15 A. I believe it was 3.2 million.

16 Q. Isn't it true that in the Staff's direct
17 case filed on September 13th, 2006, the Staff
18 calculated revenue excess for Atmos of approximately
19 1.2 million on a total company basis?

20 A. That's correct.

21 Q. And in your rebuttal testimony, you
22 state that Staff made corrections to this calculation
23 but that these corrections did not significantly
24 change results of Staff's calculation; is that
25 correct?

0094

1 A. Yes.

2 Q. Would you agree that Staff's latest
3 calculations continue to reflect a revenue in excess
4 of approximately 1.2 million?

5 A. Yes, they do.

6 Q. Are you aware of any errors to Staff's
7 calculations?

8 A. Not at present.

9 Q. But Staff isn't pursuing a complaint
10 case against Atmos requesting a revenue reduction, is
11 it?

12 A. Staff is not pursuing a complaint case
13 to reduce rates in this case.

14 Q. Has the Staff reached some form of an
15 agreement with Atmos whereby Staff agreed not to
16 pursue the 1.2 million over-earnings?

17 A. No.

18 Q. What does Staff get for giving up the
19 1.2 million? What, in your opinion, is the benefit
20 of this?

21 A. Well, I think in every case that I've
22 ever participated in, you go through an assessment of
23 what issues you think are strong, what issues you
24 think are weak. I think that's -- I'm not an
25 attorney but I think that's what we often refer to as

0095

1 litigation strategy.

2 And there are certain manpower and
3 resource requirements to pursue a complaint. And we
4 also participated in a prehearing and had additional
5 discussion on many of these issues. And as I say in
6 my testimony, I think at this time Staff believes
7 that unless it prevailed on each and every one of
8 those issues, which I think is extremely unlikely,
9 that it believed that zero is -- would result in just
10 and reasonable rates.

11 Q. Did Staff meet with Atmos without Public
12 Counsel's involvement in any meetings where the
13 company and Staff talked about settling certain
14 issues and talked about agreeing to a zero revenue
15 increase?

16 A. No.

17 Q. Okay. How about where they just talked
18 about settling certain issues and didn't talk about
19 the zero revenue increase?

20 A. I don't recall that Public Counsel
21 either wasn't present or wasn't invited.

22 Q. If the Commission were to direct the
23 Staff to pursue a complaint case against Atmos, do
24 you believe Staff's position of 1.2 million is
25 reasonable and defensible, and if accepted by the

0096

1 Commission, would result in just and reasonable rates?

2 MR. THOMPSON: Objection, calls for
3 speculation.

4 JUDGE DIPPELL: Sustained.

5 BY MR. POSTON:

6 Q. Let me rephrase this. If the Commission
7 were -- just a minute. Mr. Rackers, did you
8 previously testify that the Staff's 1.2 million
9 over-earning position is reasonable and defensible?

10 A. Yes, I think that's in my rebuttal
11 testimony.

12 Q. Thank you. Assuming Staff's 1.2 million
13 negative revenue requirement has a reasonable
14 level -- level of cost built in, what level of return
15 on equity would be needed to bring Staff's
16 1.2 million to zero?

17 A. I think roughly 12 percent return on
18 equity would nearly erase Staff's negative case.

19 Q. Would you accept, subject to check,
20 12. -- almost 12.6?

21 MR. THOMPSON: I object to that, your
22 Honor. Testifying subject to check is speculative.
23 I mean, he either knows or he doesn't know.

24 JUDGE DIPPELL: I was starting to say, I
25 don't know that it's speculative, but it's not really

0097

1 an answer if you get one but --

2 MR. POSTON: I can rephrase.

3 JUDGE DIPPELL: Okay.

4 BY MR. POSTON:

5 Q. Would you have reason to believe that
6 your 12 percent number would not -- is not -- if
7 calculated, would not be 12.59?

8 A. I'm sorry. I don't understand your
9 question.

10 Q. You just testified you believe it would
11 be close to 12 percent. Do you have reason to
12 believe that if you actually sat down and did the
13 calculations, it would not be actually 12.59?

14 A. Are you asking me if it would take a
15 return on equity in Staff's case, having everything
16 else equal, to bring Staff's revenue requirement
17 calculation to zero?

18 Q. Yes.

19 A. I don't know.

20 Q. Can you explain how that calculation
21 would be made?

22 A. Well, in easiest terms, I would take
23 Staff's current revenue-requirement run, change the
24 return on equity. I guess if you were -- if your
25 goal was to try to get the number to zero, you could

0098

1 continue to earn -- excuse me, insert different
2 returns on equity until the revenue-requirement
3 number was zero. I haven't tried to do that.

4 MR. POSTON: That's all I have. Thank
5 you.

6 JUDGE DIPPELL: Thank you. Other
7 questions from the bench for Mr. Rackers?
8 Commissioner Appling?

9 QUESTIONS BY COMMISSIONER APPLING:

10 Q. Mr. Rackers, how are you doing this
11 morning?

12 A. Pretty good. How are you, sir?

13 Q. It's a little cold out and I'm moving
14 slow today so bear with me, okay?

15 A. Sure.

16 Q. There was a couple numbers thrown
17 around, the 3.2, you recall?

18 A. Yes.

19 Q. And a 1.2 over-earning?

20 A. Yes.

21 Q. And then there's another leg to this
22 whole stew, is the fact that this company has seven
23 districts right now, if it's -- districts is right,
24 or seven areas of operation, which they would
25 certainly get some -- some equity here in their

0099

1 billing process and all the other things in the cost.

2 I'm just trying to get my arms around
3 that 1.2. I'm trying to level that in my own mind,
4 the justification for you-all to move ahead on the
5 1.2.

6 I think I understand exactly what you're
7 doing and why you're doing it, but would you just
8 touch on that for me again, how you got to that? And
9 also I read your testimony which is on page 2 of your
10 rebuttal testimony. Help me out just a little bit
11 because I'm trying to get level on it if I can, okay?

12 A. Sure, I'll try. As I say on page 2,
13 after having prehearing and after discussing the
14 various positions that parties have taken in
15 opposition to where Staff's revenue requirement
16 calculation currently is, we believe that if we had a
17 full hearing on those positions, that it's likely
18 that that level of revenue requirement would be
19 modified such that it could completely wipe out the
20 excess, and it's certainly possible that you could
21 wind up with a rate increase on a total company
22 basis. And because of that, we are not pursuing a
23 complaint.

24 Q. So what you're telling me is that as
25 Mr. Berlin described this morning, this is a case of

0100

1 first impression, is that good results for the
2 ratepayers, for the company and for everyone that is
3 involved; do you agree with that?

4 A. Yes.

5 COMMISSIONER APPLING: No further
6 questions, Judge.

7 JUDGE DIPPELL: Thank you.

8 Mr. Chairman, did you have any questions?

9 QUESTIONS BY CHAIRMAN DAVIS:

10 Q. Mr. Rackers, in your opinion, is Atmos
11 over-earning?

12 A. Based on my revenue calculation, if
13 Staff won every issue it proposed, yes.

14 Q. And -- well, I mean -- okay, but
15 that's -- I mean, that's -- that's a qualified
16 response, Mr. Rackers. And I don't want to put words
17 in your mouth, but I believe you've given previous
18 testimony here just a few minutes ago that you did
19 not believe that you would win every issue; is that
20 correct?

21 A. That's correct.

22 Q. So that over -- could you please tell
23 me -- could you please walk through the assumptions
24 that you have to make to get -- to get to that
25 \$1.2 million worth of over-earning? I mean, the

0101

1 Commission would have to find for you on all issues.

2 What are those -- what are those issues?

3 A. Well, I can talk to you about some of
4 the significant ones.

5 Q. I want all of them, Mr. Rackers, not
6 just the significant ones. I want all of them.

7 A. Return on equity in and of itself,
8 between company's position and Staff's position, I
9 believe is worth in excess of \$1 million. We have
10 rate base differences, both in the level of plant
11 reserve, different items we have included in rate
12 base as opposed to the company, that are worth
13 \$400,000 worth of revenue requirement.

14 And we have included certain revenue and
15 expense items in our case, or not included them, or
16 calculated them differently than the company has in
17 their case, and that is worth \$3 million, for a total
18 difference between our negative 1.2 and the company's
19 positive 3.2, of \$4.4 million.

20 Now, as I said before, we've made
21 certain assumptions or we've tried to determine, can
22 we maintain that level of over-earnings or negative
23 revenue requirement calculation if this case went to
24 a full hearing before the Commission.

25 And our assessment is that those

0102

1 positions are likely to be modified such that, based
2 on your decision, such that the excess would be
3 reduced to zero or very close, or possibly would end
4 up as a positive number for the company.

5 Q. Mr. Rackers, can you please state your
6 reasons for believing that those positions would be
7 modified?

8 A. That would be based on my experience
9 with other Commission orders recently, my assessment
10 of the strength and weaknesses of the company's
11 arguments in opposition to our positions. Those are
12 the two -- oh, and there is -- those are the two most
13 important reasons.

14 Q. So Mr. Rackers, I'm gonna ask you this
15 question: Is it your belief, in fact, that they are
16 over-earning by \$1.2 million or is that position a
17 negotiated position?

18 A. Well, Judge, I'm having some trouble
19 answering your question because --

20 Q. It's a -- is it a negotiating position
21 or are they over-earning? It's one or the other,
22 Mr. Rackers. And if you don't know, that's fine too.

23 A. Based on our assessment of the issues, I
24 don't believe that we can support an over-earnings of
25 1.2 million.

0103

1 Q. Okay. Is there an over-earnings
2 position that you believe you can support? And if
3 so, what would it be?

4 A. I don't know.

5 CHAIRMAN DAVIS: No further questions at
6 this time, Judge.

7 JUDGE DIPPELL: Thank you. Is there
8 further cross-examination based on questions from the
9 bench?

10 MR. FISCHER: Yes, your Honor, just
11 briefly.

12 JUDGE DIPPELL: Go ahead.

13 RE-CROSS-EXAMINATION BY MR. FISCHER:

14 Q. Mr. Rackers, in other cases where the
15 Staff has assessed its litigation position and
16 decided that there was an over-earnings it could
17 support, has Staff filed a complaint against public
18 utilities?

19 A. Yes.

20 Q. And Staff has not done that in this
21 case; is that correct?

22 A. That's correct.

23 Q. And when you talk about assessing
24 litigation risk, would that include more than just
25 ROE in your assessment?

0104

1 A. Yes.

2 Q. And I believe in answer to Chairman
3 Davis's questions you listed quite a number of issues
4 that represent differences between the Staff and
5 company; is that right?

6 A. Yes.

7 Q. Those all would be taken into account in
8 your assessment of that risk?

9 A. That's correct.

10 MR. FISCHER: I have no further
11 questions.

12 JUDGE DIPPELL: Okay. I believe the
13 chairman has one more question before we go any
14 further.

15 QUESTIONS BY CHAIRMAN DAVIS:

16 Q. Mr. Rackers, are you the case manager in
17 this case?

18 A. I share those duties with Mr. Solt, Tom
19 Solt.

20 Q. And just for the record, what cases out
21 there are you the case manager? What pending cases
22 are you a case manager in right now, just so I'm
23 aware of it?

24 A. This is the only one.

25 Q. This is the only one?

0105

1 A. The only rate case, yes.

2 CHAIRMAN DAVIS: The only rate case.

3 Thank you.

4 JUDGE DIPPELL: Thank you. Anything
5 further, Mr. Fischer?

6 MR. FISCHER: No, your Honor.

7 JUDGE DIPPELL: Public Counsel?

8 RE CROSS-EXAMINATION BY MR. POSTON:

9 Q. I'm confused. Your response to Chairman
10 Davis's question about the 1.2 million, did you
11 answer that you do not believe that you can support
12 the 1.2 million?

13 MR. THOMPSON: I object. The record
14 speaks for itself. What he said is what he said.

15 MR. POSTON: I'm following up too. I
16 have a question to follow up. I'm trying to clarify
17 what was said.

18 JUDGE DIPPELL: I'm gonna let him
19 answer.

20 MR. THOMPSON: Well, Judge, I don't
21 think that Mr. Poston's confusion should take up time
22 in the hearing today.

23 JUDGE DIPPELL: I'm gonna overrule your
24 objection and let him answer.

25 THE WITNESS: I believe Staff's current

0106

1 case is defensible, but I don't believe that we would
2 prevail on enough issues that we can support filing a
3 complaint to reduce rates by \$1.2 million.

4 BY MR. POSTON:

5 Q. Are there mistakes in your testimony --
6 in any of the testimony, prefiled testimony?

7 A. Not that I'm aware of. Oh, I'm sorry.
8 In the prefiled case? There were some errors that
9 were corrected. They weren't significant enough to
10 change the run very much.

11 MR. POSTON: That's all I have.

12 JUDGE DIPPELL: Is there any redirect?

13 MR. THOMPSON: Why, thank you, your
14 Honor.

15 REDIRECT EXAMINATION BY MR. THOMPSON:

16 Q. Have you ever been sued, Mr. Rackers?

17 A. No, thankfully.

18 Q. You probably got a pretty good idea what
19 it feels like today, haven't you?

20 A. I doubt it.

21 Q. Would you agree with me that Mr. Poston
22 has done a good job of putting you and Staff on trial
23 here today?

24 A. Somewhat, yes.

25 Q. Now, as I understand your testimony,

0107

1 Staff didn't pursue the \$1.2 million punitive
2 over-earnings because Staff believed it was more
3 likely that a rate increase would result; isn't that
4 correct?

5 A. I see the possibility that a rate
6 increase could be the outcome of a fully -- of a full
7 hearing.

8 Q. Now, from the point of view of a
9 ratepayer, when a company comes in for its first rate
10 case in quite a few years and the result is no
11 increase in revenue requirement, isn't that something
12 that ratepayers can be happy about?

13 A. Yes.

14 MR. THOMPSON: Thank you, no further
15 questions.

16 JUDGE DIPPELL: Thank you. Mr. Rackers,
17 you may be excused for now, but I will ask you to
18 remain and be available tomorrow if there are further
19 Commission questions.

20 THE WITNESS: Okay.

21 JUDGE DIPPELL: Your next witness?

22 CHAIRMAN DAVIS: Judge, something tells
23 me that's not as big a problem for Mr. Rackers as it
24 might be for other witnesses here.

25 JUDGE DIPPELL: I'm afraid with the

0108

1 weather forecast it may be a problem for all of us.

2 MR. THOMPSON: Staff calls Matt Barnes.

3 (The witness was sworn.)

4 JUDGE DIPPELL: Thank you.

5 Mr. Thompson?

6 MR. THOMPSON: Thank you, your Honor.

7 DIRECT EXAMINATION BY MR. THOMPSON:

8 Q. Mr. Barnes, you're responsible for
9 preparing, or you did prepare Exhibits 101, your
10 direct testimony, and 102, your surrebuttal
11 testimony; is that correct?

12 A. Yes.

13 Q. Do you have any corrections or changes
14 to those exhibits?

15 A. I have two changes to my direct
16 testimony. The first one on schedule 16, column 7
17 and 8, WGL Holdings Incorporation, the high and low
18 stock price are switched. The high stock price
19 should read "\$30.32", and the low stock price should
20 read "\$28.44."

21 And then on schedule -- let's see, I'm
22 sorry. Schedule 18, below the company names it says
23 "Great Plains Energy." It should say "Atmos Energy
24 Corporation." That's it.

25 MR. THOMPSON: Thank you, Mr. Barnes.

0109

1 Understanding again, your Honor, that we're waiving
2 the traditional questions, I would move for the
3 admission of Exhibits 101 and 102 and tender
4 Mr. Barnes for cross-examination.

5 MR. FISCHER: No objection.

6 MR. POSTON: No objection.

7 JUDGE DIPPELL: Seeing no objection, I
8 will enter those exhibits into evidence.

9 MR. THOMPSON: Thank you.

10 JUDGE DIPPELL: That's Exhibits 101 and
11 102.

12 (EXHIBIT NOS. 101 AND 102 WERE RECEIVED
13 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

14 JUDGE DIPPELL: Okay. Is there any
15 cross-examination from Atmos?

16 MR. FISCHER: No, thank you, your Honor.

17 JUDGE DIPPELL: From Public Counsel?

18 MR. POSTON: Yes, thank you.

19 CROSS-EXAMINATION BY MR. POSTON:

20 Q. Mr. Barnes, is the purpose of your
21 testimony in this case to present Staff's
22 recommendation on the appropriate overall rate of
23 return?

24 A. Yes.

25 Q. And you recommend an overall rate of

0110

1 return of 7.12 percent to 7.46 percent based on a
2 recommended return of equity of 8.5 to 9.3 roughly,
3 correct?

4 A. Correct.

5 Q. And in your direct testimony, you
6 explained two steps that you took to determine your
7 recommended cost of common equity. One, you
8 developed the cost of common equity by applying the
9 discounted cash flow model to a comparable group of
10 natural gas distribution companies, correct?

11 A. Correct.

12 Q. And then the second step is you
13 evaluated a number of factors to test the
14 reasonableness of your recommendations, correct?

15 A. Correct.

16 Q. But before you explained your analysis,
17 you highlight what you call legal principles and cite
18 to the landmark cases of Hope and Bluefield; is that
19 correct?

20 A. Yes.

21 Q. And on page 5 of your direct, you state
22 that in the 1923 Bluefield case, the United States
23 Supreme Court ruled that a fair return for a public
24 utility would have three qualities; is that correct?

25 A. Could you refer to what lines you're

0111

1 referring to?

2 Q. Very top of the page. I guess "quality"
3 was my term. But you listed what the Supreme Court
4 determined that a fair return would be; is that
5 correct?

6 A. Yes.

7 Q. Would you please read -- I'm sorry.
8 Scratch that. Would you please read lines 2 through
9 8 on page 5 of your testimony for me?

10 A. Sure. "Answer: In the Bluefield case
11 the Supreme Court ruled that a fair return would be,
12 one, a return generally being made at the same time
13 in that general part of the country; two, a return
14 achieved by other companies with corresponding risk
15 and uncertainties; and three, a return sufficient to
16 ensure confidence in the financial soundness of the
17 utility."

18 Q. Okay. And that second one you listed,
19 that a fair return would be achieved by other
20 companies with corresponding risks and uncertainties,
21 what are the primary risks and uncertainties facing
22 most local distribution companies today?

23 A. The main risk would be weather. There's
24 also other business risks associated besides weather.
25 There's also financial risk for the company, the

0112

1 ability for the company to be able to attract capital
2 to maintain certain credit ratings. Those are the
3 main ones that come to my mind right now.

4 Q. And the business risks, what would those
5 be, other business risks?

6 A. The risk of customers leaving the
7 system, customers not paying their bills, maintenance
8 expenses, payroll expenses, those are just a few.

9 Q. Could conservation be a business risk,
10 if a customer is conserving and reducing their usage?

11 A. Yes.

12 Q. Why does weather create a risk?

13 A. Well, weather changes all the time
14 throughout the year. The colder it is, the more a
15 customer is likely to use more gas, and the warmer it
16 is, the less likely they are to use gas.

17 Q. If a significant risk factor is
18 completely removed for the company, would that
19 generally make the company a less risky investment if
20 all else is equal?

21 A. If all else is equal, yes.

22 Q. Turning to your cost of common equity
23 recommendation, you performed a comparable company
24 analysis of eight companies, correct?

25 A. Correct.

0113

1 Q. And you found these companies from the
2 Edward Jones Natural Gas Industry Summary dated
3 March 1st, 2006, correct?

4 A. Correct.

5 Q. And you state that they listed 14
6 companies that they considered to be natural gas
7 distribution companies?

8 A. Yes.

9 Q. Did they list more than 14 and you just
10 chose 14 or was that the total list?

11 A. That was the total list.

12 Q. And of these 14, you applied certain
13 criteria that you list on page 14 of your direct
14 company -- or I'm sorry, of your direct testimony; is
15 that correct?

16 A. Yes.

17 Q. And you used this criteria to select
18 your -- what you called a proxy group, I believe?

19 A. Correct.

20 Q. Was similar weather risk a criteria that
21 you used?

22 A. No, it was not.

23 Q. On that same page, there is a Q and A
24 and there's a sentence in there I'd like you to read.
25 It starts on line 9 with the word "because." Could

0114

1 you read that sentence for me?

2 A. "Because Atmos is a natural gas
3 distribution utility, this helps to ensure the
4 selection of companies that are similar in risk
5 profile of that of Atmos's business operations."

6 Q. When you make that statement, are you
7 saying that the only tests you applied to determine
8 whether the proxy companies with corresponding risks
9 to that of Atmos was whether the company was simply
10 another local distribution company?

11 A. Could you repeat that question?

12 Q. Are you saying in that sentence that the
13 only -- well, strike that.

14 Is the only test you applied to
15 determine whether your proxy companies had
16 corresponding risks to that of Atmos was whether
17 those companies were simply another local
18 distribution company?

19 A. That was one of my criterion of -- if I
20 understand your question, yes, it's -- the first
21 criterion is if they are a limited distribution
22 company.

23 Q. In the sentence you read, you state that
24 because Atmos is a natural gas distribution company,
25 this helps ensure the selection of companies that are

0115

1 similar in risk, correct?

2 A. Yes.

3 Q. So just because they are a local
4 distribution company, these companies that you
5 selected, that's the only basis for your
6 determination that this risk is similar?

7 MR. THOMPSON: Objection, he's
8 mischaracterizing the testimony.

9 JUDGE DIPPELL: I think he's asking the
10 witness to clarify that.

11 MR. THOMPSON: I think he asked him to
12 agree that this was the only criterion, and the
13 sentence states "this helps ensure."

14 MR. POSTON: I'm asking is this -- is
15 this the only --

16 MR. THOMPSON: Could I get a ruling,
17 your Honor?

18 JUDGE DIPPELL: Sustained. Mr. Poston,
19 could you rephrase your question?

20 BY MR. POSTON:

21 Q. That sentence that we're highlighting,
22 are you saying in there that the only factor that you
23 have considered to determine whether the risk
24 associated with your companies is similar to Atmos is
25 whether it was -- these companies are also a natural

0116

1 gas distribution utility?

2 A. No, that's not my only criterion for
3 selecting these companies.

4 Q. That's not what I asked. Was that your
5 only criteria for determining whether the risk is
6 similar?

7 A. No.

8 Q. Okay. What -- what else did you
9 consider?

10 A. Well, starting -- the criteria in here
11 that I selected to determine what companies were
12 comparable to Atmos, if you want me to read those, I
13 can. On page 14, the stock publicly traded to -- is
14 the information printed in Value Line.

15 Q. That's okay.

16 A. Okay.

17 Q. This criteria you list, these one
18 through six, is that the only criteria that you used?

19 A. Yes.

20 Q. In the Bluefield case that you quoted
21 from your testimony, the three items that you list,
22 did the Supreme Court say a fair return must be that
23 earned by companies that simply offer the same
24 service or did they say companies with corresponding
25 risks and uncertainties?

0117

1 A. They said companies with corresponding
2 risks and uncertainties.

3 Q. And before you made your rate of return
4 recommendation in your direct testimony, did you read
5 the direct testimony of Staff witness Anne Ross that
6 was filed in this case regarding rate design?

7 A. I briefly looked over it, yes.

8 Q. So you were aware that the rate design
9 Staff would propose would eliminate all
10 weather-related risk and uncertainty for Atmos?

11 A. Yes.

12 Q. In your direct testimony analysis, did
13 you look into each company's rate design and first
14 determine whether each comparable company had no
15 weather risk similar to that being proposed by Staff
16 or Atmos?

17 A. I didn't look at the details of it. I
18 researched the Standard & Poor's research reports
19 that they issue for each of the companies and
20 determined that seven out of eight have some sort of
21 weather mitigation rate design in place.

22 Q. And did you do that research before or
23 after your direct testimony?

24 A. After.

25 Q. Would it be safe to say that your cost

0118

1 of common equity analysis that you conducted for your
2 direct testimony did not specifically take the
3 weather risk elimination of Staff's rate design
4 proposal into consideration?

5 A. My analysis does take into account the
6 fact that Staff's rate design proposal indirectly
7 takes in the weather mitigation rate design as being
8 proposed.

9 Q. Can you point to anywhere in your direct
10 testimony where you explain how you've taken the
11 elimination of weather risk into consideration?

12 A. I didn't specifically talk about that in
13 my surrebuttal testimony. I explained that my
14 comparable companies there, that risk reduction is
15 reflected in the price of their stock, which seven
16 out of eight companies have some sort of weather
17 mitigation rate design in place, so that's already
18 being reflected in the price of the stock and also
19 the credit rating of the companies.

20 Q. Before you filed your direct testimony,
21 did you look at each of the eight companies and study
22 their tariff to determine whether the risk associated
23 with their rate design is similar to the risk of a
24 rate design that completely eliminates weather risk?

25 A. No, I did not.

0119

1 Q. Can you explain the type or form of rate
2 design used by each of the eight companies?

3 A. I don't have the details. I have these
4 Standard & Poor's reports that mention what -- if
5 it's a weather normalization clause or a weather
6 mitigation rate design. I don't have details of each
7 of those companies.

8 MR. THOMPSON: Your Honor, I'm gonna
9 object to this whole line of questioning because, as
10 you're aware, Staff has moved away from the position
11 that was announced in Mr. Barnes' filed testimony,
12 and has instead moved to a position of no revenue
13 requirement change.

14 And as Mr. Rackers testified, that
15 equates to an ROE of about 12 percent. So I don't
16 understand how the abandoned position of Staff
17 continues to be relevant here, and therefore, why we
18 are enduring a lengthy cross-examination as to how
19 Mr. Barnes calculated it.

20 JUDGE DIPPELL: Mr. Poston, can you
21 explain why it's relevant?

22 MR. POSTON: Well, this testimony has
23 been offered and accepted, and I believe we deserve
24 our opportunity to cross-examine this witness on that
25 testimony.

0120

1 JUDGE DIPPELL: The objection is
2 overruled.

3 MR. THOMPSON: Could I voir dire a
4 moment, your Honor?

5 JUDGE DIPPELL: Certainly.
6 VOIR DIRE EXAMINATION BY MR. THOMPSON:

7 Q. Mr. Barnes, if the Commission adopts
8 your original ROE proposal, which I believe was a
9 range of 8.5 to 9.3, would you agree with me that
10 that would result in a reduced revenue requirement
11 for Atmos?

12 A. Compared to what the company is
13 requesting?

14 Q. Compared to what they have right now.

15 A. Possibly, yes, but I don't know for
16 sure.

17 MR. THOMPSON: Mr. Poston is attacking
18 testimony that, in fact, supports the result that he
19 wishes to achieve. So I suppose if he wants to
20 continue, I will withdraw my objection.

21 JUDGE DIPPELL: Thank you.

22 CROSS-EXAMINATION RESUMED BY MR. POSTON:

23 Q. Do any of your eight proxy companies
24 that you identified have a rate design that
25 completely eliminates weather risk for that company?

0121

1 A. Seven out of the eight have a weather
2 mitigation rate design put in place.

3 Q. And that's not what I asked.

4 A. It --

5 Q. Do they -- I'm sorry. Go ahead.

6 A. Yes, all else equal, that would reduce
7 the risk for those companies.

8 Q. But would it completely eliminate
9 weather risk, those rate designs or those eight
10 companies?

11 A. I don't know the details of each of the
12 rate designs so I don't know.

13 Q. Do any of your eight proxy companies
14 have a rate design that completely eliminates
15 conservation risks for that company?

16 A. I believe a couple of them do. I'd have
17 to look at those but I believe a couple of them do.

18 Q. And which companies are those?

19 A. Northwest Natural Gas.

20 Q. Can you explain how conservation risk is
21 completely eliminated for that company?

22 A. It's my understanding if a customer
23 wants to, say, put in insulation or new windows in
24 their home, that would cut back on their consumption
25 of gas.

0122

1 Q. There's still a volumetric rate tied
2 with that rate design, is that correct, with the
3 non-gas portion of that rate design?

4 A. I don't know. I'd have to refer you to
5 Anne Ross with that question.

6 Q. Have you read the testimony of OPC
7 witness Barbara Meisenheimer where she states that
8 the only state that has approved a rate design like
9 Staff's proposal is North Dakota, and in North Dakota
10 the company accepted a reduced return; have you read
11 that testimony?

12 A. No, I haven't.

13 Q. Earlier you stated that you analyzed --
14 and I believe this is in your testimony -- you
15 analyzed research reports from Standard & Poor's and
16 Value Line investment survey and determined seven out
17 of the eight proxy companies have a rate design that
18 mitigates weather, correct?

19 A. Correct.

20 Q. Is this your only support claim, that
21 these companies all have weather mitigation rate
22 design?

23 A. Yes.

24 Q. Did you include these reports in your
25 testimony?

0123

1 A. I don't believe that I did.

2 Q. Even if you were correct in your seven
3 out of eight companies have a rate design that
4 mitigates the effects of weather, is simply
5 mitigating weather risk different than eliminating
6 weather risk altogether?

7 A. I'm not sure if I understand your
8 question.

9 Q. What -- what do you consider mitigating
10 weather risk to mean? Define that term.

11 A. It's my understanding -- I understand it
12 to be if there's a warmer winter, that consumers will
13 use less gas; therefore, there would be less cash
14 flow going to the company. And if it's a colder
15 winter, more cash flow going to the company based on
16 their usage.

17 Q. So under a mitigating weather risk rate
18 design, the company would be protected to an extent
19 from changes in weather, correct?

20 A. That's my understanding, yes.

21 JUDGE DIPPELL: Mr. Barnes, could I get
22 you to speak more toward the microphone?

23 THE WITNESS: Certainly, sorry.

24 JUDGE DIPPELL: Thanks.

25 BY MR. POSTON:

0124

1 Q. And there's different ways you can do
2 that weather mitigating rate design, correct?

3 MR. THOMPSON: Objection, none of those
4 are under consideration in this case. Irrelevant.

5 MR. POSTON: Well, they're relevant
6 because he's citing eight companies, seven out of
7 eight that he said have weather mitigating rate
8 design, and I'd like to explore those.

9 MR. THOMPSON: And he's already agreed
10 with you that they merely mitigate, they don't
11 remove. So what's the relevance Mr. Poston?

12 JUDGE DIPPELL: I'm gonna overrule your
13 objection.

14 MR. THOMPSON: Very well.

15 BY MR. POSTON:

16 Q. Mitigating weather risk is simply
17 reducing the risk of weather; is that correct?

18 A. I would agree with that, yes.

19 Q. Is that equivalent to eliminating the
20 risk of weather altogether?

21 A. I don't know.

22 Q. Did you analyze your seven companies,
23 the seven out of eight to determine if they received
24 a reduced return on equity to account for the
25 reduction of risk associated with their rate design?

0125

1 A. No, I did not.

2 JUDGE DIPPELL: Mr. Poston, do you have
3 substantial cross-examination still to go?

4 MR. POSTON: I'm almost at the end.

5 JUDGE DIPPELL: Okay. Well, since I've
6 already interrupted you, I'm going to interrupt and
7 just give Dr. Murray some good news and some bad
8 news. The good news is that you are free to leave
9 the premises so long as you can be available by
10 telephone tomorrow. And would it be possible to be
11 available on Monday also if there are Commissioner
12 questions?

13 DR. MURRAY: Yes.

14 JUDGE DIPPELL: The bad news is there
15 are substantial delays from airport traffic from
16 Lambert right now.

17 DR. MURRAY: Thank you for the news.

18 JUDGE DIPPELL: Go ahead, Mr. Poston. I
19 apologize.

20 BY MR. POSTON:

21 Q. Are there other factors other than
22 weather that can affect customer usage and affect
23 earnings due to the existing traditional rate design?

24 A. Yes.

25 Q. Would customer conservation be a factor?

0126

1 A. Yes.

2 Q. Would general economic conditions be a
3 factor?

4 A. Yes.

5 Q. Would changes in gas appliance
6 technology be a factor?

7 A. I believe so, yes.

8 Q. Do any of your comparable companies have
9 a rate design that completely eliminates the effect
10 of conservation, economic conditions or gas appliance
11 technology?

12 A. I don't know the details of those rate
13 designs.

14 Q. Can you please explain where you
15 considered the business risk of customers in
16 determining whether recommended -- in determining
17 your recommended cost of equity for Atmos?

18 A. Could you repeat that question?

19 Q. Did you consider any customer business
20 risk in your recommended cost of equity?

21 A. Customer business risk?

22 Q. I'm sorry, scratch that. Did you
23 consider -- hold on a minute, please.

24 Did you consider the customers' business
25 risk in determining your recommended cost of equity

0127

1 for Atmos?

2 A. Could you define customer business risk?

3 Q. The business risk that customers face.

4 A. I believe it's reflected in the
5 company's credit rating, so indirectly I did consider
6 that.

7 Q. Has Staff, to your knowledge, ever
8 incorporated a customer's business risk into its
9 recommended cost of equity for a public utility
10 regulated by this Commission?

11 A. I don't know.

12 Q. Could you please define what you
13 understand a basis point to be?

14 A. A basis point is -- let's say --
15 let's -- I prefer to use my schedule at the very end,
16 schedule 21. 8.59 is my low end of my range, so one
17 basis point would be 859 basis points, or 8.59
18 percent.

19 Q. Can you quantify the revenue requirement
20 value of a change in ROE of one basis point?

21 A. No. In this case I don't know what that
22 number would be.

23 Q. Would you -- would you determine that
24 basis -- would you determine that basis point value
25 by measuring the change in recommended revenue

0128

1 requirements on Staff's accounting schedule 1 divided
2 by change in ROE?

3 A. I'll have to refer you to Steve Rackers
4 on that question because I don't know.

5 MR. POSTON: That's all I have. Thank
6 you.

7 JUDGE DIPPELL: Thank you. Are there
8 any questions from the Commission? Commissioner
9 Applling?

10 QUESTIONS BY COMMISSIONER APPLING:

11 Q. Good morning, Mr. Barnes.

12 A. Good morning.

13 Q. You might want to take this all the way
14 up to lunch and then we can go and have a snack,
15 okay? Would you go to your surrebuttal information,
16 and you can refer to this in any way you choose,
17 okay?

18 But I'm trying to get a better
19 understanding of OPC's recommendation on common
20 equity for Atmos. I think they are recommending
21 7 percent and you are recommending -- Staff is
22 recommending a spite higher number, okay? For me,
23 very quickly -- I'm still missing something here and
24 I don't know exactly what it is -- but would you take
25 the short version and summarize that for me, please?

0129

1 A. OPC's recommendation?

2 Q. Yes.

3 A. Well, Mr. Trippensee basically uses the
4 risk-free rate of the 30-year treasury bond of 5.13
5 percent, subtracts that from my embedded cost of debt
6 for Atmos of 6.03 percent to arrive at .87, and he
7 adds that to the embedded cost of 6.03 to -- which
8 arrives at 6.9 and he rounds it up to 7.

9 Q. If the Commission would adopt his
10 recommendation, what do you see is the difficulty in
11 that?

12 A. Well, I don't agree that using a current
13 risk-free rate within a historical rate is the
14 appropriate method to determine the difference
15 between the embedded cost and the risk-free rate. I
16 believe the DCF model and the CAPM model are the
17 appropriate models to use to determine an ROE. I
18 don't agree with his methodology here.

19 COMMISSIONER APPLING: Thank you. I'm
20 sure I'll get Mr. Trippensee to explain his side of
21 the story there when he reaches the witness stand.
22 Thank you very much.

23 THE WITNESS: Thank you.

24 JUDGE DIPPELL: Is there any further

25 cross-examination based on questions from the bench?

0130

1 From Atmos?

2 MR. FISCHER: Just briefly.

3 CROSS-EXAMINATION BY MR. FISCHER:

4 Q. Judge Applling just asked you to talk
5 about Mr. Trippensee's methodology a little bit.
6 Mr. Barnes, have you ever seen this methodology
7 presented in any Commission proceeding that you know
8 of?

9 A. Not since I've started this position,
10 no.

11 Q. Have you ever come across it in any
12 financial textbook or economic treatise?

13 A. Not that I can recall right now.

14 MR. FISCHER: That's all I have. Thank
15 you.

16 JUDGE DIPPELL: Any further cross from
17 Public Counsel?

18 MR. POSTON: No, thank you.

19 JUDGE DIPPELL: Any redirect?

20 MR. THOMPSON: No, thank you.

21 JUDGE DIPPELL: All right. Mr. Barnes,
22 you may be excused for now also. I will ask you to
23 remain available for further Commission questions,
24 should they come up on this subject at a later date.

25 THE WITNESS: Thank you.

0131

1 JUDGE DIPPELL: Okay. It looks like
2 it's almost noon so we will go ahead and take a break
3 for lunch. How much time do you need for lunch? An
4 hour and a half? Okay. Let's come back at 1:30 by
5 that clock.

6 Mr. Poston, please take the opportunity
7 to read over your notes and speed up the
8 cross-examination when we get back. And I will ask
9 the other attorneys to do the same.

10 MR. POSTON: Could you order
11 Mr. Trippensee to improve his handwriting, please?

12 JUDGE DIPPELL: Okay. We can go off the
13 record.

14 (THE NOON RECESS WAS TAKEN.)

15 JUDGE DIPPELL: All right. I believe we
16 were ready to begin with Office of Public Counsel's
17 witness on the revenue requirement, rate of return,
18 return on equity.

19 MR. POSTON: Thank you. We'd call
20 Barbara Meisenheimer. Your Honor, I'll just ask the
21 other parties if the parties are gonna have questions
22 of Ms. Meisenheimer on this subject. She didn't
23 offer a lot of testimony in this area, but she wanted
24 to make herself available in case they do.

25 MR. FISCHER: The company does not have

0132

1 any cross for Ms. Meisenheimer on this issue.

2 MR. THOMPSON: I might if she reminds me
3 what she said about it.

4 (The witness was sworn.)

5 JUDGE DIPPELL: Go ahead, Mr. Poston.

6 DIRECT EXAMINATION BY MR. POSTON:

7 Q. Ms. Meisenheimer, did you cause to be
8 filed direct, rebuttal and surrebuttal testimony in
9 this case that has been marked Exhibits 200, 201,
10 202?

11 A. Yes, I did.

12 Q. And do you have changes or corrections
13 to this testimony?

14 A. Yes, I do. I've prepared a sheet that
15 lists those corrections to all three pieces of
16 testimony.

17 MR. POSTON: Your Honor, I'd like to
18 have this correction sheet marked as Exhibit, I
19 believe, 204. We previously marked Mr. Trippensee's
20 testimony as 203.

21 JUDGE DIPPELL: Have you given copies of
22 that to the other parties?

23 MR. FISCHER: The company has received
24 one, yes.

25 MR. POSTON: I believe everyone has. We

0133

1 have extras.

2 JUDGE DIPPELL: Okay. We'll mark that
3 as Exhibit 204. Can I get a copy of it? And make
4 sure the court reporter has one. I'm sorry. Did you
5 offer your exhibits?

6 MR. POSTON: We offer Exhibits 200, 201,
7 202 and 204 and tender Ms. Meisenheimer for
8 cross-examination.

9 JUDGE DIPPELL: Would there be any
10 objection to Exhibits 200, 201, 202 and 204? If
11 you need a minute to look at the corrections,
12 that's...

13 MR. THOMPSON: No objection.

14 MR. FISCHER: No objection.

15 JUDGE DIPPELL: All right. Then I will
16 receive those into evidence.

17 (EXHIBIT NOS. 200, 201, 202 AND 204 WERE
18 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
19 RECORD.)

20 JUDGE DIPPELL: Is there
21 cross-examination from Atmos?

22 MR. FISCHER: No, thank you, not on this
23 issue.

24 JUDGE DIPPELL: Staff?

25 MR. THOMPSON: Thank you, your Honor.

0134

1 CROSS-EXAMINATION BY MR. THOMPSON:

2 Q. I'll take you up on your offer,
3 Ms. Meisenheimer, to remind me what you said about
4 return on equity or rate of return.

5 A. What I said about rate of return or
6 return on equity that I'll lump together -- I assume
7 you'd be interested in both --

8 Q. Absolutely.

9 A. -- was I introduced the idea in rebuttal
10 testimony in response to the Staff's proposed rate
11 design that, in fact, in the Laclede stipulation,
12 there was consideration given for the return in
13 developing that stipulation that I do not believe
14 that the Staff, in fact, considered at the time
15 were -- at or before the time that they filed their
16 direct testimony in rate design. Were you able to
17 find that? I might be able to locate it for you if
18 it would be helpful.

19 Q. I just want you to summarize for me what
20 you had to say of significance in the area of return
21 on equity or rate of return.

22 A. Okay. And then I also criticized the
23 fact that there was no such recommendation together
24 with the Staff's direct filing. I introduced
25 Mr. Trippensee as our witness on that issue

0135

1 specifically, and then I believe that I restated some
2 of the same concerns about no adjustment in
3 surrebuttal testimony.

4 Q. Thank you. Now, you would agree with
5 me, would you not, that when a customer receives a
6 bill from Atmos, the customer is called upon to pay a
7 charge for the commodity that the customer has
8 consumed as well as a noncommodity charge to the
9 company; isn't that correct?

10 A. Yes.

11 Q. And, in fact, we're here today for a
12 case to set the amount of that second charge only,
13 aren't we?

14 A. Well, from my perspective, those
15 charges, the customer charge and volumetric charge
16 associated with non-gas cost recovery.

17 Q. Okay. I think what I did was, I
18 attempted to split out the charges into those for the
19 gas and those that aren't for the gas. And today
20 we're here to set charges that aren't for the gas;
21 isn't that true?

22 A. I would agree with that. I thought you
23 were talking about a singular rate when you first
24 asked the question. I'm sorry if I was confused.

25 Q. I'm just a lawyer. You know, this is

0136

1 deep water for me, numbers, but we'll struggle
2 forward. So let me ask you this: I have heard you
3 testify in many rate cases as to class cost of
4 service; isn't that true?

5 A. Yes.

6 Q. And so you are at least generally
7 familiar with how utility costs can be divided across
8 customer groups and classes?

9 A. Yes.

10 Q. And you are -- or are you not at least
11 generally familiar with the sort of costs that are
12 incurred by an LDC in providing services to
13 customers?

14 A. Yes, I am.

15 Q. Well, let me ask you this: So far as
16 you know, do the costs incurred by Atmos in providing
17 gas service to its customers, are those costs
18 weather-variable?

19 A. Yes.

20 Q. So --

21 A. Some of those costs are
22 weather-variable, yes.

23 Q. For example?

24 A. For example, to some degree, when mains
25 are placed, I believe that the engineering models

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1 that are used to determine what are, you know, the
2 cost-efficient size to place have a lot to do with
3 what do you expect the demand to be on that system,
4 not just today, but also in the future. What are the
5 characteristics of the service territory, things such
6 as density. I have, in fact, reviewed those types of
7 modeling -- engineering models in the past. So, yes,
8 I do think that a portion is weather-sensitive.

9 Q. What portion?

10 A. Well, the size of mains when they're
11 placed, although --

12 Q. What if they're already in the ground?
13 In other words, what does it -- does the cost
14 incurred by this company in serving its customers, do
15 those costs vary with the weather where the
16 infrastructure is already in existence?

17 A. Well, I mean, once -- once the pipe is
18 laid, certainly that is, you know, the -- the cost is
19 what the cost is. How you divide that --

20 Q. Thank you. Thank you, Ms. Meisenheimer.

21 A. I'd be happy to explain my answer.

22 Q. I like that phrase, "the cost is what
23 the cost is." So if the cost is what the cost is,
24 and if we divide that cost for each customer class
25 across the number of customers in the class and the

0138

1 number of billing periods, I mean, why is that an
2 unfair way to collect those costs?

3 A. That -- that is one way to divide those
4 costs. I do not think it is the fairest way. There
5 is -- there is the issue of the cost is what the cost
6 is. There is also the issue of whose cost is it.

7 Q. Okay. Let's talk about whose cost is
8 it. Now, would you agree with me that low-income
9 customers are more likely to live in homes that do
10 not have efficient furnaces and that have not been
11 weatherized; would you agree with that?

12 A. I would not necessarily agree with that,
13 and I would be happy to explain why.

14 Q. So you don't believe there's any chance
15 of a weather-sensitive noncommodity charge having an
16 unfair impact on lower-income customers?

17 A. That's not what I said. What I said is
18 that I don't necessarily agree with that, and I would
19 be happy to explain my answer.

20 Q. Well, but I -- I'm not interested in
21 having you narrate into the record, so, thank you. I
22 won't take you up on that.

23 A. Darn it.

24 MR. THOMPSON: I have no other questions
25 for this witness. Thank you.

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1 JUDGE DIPPELL: Commissioner Appling, do
2 you have any questions for Ms. Meisenheimer on the
3 revenue requirement, rate of return, return on equity
4 issues? She will be back for additional testimony.

5 COMMISSIONER APPLING: I would just pull
6 up my emergency brake until your return, okay?
7 We'll -- I'm sorry that I didn't get back down here
8 on time, but we'll talk to you next time, okay?
9 Thank you very much.

10 THE WITNESS: Thanks.

11 JUDGE DIPPELL: All right. I think
12 that's all -- all the questions from the bench, since
13 there were none. Is there any redirect?

14 MR. POSTON: Sorry.

15 REDIRECT EXAMINATION BY MR. POSTON:

16 Q. Ms. Meisenheimer, there was two
17 questions just asked of you where you offered to
18 expand. I believe one of them was about companies'
19 costs varying by weather. Could you please expand on
20 those, please?

21 A. On just the one about varying by weather
22 or also --

23 Q. On both of them.

24 A. -- the ones about whose cost is it?

25 Q. Both questions.

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1 A. Okay. In fact, it is my testimony that
2 not only may costs vary by considerations related to
3 weather, but it is also my testimony that costs vary
4 according to other factors: The embedded costs that
5 are collected in a rate case vary by other factors,
6 and I listed those in my testimony.

7 I won't -- I won't repeat them here in
8 an effort to save time, but there are costs. The
9 sizing of the system is dependent on the expectation
10 of weather and customer characteristics and other
11 things, and is planned for as a whole, not
12 necessarily by a customer class.

13 The additional issue is once -- once you
14 place them in the ground, there is a cost to be
15 recovered. Those costs as I believe -- was a
16 response to a data request that may have made it into
17 the case, and the company agrees, much of those costs
18 are common costs.

19 Common costs are costs that are not
20 easily assignable to one particular class in any
21 precise manner, and instead, you have to come up with
22 reasonable allocations of whose cost is it. And
23 typically and historically, this Commission has
24 determined in gas cases that it is fair for a portion
25 to be identified as a customer cost, that all

0141

1 customers pay -- similarly situated customers pay the
2 same rate. And similarly situated generally was
3 defined by being in the same type of service area
4 served by a connected system.

5 In addition, there was an additional
6 component of cost recovered through volumetric rates
7 that the Commission deemed fairly distributed based
8 on use of the system so that there is a value of
9 service in actually receiving the commodity as
10 opposed to just having the ability to receive the
11 commodity. And with respect to low-income customers,
12 I think actually that was the other question.

13 Q. Yeah. I asked you to expand on both of
14 them, so please.

15 A. Okay. I think that I had that one not
16 separated. The low-income customers, I am aware of
17 some arguments that, in fact, low-income customers
18 may tend to live in less efficient housing. I am
19 also aware of studies that indicate that low-income
20 customers tend to live in smaller housing, so there
21 may actually be a trade-off between those two
22 factors.

23 In this particular case before I filed
24 rebuttal testimony, I actually took a look based on a
25 sample of data that the Staff collected regarding

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1 low-income customers to determine whether they, in
2 fact, did have similar characteristics to the rest of
3 the service territory, and related to something that
4 Commissioner Applling pointed out, I believe, that I
5 think helps explain it.

6 You mentioned earlier that, in fact,
7 down around the SEMO area, the southeast portion of
8 the state, incomes tend to be low. And what I found
9 in the study that I did and I mentioned in testimony,
10 is that in this case it doesn't appear that
11 low-income customers' characteristics substantially
12 differ from those of the rest of the general customer
13 class, and that may be because just generally, it's a
14 low-income area down there. And that may be the
15 primary driver in other areas that this company
16 serves. They don't serve the metropolitan areas of
17 St. Louis, Kansas City proper, if you will, or
18 Springfield or Columbia. So, in fact, the income
19 levels may be more alike and therefore the usage more
20 alike.

21 MR. POSTON: That's all I have. Thank
22 you.

23 JUDGE DIPPELL: Thank you.
24 Ms. Meisenheimer, you can step down for now. Ask you
25 to remain for further questions at a later time.

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1 Who's your next witness, Mr. Poston?

2 MR. POSTON: Yes. We'd call Russell

3 Trippensee.

4 (The witness was sworn.)

5 JUDGE DIPPELL: Thank you.

6 DIRECT EXAMINATION BY MR. POSTON:

7 Q. Mr. Trippensee, did you prepare and
8 cause to be filed rebuttal testimony that's been
9 marked as Exhibit 203?

10 A. Yes, I did.

11 Q. Do you have any corrections or changes?

12 A. Not to my knowledge.

13 MR. POSTON: Your Honor, I'd offer
14 Exhibit 203 into the record and tender Mr. Trippensee
15 for cross-examination.

16 JUDGE DIPPELL: Is there any objection
17 to Exhibit 203?

18 MR. THOMPSON: No objection.

19 JUDGE DIPPELL: Seeing none, I will
20 receive it into evidence.

21 (EXHIBIT NO. 203 WAS RECEIVED INTO
22 EVIDENCE AND MADE A PART OF THE RECORD.)

23 JUDGE DIPPELL: Is there any
24 cross-examination by Atmos?

25 MR. FISCHER: Yes, your Honor.

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1 CROSS-EXAMINATION BY MR. FISCHER:

2 Q. Good afternoon Mr. Trippensee.

3 A. Good afternoon, Mr. Fischer.

4 Q. I'd like to turn your attention to
5 page 11 of your rebuttal testimony at line 18.

6 A. Yes, sir, I'm there.

7 Q. You state there Public Counsel would
8 recommend the Commission use a 7 percent return on
9 equity; is that correct?

10 A. That is correct.

11 Q. Would you have any interest in
12 withdrawing that recommendation in the interest of
13 moving this along today?

14 A. Why don't we see where this goes.

15 Q. Okay. I'll ask you again.
16 Mr. Trippensee, is this recommendation your own
17 professional opinion or are you just relaying to the
18 Commission what Lewis Mills, the Director of the
19 Office of Public Counsel, might suggest is a
20 recommendation in this case?

21 A. This is my recommendation to this
22 Commission based on the data available in this case.

23 Q. Okay. On page 1 of your rebuttal
24 testimony, you testified that you received a
25 B.S./B.A. degree, major in accounting in December of

0145

1 1977; is that right?

2 A. That is correct.

3 Q. And what does that term -- I wasn't
4 familiar with the B.S./B.A. What does that
5 certification mean?

6 A. Bachelor of Science, business
7 administration.

8 Q. Okay. And you also indicate that you've
9 acquired the requisite hours for a major in finance;
10 is that right?

11 A. That is correct.

12 Q. How many hours of finance would that be?

13 A. 30.

14 Q. 30? Okay. And how many hours of
15 accounting would your degree --

16 A. The accounting degree also required 30.
17 I have 36, I believe.

18 Q. Okay. And did you have any economics
19 hours?

20 A. I have every undergraduate economics
21 course the business school offered. I think that was
22 nine hours of undergrad.

23 Q. Okay. And would it be correct to
24 conclude that while you have the requisite number of
25 hours for a major in finance, your actual degree is

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1 in accounting; is that right?

2 A. The University of Missouri at that time
3 did not, quote, have majors; you just fulfilled the
4 requirements for those areas, so I have both.

5 Q. Okay. So you have basically a business
6 administration degree; is that right?

7 A. With an emphasis in accounting and an
8 emphasis in finance.

9 Q. Okay. Have you taken any graduate
10 classes in accounting, finance or economics since you
11 graduated in 1977?

12 A. From a university, no.

13 Q. Have you taken any graduate college
14 courses since you joined the Public Counsel's office
15 in '84?

16 A. The only -- the formal
17 university-offered courses, no. I did take classes
18 through various seminars and also probably 50 hours
19 of class for a CPA exam.

20 Q. You indicated that you started at the
21 PSC in August of '77 as an accounting intern and were
22 later employed in January of 1978 as a public utility
23 accountant I; is that correct?

24 A. Yes, it is.

25 Q. And you also indicated you attended the

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1 1981 NARUC annual regulatory studies program at
2 Michigan State University; is that correct?

3 A. That is correct.

4 Q. Is that something we normally call Camp
5 NARUC around the Commission?

6 A. We definitely used to.

7 Q. Okay. And is that a two-week course on
8 basic regulation of public utilities?

9 A. Generally, yes.

10 Q. Would you agree that a variety of
11 professional disciplines, accountants, lawyers,
12 management services personnel and other professionals
13 would typically be in attendance at that seminar?

14 A. Yes.

15 Q. Mr. Trippensee, would you agree that
16 everyone that attends Camp NARUC is not necessarily
17 qualified to sponsor expert accounting testimony in a
18 Commission proceeding?

19 A. Definitely if they're a lawyer, that
20 would be true.

21 Q. Okay. Would you also agree that
22 everyone that attends Camp NARUC is not necessarily
23 qualified to sponsor expert testimony on the subject
24 of what's an appropriate rate of return on equity for
25 a public utility?

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1 A. That would be true too.

2 Q. Camp NARUC basically gives you another
3 view of regulation but not expertise in a particular
4 field, wouldn't you agree?

5 A. Correct.

6 Q. Before you left the Commission to go to
7 work for Public Counsel, did you ever work in the
8 Commission's financial analyst department?

9 A. No, I did not.

10 Q. And that's the group at the PSC that
11 typically provides ROE and capital structure
12 testimony; is that correct?

13 A. That is correct.

14 Q. That's the section that Matt Barnes is
15 currently employed in; is that right?

16 A. That is correct. Mr. Barnes is an
17 accountant by training.

18 Q. Did you ever present testimony on
19 appropriate ROE for a public utility while you were
20 employed at the PSC?

21 A. No, I did not.

22 JUDGE DIPPELL: Mr. Trippensee, can I
23 get you to speak into the microphone a little more?
24 Thank you. Or speak up a little louder. Go ahead.
25 Mr. Fischer, I'm sorry.

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1 MR. FISCHER: Thank you.

2 BY MR. FISCHER:

3 Q. On page 1 of your testimony you also
4 indicate that -- on lines 16 and 17, that you left
5 the Missouri Public Service Commission's staff in
6 June of 1984 as a public utility accountant I and
7 assumed your present position; is that correct?

8 A. No, it's not. I left as a public
9 utility accountant III.

10 Q. Oh, I'm sorry. Public utility
11 accountant III. You also indicated you're a member
12 of the Missouri Society of Certified Public
13 Accountants; is that right?

14 A. That is correct.

15 Q. Are you familiar with a professional
16 organization called the Society of Rate of Return
17 Analysts?

18 A. I believe I've heard of them, yes.

19 Q. Are you a member of that professional
20 association?

21 A. No, I am not.

22 Q. I'd like to ask you to refer to your
23 schedule, RWT-1. I believe this schedule lists the
24 cases in which you filed testimony over the last 25
25 years or so; is that correct?

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1 A. That is the intent of that schedule. I
2 hope I haven't missed any.

3 Q. Okay. Based on that list of cases, it
4 appears to me that you're reaching a milestone in
5 this particular case. It appears this is your one
6 hundredth case that you've submitted testimony.
7 Would that be about right, centennial or something?

8 A. Sounds like a good reason for a party,
9 but I'll take your count for that, subject to check.

10 Q. Okay. Well, and I wasn't sure whether
11 you might have had other cases before that time or
12 not.

13 A. Mr. Fischer, I looked at this recently,
14 and it seems like I've filed more, but --

15 Q. Well, for purposes of this discussion,
16 let's assume it's 100 and then make it nice and round
17 numbers. Out of those 100 cases, would you identify
18 the number of cases in which you -- in which the
19 specific purpose and subject of your testimony was to
20 recommend the appropriate rate of return on equity
21 for a public utility?

22 A. A specific purpose for rate of return I
23 don't believe was the focus of these testimonies.
24 Other components of business risk, the appropriate
25 relationship between rate of return and the revenue

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1 requirement have been touched on.

2 Q. So would this be the first case you made
3 a specific recommendation on ROE, is that what you're
4 saying?

5 A. Where there's a numeric value, yes.

6 Q. Okay. Would it be correct, then, to
7 conclude that with the exception of this case, the
8 subject of the testimony and those remaining 99 cases
9 dealt with issues other than rate of return on
10 equity?

11 A. As I indicated, I do not believe any of
12 those other cases have a specific number for equity.
13 I cannot agree that the subject of return on equity
14 was not discussed in that testimony. I did not go
15 back and look at every issue, but with the variety of
16 issues I have testified on over the years, rate of
17 return is an integral part of the revenue
18 requirement.

19 Q. Okay. We can discuss that in a minute.
20 Is it correct or could you agree that in the vast
21 majority of those cases listed on RWT-1 that you were
22 testifying on accounting-related matters?

23 A. I was testifying on revenue-
24 requirement-related matters. I have testified on
25 engineering matters, I have testified on all the

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1 components of the revenue requirement in one way or
2 another. I have not made, as I indicated, a specific
3 recommendation on return on equity where I have the
4 responsibility for that recommendation.

5 Q. When was the last case, other than this
6 one, that you did testify on what is an appropriate
7 rate of return on equity for a public utility?

8 A. I believe I just indicated I haven't
9 gone back and looked at each and every testimony.
10 Quite frankly, I did not have time to do that.

11 Q. But you did -- is it -- is it your
12 testimony that this is the first case that you've
13 done a specific number for ROE; is that what you're
14 telling me?

15 A. That is correct. Some of these
16 testimonies that dealt with the appropriate -- the
17 relationship of rate of return and customer deposits
18 and the appropriate amount of -- the appropriate
19 return to provide customers and stockholders as one
20 example where rate of return is an integral part of
21 what you're terming accounting issue.

22 Q. When was the last case in which you
23 testified on the issue of capital structure of a
24 public utility, do you recall?

25 A. I'm not sure if I've had testimony on

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1 the specific issue of capital structure, as I do not
2 in this case.

3 Q. On page 1 of your schedule, you list a
4 case involving the Northeast Missouri Rural Telephone
5 Company, Case Number TR-85-23. I think it's the 16th
6 case listed on that first page. Do you see that
7 case?

8 A. Yes, I do.

9 Q. Do you recall testifying about a capital
10 structure issue in that case?

11 A. Since I'm supposed to tell the truth,
12 the answer is no, I don't. I do not go back and
13 review each -- each --

14 MR. FISCHER: Your Honor, I would ask
15 the Commission to take administrative notice of its
16 decision in Case Number TR-85-23 which can be found
17 at 27 Missouri PSC New Series, pages 369 through 373.

18 JUDGE DIPPELL: Is there any objection
19 to the Commission taking notice of that?

20 MR. THOMPSON: No objection.

21 JUDGE DIPPELL: The Commission will take
22 notice of that decision.

23 BY MR. FISCHER:

24 Q. Mr. Trippensee, I'd like to show you and
25 your counsel a copy of that decision.

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1 Mr. Trippensee, if you could take a look at that
2 decision, and particularly I'm interested in the last
3 paragraph on page 372. Maybe that will refresh your
4 memory.

5 Mr. Trippensee, do you recall that in
6 that case you suggested on behalf of the Public
7 Counsel that the Commission utilize a capital
8 structure for Northeast Missouri Rural Telephone
9 Company by deducting from rate base the entire amount
10 of some REA debt?

11 A. I'd have to look at the entire order
12 because what I'm reading here doesn't comport with
13 what I, you know, would believe.

14 Q. Let's look at the last paragraph found
15 on page 372 in that reported decision where it
16 states, "Public Counsel has created a capital
17 structure by deducting from rate base the entire
18 amount of REA debt. The remaining amount Public
19 Counsel designates as equity-funded rate base. The
20 Commission finds this computation inappropriate as
21 applied by Public Counsel to the capital structure in
22 this case." Do you see that passage?

23 A. That's the passage I see, and that's the
24 passage I don't understand what they're talking
25 about.

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1 Q. Okay. Were you the Public Counsel's
2 witness in that case?

3 A. I'm in the paragraph before, and my
4 concern is debt is not a component of rate base.
5 Debt supports components of rate base. While that
6 semantical difference may seem insignificant to some
7 people, it's a material difference to me, and my
8 problem is I'm not sure if this characterization of
9 the testimony is accurate because the
10 characterization is not something I believe I would
11 ever have said.

12 Q. Did you make a recommendation in that
13 case on what should be an appropriate capital
14 structure?

15 A. Again, I would have to go back and
16 review the entire case.

17 Q. Well, based on what you have in front of
18 you, would it be correct to conclude from that
19 passage that the Commission rejected the capital
20 structure suggested by Public Counsel in that case?

21 A. The Commission rejected capital
22 structure, but again, their description of why does
23 not make sense to me.

24 Q. Okay. Well --

25 A. Because they're two different things.

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1 Q. That's fair. They disagreed with your
2 position too, I think. On page 373 of that decision,
3 the Commission stated, "With regard to Public
4 Counsel's argument that acceptance of Staff and
5 company's position will result in the company earning
6 a return through capital structure as well as through
7 interest income recorded below the line, the
8 Commission would state that it does not believe this
9 to be possible. It is impossible for the company to
10 earn a double return on cash investments since they
11 are not included in the rate base agreed to by Staff
12 and company, meaning that the customers do not pay
13 the company a return on these funds." Did I read
14 that right?

15 A. It appears you did.

16 Q. And were you the Public Counsel's
17 witness addressing that particular issue?

18 A. I believe that's what the order states.

19 Q. Mr. Trippensee, would it be correct to
20 conclude from that passage that the Commission
21 rejected the Public Counsel's position in the NEMO
22 case?

23 A. It appears that the Commission did.

24 Q. Now, you've mentioned -- you've touched
25 on ROE issues in other cases while not specifically

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1 making an ROE recommendation. Do you recall if the
2 Commission has ever adopted your ROE recommendation
3 specifically in any case?

4 A. Since I didn't make one, it would be
5 very difficult for them to accept it.

6 Q. Okay. Would it be correct that of those
7 other 99 cases that are listed on your RWT-1, that
8 there would have been some other Staff witness or
9 perhaps Public Counsel witness that would have
10 sponsored testimony on the appropriate ROE in those
11 rate cases?

12 A. That would be correct.

13 Q. Office of the Public Counsel used to
14 have a financial analyst on staff; is that correct?

15 A. That is correct. We've had several.

16 Q. And who would some of those have been?

17 A. John Tuck, Mark Burdette, Amy Levins.

18 Q. Jim Bush?

19 A. No.

20 Q. Bill Thompson?

21 A. No.

22 Q. What were the professional backgrounds
23 of the financial analysts that you mentioned that had
24 been in the office?

25 A. Ms. Levins had the same background that

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1 I do, effectively a double major, Mr. Burdette had an
2 engineering major and a finance major, or actually I
3 think it was a finance master's. Mr. Tuck, I
4 believe, had an undergrad in either economics or
5 finance and a finance major.

6 Q. In the recent KCPL rate case that the
7 hearings have just concluded, is it true that Public
8 Counsel sponsored the testimony of Michael Baudino on
9 the subject of the appropriate ROE?

10 A. Yes.

11 Q. He's an outside consultant for the
12 Office of Public Counsel?

13 A. Yes, he was.

14 Q. What's Mr. Baudino's professional
15 background?

16 A. Mr. Baudino, I believe, is an economist
17 by training. He worked for the New Mexico, I
18 believe, Public Service Commission staff for
19 approximately six to seven years, upon which he went
20 out on his own.

21 Q. Mr. Trippensee, are you holding yourself
22 out to this Commission in this case as an expert in
23 the area of what is an appropriate rate of return on
24 equity for a public utility?

25 A. I'm holding myself out as an expert in

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1 regulatory risk, rate of return for this -- to
2 recognize the risk.

3 Q. So the answer --

4 A. Yes.

5 Q. -- to the question is yes, you are
6 holding yourself out as an expert on rate of return
7 in this case?

8 A. Yes. I would point out that the people
9 you have discussed, Mr. Tuck, Ms. Levins,
10 Mr. Burdette, all operated under my direct
11 supervision for the last ten to 15 years.

12 Q. Okay.

13 A. All preparation of all testimony was
14 through -- under my direct supervision.

15 Q. At what point in your career do you
16 believe that you became qualified as -- to sponsor
17 expert opinions on the issue of rate of return for
18 (sic) equity for public utilities?

19 A. I believe I have -- as a finance major
20 which I obtained from the University of
21 Missouri-Columbia, I believe that provides the
22 requisite basic knowledge. I believe 29 years
23 experience in revenue requirement, in reviewing rate
24 of return testimony, analysis, studies, has amply
25 provided me the ability to recognize -- to discuss

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1 the subject with this Commission.

2 Q. So you're saying that you've been an
3 expert since you began in the area 29 years ago?

4 A. I believe you have the educational
5 background. The question is what do you do with it.

6 Q. Okay. And since that time, you would
7 hold yourself out as an expert on ROE?

8 A. I think I've answered that, yes.

9 Q. Okay. Mr. Trippensee, in the Northeast
10 Missouri Rural Telephone Company proceeding, Case
11 Number TR-85-23, do you recall being asked the
12 following question: "Are you holding yourself out to
13 the Commission as an expert in the areas of capital
14 structure and rates of return, Mr. Trippensee?"

15 A. No, I do not remember that question.

16 MR. FISCHER: Judge, I'd ask the
17 Commission to take administrative notice of page 81
18 of the transcript in Case Number TR-85-23 in a
19 proceeding held on April 2nd, 1985, and I'd like to
20 show the witness that page.

21 JUDGE DIPPELL: Would there be any
22 objection to the Commission taking official notice of
23 that record?

24 MR. THOMPSON: No.

25 MR. POSTON: No.

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1 JUDGE DIPPELL: Then the Commission will
2 take official notice of that transcript.

3 BY MR. FISCHER:

4 Q. Mr. Trippensee, I'd like to show you a
5 copy of that transcript in the case, and I'd refer
6 you to the first question and answer on page 81. On
7 that page isn't it true that you were asked the
8 question, "Are you holding yourself out to this
9 Commission as an expert in the areas of capital
10 structure and rates of return, Mr. Trippensee?"

11 A. That is correct.

12 Q. And is it correct that you answered that
13 question by stating, "Definitely not in the -- in
14 regard to the area of rates of return. With regard
15 to the components of capital structure that support
16 rate base, yes, I am"; is that correct?

17 A. That is a correct reading, yes, sir.

18 Q. Mr. Trippensee, did you perform
19 personally a discounted cash flow analysis as a part
20 of your rebuttal testimony?

21 A. No, I did not.

22 Q. Did you perform a capital asset pricing
23 model analysis as a part of your rebuttal testimony?

24 A. No, I did not.

25 Q. Did you include in your rebuttal

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1 testimony a comparison of the ROE's of similarly
2 situated public utilities with Atmos?

3 A. No, I did not.

4 Q. On page 11 of your testimony you
5 recommend a 7 percent return on equity which utilizes
6 a spread between the risk-free rate and the cost of
7 debt; is that correct?

8 A. I believe that's correct, yes.

9 Q. Can you cite any Missouri PSC decision
10 which has accepted that specific approach that you're
11 recommending in this case?

12 A. First off, you're saying I'm
13 recommending it. Let's get something understood
14 first. This recommendation is if, and only if, this
15 Commission adopts the Staff's rate of return which
16 completely decouples sale -- decouples earnings from
17 sales.

18 Q. Let's assume for purposes of this
19 question that the Commission does adopt the Staff and
20 the company's proposals to use the delivery charge.
21 Is it correct that that's what you're recommending at
22 7 percent return on equity?

23 A. That would be the recommendation under
24 that unprecedented rate design.

25 Q. So would it be correct to conclude that

0163

1 there's no Missouri PSC decision which has accepted
2 that specific approach that you're recommending in
3 this case?

4 A. There's been no PSC decision that has
5 accepted a rate design that would necessitate
6 recognition of the risk reduction.

7 Q. And is this the first case in which
8 you've recommended this approach?

9 A. It's the first case in which any party
10 has recommended --

11 MR. FISCHER: Judge, I'm going to
12 object. He's nonresponsive. These are yes or no
13 questions.

14 JUDGE DIPPELL: Mr. Trippensee, answer
15 the question.

16 THE WITNESS: Could he repeat the
17 question, please?

18 BY MR. FISCHER:

19 Q. I'm sorry. Sure. Is this the first
20 case you've recommended this specific approach?

21 A. Yes, it is, but I would like to qualify
22 that.

23 Q. Okay. Well, your counsel can redirect
24 like he did with Barb Meisenheimer. Can you cite any
25 Missouri PSC decision in the last 30 years which

0164

1 establishes a rate of return on equity for a gas LDC
2 as low as 7 percent?

3 A. I would have to go back and look at all
4 the cases. Prior to double-digit inflation and --
5 beginning in the late '70s, interest rates were --
6 and rate of returns were significantly lower.

7 Q. So the answer to that question, would it
8 be no, you can't cite any as you sit there today?

9 A. As I sit here today, the answer would be
10 no.

11 Q. Okay. I'm sorry to put you through
12 this. Would you care to withdraw your recommendation
13 on 7 percent return on equity?

14 A. Let's continue going forward,
15 Mr. Fischer.

16 MR. FISCHER: Thank you very much.
17 That's all I have.

18 JUDGE DIPPELL: Is there any
19 cross-examination from Staff?

20 MR. THOMPSON: Why, yes, your Honor.

21 CROSS-EXAMINATION BY MR. THOMPSON:

22 Q. Good morning, or good afternoon,
23 Mr. Trippensee. Are you familiar with the direct
24 testimony filed in this matter by Mr. Barnes?

25 A. Yes, I am.

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1 Q. Do you have a copy of that up there?

2 A. Yes, I do.

3 Q. I wonder if you could turn to page 5.

4 A. Of his direct?

5 Q. Yes, sir. During his examination of
6 Mr. Barnes, Mr. Poston very properly focused
7 attention on Mr. Barnes' citation of certain
8 principles from Hope and Bluefield. If you take a
9 look at the top of page 5, there's three factors that
10 are listed by Mr. Barnes. I wonder if you could read
11 them, starting at page -- excuse me, line 2. Read
12 them out loud.

13 A. The three factors begin on line 3.
14 Line 2 refers simply to the -- to the Bluefield case.
15 Three begins -- first factor is "A return generally
16 being made at the same time in that general part of
17 the country"; second factor, "A return achieved by
18 other companies with corresponding risk and
19 uncertainties"; and 3, "A return sufficient to ensure
20 confidence and the financial soundness of the
21 utility."

22 Q. Now, Mr. Trippensee, with respect to
23 your recommendation for a return on equity in this
24 case, what exactly did you do to ensure that your
25 recommendation complies with the first of these

0166

1 factors?

2 A. The basis of my recommendation --
3 contingent recommendation is Mr. Barnes' testimony
4 and his, quote, comparable companies. I believe
5 Mr. Barnes' testimony is sound, absent the rate
6 design proposed by Staff.

7 Q. Well, as I look at your testimony, you
8 constructed your recommendation, did you not, by
9 taking Mr. Barnes' risk-free rate; isn't that
10 correct?

11 A. That is correct.

12 Q. And his risk-free rate has, in fact,
13 nothing whatsoever to do with his comparable
14 companies, does it? Isn't that simply the rate of
15 return on a selected federal government security?

16 A. It is -- yes -- yes, sir.

17 Q. Okay. So it has nothing to do with an
18 analysis of comparable companies, does it?

19 A. It is part of the analysis of the
20 overall rate of return.

21 Q. And --

22 A. There is no precedent for comparable
23 companies with the Staff rate design.

24 Q. And the second thing you took, as I
25 recall, was the cost of debt; isn't that right?

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1 A. That is correct.

2 Q. And isn't that, in fact, Atmos's
3 embedded cost of debt?

4 A. That is correct.

5 Q. So that has nothing to do with an
6 analysis of comparable companies either, does it?

7 A. Cost of debt is a component of cost for
8 Atmos. It is not a component of cost for a
9 comparable company.

10 Q. So, in fact, you did absolutely no
11 comparative analysis to reach your recommendation --
12 your recommended return on equity; isn't that
13 correct?

14 A. I would disagree. I looked at
15 Mr. Barnes' comparable companies that he utilized.
16 He did not make any adjustment for the risk reduction
17 associated with Staff's innovative, brand new,
18 never-tried-before rate design, and Mr. Barnes'
19 testimony and his comparable analysis served as an
20 upper end of what a reasonable return would be.

21 So I disagree with your assertion. I
22 simply was trying to quantify what needed to come off
23 of Mr. Barnes' recommendation based on comparable
24 companies.

25 Q. So are you saying you took Mr. Barnes'

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1 recommendation and then made a subtraction to get to
2 7 percent?

3 A. It was a consideration in the
4 development of the appropriate return. I have seen
5 in -- have never seen a utility -- financial analyst
6 be able to specifically quantify how much has to come
7 off to represent this much -- this reduction in risk.
8 I attempted to quantify that reduction utilizing the
9 risk-free rate of return and the relationship of that
10 risk-free rate of return to the cost of debt, but
11 Mr. Barnes' testimony was a fundamental component of
12 that analysis.

13 Q. Do you say that in here anywhere?

14 A. I believe I just testified to it right
15 now, sir.

16 Q. Okay. So you would agree with me, then,
17 that your rebuttal testimony is misleading?

18 A. No, I would not agree with you that my
19 testimony is misleading. I told you how the
20 mathematical calculation worked in the testimony. I
21 did not put down every consideration, every parameter
22 that was done.

23 Q. Okay. Now, one of the questions
24 Mr. Poston had of Mr. Barnes was whether or not
25 Mr. Barnes could tell us what the revenue requirement

0169

1 impact is of a single basis point change in a return
2 on equity recommendation. I wonder if you can tell
3 me that.

4 A. Be happy to. 3,750 basis points -- I
5 mean, excuse me, \$3,750 per basis point.

6 Q. Okay.

7 A. That's pretty basic in our line of work.

8 Q. Well, as you testified, lawyers couldn't
9 do this.

10 A. No.

11 Q. And so when you rounded up here at the
12 bottom of page 11, what was the support for that?

13 A. Support for that?

14 Q. In other words, you said --

15 A. One was --

16 Q. -- using the method that you have
17 described, as well as the secret and undescribed
18 aspects of your method that you've testified to
19 today, you came up with 6.9 percent rounded up to 7
20 percent. Well, somebody's gonna have to pay for that
21 additional revenue requirement, so I'm asking you,
22 sir, what is your basis to recommend that that be
23 rounded up?

24 A. As I indicated, consideration of
25 Mr. Barnes' recommendation in this case, which, by

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1 the way, was 80 basis points a range, a
2 ten-basis-point adjustment, based on my opinion of
3 the quality of Mr. Barnes' testimony, and the
4 completely unknown effect of this rate design that
5 Staff's proposing, appear to be reasonable to myself.

6 Q. Well, now, Mr. Poston characterized this
7 rate design as removing weather-related risk.

8 A. Along with conservation, along with gas
9 technology, along with a complete -- I think he used
10 the term decouple.

11 Q. So is it unknown or is it known?

12 A. The removal of the risk, the valuation
13 of the risk is completely unknown. I would point out
14 that in MGE, the company witness made an arbitrary
15 25-basis-point adjustment downward if some sort of
16 rate design like this is adopted. He also made a
17 15-basis-point unsubstantiated upward adjustment
18 because there was no weather-related adjustment -- or
19 rate design, excuse me.

20 MR. THOMPSON: Thank you.

21 JUDGE DIPPELL: Are there any questions
22 for Mr. Trippensee on these issues from the bench,
23 Commissioner Appling?

24 COMMISSIONER APPLING: I think I'm gonna
25 pass at this time, Judge.

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1 JUDGE DIPPELL: Mr. Chairman?

2 CHAIRMAN DAVIS: I'll pass at this time

3 as well.

4 JUDGE DIPPELL: Is there any redirect?

5 MR. POSTON: Yes, thank you.

6 REDIRECT EXAMINATION BY MR. POSTON:

7 Q. Mr. Fischer questioned you about your
8 background in the area of finance.

9 A. Yes, sir.

10 Q. And what do you believe to be the
11 background that you have in finance that qualifies
12 you to testify for return on equity?

13 A. As indicated earlier, I have an
14 undergrad degree -- or undergrad emphasis in finance.
15 I, subsequent to that time in the late 1980's,
16 participated in an extensive class sponsored actually
17 by the Public Service Commission but through the
18 University of Missouri to pass the CPA exam. Finance
19 is an integral part of the CPA exam.

20 In the early '90s I became responsible
21 for the financial analysis department -- if you can
22 call one person a department -- at Office of Public
23 Counsel and held that position consistently for
24 approximately 15 years.

25 So I reviewed all testimony that went

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1 through the Office of Public Counsel and participated
2 in the development of it for the rate of return. I
3 did not serve as a sponsor, as I was more -- my
4 abilities were better used elsewhere.

5 Q. And Mr. Fischer asked you about your 100
6 cases before you made recommendations. He asked you
7 if you made recommendations on ROE. And out of these
8 100, is this the first case that you can recall where
9 Staff and the company have proposed to completely
10 eliminate the company's weather conservation and
11 other risks as far as they apply to the services
12 provided by this company?

13 A. This is the first case where the Staff
14 has ever proposed a complete decoupling of earnings
15 from sales, so Public Counsel or this Commission has
16 never seen this proposal before.

17 Q. So that's why you chose to step up and
18 file testimony and respond to this?

19 A. We had -- the Office of Public Counsel
20 received this in direct testimony and because of my
21 background, I was the only person in the office who
22 could address this, and because of state procurement
23 procedures, we could not obtain an outside consultant.

24 Q. That doesn't minimize the importance of
25 the issue?

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1 A. It definitely does not minimize the
2 importance and the -- of the issue, nor does it
3 minimize the fact that neither Staff nor the company
4 witness on rate of return utilize any comparable
5 companies in their studies that has a complete
6 decoupling rate design.

7 Q. And in questioning your -- well, did
8 Mr. Fischer question the background of Mr. Barnes?

9 A. No, he did not.

10 Q. Are you aware of Mr. Barnes' background?

11 A. Yes, I am. Mr. Barnes has an undergrad
12 in accounting and a master's in accounting.

13 MR. THOMPSON: I object, your Honor.
14 This certainly goes beyond the scope of anything
15 we've heard before.

16 JUDGE DIPPELL: I believe you asked him
17 about Mr. Barnes' testimony.

18 MR. THOMPSON: I didn't ask him about
19 Mr. Barnes' background.

20 JUDGE DIPPELL: I'm gonna allow it.
21 Overruled.

22 BY MR. POSTON:

23 Q. I'd like to bring your attention to the
24 case that Mr. Fischer handed you. I believe you
25 still have the book in front of you. And you started

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1 to answer a question regarding the Commission's
2 reasoning and why you questioned Mr. Fisher's
3 characterization of your position and Office of
4 Public Counsel's position. Can you please explain to
5 me what concerns you have about this case and what
6 you have before you?

7 A. The first sentence on page 372 of
8 volume 27, Public Service Commission reports, states,
9 "Public Counsel has created a capital structure by
10 deducting from rate base the entire amount of the REA
11 debt."

12 The REA debt would be in the capital
13 structure, it would not be in rate base. Rate base
14 is the investments of the company, the assets of the
15 company. How debt is an asset of the company,
16 though, in which they're going to earn, it supports
17 the assets, but that distinction is critical to
18 anyone understanding what the Office of Public
19 Counsel's position was in this case. Those two
20 things are not together. They're not on the same
21 place in the process.

22 Capital structure supports rate base. I
23 don't deduct a component of capital structure from
24 rate base. So I don't know what the Commission is
25 meaning here. I have not gone back and studied our

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1 position in this case, but their reasoning is not
2 sound.

3 Whoever wrote this order or whoever
4 voted for this order -- and Mr. Dority is kind of
5 chuckling because one of the people who did may be
6 sitting next to me. Those two things are mutually
7 exclusive. So you can't say because of this, this is
8 happening, because they don't go together.

9 Q. So it would help to look at the entire
10 record --

11 A. Yes, it would.

12 Q. -- in this case? Including the entire
13 transcript?

14 A. Yes, it would.

15 MR. POSTON: Your Honor, I move that we
16 take official notice of the entire record in that
17 case instead of just one page of the transcript.

18 JUDGE DIPPELL: Is there any way to
19 limit that to --

20 MR. POSTON: What does that entail?
21 Does that entail...

22 JUDGE DIPPELL: Well, I've never filed a
23 record on appeal in one of these cases. Would that
24 include anything that the Commission took official
25 notice of?

1 MR. POSTON: You mean would it include
2 what they took official notice of in that case, so it
3 could be cases and cases, is what you're saying?

4 JUDGE DIPPELL: No, I -- I just don't
5 want to bog down this record with a lengthy record
6 from another case. If there's some way to limit
7 that, just the transcript, or just Mr. Trippensee's
8 testimony or --

9 MR. FISCHER: Judge, I placed in front
10 of the witness the cross-examination that occurred in
11 that case of the witness that's like 30 pages. If
12 you wanted to take that, that's -- I don't have an
13 objection to that.

14 MR. POSTON: I mean, yeah, that
15 testimony -- and perhaps all of Mr. Trippensee's
16 testimony, all of Public Counsel's testimony in that
17 case.

18 JUDGE DIPPELL: Would there be any
19 objection to the Commission taking official notice of
20 those items?

21 MR. THOMPSON: If Public Counsel
22 supplies them. I mean, I don't think I have them in
23 my office.

24 MR. FISCHER: They're available in
25 microfilm.

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1 JUDGE DIPPELL: I believe they're
2 available in the data center, and Mr. Poston will
3 make those available.

4 MR. POSTON: Thank you.

5 JUDGE DIPPELL: As soon as the microfilm
6 machine is fixed, the Commission takes official
7 notice of those items.

8 BY MR. POSTON:

9 Q. Mr. Thompson asked you questions about
10 your calculation on ROE and use of comparable
11 companies. Are there comparable companies?

12 A. That have this decoupled rate design?

13 Q. Yes.

14 A. I believe Northeast and -- well, excuse
15 me. Northern States Power has a somewhat similar
16 rate design to what Staff has proposed in this case.
17 They were not a member of either the comparable
18 groups by company witness or Staff witness.

19 Other than that, to my knowledge, there
20 are no other companies in this country, natural gas
21 companies, that have this type of rate design. So
22 the issue of are there comparable companies, from my
23 perspective, is somewhat moot because this is new
24 ground, completely.

25 MR. POSTON: That's all the questions I

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1 have.

2 JUDGE DIPPELL: Thank you.

3 QUESTIONS BY JUDGE DIPPELL:

4 Q. I actually have some additional
5 questions from Commissioner Murray to ask this
6 witness, so I'm gonna backtrack just a little bit.
7 And I'm just going to read this. She's actually
8 listening to our internet broadcast.

9 So for the following questions
10 Commissioner Murray would like to figure out how
11 exactly you calculated the reduction for ROE based on
12 risk reduction through Staff-recommended rate design.
13 First question is what number did you begin with?

14 A. As far as beginning, I looked at the
15 Staff testimony of Mr. Barnes, his range, and it was
16 my opinion that his testimony with a traditional rate
17 design was reasonable. So that would constitute the
18 upper end of any recommendation for the appropriate
19 rate of return with a completely decoupled rate
20 design.

21 I then tried to determine the best way
22 to measure that reduction in risk. And absent any
23 other information available because of the lack of
24 any comparable company, I simply -- I looked at the
25 differential between a risk-free rate and the risk

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1 that lenders place on the company and took that
2 differential and placed it, then, again on top of the
3 lender's risk.

4 And then, as was pointed out, for --
5 rounded it up, and I simply did that based on
6 Mr. Barnes' -- consideration of Mr. Barnes' position
7 and just a principle of conservativeness.

8 Q. And so the specific number that you used
9 to start with was Mr. Barnes' --

10 A. It served -- it served as the upper end
11 of -- as kind of a test of reasonableness. But then
12 the actual calculation considered the risk-free rate
13 of return and the cost of debt to Atmos-specific, and
14 I used Atmos's cost of debt because equity as the --
15 to meet the financial metrics, interest coverage,
16 debt coverage, things along that line, would be
17 Atmos-specific. They would not be comparable
18 companies.

19 That's why I used that as the reason to
20 take the spread off of that number versus, say, take
21 the spread and reduce it from Mr. Barnes' number.

22 Q. And what authorities can you cite to
23 show that your methodology is generally accepted?

24 A. I'm unable to cite any methodology
25 because this is new ground. I've discussed this with

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1 numerous rate of return analysts of utilities over
2 the years and Staff members. Nobody has ever been
3 able to try to quantify a -- or been able to quantify
4 a risk reduction, the quantification and basis points
5 of a risk reduction.

6 As I pointed out in MGE, their witness,
7 Mr. Handley, in his direct testimony that's been
8 filed with this Commission, just says 25 basis points
9 with absolutely no support whatsoever, just his
10 opinion.

11 Q. What return on equity would Office of
12 Public Counsel recommend without Staff's rate design?

13 A. We believe that Mr. Barnes'
14 recommendation is appropriate as was pointed out
15 earlier. That would result in a 1. -- approximately
16 \$1.2 million rate reduction. To go to zero, that
17 return on equity, based on Staff's case, moves up to
18 approximately 12.6 which is even above the company's
19 request.

20 Q. And so in arriving at that return on
21 equity without Staff's rate design, you're in
22 agreement with Mr. Barnes' methodology on that?

23 A. Yes, Mr. Barnes' methodology was sound
24 as far as it went with traditional rate designs. The
25 issue here is driven by rate design as I indicated in

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1 my direct testimony, not by difference with Staff's
2 methodology, which we believe was sound in this case.

3 JUDGE DIPPELL: Okay. Are there any
4 further cross-examination questions based on my
5 questions from Commissioner Murray? Atmos?

6 MR. FISCHER: Yes, just briefly.

7 RECROSS-EXAMINATION BY MR. FISCHER:

8 Q. Mr. Trippensee, do you know if there was
9 anything added to Mr. Barnes' ROE due to the lack of
10 a weather-mitigating rate design?

11 A. No, I don't.

12 MR. FISCHER: Okay. Thank you.

13 JUDGE DIPPELL: Staff?

14 MR. THOMPSON: No questions, thank you.

15 JUDGE DIPPELL: Any redirect?

16 MR. POSTON: No, thank you.

17 JUDGE DIPPELL: All right. Thank you,
18 Mr. Trippensee. You may step down for now and remain
19 available for other topics.

20 I think we're ready to move on to
21 depreciation, so this is a good time to take a break.
22 So we'll come back at about ten till according to the
23 clock in the room which is different than the clock
24 on the computer.

25 (A RECESS WAS TAKEN.)

1 JUDGE DIPPELL: Okay. Let's go ahead
2 and go back on the record. The weather's getting bad
3 outside, and we talked about trying to get through a
4 little bit more and then recessing until at least
5 late tomorrow morning. I'll reassess that when we
6 adjourn here today. And so let's try to keep things
7 moving with our next witness. Depreciation. Atmos?

8 MR. FISCHER: Judge, we have listed as a
9 witness, Jim Cagle. He's here mostly to answer any
10 questions there might be about the depreciation
11 stipulation. He did not file prefiled testimony and
12 we wouldn't offer any, but if someone from the bench
13 does have any questions about Atmos with respect to
14 that, we'd be glad to put him up.

15 JUDGE DIPPELL: We don't have any
16 questions on that today, but if -- it would be likely
17 that those questions would be on Monday. Could
18 Mr. Cagle be available Monday by phone?

19 MR. FISCHER: Yes, by phone he could be.

20 JUDGE DIPPELL: Ms. Shemwell?

21 MS. SHEMWELL: Judge, we're prepared,
22 then, to bring Guy Gilbert to the stand if you don't
23 have any questions for Mr. Cagle.

24 JUDGE DIPPELL: Okay. Were there any
25 other cross-examination questions for Mr. Cagle?

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1 MR. POSTON: No, your Honor.

2 JUDGE DIPPELL: Okay. Let's go ahead
3 then with Mr. Gilbert. I guess Mr. Cagle -- there
4 could be questions tomorrow for Mr. Cagle, but I
5 believe that being available by telephone would be
6 sufficient.

7 (The witness was sworn.)

8 JUDGE DIPPELL: Ms. Shemwell?

9 MS. SHEM WELL: Thank you.

10 DIRECT EXAMINATION BY MS. SHEM WELL:

11 Q. I understand we have agreed to dispense
12 with the name and so on. Mr. Gilbert, did you file
13 testimony in this case that has been marked as
14 Exhibits 107 for your direct, 108 for your rebuttal
15 and 109 for surrebuttal?

16 A. I have.

17 Q. Do you have any corrections to your
18 testimony?

19 A. I do.

20 Q. Would you please tell those to the
21 reporter?

22 A. On my direct testimony, Exhibit No. 107
23 at page 1, line 23, the word deprecation should be
24 "depreciation" with the insertion of an i.

25 Q. Is that Exhibit 107?

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1 A. Yes.

2 Q. Thank you.

3 JUDGE DIPPELL: I'm sorry. Could you
4 tell me the page and line again?

5 THE WITNESS: Page No. 1, line 23.

6 JUDGE DIPPELL: Thank you.

7 THE WITNESS: And then again at page 6,
8 line 23, the last line there, Schedules 2 and 3
9 should say "Schedules GCG 2 and 3."

10 And then again at page 8, line 22, the
11 same modification, Schedules 2, 3 and 4 should read
12 "Schedules" -- excuse me, "Schedules GCG 4, 5 and 6."

13 And then with respect to my rebuttal
14 testimony, Exhibit No. 108 at page 2, line 6, the
15 word savage should read "salvage."

16 BY MS. SHEMWELL:

17 Q. Spell check doesn't pick those up.

18 A. And that's all I'm aware of at this
19 time. Thank you.

20 Q. Mr. Gilbert, is your testimony, then,
21 true and correct to the best of your knowledge and
22 belief?

23 A. I believe so, yes.

24 MS. SHEMWELL: I will tender the witness
25 for cross, Judge. Thank you.

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1 JUDGE DIPPELL: Are you offering those
2 exhibits?

3 MS. SHEMWELL: Yes, I am offering the
4 exhibits as corrected.

5 JUDGE DIPPELL: Is there any objection
6 to Exhibits No. 107, 108 and 109?

7 (NO RESPONSE.)

8 JUDGE DIPPELL: Seeing none, then I will
9 receive those into evidence.

10 (EXHIBIT NOS. 107, 108 AND 109 WERE
11 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
12 RECORD.)

13 JUDGE DIPPELL: Is there any
14 cross-examination by Atmos?

15 MR. FISCHER: No, thank you, your Honor.

16 JUDGE DIPPELL: Public Counsel?

17 MR. POSTON: Yes, thank you.

18 CROSS-EXAMINATION BY MR. POSTON:

19 Q. Mr. Gilbert, your prefiled testimony
20 addresses the issue of depreciation, correct?

21 A. That's correct.

22 Q. And in your direct testimony you propose
23 that the Commission order the continuation of Atmos's
24 current depreciation rates with one exception, that
25 being the Commission -- that the Commission use the

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1 current Butler depreciation rates for Greeley; is
2 that correct?

3 A. I believe that's correct, yes.

4 Q. And with the exception of Greeley, is
5 your proposal that the Commission order the continued
6 use of the depreciation rates that the Commission
7 previously ordered for Atmos or the predecessor
8 companies?

9 A. That's correct.

10 Q. So you're not recommending any changes
11 to the depreciation rates?

12 A. Not to the depreciation rates, no.

13 Q. Isn't it true that you recommend using
14 the current depreciation rates because Atmos failed
15 to maintain sufficient plant data to enable the Staff
16 to perform a detailed depreciation analysis?

17 A. That's correct. An actuarially-based
18 detailed analysis, yes.

19 Q. I'd like to briefly go over some of that
20 missing data. You testified Atmos provided its final
21 submission of actuarial data in May 2006, but data on
22 17 separate accounts was missing; is that correct?
23 Page 6 of your direct.

24 A. There were 17 accounts missing from the
25 data, yes, the actuarial data.

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1 Q. And you also testified that a
2 disproportionate amount of account transactions list
3 2005 ending balances, correct?

4 A. I thought that was true, yes.

5 Q. What other items other than ending
6 balances should have been shown for each account?

7 A. Well, the major thing that I was seeking
8 in the continuing property record was the retirement
9 data.

10 Q. And would additions, dates of removal --
11 removal, cost for removal, were those things that you
12 would want to see as well?

13 A. They are.

14 Q. And you also testified that there are
15 problems in the net salvage data because the company
16 does not maintain comprehensive retirements in the
17 CPR as required, correct?

18 A. Correct.

19 Q. And you testified that because of the
20 lack of data to perform an accurate depreciation
21 analysis, it was not possible for Staff to accurately
22 determine a theoretical reserve for each account,
23 correct?

24 A. That's true.

25 Q. So would it be fair to say Staff cannot

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1 perform a detailed depreciation analysis because the
2 underlying plant data is not known and measurable?

3 A. That's true.

4 Q. And how would you define the term "known
5 and measurable"?

6 A. What we look for in the continuing
7 property record -- and I believe that's outlined in
8 my direct testimony -- let's see here -- at page 3,
9 line 12. "What is the CPR and what is its purpose?"
10 I detail the information that we look for to be part
11 of the continuing property record of the company.

12 Q. Is concluding whether a cost is known
13 and measurable a standard criteria when deciding
14 whether a cost belongs in the company's overall cost
15 of service?

16 A. That has often been a criteria in the
17 past.

18 Q. Staff and Atmos have proposed a negative
19 amortization of \$591,000, correct?

20 A. That's true.

21 Q. Have you been able to verify the
22 accuracy of the -- of that figure through an analysis
23 of Atmos's actuarial data and continuing property
24 records?

25 A. No. I accepted management's recognition

1 and acknowledgment of an over-accrual of depreciation
2 in that amount.

3 Q. Are you familiar with the Uniform System
4 of Accounts?

5 A. I believe I am, yes.

6 Q. Could you please tell me what entries
7 are made on the company's monthly financial records
8 to record depreciation expense?

9 A. Not specifically. I'm not an
10 accountant.

11 Q. If you don't understand how to make
12 these basic entries, how are you qualified to testify
13 that your recommendation doesn't take away amounts
14 from the depreciation reserve?

15 A. The method that we've used to adjust the
16 depreciation reserve, a negative amortization, is a
17 method that we have often used to true up
18 depreciation imbalances in previous cases.

19 Q. Are you familiar with the Uniform System
20 of Accounts, account 403, depreciation expense?

21 A. I would -- 403, that's not a 300 series,
22 so without referring to the Uniform System of
23 Accounts, I can't, off the top of my head, unless
24 it's in the schedule here. I have no accounts that I
25 study that are numbered 403. They're all 300 series.

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1 Q. Okay. So you wouldn't also be familiar
2 with account 108, cumulative provisions for
3 depreciation of gas utility plant?

4 A. I am aware that the depreciation
5 accruals in aggregate are placed in that account.

6 MR. POSTON: I have copies of these
7 accounts. May I approach the witness?

8 JUDGE DIPPELL: Yes, go ahead.

9 BY MR. POSTON:

10 Q. I've just handed you a description of
11 account 403; is that correct?

12 A. That's what it states, yes.

13 Q. Okay. And I believe on the second page
14 there is a description of account 108; is that
15 correct?

16 A. Yes.

17 Q. Could you please read -- or just read to
18 yourself 403 and familiarize yourself with it?

19 MS. SHEMWELL: Judge, perhaps it would
20 be helpful before we take the time to do this if we
21 understood the relevance of the line of questions.

22 JUDGE DIPPELL: Mr. Poston?

23 MR. POSTON: The relevance is the proper
24 accounting that needs to occur when the adjustments
25 that he recommends are made. These accounts are

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1 accounts that also need to be adjusted and it is
2 relevant that we discuss those accounts.

3 JUDGE DIPPELL: Ms. Shemwell?

4 MS. SHEMWELL: I would just note that
5 Mr. Gilbert has indicated that accounting is not his
6 area of expertise, and it's possible that these might
7 be areas to be discussed with a witness who is an
8 accounting expert.

9 JUDGE DIPPELL: I think that may be the
10 point Mr. Poston is trying to make.

11 MS. SHEMWELL: See, I just -- I just saw
12 what he was going to hand him, so I don't have the
13 opportunity to sit here and read it myself, so I
14 can't really know. I guess I could look over
15 Mr. Gilbert's shoulder, but --

16 JUDGE DIPPELL: I'm going to allow him
17 to ask questions, but please, let's do cut out
18 anything that we don't really need.

19 MR. POSTON: Okay.

20 BY MR. POSTON:

21 Q. Would you be able to answer this
22 question: When a monthly depreciation expense is
23 recorded in account 403, is that account credited or
24 debited?

25 A. I wouldn't be able to answer that.

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1 Q. On account 108, same question: When
2 monthly depreciation expense is recorded, is that
3 account credited or debited?

4 A. I'm not able to answer that question. I
5 don't know when the records of entry were made.

6 Q. So would you know what financial
7 statement account 108 would appear in the company's
8 records?

9 A. No, I wouldn't.

10 Q. Will the current depreciation rates that
11 you propose be applied to plant and service as of
12 June 30th, 2006 on a going-forward basis until such
13 time as that plant is retired or the Commission
14 authorizes new depreciation rates?

15 A. I don't know what date the rates would take
16 place per the Commission's orders in this case, so...

17 Q. If June 30th, 2006 was the update date
18 for the Staff's determination of rate base, would
19 that help?

20 A. I'm the depreciation analyst. I'm kind
21 of like a life insurance agent. I look at the
22 utilities's plant and equipment and determine the
23 serviceability of it and how long it's gonna live and
24 be used and useful, and then pass those rates on and
25 any total amounts adjustments that I believe are

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1 necessary to bring the reserves back into line, so...

2 Q. Okay. Do you understand or do you know
3 the formula used to calculate depreciation expense?

4 A. There's several different methods, yes.

5 Q. Would you agree that the formula -- that
6 one formula would be to calculate depreciation
7 expense is to multiply plant and service by the
8 depreciation rate?

9 A. Yeah, that's how the depreciation rate
10 is used, uh-huh.

11 Q. And mathematically, can we also
12 determine the depreciation rate by dividing the
13 depreciation expense by plant and service?

14 A. I believe that's correct.

15 Q. And you say your policy would lower
16 depreciation expense; is that correct?

17 A. There would be a reduction to the
18 aggregate depreciation expense, yes.

19 Q. Is the negative amortization the Staff
20 recommends dependent on the level of depreciation
21 expense that is recorded each month?

22 A. I don't know that the number I produce
23 is on an annual basis.

24 Q. Do you believe this Commission must
25 authorize Atmos to utilize specific depreciation

1 rates that will apply against monthly plant and
2 service balances to determine monthly depreciation
3 expense?

4 A. The rates I provide are for an annual
5 accrual.

6 Q. Do you believe this Commission must
7 authorize the negative amortization in order for
8 Atmos to record this -- the reduction of what you
9 term net accrual in your surrebuttal testimony?

10 A. Could you rephrase the question, please?

11 Q. The question is, do you believe this
12 Commission must authorize the negative amortization
13 in order for Atmos to record the reduction in what
14 you term net accrual, on page 2 of your surrebuttal?

15 A. I believe in reference to your question
16 in my rebuttal testimony at page 1, line 18, the
17 question, "Are there any clarifications, explanations
18 or amplifications that you would like to provide to
19 the Commission at this time with respect to your
20 testimony," I answered, "The only additional
21 clarification and explanation I would like to offer
22 is that Atmos management accepted in its own
23 depreciation consultant's recommendation that as a
24 whole, the annual depreciation accrual should be
25 reduced by approximately \$591,000. This reduction

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1 should be facilitated by a negative amortization to
2 the depreciation reserve account in the amount of
3 \$591,000 annually."

4 And then I go on, "Furthermore," if
5 you'd like me to read. But this is a common
6 mechanism that we've used in depreciation
7 amortizations on an annual basis, either positive or
8 negative, to true up the aggregate reserve for
9 depreciation.

10 Q. The question was, do you believe the
11 Commission must authorize the negative -- sorry. Do
12 you believe the Commission must authorize the
13 negative amortization in order for Atmos to record
14 this reduction in what you term "net accrual"?

15 A. The Commission's the ruling authority
16 with respect to the issues in this case, so to the
17 extent that this is a question that they've been
18 asked to decide, I believe that would be the case. I
19 mean, they are the authority.

20 MS. SHEMWELL: It seems to me Mr. Poston
21 is asking a question about recording, which I'm not
22 understanding. Perhaps that's an accounting question
23 in order for them to record it in their books.

24 MR. POSTON: I'm ready to move on.

25 JUDGE DIPPELL: Okay. Thank you.

1 BY MR. POSTON:

2 Q. Is it Staff's position that the
3 Commission's authorization of specific depreciation
4 rates is dependent on the Commission also authorizing
5 the negative amortization?

6 A. I think the Commission has -- has the
7 authority to choose all or part of any decision.

8 Q. If the Commission rejects your negative
9 amortization proposal, do you still recommend keeping
10 current depreciation rates?

11 A. I do.

12 Q. And has that been an agreement of the
13 parties, I believe, keeping the current depreciation
14 rates?

15 A. I believe so with the partial
16 stipulation and agreement -- nonunanimous partial
17 stipulation and agreement which I've reviewed earlier
18 today, that is the case, true.

19 Q. Would Staff's proposed negative
20 amortization change from the \$591,000 amount as a
21 result of new plan additions subsequent to June 30th,
22 2006?

23 A. It is a fixed amortization until such
24 time as the Commission would rule otherwise.

25 Q. And do you know what accounts will be

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1 credited to record the 591,000 on the company's
2 financial records?

3 A. The aggregate account that I spoke of
4 earlier that I believe that all the depreciation
5 accruals went into, that would be the account 108,
6 but again, I'm not an accountant.

7 Q. So you wouldn't then know what account
8 would be debited to record that same...

9 A. No, I would not.

10 Q. Is the recording of depreciation expense
11 based on monthly plant and service balances and
12 currently approved depreciation rates?

13 A. I think I've answered that earlier in
14 that the depreciation rates that I developed are
15 based upon an annual basis. So, you know, frequency
16 of their booking, again, that's not something I'm
17 really involved with or privy to.

18 Q. Is the depreciation expense a static
19 number or does it change from month to month as a
20 plant is added or retired?

21 A. Well, I would think that -- well, again,
22 you're talking on a monthly basis, and the rates I
23 come up with are annual rates. But to the extent
24 that they have added plant over the course of a year,
25 yeah, I would think that there would be more

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1 depreciation accrued then.

2 And likewise, if they retired a plant,
3 there would be, likewise, a deduction in the amount
4 of plant and service. And that's part of the
5 actuarial life characteristics that we get into in
6 depreciation.

7 Q. Would you agree that accumulated
8 depreciation is a reduction to rate base under
9 traditional regulatory procedures advocated by Staff
10 and used by this Commission?

11 A. I believe that's the case.

12 Q. I'm sorry?

13 A. Yeah, I believe that's the case, uh-huh,
14 yes.

15 Q. Thus, rate base would be larger in the
16 future absent Commission authorization of a negative
17 reserve?

18 A. I'm not sure I understand.

19 Q. I'll move on. Are you familiar with the
20 terms "return on" and "return of" capital?

21 A. I've heard them used before, yes.

22 Q. Would you agree that depreciation
23 expense represents a return of the capital investment
24 in plant and service from the ratepayers to the
25 company?

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1 A. That's true.

2 Q. Would you agree that until such time
3 that the ratepayers provide a return of the capital
4 investment that the ratepayer provides a return on
5 the capital investment through the overall rate of
6 return?

7 A. That is also true as I understand it,
8 yes.

9 Q. Would you agree that rate base
10 represents the capital investment of the company used
11 to provide regulated natural gas service to
12 Missourians?

13 A. As I understand it, yes.

14 Q. You've also agreed that plant and
15 service is included in the rate base?

16 A. That's my understanding.

17 Q. If future ratepayers are required to
18 provide a return of capital and a return on capital
19 as a result of the Commission authorizing a negative
20 amortization in this case, given all things else
21 being equal, wouldn't future ratepayers have higher
22 rates incrementally as it relates to the increase in
23 rate base resulting from the negative amortization?

24 A. Well, I think that gets back to my
25 direct testimony, and kind of one of the cruxes of

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1 the problem that's brought us here to begin with is
2 that given the lack of an actuarial database to work
3 from and study what the appropriate depreciation
4 rates should be, we don't know whether those rates
5 would be higher or lower in the future. So it would
6 be a matter of conjecture to say whether it would be
7 more or less in the future.

8 Q. But you've simply accepted the 591,000
9 based on what Atmos's management believes is
10 appropriate?

11 A. Right. Because I see that, I view that
12 as an immediate relief to the current ratepayers in
13 that it reduces their depreciation expense by
14 \$591,000 per year. Now, granted, it's going to
15 increase the amount of rate base that consumers are
16 going to pay a return on.

17 However, if we were to use an example of
18 10 percent for the return on equity for that
19 additional \$591,000 of rate base, it would cost them
20 \$59,100 a year as opposed to the savings of \$591,000
21 a year in depreciation expense. So the difference of
22 those two would be the net savings to the current
23 ratepayers.

24 Q. Will the future ratepayers have to repay
25 that 591,000?

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1 A. At some rate of depreciation.

2 Q. The answer is yes, they will have to
3 repay that?

4 A. Yes.

5 MR. POSTON: Thank you. That's all I
6 have.

7 JUDGE DIPPELL: Thank you. Are there
8 any questions from the bench of Mr. Gilbert?
9 Commissioner Appling?

10 COMMISSIONER APPLING: No questions.

11 JUDGE DIPPELL: All right.

12 QUESTIONS BY JUDGE DIPPELL:

13 Q. Mr. Gilbert, you testified about what
14 you believe is a violation of the Commission rule
15 with regard to the recordkeeping.

16 A. That's correct.

17 Q. And on page 2 of your direct testimony,
18 is it Staff's position that the Commission should
19 authorize Staff to seek penalties or to pursue a
20 complaint if Staff deems it necessary? Is that what
21 you're asking there?

22 A. During prehearing negotiations, the
23 company expressed a ready willingness to work with
24 Staff to come into compliance with the Commission's
25 rules. However, based upon the Commission's order or

1 whatever, essentially that item does remain on the
2 table.

3 JUDGE DIPPELL: Okay. All right.
4 That's all I have. Is there any cross-examination,
5 based on that question, from Atmos?

6 MR. FISCHER: Yes, your Honor.

7 CROSS-EXAMINATION BY MR. FISCHER:

8 Q. Mr. Gilbert, you mentioned the partial
9 nonunanimous stipulation and agreement in your
10 discussion earlier today, but isn't it correct that
11 the depreciation recordkeeping and reporting issue
12 has been settled between Staff and Atmos and Public
13 Counsel in this case now?

14 A. For purposes of the stipulation and
15 agreement, we are going to meet and work together and
16 hopefully -- and it's intended by that, I believe, to
17 have the issue resolved by the middle of 2007.

18 Q. And assuming that that is done by June
19 of 2007, won't that go a long way toward resolving
20 any questions that there are related to the property
21 records issued?

22 A. I believe it would.

23 Q. And that would also be true of the
24 reverse amortization adjustment that's being proposed
25 by Public Counsel?

1 A. I'm not sure that I make the connection
2 there. In order for the amortization to be relieved,
3 I believe it would be necessary for the Commission to
4 order new depreciation rates.

5 Q. And that will happen following the June
6 property updates; is that your understanding?

7 A. That becomes a matter of case, but I
8 don't know if we would have to file with the
9 Commission for rates that would reflect that. I'm
10 sorry. That's not my --

11 Q. But at some point that could happen in
12 the future, though; is that right?

13 A. I would believe so, yes.

14 MR. FISCHER: I think that's all I have,
15 Judge. Thank you.

16 JUDGE DIPPELL: Thank you. Is there
17 anything further from Public Counsel? Or I'm sorry.
18 Yes, from Public Counsel?

19 MR. POSTON: No, thank you.

20 JUDGE DIPPELL: Is there redirect?

21 MS. SHEMWELL: Yes, briefly, thank you.

22 REDIRECT EXAMINATION BY MS. SHEMWELL:

23 Q. Mr. Gilbert, are you simply accepting
24 the problems with recordkeeping that this company
25 has?

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1 A. No, I am not.

2 Q. And what is your plan of action?

3 A. Well, the plan of action is, as I laid
4 out in my direct testimony, would be to fulfill the
5 requirements of the Commission's rules, and I think
6 I've laid those out with respect to the requirements
7 for the continuing property record and timely
8 recordkeeping and so forth.

9 I think it's further explored and
10 explained in the nonunanimous stipulation and
11 agreement where it produces a timeline with which
12 these goals would be met.

13 Q. If they're not met?

14 A. The Staff would then have the option to
15 pursue another course of action.

16 Q. I was hearing an implication that either
17 customers might double-pay for depreciation or Atmos
18 might double-recover. Is that your understanding?

19 A. No, I don't believe that's the case.

20 Q. Do you believe that customers benefited
21 from your suggested reduction?

22 A. Yes, I think that the customers would
23 see an immediate benefit in the reduction.

24 Q. Can you quantify that benefit?

25 A. The \$591,000 in negative amortization to

0205

1 the depreciation expense.

2 Q. I'd like to clarify, for all of the rate
3 base questions. Do you consider yourself a rate base
4 expert?

5 A. No, I do not.

6 Q. You have said that there would be a
7 repayment at some rate of depreciation. Would you
8 say what you mean by repayment?

9 A. Yeah, let me clarify that. As
10 Mr. Fischer, I believe, pointed out, is that once
11 Atmos has adequate records in place, the depreciation
12 study can be conducted. Staff and the company
13 would be able to conduct a depreciation analysis and
14 arrive at what would be true and correct, we would
15 believe to be true and correct depreciation rates
16 for those plant and equipment serving Atmos customers
17 at that time, at which the appropriate return of
18 the investment could be made to the Atmos
19 stockholders.

20 Q. I may be misremembering, but I thought
21 earlier you said a return on investment. But you're
22 clarifying that it's a return of?

23 A. Yes. Hopefully, I didn't misspeak, but
24 the depreciation end of things is the return of the
25 investment.

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1 Q. Can you speculate as to what that will
2 be?

3 A. No, I cannot.

4 MS. SHEMWELL: That's all I have. Thank
5 you.

6 JUDGE DIPPELL: Okay, then.

7 Mr. Gilbert, I believe that's all the questions for
8 you today. The other Commissioners could have some
9 questions for you, and so I'll ask you to remain
10 available on future days.

11 THE WITNESS: Thank you. I will.

12 JUDGE DIPPELL: Okay. We need to take a
13 quick break for the court reporter. So let's take
14 about a five to seven-minute break and come back at
15 25 till.

16 (A RECESS WAS TAKEN.)

17 (The witness was sworn.)

18 JUDGE DIPPELL: You can sit down,
19 Mr. Trippensee. You've been previously sworn. We
20 can go back on the record if I didn't say that.
21 Okay.

22 We had a little technical difficulty
23 there, but the court reporter is gonna let me know if
24 she has further difficulties.

25 We are gonna go as long as we can,

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1 hopefully get through Mr. Trippensee. If -- we're
2 gonna adjourn and reconvene tomorrow at 10:00 a.m. if
3 we can. And I'm getting a calling conference call
4 port, and I'll let you know as soon as I have the
5 toll-free number in case we need to have some
6 witnesses by phone or people listening in by phone
7 tomorrow.

8 Mr. Trippensee, you were previously
9 sworn, and on the issue of depreciation your exhibits
10 have already been admitted. Is there
11 cross-examination from Atmos?

12 MR. FISCHER: No, thank you, your Honor.

13 JUDGE DIPPELL: From Staff?

14 MS. SHEMWELL: Briefly. Thank you, your
15 Honor.

16 CROSS-EXAMINATION BY MS. SHEMWELL:

17 Q. Mr. Trippensee, I have a question.
18 Mr. Gilbert has recommended a reduction in
19 depreciation reserve, correct? Is that your
20 understanding?

21 A. A reduction in the depreciation reserve,
22 that is correct.

23 Q. And it is only on a going-forward basis,
24 correct?

25 A. That is correct.

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1 Q. And past customers have paid what
2 they've paid, right?

3 A. Past customers will have paid those
4 monies that he's now wishing to funnel back to
5 current --

6 Q. My question was, they've paid what
7 they've paid, right?

8 A. I am just answering your question.

9 Q. And the reserve will continue to grow,
10 correct, because the total depreciation is greater
11 than the 591,000?

12 A. On a net basis the reserve will continue
13 to grow.

14 MS. SHEMWELL: Thank you. That's all I
15 have.

16 JUDGE DIPPELL: Okay. Commissioner
17 Appling, do you have any questions for
18 Mr. Trippensee?

19 COMMISSIONER APPLING: No questions at
20 this time.

21 JUDGE DIPPELL: Okay. Give me just a
22 moment. I have one. Never mind. I believe my
23 question's already been answered, Mr. Trippensee. So
24 is there any redirect?

25 MR. POSTON: Yes, your Honor.

1 REDIRECT EXAMINATION BY MR. POSTON:

2 Q. Ms. Shemwell asked you a question about
3 reduction in depreciation reserve going forward.

4 A. Yes.

5 Q. Do you have any concerns with that?

6 A. Yes, I do.

7 Q. Can you please explain that?

8 A. Yes, I can. The depreciation reserve
9 represents the accumulated payments of ratepayers of
10 the return of plant investment of the company. Staff
11 is proposing, without any support, I think, as even
12 Mr. Gilbert support -- or testified to today, to take
13 some of those monies and return it to current
14 ratepayers in the next year.

15 But what that does not point out is that
16 future ratepayers, after that first year, are going
17 to have to repay all \$591,000, and until such time as
18 those amounts are repaid, they will also have to pay
19 a return on that \$591,000. This also effectively
20 results in the company having to reinvest in this
21 company in this rate base by \$591,000 because the
22 capital structure has to support the rate base.

23 If you increase rate base, the company
24 has to have either debt or equity that supports it.
25 So Staff's position is effectively forcing the

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1 company to reinvest and then have the ratepayers,
2 somewhere down the line, repay them. They -- the
3 Staff is taking two separate adjustments, one, their
4 depreciation expense based on depreciation rates that
5 they're -- that I believe Mr. Gilbert stated were
6 independent, would be the rates be used regardless of
7 the 591,000.

8 And then they get that number which is
9 about \$3.3 million -- I believe that's right. It
10 happens to be about what the company asks for. They
11 are not the same. And then also then netting it
12 against this other -- this negative amortization, and
13 therefore saying gee, the reserve overall will
14 continue to grow.

15 Unfortunately, the two adjustments are
16 separate and distinct, I think, as Mr. Gilbert
17 recognized when he said that he recommended those
18 rates if the Commission rejected the negative
19 amortization.

20 So simply by netting it together and
21 squishing it and making it appear as it's not there
22 doesn't change the underlying factors of what is
23 causing it. Right now, that \$591,000 of negative
24 amortization is effectively -- is based on the
25 comparison of a theoretical reserve to what the

0211

1 actual reserve is.

2 I believe I heard Mr. Gilbert say he
3 couldn't calculate the theoretical reserve. That
4 does not rise to the level, then, of being a known
5 measurable adjustment that this Commission should
6 accept rates on.

7 MR. POSTON: Thank you. That's all I
8 have.

9 JUDGE DIPPELL: All right. Thank you,
10 Mr. Trippensee. There may be additional questions on
11 this topic from the other Commissioners at a later
12 time.

13 THE WITNESS: Fine.

14 JUDGE DIPPELL: Okay. Can we go ahead
15 and begin with Mr. Smith and get to his -- get his
16 testimony in the record and so forth?

17 MR. FISCHER: Yes.

18 (The witness was sworn.)

19 JUDGE DIPPELL: Thank you. And is
20 this the only day that Mr. Smith is scheduled to
21 testify?

22 MR. FISCHER: I believe so, yes.

23 JUDGE DIPPELL: Okay. Let's go ahead
24 with him. Maybe we'll see how it goes. Maybe we can
25 get finished with him today too.

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1 DIRECT EXAMINATION BY MR. FISCHER:

2 Q. Mr. Smith, just for your information,
3 your direct testimony has been marked as Exhibit
4 No. 2, your rebuttal has been marked as No. 3 and
5 your surrebuttal has been marked as No. 4. Do you
6 have any changes or corrections you need to make to
7 any of those exhibits?

8 A. No, I do not.

9 MR. FISCHER: With that, your Honor, I
10 would move for the admission of Exhibits 2, 3 and 4
11 and tender Mr. Smith for cross-examination.

12 JUDGE DIPPELL: Is there any objection
13 to Exhibit 2, 3 and 4?

14 MR. BERLIN: No, your Honor.

15 JUDGE DIPPELL: Seeing none, then I will
16 admit it into evidence -- or admit those into
17 evidence.

18 (EXHIBIT NOS. 2, 3 AND 4 WERE RECEIVED
19 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

20 JUDGE DIPPELL: Is there any
21 cross-examination from Staff?

22 MR. BERLIN: Yes, your Honor. I just
23 have a couple quick questions.

24 CROSS-EXAMINATION BY MR. BERLIN:

25 Q. Mr. Smith, do you have any studies or

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1 any opinion on the amount of gas consumption of
2 low-income consumers?

3 A. No, I do not, no.

4 Q. Is there someone in the company who
5 might have knowledge of that?

6 A. You can refer the question to Mr. Ellis
7 later. I'm not certain that we've done any studies
8 in Missouri. I believe we may have evaluated it a
9 little bit in some other states.

10 MR. BERLIN: All right. Thank you. I
11 have no further questions, your Honor.

12 JUDGE DIPPELL: Thank you. Public
13 Counsel?

14 MR. POSTON: No questions, thank you.

15 JUDGE DIPPELL: Commissioner Appling, do
16 you have any questions for Mr. Smith?

17 COMMISSIONER APPLING: No questions for
18 Mr. Smith.

19 QUESTIONS BY JUDGE DIPPELL:

20 Q. Okay. Mr. Smith, you mentioned page 3
21 of your surrebuttal testimony, the Missouri Energy
22 Task Force and their adoption of the National Energy
23 Action Plan for Energy Efficiency?

24 A. What page did you say, please?

25 Q. On page 3.

0214

1 A. Okay.

2 Q. Are you familiar with the makeup of the
3 Missouri Energy Task Force?

4 A. No, other than to see that resolution.

5 Q. Okay. And on page 5 of your rebuttal
6 testimony, can you explain to me how you arrived at
7 the 75 percent on line 7?

8 A. Basically what we did there was we
9 agreed with Staff witness Ross's calculations, and
10 this was our methodology used to arrive at a
11 potential structure that would be what we referred to
12 as sculpting the delivery charge.

13 And the 75 percent was not a real
14 scientific approach, but what we were looking for
15 more or less was a summer charge that we felt
16 wouldn't drive behavior of customers that otherwise
17 would probably turn off service. We felt like it was
18 a little bit closer what the customer -- the
19 customers would be familiar with in the way we
20 collected margins under traditional rate designs to
21 these classes, and -- but yet, still, probably as
22 Staff is seeking lowering their winter bills.

23 So we took the 75 percent of the
24 computed charge by Ms. Ross, made that the summer
25 rate, and then for the five winter months of November

0215

1 through March, backed into the remainder to equal her
2 total revenue for that residential class.

3 JUDGE DIPPELL: Okay. That's all the
4 questions I have for you. Are there any
5 recross-examination questions from Staff?

6 MR. BERLIN: No, your Honor.

7 JUDGE DIPPELL: Public Counsel?

8 MR. POSTON: No, thank you.

9 JUDGE DIPPELL: Is there any redirect?

10 MR. FISCHER: Just briefly.

11 REDIRECT EXAMINATION BY MR. FISCHER:

12 Q. The judge asked you about low-income
13 usage. Are you familiar with the testimony of Public
14 Counsel witness Barb Meisenheimer who addressed that
15 topic earlier today?

16 A. I have read her testimony, yes.

17 Q. Do you recall that she indicated that
18 her study showed that low-income was the equivalent
19 of the average use in all of the Atmos districts?

20 A. I do recall that, yes.

21 Q. Okay. And I'm not sure that this
22 addresses just low income, but I'd like to show you
23 an exhibit that's attached to Pat Childers'
24 surrebuttal testimony that talks about the average
25 annual CCF.

0216

1 MR. FISCHER: May I approach the
2 witness?

3 JUDGE DIPPELL: Yes.

4 MR. POSTON: Your Honor, I have an
5 objection. I'm not sure how this is based off of a
6 question that came from the bench.

7 JUDGE DIPPELL: Mr. Fischer?

8 MR. FISCHER: Well, your Honor, the
9 evidence seems to be that the average -- the low-
10 income has the same usage levels as the average
11 customer. I was about to put in front of him the
12 testimony that shows what the average usage is in our
13 different districts.

14 JUDGE DIPPELL: And that's based on
15 cross questions?

16 MR. FISCHER: It's based on your
17 question about low-income usage.

18 JUDGE DIPPELL: Oh, okay. Well, my
19 question had to do with the 75 percent.

20 MR. FISCHER: Perhaps I'm thinking of a
21 cross question then. Okay. I will withdraw that
22 question then.

23 JUDGE DIPPELL: Okay. Well, you're --
24 you're allowed to redirect.

25 MR. FISCHER: Okay. Well, I guess

0217

1 that's right, then. If it's redirect I can go ahead
2 and do that.

3 MR. POSTON: My apologies.

4 JUDGE DIPPELL: Okay.

5 BY MR. FISCHER:

6 Q. I'd like to show you the PJC surrebuttal
7 two, pages 1 of 2, and ask you just to read into the
8 record the average annual usage for each of the --
9 for residential classes for each of our districts.

10 A. I knew I would regret not bringing my
11 glasses to the stand, but I can --

12 Q. I've got 150s. Will that do?

13 A. Yes, it will do. It will actually do
14 perfectly. Yeah, this will be fine. Okay. The
15 average residential CCF annually in the Butler
16 division was 761 CCF; in division 29 it was 747 CCF;
17 in Kirksville, 771; division 97 is 793; division 97
18 of -- UCG portion of division 97 is 817, and the
19 southeast Missouri division is 638.

20 MR. FISCHER: Thank you. That's all I
21 have.

22 JUDGE DIPPELL: Thank you. All right.
23 Mr. Smith, again, there may be additional questions
24 from the other Commissioners so I won't excuse you
25 completely, but if you are going to be available

0218

1 tomorrow?

2 THE WITNESS: I will be.

3 JUDGE DIPPELL: That will be fine. If
4 you need to be available by telephone, that will be
5 fine as well.

6 MR. BERLIN: Judge?

7 JUDGE DIPPELL: I'm sorry.

8 MR. BERLIN: Just for purposes of
9 clarity -- and I'm just gonna ask the question and
10 ask you to rule on it -- but Mr. Smith just read into
11 the record the CCF average annual usage from some
12 prefiled testimony, and he used some terms that we
13 had not discussed here today, such as division 29,
14 division 97, the old UCG.

15 Perhaps you might be able to say if
16 that's just exactly what that is based on how he's
17 been identifying these districts. This is just for
18 purposes of clarity.

19 JUDGE DIPPELL: That is a good idea.

20 QUESTIONS BY JUDGE DIPPELL:

21 Q. I believe it's in Ms. Childers'
22 testimony but...

23 A. I would need that.

24 Q. If you could just clarify that for this
25 portion.

0219

1 A. Okay. It would appear that division 71
2 that I referred to is the Butler division -- or the
3 Butler district. Division 29 is the Greeley area.
4 I'm not sure if this is helping or not.

5 MR. BERLIN: I think it is. Go ahead.

6 THE WITNESS: Okay. Thank you. The
7 70 I've already identified as the Kirksville
8 division. As division 79 -- I'm looking at the cross
9 tabs here. I'm sorry. That's 97. I'm sorry. 97,
10 Palmyra.

11 MR. BERLIN: That's division what,
12 Palmyra?

13 THE WITNESS: Palmyra, division 97,
14 Palmyra. That was the 793 CCF. The 817 was in
15 division 97 UCG, or Neelyville. And then finally,
16 division 72, southeast Missouri, is referred to as
17 the southeast district.

18 JUDGE DIPPELL: Did that help,
19 Mr. Berlin?

20 MR. BERLIN: Yes, thank you.

21 JUDGE DIPPELL: Okay. Thank you. You
22 may be excused for now, Mr. Smith, subject to being
23 available later for additional Commission questions,
24 if any.

25 THE WITNESS: That's fine. Thank you.

0220

1 JUDGE DIPPELL: Okay. I think that
2 we're gonna call it a day. And I do have an 800
3 number, and I've made some copies and I'll get those
4 to you if counsel could give me their contact
5 information in case the weather should be so
6 awful that we'd need to cancel completely tomorrow.
7 Thank you, all, and be careful this evening.

8 We can go off the record.

9 (WHEREUPON, the hearing of this case was
10 recessed until December 4, 2006.)

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1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

3 _____
4 TRANSCRIPT OF PROCEEDINGS

5 HEARING

6 December 4, 2006

7 Jefferson City, Missouri

8 Volume 8
9 _____

10 In the Matter of Atmos Energy) Case No. GR-2006-0387
11 Corporation's Tariff Revision)
12 Designed to Consolidate Rates)
13 and Implement a General Rate)
14 Increase for Natural Gas)
15 Service in the Missouri)
16 Service Area of the Company.)

17 _____
18 NANCY M. DIPPELL, Presiding,
19 DEPUTY CHIEF REGULATORY LAW JUDGE.
20 JEFF DAVIS, Chairman
21 STEVE GAW
22 ROBERT M. CLAYTON, III,
23 LINWARD "LIN" APPLING,
24 COMMISSIONERS.
25 _____

26 REPORTED BY:
27 TRACY L. THORPE TAYLOR, CSR, CCR
28 MIDWEST LITIGATION SERVICES

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

2 LARRY W. DORITY, Attorney at Law
JAMES M. FISCHER, Attorney at Law

3 Fischer & Dority
101 Madison Street, Suite 400
4 Jefferson City, Missouri 65101
573-636-6758

5 FOR: Atmos Energy Corporation

6 DOUGLAS C. WALTER, Associate General Counsel
Atmos Energy Corporation
7 PO Box 650205
Dallas, Texas 75265-0205

8 FOR: Atmos Energy Corporation

9 ROBIN E. FULTON, Attorney at Law
135 East Main Street
10 Fredericktown, Missouri 63645
573-783-7212

11 FOR: Noranda Aluminum, Inc.

12 MARC D. POSTON, Senior Public Counsel
P.O. Box 2230
13 Jefferson City, Missouri 65102
573-751-4857

14 FOR: Office of the Public Counsel and the Public

15 KEVIN A. THOMPSON, General Counsel
LERA L. SHEMWELL, Senior Counsel
16 ROBERT S. BERLIN, Associate General Counsel
P.O. Box 360
17 Jefferson City, Missouri 65102
573-751-3234

18 FOR: Staff of the Missouri Public Service Commission

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1 P R O C E E D I N G S

2 JUDGE DIPPELL: All right. Let's go ahead and
3 go on the record. This is Case No. GR-2006-0387. I'm Nancy
4 Dippell, Regulatory Law Judge for this matter.

5 It is Monday, December 4th, 2006 and we are
6 here to resume our hearing after some delays because of the
7 weather. And we're going to change the schedule around just a
8 little bit to accommodate some witnesses. And if there are
9 Commission questions for the witnesses that we had on
10 Thursday, if those witnesses aren't available, we're going to
11 attempt to reach them by telephone and we'll just take it from
12 there. I'm happy to see that everyone is at least safe after
13 the storm.

14 So we're going to begin with Mr. Ensrud for
15 Staff. And, Mr. Dority, did you have something you wanted to
16 say before we begin?

17 MR. DORITY: I did, your Honor, thank you.
18 The company witness for issue No. 4, which is what I
19 understand we are moving to today, what are the appropriate
20 miscellaneous charges, is Mr. Mike Ellis. Mr. Ellis is in
21 transit this morning. He will be here arriving around noon or
22 one o'clock this afternoon.

23 It's my understanding from counsel that they
24 have no questions for Mr. Ellis and I was wondering if
25 perhaps, just to keep the record straight here, if in terms of

1 order of witnesses, if I might go ahead and offer his
2 testimony into the record and if the Commissioners have any
3 questions later today for Mr. Ellis, as I say, he will be here
4 and available to respond.

5 JUDGE DIPPELL: Okay. I see no problem with
6 that. Would there be any objection to Mr. Ellis' testimony?
7 And what were those numbers?

8 MR. DORITY: Mr. Ellis had Direct Testimony,
9 which has been previously marked as Exhibit No. 10. I would
10 mention, your Honor, that we had a correction to one of the
11 schedules that was attached to Mr. Ellis' testimony and that
12 is Schedule MHE-1. There were some corrections to that.

13 Counsel was previously provided copies of that
14 schedule prior to the hearing getting started last week. And
15 I would also note that the copy that was provided to the court
16 reporter is the corrected schedule.

17 So the only question I would be asking
18 Mr. Ellis, if he were here, was if he had any corrections to
19 his schedule and those have been incorporated. So I just
20 wanted to note that for the record.

21 JUDGE DIPPELL: And do I and the Commissioners
22 have a copy of that? Has it been --

23 MR. DORITY: I --

24 JUDGE DIPPELL: I can't recall what you gave
25 me.

1 MR. DORITY: I do have copies available for
2 you, Judge.

3 JUDGE DIPPELL: Okay. Do you have any --

4 MR. DORITY: May I approach?

5 JUDGE DIPPELL: Yes. Okay. Would there be
6 any objection to Exhibit No. 10 as corrected?

7 MR. POSTON: No, your Honor.

8 JUDGE DIPPELL: Seeing no objection, then I
9 will admit Exhibit No. 10 into evidence.

10 (Exhibit No. 10 was received into evidence.)

11 MR. DORITY: Thank you, Judge.

12 JUDGE DIPPELL: By what means of
13 transportation is Mr. Ellis traveling today?

14 MR. DORITY: He's flying in.

15 MR. BERLIN: Judge --

16 JUDGE DIPPELL: Yes, sir.

17 MR. BERLIN: -- I would like to note for the
18 record that before we left the hearing, I think it was on
19 Thursday, I had a question to Mr. Gary Smith who punted the
20 question to Mr. Ellis, so I will have a question --

21 JUDGE DIPPELL: Okay. You will have a
22 question. Okay.

23 MR. BERLIN: -- of Mr. Ellis --

24 JUDGE DIPPELL: Okay.

25 MR. BERLIN: -- when he comes in.

1 MR. FISCHER: Judge, I would also note that if
2 Mr. Ellis for some reason does not arrive, Mrs. Childers can
3 handle that question today.

4 JUDGE DIPPELL: Okay. Okay. All right then.
5 I think then we're ready to begin with Mr. Ensrud.

6 MR. REED: May I?

7 JUDGE DIPPELL: Go ahead.

8 MICHAEL J. ENSRUD testified as follows:

9 DIRECT EXAMINATION BY MR. REED:

10 Q. State your name for the record, please.

11 A. My name is Michael J. Ensrud.

12 Q. Spell your last name.

13 A. E-n-s-r-u-d.

14 Q. Mr. Ensrud, did you prepare and -- prepare for
15 filing in this case testimony?

16 A. Yes, I did.

17 Q. Those were direct, corrected direct, rebuttal
18 and surrebuttal. Correct?

19 A. Correct. Four documents.

20 Q. All right. I believe the direct is
21 Exhibit No. 114, the rebuttal is Exhibit No. 115, the
22 surrebuttal is Exhibit 116 and the corrected direct is
23 Exhibit 117. Am I right?

24 A. I'm uncertain as to the numbers assigned.

25 JUDGE DIPPELL: That's correct.

1 MR. REED: Thank you.

2 BY MR. REED:

3 Q. Do you have any corrections to any of that
4 testimony that you prepared?

5 A. Yes. In relation to the surr-- or the
6 rebuttal -- or no, surrebuttal. What I have was on page 6,
7 lines 9 and 10. What reads, Likewise, nothing provided
8 to-date refutes NSF costs and the transfer costs rates
9 proposed.

10 And I would strike "rates proposed by Staff."
11 It should read, Likewise, nothing provided to date refutes NSF
12 costs and the transfer costs used by Staff. That's the first
13 correction.

14 The second one is on Surrebuttal Testimony,
15 page 9, line 5. The way it reads today is, Atmos' proposal is
16 a good transition formula method of allocation whose time has
17 passed, but a continuation of a long-standing practice -- and
18 this says -- has merit.

19 What I would -- the change I would propose is,
20 Atmos' proposal is a good transition formula method of
21 allocation whose time has passed, but a continuation of a
22 long-standing practice that has merit.

23 So with those two changes, plus the changes
24 that are in the surrebuttal that -- that correct -- or in the
25 corrected direct that correct certain statements in the Direct

1 Testimony, that -- that would be my testimony today.

2 Q. Can you tell us why you filed corrected
3 direct?

4 A. Yes. There were two DRs that -- that came
5 late. And I did not have time to incorporate the -- the facts
6 that were in that case. The changes that were provided did
7 not change my conclusions, however.

8 Q. With those corrections, if you were to testify
9 live and in person today, would it be the same as the way you
10 testified in these pieces of testimony?

11 A. Yes, it would.

12 MR. REED: At this time, Judge, I would move
13 for admission of pet-- I'm sorry, of the Staff's Exhibits
14 Nos. 114, 115, 116 and 117.

15 JUDGE DIPPELL: Would there be any objection
16 to Exhibits 114 through 117?

17 MR. DORITY: No objection.

18 JUDGE DIPPELL: Then I will receive those into
19 evidence.

20 (Exhibit Nos. 114, 115, 116 and 117 were
21 received into evidence.)

22 MR. REED: And I tender the witness for
23 cross-examination.

24 JUDGE DIPPELL: Thank you. Is there any
25 cross-examination from Atmos?

1 MR. DORITY: No questions, Judge.

2 JUDGE DIPPELL: Let's see. I guess I should
3 have started this morning by noting who was present and who
4 wasn't present. I do not see anyone present as counsel for
5 Hannibal Regional or Noranda and we dealt with that on
6 Thursday so --

7 Public Counsel, any cross-examination?

8 MR. POSTON: Yes, I do. A few moments ago I
9 advised the parties that I did not, but that has changed. I
10 do have one question. And it's about the main extension
11 policy proposal. On page 13 of --

12 MR. DORITY: Your Honor, I'm sorry. I thought
13 we were going to be handling that issue later today. I
14 understood that we were at issue No. 4, which is the
15 appropriate miscellaneous charges. And I believe the main
16 extension is the other tariff issues, No. 7, that would be
17 addressed later on today at some point.

18 Mr. Poston, is that your understanding?

19 MR. POSTON: Yes. I did it again. Sorry.

20 JUDGE DIPPELL: Okay. No problem. So you
21 have no questions at this time for Mr. Ensrud?

22 MR. POSTON: No questions. Thank you.

23 JUDGE DIPPELL: All right. Hold on just one
24 moment. I seem to be having some technical difficulties with
25 the transmission.

1 Okay. Well, I don't have any questions for
2 you at this time, Mr. Ensrud, but I would ask you to remain
3 available. We may have some additional questions from the
4 Commission later on this topic when you come to testify on
5 your others.

6 THE WITNESS: All right. Thank you.

7 JUDGE DIPPELL: All right. Thank you. You
8 can step down for now.

9 Okay. So the next I believe is
10 Ms. Meisenheimer on the miscellaneous charges issue.
11 Ms. Meisenheimer, you were previously sworn so --

12 THE WITNESS: Yes.

13 JUDGE DIPPELL: -- you remain under oath. And
14 your exhibits were also previously admitted, including the
15 information on this topic. So is there any -- we'll just go
16 then straight to cross-examination.

17 Is there any cross-examination from Atmos?

18 MR. DORITY: No questions, your Honor.

19 JUDGE DIPPELL: From Staff?

20 MR. REED: No, thank you.

21 JUDGE DIPPELL: Okay. Hold on just one
22 moment.

23 Okay. Okay. I don't believe I have any
24 questions for you at this time either, Ms. Meisenheimer.

25 THE WITNESS: Okay. Thank you.

1 JUDGE DIPPELL: The Commissioners may have
2 questions for you later.

3 Shall we move on then to the PGA district
4 consolidation issue?

5 MR. DORITY: Just a moment, Judge.

6 Yes, your Honor. Issue No. 6 is correct.
7 Thanks.

8 JUDGE DIPPELL: Okay. I was looking to see if
9 there were any other housekeeping things that we could take
10 care of since we're getting kind of --

11 MR. BERLIN: Judge, I can offer one
12 housekeeping matter.

13 JUDGE DIPPELL: Okay. Mr. Berlin.

14 MR. BERLIN: In my opening statement, I used a
15 map of the Atmos service areas.

16 JUDGE DIPPELL: Yes.

17 MR. BERLIN: And I have premarked that as
18 Exhibit 100 and I had handed that out during the course of my
19 opening statement and I would like to move that that be
20 admitted into evidence.

21 JUDGE DIPPELL: Would there be any objection
22 to that Exhibit No. 100?

23 Seeing none, then I will admit Exhibit 100
24 into evidence.

25 (Exhibit No. 100 was received into evidence.)

1 JUDGE DIPPELL: Okay. I will remind everybody
2 to turn off your cell phones or other wireless devices if you
3 haven't done so already.

4 MR. BERLIN: Judge, could I ask a tech-- I
5 have to ask a technical question while we have our
6 technical --

7 JUDGE DIPPELL: Do we need to take a break?

8 MR. BERLIN: That might be helpful. Just a
9 few minutes.

10 JUDGE DIPPELL: Okay. Let's go off the record
11 just for like five minutes and plan to resume at a quarter
12 after 9:00.

13 (Off the record.)

14 JUDGE DIPPELL: Okay. Let's go back on the
15 record. Okay. We're going to continue on the PGA district
16 consolidation. So shall we start with Ms. Childers; is that
17 correct?

18 MR. DORITY: Yes, Judge.

19 MR. FISCHER: Yes. Yes, Judge.

20 JUDGE DIPPELL: Okay. And, Ms. Childers, you
21 were previously sworn also, so you remain under oath.

22 THE WITNESS: Yes.

23 JUDGE DIPPELL: You can be seated.

24 THE WITNESS: Thank you.

25 JUDGE DIPPELL: Thank you. And your exhibits

1 were also previously admitted into evidence in their entirety
2 so we'll just go ahead and begin with cross-examination.

3 Is there any cross-examination from Staff?

4 MR. BERLIN: Staff has no questions, Judge.

5 JUDGE DIPPELL: Is there any cross-examination
6 on this issue from Public Counsel?

7 MR. POSTON: No questions. Thank you.

8 JUDGE DIPPELL: Okay. I'll ask to take just
9 one moment and we'll see if there's questions from the Bench.

10 COMMISSIONER CLAYTON: Thank you, Judge.

11 Just a few preliminary questions and I
12 apologize that I'm in a bit of a rush this morning. Last week
13 threw, I think, everybody off, including me and I just wanted
14 to be clear. Public Counsel doesn't have any
15 cross-examination. Does that mean that you all are in
16 agreement on the issue or did you all already conclude your
17 cross-examination?

18 MR. POSTON: No. We just -- there's no --
19 we've just determined there's no questions we want to ask this
20 witness, but that does not mean we have resolved this issue.

21 COMMISSIONER CLAYTON: Okay. So you don't
22 agree, but you're not challenging any of the assertions made
23 by the witness; is that correct?

24 MR. POSTON: Not through cross-examination.

25 COMMISSIONER CLAYTON: Not through

1 cross-examination. Who is the witness that will be addressing
2 PGA consolidation for Office of Public Counsel?

3 MR. POSTON: Ms. Meisenheimer.

4 COMMISSIONER CLAYTON: And has she already
5 testified?

6 MR. POSTON: On this issue, no.

7 COMMISSIONER CLAYTON: On this issue, no.

8 Okay. Okay. Thank you.

9 PATRICIA J. CHILDERS testified as follows:

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. Ms. Childers, apologize for -- I don't even
12 have my stuff all organized here yet. Could you just briefly
13 summarize -- there are two different issues associated with
14 consolidation, I believe; one relating to district
15 consolidation and PGA consolidation. Would you briefly
16 summarize both of those positions and tell me if there's any
17 difference between those issues?

18 A. Yes, sir. The company in its original filing
19 had proposed uniform statewide base rates. I'm sorry. We had
20 proposed a uniform, consolidated statewide purchased gas
21 adjustment and we had proposed going from the six current base
22 districts to three.

23 We reviewed Staff's recommendations and where
24 Staff is recommending not going to a consolidated statewide
25 PGA but going to four, we are willing to accept that

1 recommendation. We feel like that's a move in the right
2 direction. They have grouped the areas geographically by the
3 pipelines that serve those areas.

4 Q. What was the difference in -- if Atmos wanted
5 to go to -- was it three districts and Staff recommends four
6 districts? What is the difference between those two
7 positions?

8 A. Well, the company had recommended a
9 consolidated statewide PGA. Staff's recommending four.

10 Q. So just one -- so just one --

11 A. Yes, sir.

12 Q. So just one PGA?

13 A. We had recommended one, yes, sir.

14 Q. Okay. Well, I misunderstood -- when you said
15 we wanted to go to three, I misunderstood what -- basically
16 the company in its original filing wanted to go to one unified
17 PGA for all of its districts. Correct?

18 A. That is correct.

19 Q. Staff came in and made a recommendation of
20 four districts rather than the seven -- aren't there seven?

21 A. Yes, sir.

22 Q. Okay. And Atmos has come around to -- and
23 agrees with that effort at consolidation?

24 A. Yes, sir. And if you look at the PGAs that
25 the company has most recently filed, I believe we filed the

1 PGAs in November to be effective in December. The PGAs are
2 very close with the exception of the ACA factor, which will
3 run for 12 months to recover or refund any over- or
4 under-recovery. And if you just look at the PGAs without that
5 ACA factor, they are, in fact, very close and considerably
6 lower than the PGAs that were in effect previously.

7 Q. Who has the highest PGA among all the
8 individual districts at this time, do you know?

9 A. I believe I do have that with me, if you could
10 just bear with me --

11 Q. Sure. Sure.

12 A. -- for a moment. Neelyville and Greeley are
13 very, very close.

14 Q. Do you know what those are offhand?

15 A. Yes. Neelyville is 1.1779.

16 Q. 1.1--

17 A. 779. And Greeley is 1.15.

18 Q. Okay. Do you have all the PGAs that are close
19 by there?

20 A. Yes, sir, I do.

21 Q. Let me ask you this. Where does the gas come
22 from that services the territory of Neelyville and Greeley?
23 What pipeline?

24 A. Let's see.

25 Q. I need a geography lesson. That's basically

1 --

2 A. I think I may need one myself. I can tell you
3 the pipelines that serve the SEMO area. I don't recall off
4 the top of my head which pipeline serves the Greeley area.

5 Q. So you don't know where the gas comes from?

6 A. No. I can -- I can probably get that pretty
7 quickly for you.

8 Q. Maybe we can -- I'm sure that's not that
9 difficult. I've got a pipeline chart up in my office I'm sure
10 I could find.

11 How about SEMO? Where does that -- what
12 pipeline serves --

13 A. SEMO has several suppliers to that area,
14 Natural Gas Pipeline, TECO, which is Texas Eastern
15 Transmission, and MRT, which is Mississippi River
16 Transmission.

17 Q. And SEMO, is it basically Gulf of Mexico gas?

18 A. Yes. All of the gas is, yes.

19 Q. Yeah. Okay. And we don't know where
20 Neelyville/Greeley comes from?

21 A. No, sir. Not off the top of my head.

22 Q. What's the PGA in the SEMO district right now?

23 A. The current -- well, the most recently filed
24 PGA for SEMO is .9513.

25 Q. Okay.

1 A. And I would like to add that the commodity
2 cost of gas within all of the currently filed PGAs is
3 approximately -- I think it's 850 an MMBtu. So the commodity
4 cost within the PGAs is consistent within all of the filings.
5 Again, it's the ACA component that results in some difference.

6 Q. Why is the commodity the same price for each
7 of the territories considering they're -- the commodity comes
8 from different places and most likely would be placed at
9 different levels?

10 A. The PGA filings that we make, we use the NYMEX
11 pricing, which is one price for all of the areas. The only
12 difference added to that NYMEX would be any sort of basis
13 differential. And it's really a small component of the total
14 PGA. It's so many cents per MMBtu.

15 Q. So can you turn that on the flip side and say
16 that's what Atmos is paying? It's paying a NYMEX rate with a
17 differential and then you turn around and apply that to
18 consumers. Am I understanding that?

19 A. Most of our contracts are tied towards a NYMEX
20 or -- yes, that's correct.

21 Q. Okay. What is the -- and I think the
22 districts Canton, Bowling Green, Hannibal, Palmyra are all
23 very close. Do you know what those PGA rates are?

24 A. Yes, sir. Bowling Green, Hannibal, Canton and
25 Palmyra is .8407.

1 Q. Okay. And is Kirksville any different?

2 A. Kirksville is actually .6860.

3 Q. .6860?

4 A. And, of course, the PGAs that I've recited
5 here do include the ACA components. So that, again, accounts
6 for the variants. The commodity cost within all those --

7 Q. So the --

8 A. -- filings is the same.

9 Q. Excuse me. I'm sorry. I hate to interrupt
10 you. The Kirksville rate, rather than reflecting a lower
11 commodity cost, probably reflects an over-collection?

12 A. Yes, sir.

13 Q. Okay. So then the consumer would be paid back
14 in accordance with that rate?

15 A. Yes, sir.

16 Q. Now, the four districts proposed by Staff
17 would consolidate Hannibal, Palmyra, Bowling Green and Canton.
18 And I know some of them may already be combined at this time,
19 but it would consolidate all of those. That would be one
20 district. Kirksville would be a second district. Southeast
21 Missouri is a third district. Neelyville's a -- Neelyville
22 and Greeley are a fourth district?

23 A. Neelyville will actually be included with the
24 SEMO district. Butler and Greeley would be a district. And
25 you were correct about the Kirksville and the other.

1 MR. FISCHER: Judge, I think Staff has
2 prepared an exhibit that might be helpful if you want to put
3 that on the Smart Board there that lays that out.

4 COMMISSIONER CLAYTON: Has it already been
5 submitted?

6 MR. FISCHER: I don't know that it's been
7 sub--

8 COMMISSIONER CLAYTON: I know this is
9 repetition, so I apologize.

10 MR. FISCHER: No, it's -- we haven't gone over
11 this ground. It's just I was aware that there was an exhibit
12 that they had available.

13 JUDGE DIPPELL: And is that the HC exhibit?

14 MR. BERLIN: Yes, it is.

15 JUDGE DIPPELL: Okay. Do you want to go ahead
16 and --

17 MR. BERLIN: Judge, I don't know. Perhaps
18 Commissioner Clayton might be referring to Exhibit 100. That
19 was the map I used on my opening statement.

20 COMMISSIONER CLAYTON: That would presume that
21 I'm aware of what exhibits have actually been offered and
22 accepted.

23 COMMISSIONER APPLING: Are you talking about
24 this (indicating)?

25 MR. BERLIN: Commissioner Appling held up the

1 exhibit.

2 JUDGE DIPPELL: This is the --

3 MR. BERLIN: I have another copy.

4 JUDGE DIPPELL: -- Exhibit 100, which is the
5 proposed district consolidation areas.

6 COMMISSIONER CLAYTON: Oh, good. Okay. Well,
7 give me just a second to -- may I have a moment to review this
8 exhibit?

9 MR. DORITY: May I approach?

10 BY COMMISSIONER CLAYTON:

11 Q. Ms. Childers, are you --

12 A. Yes, sir.

13 Q. -- finished reviewing?

14 A. Yes.

15 Q. I know I was reviewing and then I looked over
16 and you were still looking down. I didn't want to surprise
17 you.

18 Why is there a need for having two districts,
19 one in kind of the northeast region and one in Kirksville? Do
20 you know the answer -- the rationale for that? Is Kirksville
21 serviced by a different spur or a different offshoot from the
22 pipeline? Does it come from Iowa?

23 A. I don't know the answer to that question.

24 Q. Okay.

25 A. Even -- even with these glasses, it's very

1 hard to read this map.

2 Q. Yeah, I know. I understand.

3 A. I apologize.

4 Q. The territories in the northeast region are
5 serviced by an Atmos spur that travels all the way up, I
6 assume, to these northeastern-most towns; is that correct?

7 A. It appears that way.

8 Q. Do you all have -- are you aware of whether
9 Atmos has any customers that are served directly off the
10 pipeline on the spurs on the way up?

11 A. Are you -- are you referring to farmtap-type
12 customers?

13 Q. Yes.

14 A. No, sir, we do not in Missouri. We do not.

15 Q. You have no farmtap customers at all?

16 A. We have no farmtap customers.

17 Q. So you've got all that pipeline out there but
18 nobody draws off of it unless it gets into a city gate?

19 A. I guess that would be -- yes, I guess that
20 would be the assumption. I know for a fact that we do not
21 have any farmtap customers.

22 Q. When you say you don't have farmtap customers,
23 do you mean that you don't have the allegedly unregulated
24 customers out there or that you just include any taps that
25 come off your intrastate pipeline, you just include them under

1 your tariff?

2 A. We include them under our tariff.

3 Q. Okay. So there are some rural folks that
4 would be drawing some natural gas off the line?

5 A. Yes. They're just not -- we do have farmtap
6 customers off Panhandle Illinois, but not -- not in the state
7 of Missouri.

8 Q. Okay.

9 A. Your statement was correct.

10 Q. So they're tariffed?

11 A. Yes.

12 Q. Those customers have -- whether the benefit or
13 whatever of tariffs being in place, are those tariffs separate
14 and apart from the tariffs for each district?

15 A. No, sir, they're not.

16 Q. So they're the same. If they're close to
17 Hannibal, they're under the Hannibal district?

18 A. That would be correct.

19 Q. Okay. If they're close to -- if they're close
20 to LaGrange, they're probably under the Canton tariff?

21 A. That would be correct.

22 Q. Okay. That would be for both PGA purposes as
23 well as the actual distribution cost of gas?

24 A. Yes, Commissioner.

25 Q. Okay. All right. That is helpful. I need to

1 go back and ask you once again, to explain how each of the
2 PGAs are established using an identical commodity price
3 considering that the gas comes from different places. And
4 I've been known to make mistakes on understanding the PGA and
5 ACA process so bear with me.

6 With gas coming from different places,
7 presumably it's priced in different ways and may be completely
8 different from what the NYMEX price may be on a given day.
9 Explain to me how all these customers can be paying the same
10 commodity price.

11 A. As you're aware -- and I'm not the -- a PGA
12 expert, but I'll do -- do my best.

13 Q. You're more of an expert than I am, so just go
14 ahead and fire away.

15 A. We file three or four PGAs I believe in the
16 state of Missouri. In some states we file monthly, in some
17 places we file quarterly, but in Missouri we file three or
18 four times a year. The PGA filing that we make, we look for
19 using the NYMEX and that's the commodity cost that we put in
20 the filing. And, yes, it is generic within all of the -- the
21 various PGAs that we file today.

22 Of course, we also have the actual cost
23 adjustment or annual cost adjustment. I'm not sure which one
24 it's called in Missouri, but nevertheless, that's the -- the
25 true-up between the actual cost that we incur and the -- the

1 costs that we estimated for our PGA filing.

2 So, yes, although we do use one generic NYMEX
3 price, yes, there actually is different cost and it's going to
4 be reflective of any basis differential. Again, which is not
5 that significant a component in the rate, however, that would
6 result in an under-or over-estimate from actual or under/over
7 cost, actual versus estimate.

8 That's the way we've done the PGA for as long
9 as I can remember. And it's not precise in the filing, but
10 then again, as we do the true-up, the customers are made
11 whole.

12 Q. Okay. Can you tell me why the PGA is so much
13 higher in the western district, Butler/Greeley area, when it's
14 serviced by the same pipeline that would service the
15 northeastern territory?

16 A. It would have to be attributable to the ACA.
17 I can't -- I can't think of another reason why it would be
18 different. There -- there are reservation costs and some
19 storage costs, but again, I think those are rather negligible
20 too.

21 Q. But they would be -- they'd be payable by each
22 of the groups. It just suggests because the pipeline is
23 longer to get to the Hannibal/Canton/Kirksville area that the
24 transportation costs would be higher?

25 A. Yes, sir.

1 Q. The ACA would be reduced for Butler. Is there
2 an intrastate pipeline that services that area? Is that your
3 spur that gets down to Butler?

4 A. All of the -- all of the pipelines are
5 interstate pipelines supplying our Missouri areas.

6 Q. Intrastate?

7 A. Inter.

8 Q. Well, the Panhandle Eastern Pipeline is the
9 interstate, but what is the -- how does the gas get from that
10 pipeline into Butler and these other communities here in
11 Bates, Henry and St. Clair County? I assume that would be
12 just a spur off the pipeline that you all would have, I'm
13 assuming.

14 A. You've -- you've really asked me a question
15 that I just don't know. I'm -- apologize.

16 Q. Okay. Just looking at the PGA rates, it
17 just -- intuitively it appears to me that -- or appears -- I
18 don't understand why the gas would be more expensive in the
19 Butler/Greeley western district as it would be in the
20 northeast, but perhaps Staff can work that out and explain
21 that to me when they come up.

22 A. Staff might actually have much better
23 information. I know they look at the PGAs on a routine basis
24 and probably know the specific make-ups of the PGA better than
25 I do.

1 Q. Okay. So Atmos and Staff have reached a -- I
2 guess we'd say a non-unanimous agreement of some sort or at
3 least identical position in having the consolidation of four
4 districts that have been identified; is that correct?

5 A. Yes, sir.

6 Q. Okay. And other than Staff and Atmos being in
7 agreement, OPC is opposed to it I believe at this point; is
8 that correct?

9 A. That's my understanding.

10 Q. Are any other parties involved in this case
11 opposed to that agreement?

12 A. Not to my knowledge.

13 COMMISSIONER CLAYTON: Okay. Is there
14 anyone -- any of the attorneys, is that incorrect, that
15 statement?

16 MR. FISCHER: Yes, Judge, you're correct on
17 that. The list of issues does not include any of the other
18 Intervenors as opposing to or taking a position on this issue.

19 BY COMMISSIONER CLAYTON:

20 Q. Okay. Now, on the distribution cost
21 consolidation issue, that is also your issue; is that correct?

22 A. Yes, sir.

23 Q. All right. And is there an agreement on that
24 issue?

25 A. Yes, sir.

1 Q. Okay. And could you describe that
2 non-unanimous agreement or stipulation?

3 A. The -- the company's proposal and the Staff's
4 recommendation as far as the consolidation of the base rates
5 was essentially the same. We had consolidated regionally as
6 had the -- as had the Staff as well.

7 Q. And that would be just a complete
8 consolidation --

9 A. No, sir.

10 Q. -- or the same four districts?

11 A. That would be -- actually for the base rates
12 it would be three -- three sets of districts per se. You
13 would have SEMO and Neelyville; you then would have Butler and
14 Greeley; and then you would have Kirksville, what used to be
15 the old United Cities Gas, which would be Hannibal, Canton,
16 Bowling Green and Palmyra. So you would basically have a
17 south, north and west central.

18 Q. And Staff's in agreement and Atmos are in
19 agreement on that consolidation?

20 A. Yes, sir.

21 Q. All right. Can you identify for me what that
22 would mean in base rate adjustments as compared to current
23 rates for customers in the southeastern Missouri region?

24 A. I believe I can. Just bear with me for a
25 moment. Attached to my surrebuttal, which is Exhibit 2,

1 page 2 of 2, this would reflect using the most current --
2 really looks at the total bill, but it does -- it does use the
3 most current PGAs that we file.

4 But, for example, the SEMO district, the
5 overall impact in the bill for the customer would be an
6 increase of \$3.16, and that's on line 30. And that, again,
7 would include the base rate and the PGA. The PGA is like
8 80 percent of the bill and so, you know, it's reasonable to
9 include that in any sort of calculation to demonstrate impact
10 to the customer.

11 Q. But this would be taking into consideration
12 new rates as well?

13 A. Yes, sir.

14 Q. I mean new -- I mean all adjustments.
15 Correct?

16 A. Yes, sir. And then that would be the SEMO
17 district. And then, for example, if you go to line 10, which
18 is the Kirksville rate -- and Kirksville currently has the
19 lowest base rate, I might point out. But the impact there on
20 line 10 would be \$105.49 or 12.4 percent increase compared to
21 4/10ths in the SEMO area.

22 And, again, that's looking at the Staff's
23 recommended consolidation of base into three districts and the
24 recommendation of the current seven PGAs into four. So that
25 exhibit reflects the overall impact.

1 Q. Can we focus on column D for a second, which
2 would be the --

3 A. Yes, sir.

4 Q. -- the delivery charge?

5 Would that be the -- would that be the
6 accurate -- all non-PGA costs --

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

8 Q. -- right there?

9 Okay. I guess we can call that the base
10 rate --

11 A. Yes.

12 Q. -- cost? Okay. Sometimes I want to make sure
13 we use the right terminology.

14 Can you tell me how different -- just focusing
15 on residential firm service, is there a way to tell the cost
16 of residential firm service for each district, whether it goes
17 up or down by looking at this chart, just on the delivery
18 charge?

19 A. No, sir.

20 Q. Do you know what the delivery charge is for
21 each of those districts --

22 A. I know --

23 Q. -- off the top of your head?

24 A. I know what the current rates are. Is that
25 what you would like the comparison of?

1 Q. Yeah. I guess I just --

2 A. If you look at --

3 Q. My confusion is that the dollar change takes
4 into consideration both the PGA and the delivery. And I
5 wanted to be able to identify changes that we would make on
6 each part of the bill is what I'm trying to do.

7 A. Yes. I understand. Unfortunately, that's not
8 shown on this schedule. If you do look at page 1 of that same
9 exhibit, you can look at the current -- for example, on
10 line 1, the current customer charge for Butler is \$7 and then
11 you can look over in the third column and see what the current
12 base rate is. But I haven't -- haven't done an exhibit that
13 would use a typical consumption level to show you how that
14 would compare to the \$19.43 on page 2 of 2.

15 Q. Is that an apples-to-apples comparison? If we
16 look at line 1, Butler residential firm service, the current
17 customer charge or delivery charge is \$7 and that would go up
18 to \$19.43?

19 A. It is not an apples-to-apples comparison. To
20 the \$7 you would have to multiply the -- on page 1 of 2,
21 you'd have to multiply the .1794 -- excuse me .17954 CCF times
22 a usage level and then compare that to the 19.43.

23 Q. And what is that? So you'd have to multiply
24 7 times .1--

25 A. No. You would mult-- the \$7 is the monthly

1 customer charge under the current rate design. To that you
2 would have to multiply, for example, the usage of 761 CCF
3 times the .17954 and then would you have to add those two
4 together. And that would be the apples-to-apples comparison
5 with the \$19.43.

6 Q. I see. So you're eliminating the volume
7 pricing --

8 A. Yes, sir.

9 Q. -- and going to fixed charge there. So that's
10 part of the rate design proposal as well?

11 A. Yes, sir.

12 Q. Okay. Okay. When Atmos filed its total rate
13 increase -- or filed its rate adjustment request in this case,
14 what was the percentage increase in bills that were estimated
15 for customers in general? Was there just a general
16 percentage?

17 A. I'm sure there was, but quite honestly, I
18 don't recall what that overall percentage was.

19 MR. FISCHER: Does 5 percent sound right?

20 THE WITNESS: That sounds right. And that
21 would be with the PGA I believe, Mr. Fischer, involved,
22 5 percent.

23 BY COMMISSIONER CLAYTON:

24 Q. So that was in general, 5 percent. For any of
25 these districts under the non-unanimous agreement right now,

1 does anyone have greater than a 5 percent increase in rates?

2 A. In the overall bill?

3 Q. Yes.

4 A. Yes. That would be the Kirksville area, which
5 would be the 12 and -- 12.4 percent. They would have the
6 highest. But, again, currently they're paying the lowest of
7 any of the districts. Kirksville's commodity rate or rate per
8 CCF, for example, is .075 a CCF where the others are like .179
9 or .252. So they are -- their charge today is significantly
10 less than the others; therefore, the impact to -- to
11 Kirksville would be a little higher.

12 Q. Well, if we were to adopt this kind of general
13 agreement, if the Commission were to adopt that, would
14 Kirksville customers still be made whole from the overpayments
15 that they've made in past PGA?

16 A. Yes, they would.

17 Q. They would?

18 A. Yes. The ACA factors in place today, or the
19 balance, if you will, will run for -- it will run for as long
20 as it needs to to zero that out -- as close to zero as we can
21 possibly get. And that was Staff's recommendation and the
22 company accepts their -- their recommendation in that regard.

23 Q. In your surrebuttal, Exhibit 2, page 2 of 2
24 that you referred me to earlier --

25 A. Yes, sir.

1 Q. -- the delivery charge, if I'm reading this
2 properly, would reflect three districts. The Butler district
3 would be -- Butler and Missouri G would be one district at the
4 19.43 price; the second would be the Kirksville, Missouri P
5 and Missouri U for the delivery charge of 20.61; and then the
6 third, the SEMO district of 13.92.

7 A. Yes. Yes, sir, 13.92 would be SEMO and
8 Neelyville.

9 Q. And Neelyville. So that would be an accurate
10 reading on my part --

11 A. Yes, sir.

12 Q. -- of the three districts?

13 Okay. Now, the delivery charge that is listed
14 for each of those districts, that fixed charge would be -- it
15 would be a fixed delivery charge without any volumetric
16 pricing. Correct?

17 A. That's -- that's correct. Absent the PGA,
18 which would remain volumetric.

19 Q. For just delivery cost, distribution cost?

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

21 Q. All of those would fall within these fixed
22 charges?

23 A. Yes.

24 Q. And the costs on which these delivery charges
25 are based in each of these districts would be -- these rates

1 reflect the cost of providing that distribution cost within
2 those districts?

3 A. Yes, sir.

4 Q. So they're district-specific pricing?

5 A. Yes.

6 Q. The Butler district or the western district is
7 very close to the northern or northeastern district. Why is
8 the SEMO/Neelyville district, I guess you could say 33, 35
9 percent lower? Why are the costs in southeast Missouri
10 35 percent lower than they would be in the northern areas?

11 A. We did not -- we did not shift any costs
12 within the -- or outside between district to district. We
13 took the current cost and the current -- current revenues and
14 tried to stay revenue neutral within the limited consolidation
15 that we made. A lot of the differences are going to be the
16 result of the many acquisitions that Atmos has had over the --
17 you know, the two or three properties that have been acquired.

18 Q. So if I were to make the statement that the
19 distribution costs are -- the pipes in the ground, the meters,
20 the servicemen and women who would be serving each of these
21 districts, is there any physical reason why costs are
22 35 percent lower in southeast Missouri than in the other
23 areas?

24 A. Well, the cost of providing service to the
25 customers would be the same. I mean, everybody benefits from

1 the same call center, the -- you know, the same billing
2 function and so forth. But you do have different plant
3 investment in those districts.

4 Q. So it's a difference between -- it's a
5 difference in actual --

6 A. I believe.

7 Q. -- plant in service?

8 A. I believe it would be the plant in service.

9 Q. And you're sure about that or you're making a
10 stab at it just to --

11 A. I'm -- I'm giving you my opinion.

12 Q. Your opinion. Okay. Well, in addition to
13 that, presumably being in the southern side of the state, they
14 would have lower usage of natural gas and yet their prices are
15 still lower even though they have lower amount of usage than
16 other parts of the state. Do you have any additional
17 explanation for that?

18 A. No, sir.

19 Q. Would anyone have an explanation for that or
20 who would?

21 A. You know, I'm -- I'm thinking that Staff
22 Witness Ms. Ross may. I hate to --

23 Q. That's all right.

24 A. -- punt to Ann, but --

25 Q. That's the most efficient thing to do. If you

1 got to punt, do it quickly and move on.

2 Okay. Can you tell me in total -- you
3 mentioned that in Kirksville they would have the highest
4 increase of 12.4 percent. Are you able to identify a
5 percentage for each of the other six or seven districts?

6 A. Yes, sir. That's, again, on page 2 of 2.

7 Q. Yeah. Oh, the percentage change of column K?

8 A. Yes, sir.

9 Q. There it is. Good. Good. Thank you. Can
10 you explain to me the difference between residential firm
11 service, small general service and medium general service?

12 A. The small and medium general service, we have
13 split the current category of just general service, which
14 would be non-residential and we are accepting Staff's
15 recommendation as to the volume break. And I believe -- if
16 you'll bear with me here.

17 Q. So it's purely a volume usage difference --

18 A. Yes, sir.

19 Q. -- and --

20 A. Yes, sir. And that was as suggested by Staff
21 Witness Ms. Ross. And I believe the small general service,
22 the average annual usage will be 1,320 CCF and the medium,
23 7,300 CCF.

24 Q. I'm sorry. How much was that again?

25 A. 7,300 CCF for the medium service, I believe,

1 and the small general service would be 1,320. Again, Ms. Ross
2 might want to -- to either verify that or -- or tell me that I
3 misspoke.

4 Q. What I'm asking about are other issues that --
5 I want to make sure you don't get on a plane and leave before
6 I have a chance to ask you, but I don't know if now's the
7 appropriate time.

8 COMMISSIONER CLAYTON: And, Judge, I had
9 questions about rate design and customer service. Is now the
10 appropriate time or -- I'm more than happy to wait. If
11 Commissioner Appling has questions on the consolidation
12 issues, I will certainly defer.

13 JUDGE DIPPELL: Ms. Childers is the person
14 that's going to testify regarding customer service; is that
15 correct?

16 THE WITNESS: Yes, that's correct.

17 JUDGE DIPPELL: And we have not gotten to that
18 yet.

19 COMMISSIONER CLAYTON: Okay.

20 JUDGE DIPPELL: We touched on rate design on
21 Thursday with Mr. Smith as the company witness and he was
22 going to be available this afternoon for further questions.
23 I'm sure Ms. Childers would be happy to answer any questions
24 she can --

25 THE WITNESS: And I will be here --

1 JUDGE DIPPELL: -- regarding rate design.

2 THE WITNESS: I will be here all day and
3 tomorrow if necessary as well.

4 COMMISSIONER CLAYTON: If you want to punt to
5 Mr. Smith on the rate design, I'm happy to ask him.

6 THE WITNESS: Yes. He will be the delivery
7 charge witness.

8 JUDGE DIPPELL: And we didn't get to the Staff
9 or Public Counsel witnesses on rate design. We still have to
10 go back to that issue. But as far as the customer service, if
11 you want to ask those now, I don't think anybody has a problem
12 with that except Staff's witnesses aren't in the room. Okay.
13 We'll wait.

14 COMMISSIONER CLAYTON: Let me look over my
15 consolidation questions. I may be just about done here. I
16 want to make sure I'm following.

17 COMMISSIONER APPLING: Take all the time you
18 need.

19 COMMISSIONER CLAYTON: If you want to go
20 ahead, if you want to ask some questions.

21 COMMISSIONER APPLING: I don't have any
22 questions.

23 BY COMMISSIONER CLAYTON:

24 Q. I know this is somewhere in the testimony and
25 this is laziness on my part, so I apologize. Missouri

1 territory G would be the west -- what is that -- is that
2 Greeley?

3 A. Yes, sir.

4 Q. Kirksville's K. Missouri P, is that Palmyra?

5 A. Yes, sir.

6 Q. And then U would be Hannibal, Canton, Bowling
7 Green?

8 A. Correct.

9 Q. Okay. Mr. Smith, the gentleman who is Atmos's
10 expert on rate design, I have some general questions about
11 conservation and reducing usage. Would he be the appropriate
12 witness or would you be the appropriate witness?

13 A. He would be the appropriate witness.

14 Q. Okay. And I think we talked about this
15 before, about the variations between the commodity price, PGA
16 and the ACA, how they fluctuate up and down and how it seems
17 like there are significant differences and swings among those
18 districts. Is there a witness that I should direct those
19 questions to other than you?

20 A. Com--

21 Q. Probably a Staff witness, I would think?

22 A. That's what I was going to suggest, perhaps a
23 Staff witness.

24 COMMISSIONER CLAYTON: And that would be
25 Ms. Ross, Mr. Berlin; is that correct?

1 MR. BERLIN: The question is on the swing --
2 I'm sorry, Commissioner.

3 COMMISSIONER CLAYTON: On the ACA/PGA and
4 commodity price differentials, the differences in prices and
5 why they are the way they are.

6 MR. BERLIN: That would be Tom Imhoff,
7 Commissioner Clayton.

8 COMMISSIONER CLAYTON: Oh, good. I can't wait
9 for that opportunity.

10 Okay. Ms. Childers, thank you for my patience
11 as I fumble through this material. I may have another
12 question here in a second or in a little bit as things go
13 forward, but I appreciate your patience.

14 THE WITNESS: You're welcome. Thank you.

15 JUDGE DIPPELL: Okay. And I'm just going to
16 clarify just for the record because Commissioner Clayton
17 referred to a non-unanimous agreement. And I believe what he
18 was referring to was not the written agreement that we have
19 before us because the PGA consolidation issue isn't part of
20 that written agreement. Correct?

21 MR. FISCHER: That's correct, your Honor. The
22 company has basically accepted the recommendations of Staff on
23 a whole variety of issues. The non-unanimous stipulation
24 reflects an agreement between Staff, Public Counsel and the
25 company on a handful of issues. But for the most part, the

1 company has accepted the Staff's recommendations on both
2 revenue requirement and rate design proposals and that's
3 what -- although we have accepted it, we haven't signed any
4 kind of a Stipulation and Agreement.

5 JUDGE DIPPELL: Right. I just wanted to
6 clarify that when Commissioner Clayton was referring to that
7 agreement, he was referring to that meeting of the minds on
8 the positions.

9 COMMISSIONER CLAYTON: Those words mean a lot
10 more than they used to, don't they?

11 JUDGE DIPPELL: Okay. Then I think that's all
12 the questions from the Bench. Is there recross from Staff
13 based on those questions?

14 MR. BERLIN: One question, Judge.

15 JUDGE DIPPELL: All right.

16 RE-CROSS-EXAMINATION BY MR. BERLIN:

17 Q. Ms. Childers, is Staff's proposal for all
18 classes or is it for residential and small general service
19 classes?

20 A. Residential and small general service.

21 MR. BERLIN: Thank you.

22 JUDGE DIPPELL: Is there anything further from
23 Public Counsel?

24 MR. POSTON: Just one.

25 RE-CROSS-EXAMINATION BY MR. POSTON:

1 Q. Ms. Childers, you indicated that the recent
2 PGA filings have brought the individual PGA rates closer
3 together. Is that what you stated?

4 A. Well, it's brought the PGAs down and, yes,
5 they are closer together than they were the -- some months
6 ago.

7 Q. And how many PGA filings does Atmos make a
8 year?

9 A. We current make seven. And I believe we can
10 file -- when we make a filing, we make seven. And we make
11 three or four a year.

12 Q. And some filings, they may actually be further
13 apart and some closer together? I mean, they fluctuate?

14 A. That's correct. Because largely, in my
15 opinion, due to the ACA, the under/over balance.

16 MR. POSTON: Thank you.

17 JUDGE DIPPELL: All right. Is there any
18 redirect examination?

19 MR. FISCHER: Yes, your Honor, there is.
20 Could I have just a minute and I'll --

21 JUDGE DIPPELL: Go ahead.

22 REDIRECT EXAMINATION BY MR. FISCHER:

23 Q. Mrs. Childers, you were asked some questions
24 why Kirksville would be treated differently for the PGA than
25 the Hannibal/Canton area. And I'd like to refer you to the

1 map. I think it was a map, you said it was kind of hard to
2 read. It may be that we'll have to project this on the screen
3 to read this, but can you tell that A&R pipeline is the
4 pipeline that is going across the most northwest part of
5 Missouri with the spur down to Kirksville?

6 JUDGE DIPPELL: And are you referring to what
7 we marked as Exhibit 100?

8 MR. FISCHER: Yes.

9 BY MR. FISCHER:

10 Q. I don't know --

11 A. I can't see it, Mr. Fischer.

12 MR. FISCHER: Mr. Berlin, do you know if we
13 can project that onto the screen and perhaps read it?

14 MR. BERLIN: We can. We have to put it on the
15 Smart Board.

16 THE WITNESS: I believe I can finally make
17 this out. If I'm looking at the -- the pipe across the top,
18 that is A&R Pipeline.

19 MR. BERLIN: I think we can magnify the top
20 part.

21 MR. FISCHER: Okay. Well, that's much better.

22 BY MR. FISCHER:

23 Q. And just in terms of why you would have a
24 separate PGA from the Kirksville area compared to the
25 Hannibal/Canton area, is it correct that another pipeline, it

1 appears to be Panhandle Eastern, would be --

2 A. Yes.

3 Q. -- coming across the state to serve the

4 Hannibal area?

5 A. That's correct.

6 Q. And would that be one of the reasons why you

7 might consider a separate PGA if you were trying to key on

8 pipelines that serve the area?

9 A. That sounds reasonable, yes.

10 Q. Okay. And then let's look at Butler. It

11 appears that Panhandle Eastern would serve the Butler area.

12 Is that your understanding?

13 A. Yes.

14 Q. While it's not shown on that map, do you know

15 whether the Butler area is also served by Southern Star?

16 A. I do not know.

17 Q. I'm sorry. The Greeley area?

18 A. Oh, the Greeley area, yes.

19 Q. Okay. Would that be an explanation why if you

20 didn't want to go to a statewide consolidation, you might

21 have -- you have different pipelines serving those three

22 different areas, the Butler/Greeley area, the Hannibal/Canton

23 area and then separately Kirksville?

24 A. I think that's a reasonable split.

25 Q. And then, of course, that SEMO area down in

1 the boot heel would be served by other pipelines?

2 A. Yes, that's correct. At least three.

3 Q. Okay. Commissioner Clayton also asked you
4 about the fact that the SEMO area has annual consumption
5 levels that are less than other regions in the state. Do you
6 recall those questions?

7 A. Yes.

8 MR. FISCHER: When we had I think it was Gary
9 Smith on the stand, he committed to give the Staff some
10 information about annual consumption levels of the different
11 districts and also some LIEAP information.

12 Judge, for purposes of this redirect, I think
13 I'd like to ask that that exhibit be marked. I think it might
14 be more efficient to go through it just real quickly now since
15 it addresses one of the Commissioner's questions.

16 JUDGE DIPPELL: All right. Let's see. The
17 company's next exhibit number is I believe 19. And what can I
18 call this? It says FY 2005 data.

19 MR. FISCHER: I'd say consumption data.

20 JUDGE DIPPELL: Okay. So this is the
21 consumption data for Atmos for fiscal year 2005.

22 (Exhibit No. 19 was marked for
23 identification.)

24 BY MR. FISCHER:

25 Q. Ms. Childers, are you familiar with this

1 exhibit?

2 A. Yes, I am.

3 Q. Can you explain the column, All Customer
4 Annual CCFs, what that represents?

5 A. Yes. The annual CCF, for example, Kirksville,
6 the -- the typical customer in Kirksville -- well, I should
7 say all customers would use an average of 721 CCF. A question
8 had arisen last week as to whether the LIEAP customers, the
9 low-income customers, typically would use -- would use more or
10 less.

11 So after that question was asked of the
12 company last week, we were able to query the system and get
13 some information. And the exhibit that you have before you
14 now shows that in all cases, the LIEAP customers, the
15 customers that are receiving LIEAP funding, actually their
16 usage is greater than the average.

17 Q. And I was actually referring to the SEMO area
18 where Commissioner Clayton asked about its consumption level.
19 What would this demonstrate as far as SEMO compared to other
20 areas of the state?

21 A. Lower -- lower usage but lower heating degree
22 days.

23 Q. So that would reflect the fact that it's
24 warmer in the south?

25 A. Yes.

1 Q. I believe you were also asked a question
2 regarding the small general service and the medium general
3 service. Do you recall?

4 A. Yes, I recall that.

5 Q. Is it your under-- I think you gave some
6 annual usage levels for those two classes. Do you know where
7 the break would actually occur? Would it be at 2,000 CCFs?

8 A. I believe it is at 2,000. And I was giving
9 numbers of -- of average annual usage as opposed to the break
10 that would be in the tariff itself.

11 MR. POSTON: Your Honor, if I may interrupt.

12 JUDGE DIPPELL: Yes, Mr. Poston.

13 MR. POSTON: Is there any way we can take a
14 short break so we can talk about this exhibit with the
15 parties? There's numbers in here that -- regarding the
16 billing determinants that we believe we've agreed to among the
17 parties that appear to be inaccurate and I'd just like to
18 confer with them about this before we move on if that's
19 possible.

20 JUDGE DIPPELL: There's no problem with that.

21 MR. FISCHER: I can move to introduce it later
22 after we've had a chance to discuss that if you'd like or do
23 it now for that matter, but I can finish the redirect as well
24 if you'd like to do that.

25 JUDGE DIPPELL: Mr. Poston?

1 MR. POSTON: I would as soon clear it up right
2 now before we move on.

3 JUDGE DIPPELL: Okay. Let's take a short
4 break. We'll adjourn until 20 after. Thank you. We can go
5 off the record.

6 (A recess was taken.)

7 JUDGE DIPPELL: Okay. Mr. Poston, did you all
8 have a chance to work out your --

9 MR. POSTON: Well, they did explain the
10 billing determinants concern we had, but we do have additional
11 concern that there's data in here that we have had no --
12 absolutely no opportunity to review and to try to determine
13 whether we agree with these figures. Mr. Fischer essentially
14 just handed his witness a piece of paper allowing her to put
15 numbers into the record that have not been verified by the
16 other parties.

17 JUDGE DIPPELL: Okay. Well, the exhibit
18 hasn't actually been offered yet. I realize the witness did
19 testify -- make some testimony.

20 Mr. Fischer, did you have additional redirect
21 not related to this?

22 MR. FISCHER: I did have a couple other
23 redirect questions. And actually regarding the exhibit, we
24 originally had Gary Smith, who was asked the question about
25 it, it was probably more appropriate to go through that with

1 him. I was just trying to short circuit one of the questions
2 that the Commissioner had asked because I knew the data was
3 available and we could talk about the other data on here at
4 some other time during the hearing.

5 JUDGE DIPPELL: Okay. I think I'll let you
6 offer that in conjunction with Mr. Smith and allow the other
7 parties the chance to cross-examine and make objections or
8 whatever is appropriate at that time. Would you like to go
9 forward with what other redirect you had on this witness?

10 MR. FISCHER: Yes, thank you, your Honor.

11 BY MR. FISCHER:

12 Q. Ms. Childers, I believe you were asked a
13 question regarding -- from Commissioner Clayton regarding
14 farmtaps. I wanted to -- if I understood your answer, Atmos
15 does not have any farmtaps in Missouri; is that correct?

16 A. That's correct.

17 Q. You mentioned Illinois. There may be some in
18 some other states, but in Missouri there aren't farmtaps?

19 A. That's correct. They're all served from our
20 distribution system.

21 Q. So any rural customer or farmer that was
22 receiving gas from Atmos would be receiving it from behind the
23 city gate; is that right?

24 A. That's correct.

25 MR. FISCHER: I think that's all the redirect

1 I have, your Honor. Thank you.

2 JUDGE DIPPELL: All right. Ms. Childers, I'll
3 let you step down for now but ask you to remain for any
4 additional questions.

5 THE WITNESS: Thank you.

6 JUDGE DIPPELL: I believe we're ready then to
7 go to Mr. Imhoff.

8 (Witness sworn.)

9 JUDGE DIPPELL: Thank you. Go ahead,
10 Mr. Berlin.

11 MR. BERLIN: Judge, do I understand we're
12 continuing with the shortened procedures?

13 JUDGE DIPPELL: Yes. We've waived the
14 preliminary questions for the testimony.

15 TOM M. IMHOFF testified as follows:

16 DIRECT EXAMINATION BY MR. BERLIN:

17 Q. Mr. Imhoff, did you prepare for this
18 proceeding Direct --

19 A. Yes.

20 Q. -- Rebuttal and Surrebuttal Testimony?

21 A. Yes.

22 Q. Do you have any changes you wish to make to
23 your direct?

24 A. Not at this time.

25 Q. Any changes to your Rebuttal --

1 A. Not --

2 Q. -- Testimony?

3 A. Not at this time.

4 Q. To your Surrebuttal Testimony?

5 A. Not at this time.

6 Q. And as part of your preparation, are you
7 sponsoring a Missouri pipeline map premarked as 121-HC?

8 A. Yes.

9 MR. BERLIN: May I approach?

10 JUDGE DIPPELL: Yes.

11 MR. BERLIN: I just distributed to the parties
12 a Missouri pipeline map premarked as Exhibit 121-HC. And with
13 that, Judge, I would move that the Direct, Rebuttal,
14 Surrebuttal Testimony of Mr. Imhoff and the HC Missouri gas
15 pipeline map that he is sponsoring be admitted into evidence.

16 JUDGE DIPPELL: Would there be any objection
17 to Exhibits 118, 119, 120 and 121-HC?

18 Seeing no objections, then I will admit those
19 into evidence.

20 (Exhibits Nos. 118, 119, 120 and 121-HC were
21 received into evidence.)

22 MR. BERLIN: Your Honor, Staff tenders this
23 witness for cross-examination.

24 JUDGE DIPPELL: Thank you. Is there any
25 cross-examination from Atmos?

1 MR. FISCHER: No thank you, your Honor.

2 JUDGE DIPPELL: Public Counsel?

3 MR. POSTON: Yes. Thank you.

4 CROSS-EXAMINATION BY MR. POSTON:

5 Q. Mr. Imhoff, you were in here when Ms. Childers
6 just testified. Correct?

7 A. Yes.

8 Q. And did you hear the discussion she had with
9 Commissioner Clayton regarding how the proposal to consolidate
10 the PGA areas would address the ACA?

11 A. Yes.

12 Q. I believe she stated that that was in Staff's
13 testimony, that Staff proposed how to handle that?

14 A. I believe so. Let me -- let me --

15 Q. Would you agree with that statement?

16 A. Oh, yes. Absolutely.

17 Q. Can you point to me where in your testimony
18 you discuss how the ACA would be handled?

19 A. Well, let me -- I think I misunderstood your
20 question. I apologize for that. Your question was did I
21 actually state something in my testimony how it relates to the
22 ACA. I -- I have gone back through my direct and I do not
23 have that. My intention was to have each individual district
24 take care of their respective ACA balances to zero them out.

25 Q. Okay. But that's nowhere in your filed

1 testimony. Correct?

2 A. That is correct. It's not in my Direct
3 Testimony.

4 MR. POSTON: Thank you. That's all I had.

5 JUDGE DIPPELL: Thank you. Commissioner
6 Appling, do you have any questions on the PGA and district
7 consolidation for Mr. Imhoff?

8 COMMISSIONER APPLING: I think I understand it
9 very well. He looks like he's too ready for me this morning
10 so I won't ask any questions. No questions, Judge.

11 JUDGE DIPPELL: Just one moment, Mr. Imhoff.
12 I'm trying to make sure I don't have any questions for you.

13 COMMISSIONER APPLING: Judge, I'll ask I
14 question while you're digging around in your pile.

15 QUESTIONS BY COMMISSIONER APPLING:

16 Q. Just kind of like your face this morning and
17 didn't want you to get away. Okay?

18 A. Okay.

19 Q. Is it my understanding that you agree and
20 support the Staff and Atmos on this agreement they have on
21 this rate case? Do you support it?

22 A. For the PGA consolidation?

23 Q. Yes. The portion that you're on, yes.

24 A. Yes. This is the actual Staff proposal and I
25 believe that the company has agreed to the Staff proposal for

1 A -- PGA's slash ACA districts.

2 Q. Okay. And that's in each one of the three or
3 four districts that they're recommending?

4 A. Yes.

5 Q. Okay.

6 COMMISSIONER APPLING: Judge, I just wanted to
7 make sure that he agreed with what we had here, so I don't
8 have any more questions. Thank you very much.

9 JUDGE DIPPELL: All right. Thank you.
10 Mr. Imhoff, are you scheduled to testify on any other topics?

11 THE WITNESS: No.

12 JUDGE DIPPELL: All right. Your other
13 testimony was on class cost of service and that's been
14 settled, is that correct, or at least partial settlement?

15 THE WITNESS: That's my understanding, yes.

16 JUDGE DIPPELL: Okay. Well, I know that
17 Commissioner Clayton has some questions for you and he's
18 stepped into the other hearing room for the other hearing
19 that's going on right now --

20 THE WITNESS: Okay.

21 JUDGE DIPPELL: -- so I know that he will want
22 to call you back to the stand later.

23 THE WITNESS: Okay.

24 JUDGE DIPPELL: I guess was there any
25 recross-examination based on Commissioner Appling's question

1 from Atmos?

2 MR. FISCHER: No, your Honor.

3 JUDGE DIPPELL: Public Counsel?

4 MR. POSTON: No, your Honor.

5 JUDGE DIPPELL: All right. Then, Mr. Imhoff,

6 you can step down for now.

7 I'm sorry. Was there redirect?

8 MR. BERLIN: No, Judge.

9 JUDGE DIPPELL: Okay. Did Ms. Ross make it

10 in? Let's go ahead and have Ms. Ross come up.

11 MR. BERLIN: One moment, please, Judge.

12 MR. POSTON: Judge, you wanted us to -- so

13 you're moving back to rate design before we finish up the PGA

14 consolidation?

15 JUDGE DIPPELL: I'm sorry. I thought -- I

16 thought Ms. Ross was the witness on this topic also. Is that

17 not correct?

18 MR. BERLIN: That's correct. Ms. Ross is a

19 witness on the rate design.

20 JUDGE DIPPELL: PGA.

21 MR. BERLING: Mr. Imhoff is the PGA

22 consolidation witness.

23 JUDGE DIPPELL: Okay.

24 MR. DORITY: Did Ms. Meisenheimer take the

25 stand for PGA consolidation?

1 JUDGE DIPPELL: No, I'm sorry. I think I must
2 have messed this up. My apologies. I thought Ms. Ross was
3 listed on the witness list as also being a witness on this
4 topic. So I apologize. We can go to Ms. Meisenheimer.

5 MR. POSTON: Thank you.

6 JUDGE DIPPELL: Ms. Meisenheimer, you've been
7 previously sworn and your exhibits have been previously
8 admitted. So is there any cross-examination on the PGA
9 district consolidation from Atmos?

10 MR. DORITY: No questions, your Honor.

11 JUDGE DIPPELL: Okay. And is there any
12 cross-examination from Staff?

13 MR. BERLIN: No questions, Judge.

14 JUDGE DIPPELL: I guess I should have asked
15 this before we brought her up to the witness stand.

16 Commissioner Appling, did you have any
17 questions for Ms. Meisenheimer on this matter, the
18 consolidation?

19 COMMISSIONER APPLING: Judge, I don't think I
20 have any questions.

21 BARBARA MEISENHEIMER testified as follows:

22 QUESTIONS BY COMMISSIONER APPLING:

23 Q. But is this a contested area with you? This
24 consolidation okay or is it not okay?

25 A. It's not okay. It is contested.

1 COMMISSIONER APPLING: Okay. I don't think I
2 have any further questions. Thank you.

3 THE WITNESS: Okay.

4 JUDGE DIPPELL: All right. Let me regroup.

5 QUESTIONS BY JUDGE DIPPELL:

6 Q. Okay. Ms. Meisenheimer, I think I may have a
7 question for you here. In your Surrebuttal Testimony on
8 page 6, you state down at the bottom on line 10 that, I
9 believe that if the Staff had prepared cost studies for each
10 of the districts instead of consolidating them into three, it
11 would have found significant differences in the portion of
12 mains allocated to classes.

13 What is your support for that belief?

14 A. I -- I actually did cost studies that were not
15 consolidated. Primarily I relied on Staff's data and later at
16 the time of surrebuttal, I actually used the Staff's mains
17 allocator as well and I found significant differences in the
18 mains cost also.

19 I might point you to page 11 of my Surrebuttal
20 Testimony. There is a table at the top that identifies mains
21 investment, the distribution mains reserve subtracting the
22 reserve from the investment --

23 MR. BERLIN: Judge, if I could interrupt, I'd
24 just like to point out that this area has to do with district
25 consolidation or service territory consolidation and is not

1 part of the PGA consolidation issue.

2 JUDGE DIPPELL: Okay. I guess I thought we
3 were doing both issues at once. I guess I'm confused. Maybe
4 we better back up to the beginning here. Was that not how
5 they were listed on the --

6 MR. POSTON: In the issues list they are
7 listed separately, the PGA --

8 JUDGE DIPPELL: Right. But on the witness
9 list that you all agreed to, weren't they --

10 MR. FISCHER: There are different Staff
11 witnesses. I think Ms. Meisenheimer does address both issues
12 so it's --

13 JUDGE DIPPELL: And is that what Ms. Ross is
14 scheduled to testify on?

15 MR. BERLIN: Yes.

16 JUDGE DIPPELL: Okay. So, Mr. Berlin, we do
17 need to go back to Ms. Ross for the district consolidation and
18 so forth. Okay.

19 MR. BERLIN: Correct, Judge.

20 JUDGE DIPPELL: Okay. I'll let you testify to
21 that. We'll back up and recover that ground later.

22 Okay. Is there any recross based on my
23 questions or do you -- if you want to handle that when we go
24 back to that issue, that's fine too.

25 MR. FISCHER: Judge, I had a question based

1 upon a question from Commissioner Appling.

2 JUDGE DIPPELL: Okay. Go ahead.

3 RE CROSS-EXAMINATION BY MR. FISCHER:

4 Q. Ms. Meisenheimer, do you recall being asked
5 whether this was a contested issue as far as Public Counsel's
6 concerned on the consolidation of the PGAs?

7 A. Yes.

8 Q. Is it correct that in your Rebuttal Testimony,
9 you state that you find Staff's proposal more reasonable than
10 the company's regarding the PGA rate consolidation, page 35?

11 A. In rebuttal?

12 Q. Yes, in rebuttal.

13 A. I don't doubt that I said it. I just thought
14 I would verify that. Page 35, can you give me a line number?

15 Q. I don't have a line number but it's I think in
16 the middle there.

17 MR. POSTON: Seven.

18 THE WITNESS: Yes. I say, Although I find the
19 Staff's proposal is more reasonable than the company's, there
20 is no compelling reason to alter the PGA structure simply to
21 reduce the administrative burden -- burden on the company.

22 BY MR. FISCHER:

23 Q. If the Commission did decide that some
24 consolidation would be appropriate, would you find the Staff's
25 proposal to be more appropriate than the company's original

1 proposal to consolidate into one PGA?

2 A. Yes. With the qualification that -- as you
3 heard from Mr. Imhoff on the stand just a few minutes ago, the
4 Staff's testimony did not address how the ACA would be handled
5 and carried out for 12 months. I think he indicated that was
6 his intention and that's -- that's something that -- that
7 certainly should be done. That the -- whatever leftover costs
8 there are from existing districts, they should be preserved
9 and carried -- carried through and blended.

10 Q. And did you --

11 A. Or not blended across districts. Sorry.

12 Q. Did you also hear Ms. Childers testify that
13 that was consistent with what the company would propose as
14 well?

15 A. I -- I don't specifically remember exact --
16 exactly what she said. I -- I do remember that the -- the
17 company has taken the position it agrees with the Staff.

18 Q. Okay. It's your understanding that Atmos is
19 willing to accept the Staff's proposal on consolidation of
20 PGAs --

21 A. Yes.

22 Q. -- in the four districts?

23 MR. FISCHER: Okay. That's all I have. Thank
24 you.

25 JUDGE DIPPELL: Is there any further

1 recross-examination from Staff?

2 MR. BERLIN: No, Judge.

3 JUDGE DIPPELL: Is there redirect from Public
4 Counsel?

5 MR. POSTON: No, Judge. Thank you.

6 JUDGE DIPPELL: Okay then. Ms. Meisenheimer,
7 you can be excused until we get to the next issue in which
8 you're the witness.

9 Okay. I apologize. I must have been looking
10 at the original joint issues list when I was making up the
11 order of witnesses for today so I got confused on the PGA and
12 district consolidation. I thought they were all being handled
13 at one time. So do we need to then go back to Ms. Childers
14 for district consolidation?

15 MR. FISCHER: Perhaps we could inquire whether
16 there's any additional cross of her before --

17 JUDGE DIPPELL: That's what I guess I'm
18 asking. Was there any additional cross-examination on the
19 district consolidation?

20 MR. POSTON: No. I actually went out of order
21 and asked my questions on Thursday, so --

22 JUDGE DIPPELL: Okay. I'm picking up where --
23 I was more organized on Thursday. Mr. Berlin?

24 MR. BERLIN: No questions, Judge.

25 JUDGE DIPPELL: Okay. I'm not sure if the

1 Commissioner asked his questions on district consolidation
2 when he had Ms. Childers here before so there may still be
3 some questions on that. Commissioner Appling, you don't have
4 any questions for Ms. Childers on that topic? Okay. Neither
5 do I. So we will consider Ms. Childers covered in that area
6 unless there are further Commission questions.

7 So then that does bring us to Ms. Ross, who
8 has not yet been before us today so I know there's at least
9 something we can do with regards to her.

10 (Witness sworn.)

11 JUDGE DIPPELL: Thank you.

12 ANNE ROSS testified as follows:

13 DIRECT EXAMINATION BY MR. BERLIN:

14 Q. Ms. Ross, did you prepare Direct Testimony on
15 rate design in this proceeding?

16 A. Yes.

17 Q. Did you prepare Direct Testimony on large
18 customer annualization?

19 A. Yes.

20 Q. And did you prepare Rebuttal Testimony?

21 A. Yes.

22 Q. And Surrebuttal Testimony?

23 A. Yes.

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

1 A. No.

2 Q. Did you update any schedules to reflect the
3 billing units agreed to in the Stipulation and Agreement?

4 A. Yes, I did. I updated Schedule 1.1 and 1.2
5 from my Surrebuttal Testimony to update the -- the revenues on
6 which we calculated the -- the delivery charges. So I -- my
7 delivery charges are slightly different than they were in my
8 surrebuttal.

9 MR. BERLIN: May I approach?

10 JUDGE DIPPELL: Yes, sir.

11 MR. BERLIN: I have a copy of the updated
12 schedule.

13 JUDGE DIPPELL: If you could give those all to
14 me. And this is the schedule to the Surrebuttal Testimony,
15 which was marked as Exhibit 113; is that correct? This is a
16 corrected schedule or are we marking this as a new exhibit?

17 MR. BERLIN: I'll mark it as a new exhibit,
18 Judge.

19 JUDGE DIPPELL: Okay. So the Staff's next
20 Exhibit number is 137.

21 (Exhibit No. 137 was marked for
22 identification.)

23 MR. BERLIN: Your Honor, I would move that the
24 Direct Testimony on rate design, the Direct Testimony on large
25 customer annualization, the Rebuttal Testimony and Surrebuttal

1 Testimony that are premarked from 110 to 113, in addition to
2 the corrected Schedule 1-1, I believe you marked as 137, be
3 admitted into evidence.

4 JUDGE DIPPELL: Okay. Would there be any
5 objection to Exhibits 110, 111, 112 and 113 coming into the
6 record? And no objection?

7 I'll receive those.

8 (Exhibit Nos. 110, 111, 112 and 113 received
9 into evidence.)

10 JUDGE DIPPELL: And would there be any
11 objection to Exhibit No. 137 coming into the record? That's
12 the corrected schedule.

13 Then I will receive that into evidence.

14 (Exhibit No. 137 was received into evidence.)

15 MR. BERLIN: Judge, Staff tenders this witness
16 for cross-examination.

17 JUDGE DIPPELL: Thank you. Is there any
18 cross-examination from Atmos?

19 MR. FISCHER: Just briefly, your Honor.

20 CROSS-EXAMINATION BY MR. FISCHER:

21 Q. Ms. Ross, your corrected Schedule 1-1, I
22 believe it's entitled Comparison of OPC and Staff Residential
23 Rate Design Proposal Impact Dollars Updated to Reflect Billing
24 Units to Stipulation and Agreement. Would that refer to the
25 billing determinants that were attached as Attachment A to the

1 non-- to the Stipulation and Agreement that was filed earlier
2 by the Staff, Public Counsel and the company?

3 A. Yes.

4 MR. FISCHER: I think that's all I had on this
5 topic, your Honor.

6 JUDGE DIPPELL: Any cross-examination from
7 Public Counsel?

8 MR. POSTON: Yes, thank you.

9 CROSS-EXAMINATION BY MR. POSTON:

10 Q. Good morning.

11 A. Good morning.

12 Q. Ms. Ross, Atmos currently provides service to
13 customers in seven separate districts that have seven separate
14 residential rates. Correct?

15 A. Correct.

16 Q. And your proposal is to consolidate those
17 districts into three districts. Correct?

18 A. Yes, that's correct.

19 Q. And each of your three districts would have a
20 different residential rate under your rate design proposal?

21 A. Each of the districts would have the same
22 customer charge and a different commodity charge and -- oh,
23 I'm sorry. God. Yes, they would. The delivery charge would
24 be different in each district.

25 Q. And why are the rates different for each of

1 the three districts?

2 A. We're using current revenues to -- to
3 determine the billing. The delivery charge and the current
4 revenues for each district are different.

5 Q. So those rates are not cost based then?

6 JUDGE DIPPELL: Ms. Ross, can I get -- when
7 you answer, can I get you to turn more toward the microphone
8 so that it picks you up a little better?

9 THE WITNESS: Sure. Sure.

10 JUDGE DIPPELL: Thank you.

11 THE WITNESS: I'm not sure I understand your
12 question.

13 BY MR. POSTON:

14 Q. You said the rates are based on revenues, so
15 does that mean the revenues are not based on cost?

16 A. That is correct, they are not based on a cost
17 of service that I did in this case.

18 Q. Did the Staff prepare residential cost studies
19 for all seven districts?

20 A. Yes.

21 Q. And where do those seven cost studies appear
22 in testimony?

23 A. I'm sorry. I misspoke again. They -- we did
24 three cost of service studies. I apologize.

25 Q. Would you agree that the Staff's class cost of

1 service studies found that the book cost of meters and
2 regulators is not the same for residential customers
3 statewide?

4 A. Yes.

5 Q. Taking everything into account that has been
6 filed to date in this case, all rounds of testimony, do you
7 now believe that the embedded cost to serve a customer in one
8 district is identical to the embedded cost to serve a customer
9 in any of the other districts?

10 A. It depends on what you mean by "district." I
11 don't believe that the em-- that the cost to serve a customer
12 in the northern district is the same as the cost to serve the
13 customer in the southern district, if that's what you're
14 asking.

15 Q. Well, I'm asking for each of the districts.
16 Any one district --

17 A. Okay.

18 Q. -- is that cost, embedded cost identical to
19 any of the other districts?

20 A. No.

21 Q. And in your rebuttal you state there might be
22 a difference in cost in districts due to the vintage of
23 distribution equipment --

24 A. Yes.

25 Q. -- in different districts. And why would the

1 vintage be different?

2 A. The -- these companies were acquired in three
3 separate purchases. Different companies have different
4 accounting methods. They might have booked the cost
5 differently, their depreciation rates might have been
6 different in the past.

7 Q. So the equipment would depreciate differently
8 depending on the district?

9 A. On the books, yes.

10 Q. And so would the different vintage equipment
11 need to be replaced at an equal rate across all districts?

12 A. Yes. I believe so.

13 Q. And why do you believe that?

14 A. We've had an aggressive service line
15 replacement program. Let's just talk about, let's say,
16 services or meters. I think that they're replacing the
17 equipment in all of the districts on an ongoing basis. I -- I
18 don't think that -- that the engineers look at the books to
19 determine when a piece of equipment needs to be replaced.

20 Q. So you're saying that they would replace these
21 at the same rate across all districts?

22 A. No. Not necessarily.

23 Q. Did you perform a population density study in
24 this case to determine to what extent through economies of
25 scale the cost per district would be different?

1 A. Would be different from -- when you're talking
2 about districts, what do you mean? Do you mean the three --

3 Q. Seven districts.

4 A. The seven districts. Would you repeat your
5 question?

6 Q. Did you do a pop-- perform any type of
7 population density study to determine differences between
8 districts?

9 A. No, I did not.

10 Q. Isn't it true that you stated in your
11 testimony you did not believe it's necessary to wait for
12 detailed information to be gathered to perform detailed cost
13 studies to help determine whether consolidating districts is
14 reasonable?

15 A. Yes, I said that.

16 Q. And how long would one have to wait to gather
17 the necessary information to perform the cost study?

18 A. In the case of Atmos, I don't think we could.
19 I don't think that that information will ever be available.
20 As our depreciation witness testified, there is some problems
21 with their books. I don't think we'll -- we'll ever have
22 exact information upon which to base customer charges,
23 commodity rates.

24 Q. And that's based just upon the lack of
25 depreciation data?

1 A. That's a big part of it, yes.

2 Q. And what other type of information would need
3 to be gathered?

4 A. To perform specific cost studies? I think
5 that it would -- it would depend on how you want to perform
6 your study. If you were doing a replacement cost study, you'd
7 need to -- to gather information on -- on what it would cost
8 to current -- you know, to -- if you were putting in the
9 equipment today. If you were just looking at historical
10 costs, you might want to take information and trend it so that
11 it would all be on the same basis.

12 Did I answer your question?

13 Q. Well, I was just trying to understand what
14 information you believe would need to be gathered to do a
15 thorough cost study.

16 A. I think we'd need to know -- as well as those
17 things, I think we'd need to know the sizes for the various
18 customer classes, the usage or peak demands. I think we
19 would -- it would be helpful to know the equipment that's
20 currently serving the different classes. It's hard to answer
21 because there's several different ways that you could analyze
22 that, but we would need that type of information.

23 Q. And aside from the depreciation data, is any
24 of this information that would be needed not available to
25 Atmos?

1 A. That would be needed to develop detailed cost
2 studies?

3 Q. Correct.

4 A. I think that there -- I think that the fact
5 that there are so many shared services in Atmos would make it
6 difficult to develop cost studies for each individual
7 district. They have a lot of their -- their call centers are
8 shared. I believe that their -- their workmen within a
9 particular geographic district don't just go and, say, work on
10 Hannibal versus Kirksville. So I think there are a lot of
11 shared services. That would be difficult.

12 Q. Aren't those issues that could be worked
13 through and some kind of an allocation made based on those
14 costs?

15 A. Yes. I don't know that it could be worked
16 through, but everybody could come up with some kind of
17 allocation on those costs.

18 Q. Isn't it true that the Staff's accounting
19 schedule data determines cost for each seven districts?

20 A. Yes.

21 Q. And did you use that data?

22 A. We combined it into three districts and used
23 it, yes.

24 MR. POSTON: That's all I have. Thank you.

25 JUDGE DIPPELL: Thank you.

1 QUESTIONS BY JUDGE DIPPELL:

2 Q. Ms. Ross, I've got a couple of questions for
3 you. And I apologize if you covered this somewhere in your
4 testimony and I didn't catch it so -- at the very end of your
5 Surrebuttal Testimony, page 14, you respond to the company's
6 proposal that's in their -- in Mr. Smith's Rebuttal Testimony.
7 And you state that -- you're talking about the sculpting of
8 rates to lower summary delivery charge. And you say that
9 Staff doesn't oppose that proposal but you basically prefer
10 the 12-month proposal. Is that Staff's -- is that correct?

11 A. That is correct.

12 Q. Okay. Are you saying then that you believe
13 the sculpting of the rates would achieve the same results
14 as --

15 A. Yes.

16 Q. -- Staff's proposal?

17 A. Yes. On an annual basis, it would collect the
18 same revenues.

19 Q. Okay. I think some of my questions have
20 already been answered so -- and I'm sorry. That was off topic
21 again, wasn't it? Okay. That's why I'm confused. Those
22 questions are for rate design, which we haven't gotten to yet.
23 I was prepared to get to that first thing when we got here.

24 JUDGE DIPPELL: All right. Would there be any
25 redirect -- or recross-examination questions based on my

1 questions or if you want to save them for when we get to rate
2 design, that's okay too. I'm going to catch up.

3 MR. FISCHER: I'll save the question.

4 JUDGE DIPPELL: Okay. Public Counsel?

5 MR. POSTON: No questions.

6 JUDGE DIPPELL: Is there any redirect from
7 Staff based on all of the cross?

8 MR. BERLIN: Yes, Judge. I have one question.

9 REDIRECT EXAMINATION BY MR. BERLIN:

10 Q. Ms. Ross, do you recall a question that
11 Mr. Poston asked you regarding cost of service studies?

12 A. Yes.

13 Q. In each of the three service areas, northeast,
14 southeast and western, was there a cost of service study
15 performed for each of those areas?

16 A. I believe that there was.

17 MR. BERLIN: Thank you.

18 JUDGE DIPPELL: All right, Ms. Ross, I believe
19 there will probably be Commission questions based on this
20 topic as well as the others from some of the Commissioners who
21 aren't here right now so I would excuse you for now, but would
22 ask you to come back later to answer those questions.

23 THE WITNESS: Thanks.

24 JUDGE DIPPELL: Okay. Is there going to be
25 any cross-examination questions for Ms. Meisenheimer on the

1 district consolidation topic?

2 MR. BERLIN: None from Staff, Judge.

3 MR. FISCHER: None from company.

4 JUDGE DIPPELL: Okay. Then I'll just ask
5 Ms. Meisenheimer to reserve her cross-examination from the
6 Bench on that or her questions from the Bench on that and
7 bring you back at a later time for that.

8 Okay. If I'm finally catching up then, I
9 believe that that is all of the witnesses on both the district
10 and the PGA consolidation except for whatever Commission
11 questions we have for those witnesses. So are we ready then
12 to move on to the other tariff issues or should we go back to
13 some?

14 MR. DORITY: Rate design.

15 JUDGE DIPPELL: Go back to rate design?

16 MR. POSTON: Company witness is not here. We
17 could move to one of the other issues.

18 JUDGE DIPPELL: The company witness isn't
19 here --

20 MR. POSTON: For rate design.

21 JUDGE POSTON: -- for rate design?

22 MR. DORITY: He's already testified.

23 JUDGE DIPPELL: He's already -- he testified
24 on Thursday.

25 MR. POSTON: Oh, okay.

1 MR. DORITY: Yeah, we're ready for rate
2 design.

3 MR. POSTON: Okay. We are ready.

4 JUDGE DIPPELL: And it may be that we're in
5 the same position with regard to that, so let's just find out.
6 With regard to rate design will there be cross-examination
7 questions for Ms. Ross from Atmos?

8 MR. FISCHER: I had just a few.

9 JUDGE DIPPELL: Okay. Then let's go ahead and
10 bring Ms. Ross right back up. And I may have another one too
11 so -- that was quick. You're still under oath, Ms. Ross. And
12 your exhibits have already been admitted based on -- which
13 included this topic so cross-examination from Atmos on the
14 rate design issue.

15 MR. FISCHER: Yes, your Honor.

16 ANNE ROSS testified as follows:

17 CROSS-EXAMINATION BY MR. FISCHER:

18 Q. I wanted to follow up on -- in your
19 Surrebuttal Testimony you talk about the sculpting and
20 delivery charge. That's one of the areas that the company has
21 a slightly different recommendation from Staff; is that
22 correct?

23 A. That's correct.

24 Q. Would you explain to the Bench the difference
25 between company and Staff as you understand it on that issue?

1 A. Staff believes that it would be appropriate to
2 charge the same charge year-round because the company incurs
3 the same costs year-round to -- to serve these customers. And
4 that's why we are -- we are suggesting that the delivery
5 charge be unchanged.

6 The company believes that there might be
7 some -- some -- that customers might prefer a lower charge in
8 the summer, which they're used to, and so they would like to
9 sculpt the delivery charge to achieve that. It would be lower
10 in the summer and higher in the winter.

11 Q. And does Staff -- while Staff would recommend
12 a flat delivery charge throughout the seasons, does Staff have
13 concerns or is opposed to the company's proposal on sculpting?

14 A. No.

15 Q. You also mentioned in your testimony that you
16 had a table that showed the various usages for I think cooking
17 only, logs. Where was that located?

18 A. It was -- I think it was on page 6 of my
19 Surrebuttal. Yes.

20 Q. And I believe at the bottom of page 6 you say,
21 The low-usage customers on Atmos's system are most likely
22 customers using Atmos' distribution system to do things like
23 fuel for gas fireplace logs, cook on a gas stove or use a gas
24 water heater; is that correct?

25 A. That's correct.

1 Q. And that would be -- the actual average usage
2 for those uses would be reflected on your table that's
3 contained on page 6 of your testimony there up above?

4 A. I'm sorry. Could you -- could you repeat
5 that?

6 Q. Yeah. The annual consumption for those
7 specific types of usages, the gas fireplace, the stove for
8 cooking, would be reflected on your table. Is that what
9 you're trying to show there?

10 A. On the -- the -- the second table that says,
11 End use?

12 Q. Yes.

13 A. Yes. Yes. Those are estimates, but -- but
14 that's correct.

15 Q. For a customer that only used a gas fireplace
16 and had only annual use of 84 CCFs per year, under the company
17 or the -- or the Staff's delivery charge, how would that
18 impact a customer like that?

19 A. It would increase their -- the amount they
20 paid.

21 Q. And why would that be?

22 A. Because at the current time, they're not
23 paying enough to cover their cost of service and the delivery
24 charge is meant to take them up to the cost of serving them.

25 Q. Would it be correct to say then that they're

1 being subsidized today?

2 A. Yes.

3 Q. Is that --

4 A. Yes.

5 Q. Okay.

6 MR. POSTON: Your Honor, this is clearly
7 friendly cross. Both of these parties are on the same side of
8 the page on this issue and we have objection to that.

9 MR. BERLIN: Judge, I would just like to weigh
10 in on that. I think we covered that objection on day one of
11 our hearing. There has been no order from the Commission
12 prohibiting cross-examination of company witness -- or the
13 company cross-examining the Staff witness.

14 JUDGE DIPPELL: I do believe that I had sort
15 of led into the original questions that Mr. Fischer was asking
16 about the difference between -- and there is a position
17 difference sort of between the sculpting rates and the others,
18 so those are certainly proper.

19 I will ask Mr. Fischer to not make questions
20 repetitive of the testimony that are in the record, but
21 Mr. Berlin is correct, there's been no limiting order on
22 friendly cross-examination that's just simply unnecessary.

23 BY MR. FISCHER:

24 Q. To the extent -- to the extent that the
25 company's delivery charge that is sculpted is different from

1 the Staff's flat delivery charge, would the effect on a
2 low-use customer like a gas fireplace log be any different?

3 A. On an annual basis, no.

4 Q. Okay.

5 MR. FISCHER: I think that's all I have, your
6 Honor. Thank you.

7 JUDGE DIPPELL: Thank you. Is there
8 cross-examination from Public Counsel?

9 MR. POSTON: Yes, thank you.

10 CROSS-EXAMINATION BY MR. POSTON:

11 Q. Ms. Ross, I'd like to start by discussing the
12 impacts of your proposal to decouple rates for Atmos. Do you
13 know currently what percentage that most customers pay for the
14 fixed element versus the volumetric element for the non-gas
15 portion of their rates?

16 A. No.

17 Q. In your surrebuttal you responded to Public
18 Counsel's evidence showing the low-use customers would see
19 52 to 173 percent increase under your proposal. And you have
20 three general responses; is that correct? I believe it's
21 page 3.

22 A. Page 3. Yes.

23 Q. And first, you highlight that
24 Ms. Meisenheimer's schedule is based on two years of data
25 rather than one year; is that correct?

1 A. Yes.

2 Q. And do you know where Ms. Meisenheimer
3 obtained the two-year data for her schedule?

4 A. I believe that she -- offhand, no, I don't.

5 Q. Looking at that, is that the same data you
6 obtained -- that you obtained in a data request to Atmos? Is
7 that similar data at least, if you don't know if that's the
8 exact data?

9 A. I would need to look at that to --

10 Q. That's not necessary. Do you believe using
11 less than all available data and extracting a year's worth of
12 data would have yielded different percentages?

13 A. I'm sorry. I don't understand your question.

14 Q. I guess your criticism is that she used two
15 years of data rather than one year of data; is that correct?

16 A. Yes.

17 Q. And would using just one year of data have
18 yielded a different percentage?

19 A. No, it would not.

20 Q. Do you mean on average?

21 A. Yes.

22 Q. Turning to your Schedule 1 from your
23 surrebuttal, which I believe has been corrected and is now
24 Exhibit 137, okay, why did you select 200 CCFs per year as the
25 low end?

1 A. We just wanted to run this at various usage
2 levels and that was arbitrary.

3 Q. Have you done any studies to determine the
4 number of Atmos customers using less than 200 CCFs per year?

5 A. No, I have not.

6 Q. Do you know how many Atmos customers fall into
7 each of your different usage amount categories?

8 A. No, I do not. Not -- not in these categories.
9 I do have some information as to larger categories.

10 Q. And turning back to that table that
11 Mr. Fischer was asking you about on page 6 of your
12 surrebuttal, your table shows a four-person home using gas for
13 water heating only would consume approximately 288 CCFs.
14 Correct?

15 A. That's correct.

16 Q. If a single ratepayer living alone in a
17 one-bedroom apartment used gas for water heating only would
18 you estimate her water heating consumption to be about a
19 fourth of that?

20 A. No.

21 Q. And please explain.

22 A. I don't think it would be a fourth. It
23 wouldn't be this high. I don't know where it would be, but I
24 don't think that they use exactly a fourth of the hot water as
25 a four-person household.

1 Q. What would you estimate? Would you estimate
2 it to be under 100?

3 MR. BERLIN: Objection. I think he's calling
4 for the witness to speculate. She's already answered that she
5 doesn't know the question -- know the answer to the question.

6 MR. POSTON: I'm asking her to estimate based
7 on the data she's reviewed. I'm not asking her to speculate.

8 THE WITNESS: I'm trying to remember because
9 I --

10 JUDGE DIPPELL: Wait just a moment, Ms. Ross.
11 I'll overrule the objection. Let her estimate, if she knows;
12 if she doesn't know, she can state so.

13 THE WITNESS: I'm trying to remember because I
14 looked at some information last night at home in another
15 context that was talking about housing allowances for
16 Section 8 housing. And they actually had an estimate in
17 there, but I don't -- I don't remember what that was.

18 BY MR. POSTON:

19 Q. On Thursday, Commissioner Appling raised a
20 concern about there being a substantial low-income population
21 of ratepayers in the southeast Missouri area.

22 A. Yes.

23 Q. Were you here for that?

24 A. Yes.

25 Q. And have you provided any studies on the

1 impact that your decoupling proposal could or would have on
2 low-income and perhaps elderly customers that may be on fixed
3 incomes?

4 A. It would have the same impact on those
5 customers as it would have on any customer.

6 Q. Have you provided any studies?

7 A. No.

8 Q. And what does Schedule 1 to your surrebuttal
9 show -- corrected Schedule 1, as the annual increase a
10 low-income -- or low-use customer in Kirksville will expect to
11 see if the Commission accepts your rate design?

12 A. Kirksville. And when you say "low-use," do
13 you mean the 200 user?

14 Q. Yes.

15 A. Okay. In Kirksville they would see annual
16 increase of 148.32 and a monthly increase of 12.36.

17 Q. And can you tell me where a low-use customer
18 on a fixed income will find the additional resources to pay
19 for that increase if the Commission approves your rate design?

20 A. No, I cannot.

21 Q. With Atmos agreeing to no increase in revenue
22 in this case, what will this customer be getting in return for
23 paying \$148 more?

24 A. The satisfaction of paying the cost to serve
25 them.

1 Q. Isn't it true you testified earlier that you
2 did not know the cost to serve these customers?

3 A. Yes.

4 Q. Did you consider whether your decoupling
5 proposal, if approved, could cause a number of low-use
6 customers to drop off the system if rates go up substantially?

7 A. Yes.

8 Q. Did you somehow incorporate those
9 considerations into your proposal?

10 A. No.

11 Q. If a customer drops off the system
12 permanently, how much will Atmos recover from that customer to
13 pay for the cost of service line and meter that are no longer
14 in use?

15 A. Nothing.

16 Q. Would you agree that space heating and water
17 heating are the primary drivers that encourage a gas utility
18 to invest in extending its facilities to serve a new
19 residential facility and not the smaller users?

20 A. Could you rephrase that?

21 Q. Would you agree that space heating and water
22 heating are the primary drivers that encourage a gas utility
23 to invest in extending its facilities to serve a new
24 residential community and not the smaller users such as gas
25 fireplaces?

1 A. A new residential community?

2 Q. Yes.

3 A. I don't know.

4 Q. In your surrebuttal you state that, Where
5 decoupling causes certain customer bills to increase, Atmos
6 will have to compete. Do you agree with that? You say that I
7 believe in page 9 of your surrebuttal.

8 A. Yes, I did say that.

9 Q. And are you referring -- are you referring to
10 competition with propane?

11 A. Competition with propane, competition with
12 electric.

13 Q. And did you do any studies to determine the
14 cost it would take a customer to switch to a competitor?

15 A. No. Not in this case.

16 Q. I'd like to turn to the issue of conservation,
17 customer conservation, talk about that.

18 A. Okay.

19 Q. You state in your Direct Testimony that your
20 decoupling proposal will remove disincentives for Atmos to
21 encourage conservation and efficiency; is that correct?

22 A. That's correct.

23 Q. And will there be a cost associated with Atmos
24 promoting energy conservation and efficiency?

25 A. It's my understanding that Atmos has agreed to

1 promote efficiency, perform audits --

2 Q. That's not my question. My question is, will
3 there be a cost associated with these things?

4 A. Yes.

5 Q. Okay. And who will pay that cost?

6 A. At this -- during -- under the Atmos proposal,
7 Atmos will.

8 Q. Has Staff made attempts prior to this case to
9 encourage Atmos to promote energy efficiency and conservation?

10 A. This is the first Atmos case -- this is the
11 first time Atmos has come in for a rate case.

12 Q. Does that mean no --

13 A. No.

14 Q. -- Staff has not made attempts?

15 And do you believe that removing a
16 disincentive to encourage conservation and efficiencies
17 achieves the same result as trading an incentive?

18 A. Absent knowing what that incentive would be, I
19 don't know.

20 Q. I'd like to turn to page 8 of your
21 surrebuttal. And there's a question that asks you, What are
22 your comments on these bill reduction techniques? You're
23 responding to Ms. Meisenheimer. Could you please read your
24 sentence that begins at line -- on line 6 and ends on line 8,
25 that sentence?

1 A. The suggestion that customers can lower their
2 bills by reducing consumption ignores the fact that many
3 customers have already lowered their bills as much as they
4 possibly can using current information and resources that are
5 available to them.

6 Q. Would you agree that customers -- that many
7 customers have not lowered their bills as much as they
8 possibly can?

9 A. Yes, I could agree with that.

10 Q. Do most Atmos' customers have their
11 thermostats set as low as they will go?

12 A. I do not know.

13 Q. Do most Atmos' customers have their homes as
14 insulated as possible?

15 A. I do not know.

16 Q. And do most Atmos' customers have the most
17 efficient appliances?

18 A. I don't know.

19 Q. And you state, I believe it's the same page,
20 that a customer can still benefit from conservation under your
21 decoupling proposal by savings on the gas cost portion of the
22 bill. Correct?

23 A. That is correct.

24 Q. And would you agree that all else equal, the
25 greater the percentage of gas cost that is tied to usage, the

1 greater the customer's reward would be for conservation?

2 A. If you mean -- do you mean the greater the
3 percentage of gas cost or the greater the percentage of
4 volumetric cost?

5 Q. The greater the portion of the customer's bill
6 that is tied to -- tied to a volumetric piece, the higher that
7 is, then the greater their ability to see conservation or see
8 a bill reduction from their conservation efforts?

9 A. That is correct.

10 Q. Okay. Would you agree that a customer
11 practicing energy conservation today would see a higher
12 percentage of savings from the gas cost portion of their bill
13 than they would have 10 years ago?

14 A. Yes, I agree.

15 Q. And is that because while the gas cost portion
16 was rising, the non-gas cost portion of the bill was not
17 changing equally?

18 A. Yes.

19 Q. And while gas costs were rising, have the
20 non-gas costs been decreasing, increasing or remaining
21 relatively the same?

22 A. For this company, they've been remaining
23 relatively the same since they haven't been in for a rate
24 increase.

25 Q. And what impact would that have on the dollar

1 savings, not percentages, that a customer would see on the
2 non-gas portion of their bill from conservation?

3 A. I -- I'm not sure I follow your question.

4 Q. Well, you're saying that the non-gas portion
5 of the bill's going to remain relatively the same. So to the
6 extent today a customer has the ability to see savings on the
7 non-gas portion based on conservation, what impact does the
8 non-gas portion remaining the same have on the customer's
9 ability to see conservation benefits?

10 A. Mr. Poston, I still don't quite understand
11 what you're asking.

12 Q. Okay. You've testified that the non-gas
13 portion of the bill has been relatively the same. Correct?

14 A. Correct. In dollar terms, yes.

15 Q. So a customer conserving, say, 10 years ago
16 and practicing the same conservation practices today, would
17 the dollar amount savings that they experience be about the
18 same?

19 A. On the non-gas portion of their bill?

20 Q. Right.

21 A. That is correct.

22 Q. Okay. You state in your testimony that a
23 customer may believe it's -- may believe it is unfair that
24 part of their bill does not decrease when usage decreases
25 whether it's due to conservation or warm weather; is that

1 correct?

2 A. Yes.

3 Q. And why would customers believe this is
4 unfair?

5 A. I believe that there will always be resistance
6 to change. They might believe that it's unfair because
7 they're paying the same amount for their delivery service
8 as -- than they were paying before if -- when they used larger
9 volumes of gas. If they don't understand the nature of the
10 delivery service, then they might think that's unfair.

11 Q. Okay. I'd like to move away from the
12 conservation and talk about traditional -- your criticisms of
13 traditional rate design. And are you familiar with Atmos's
14 current rate design?

15 A. Yes.

16 Q. Okay. And could you please explain?

17 A. Atmos currently has a two-part rate design.
18 They collect part of their revenues through a fixed charge, a
19 customer charge, and the other part of their non-gas costs
20 through volumetric rate.

21 Q. And that's a traditional type of rate design?

22 A. Yes, that's traditional.

23 Q. And can you please explain why rate design
24 traditionally has included a volumetric element in the non-gas
25 rate?

1 A. It's my understanding that in the past when
2 the non-gas portion of the bill was more important, was a
3 higher percentage of the bill, that that was an attempt to
4 encourage conservation.

5 Q. Isn't it true that under traditional rate
6 design, rates are normalized for weather so that in the long
7 term, the weather impact on usage will level out and offer no
8 benefits on either the customer or the company?

9 A. In the long term, that's true.

10 Q. Okay. And you say in your testimony that the
11 long-term impact of traditional rate design is that everybody
12 losses whether usage is more than expected or less than
13 expected; is that correct?

14 A. I'm sorry. Let me look at that. That's in my
15 direct, isn't it?

16 Q. Direct, I believe page 12 or 13.

17 A. Yes, I did say that.

18 Q. Do you agree with that?

19 A. Yes.

20 Q. Did Staff determine in this case that Atmos is
21 not recovering its cost of service -- or its cost of serving
22 its customers?

23 A. No, they did not.

24 Q. Did Staff's testimony conclude that there's
25 evidence of earning erosion for Atmos?

1 A. No. Not that I know of.

2 Q. Did Staff's testimony conclude that the
3 financial health of Atmos is suffering?

4 A. That -- I can't answer that question.

5 Q. How will Atmos lose if they over-collect, keep
6 the excess and then are ordered to reduce rates to just and
7 reasonable levels?

8 A. In the context that I was using in here, they
9 would lose because they had to give the money back if rates
10 are being lowered to just and reasonable levels.

11 Q. And do you know if the Commission relied on
12 cost studies when it approved the rate design currently in
13 effect?

14 A. Not for all of Atmos's districts. It's my
15 understanding that Greeley was the -- the rates for Greeley
16 were set in an application case.

17 Q. Okay. For the other six districts, it's your
18 testimony the Commission did rely on cost studies to set those
19 rates?

20 A. I believe that those rates were all the result
21 of negotiated settlements. So to the extent that the
22 Commission approved those, then yes.

23 Q. Do you have reason to believe there was no
24 cost justification for the Commission when it ordered the
25 current rate design for Atmos's predecessor companies?

1 A. I'm not sure how to answer that. When I
2 looked back at some of the old cases, I couldn't find a cost
3 of service study that -- that the rates were definitely set
4 on. So, again, I believe that they were somewhere in the
5 range of reasonableness.

6 Q. In your Rebuttal Testimony, page 8 and 9, you
7 include a table that you claim shows an inequity between
8 different districts under the current rate design; is that
9 correct?

10 A. Yes.

11 Q. And where in your table do you show the cost
12 to serve each district?

13 JUDGE DIPPELL: I'm sorry, Mr. Poston. What
14 page was that?

15 MR. POSTON: Page 8, rebuttal. Bottom of
16 page 8, top of page 9.

17 JUDGE DIPPELL: Okay. Go ahead.

18 MR. BERLIN: What testimony?

19 MR. POSTON: Rebuttal.

20 THE WITNESS: Could you repeat your question?

21 BY MR. POSTON:

22 Q. Where in your table do you show the cost to
23 serve each district?

24 A. I guess my answer would be to that that I
25 don't. I'm basing it on current rates.

1 Q. Following that table, you say that you've not
2 seen any justification for this level of cost differential.

3 A. I have not.

4 Q. Okay. And what cost differential are you
5 referring to if you haven't identified the costs?

6 A. Perhaps I should have said this level of
7 revenue differential. I can't imagine that it costs -- for
8 example, if you look at the Kirksville/Hannibal district, I
9 can't believe that it costs about twice as much to serve a
10 customer in the Hannibal/Canton/Bowling Green district as it
11 does to serve a customer in the Kirksville district.

12 Q. And you're basing that upon?

13 A. Experience.

14 Q. Just your belief?

15 A. My belief.

16 Q. Experience?

17 A. I talked to our gas safety people, asked the
18 type of equipment, you know, that a residential customer has
19 on them in these various districts and it sounds largely the
20 same.

21 Q. And also in your Rebuttal Testimony, I'll move
22 you back to page 12, you say, The traditional rate design
23 proposed -- or endorsed by Public Counsel does not do anything
24 to address the provisions of Senate Bill 179; is that correct?

25 A. That is correct.

1 Q. And you say, The legislature has spoken
2 through this Senate bill that revenue stability is desirable
3 for Missouri LDCs; is that correct?

4 A. Yes.

5 Q. Have you read Senate Bill 179?

6 A. Yes, I have.

7 Q. Did the legislature say revenue decoupling is
8 desirable?

9 A. I would have to look back at it to see exactly
10 what they said, exactly how they put it.

11 MR. POSTON: May I approach?

12 JUDGE DIPPELL: Yes.

13 BY MR. POSTON:

14 Q. Can you please identify what I've just handed
15 you?

16 A. This is a copy of the Missouri Revised
17 Statutes, Chapter 386, Public Service Commission, section 3--

18 MR. BERLIN: Judge, I don't have a copy of
19 that, what he just handed the witness.

20 JUDGE DIPPELL: Mr. Poston, can you --

21 THE WITNESS: -- Section 386.266.

22 MR. BERLIN: Judge, perhaps we could just take
23 a quick break and get some copies made if he's going to ask
24 her a line of questioning.

25 JUDGE DIPPELL: Are you about to ask Ms. Ross

1 about a statute?

2 MR. POSTON: She's testified in her testimony
3 about saying the Public Counsel has not considered Senate
4 Bill 179. And I just wanted to point out a few provisions in
5 there. I mean, it could be just a matter of me just pointing
6 one out, if that's --

7 JUDGE DIPPELL: I'm just questioning whether
8 that's not better pointed out in your brief than on the
9 witness stand.

10 MR. POSTON: That's fine.

11 JUDGE DIPPELL: Thank you.

12 BY MR. POSTON:

13 Q. Okay. I'd like to move away from the
14 residential -- so we're almost done -- and talk about the
15 other classes.

16 A. Okay.

17 Q. And you filed testimony in MGE's rate case.
18 Correct?

19 A. That is --

20 Q. GR-2006-0422?

21 A. That is correct.

22 Q. And did you propose your decoupling rate
23 design for MGE's small general service class?

24 A. I believe --

25 MR. BERLIN: Objection. Counsel's question

1 calls for an answer to a case that's currently under
2 litigation right now and those parties are not present.

3 JUDGE DIPPELL: I'm going to overrule that.
4 There was testimony -- I thought there was testimony provided
5 about MGE comparing from Staff not in Ms. Ross's testimony.
6 I'm sorry. Mr. Berlin, restate your objection.

7 MR. BERLIN: Well, Judge, my objection is
8 based on that the MGE rate case is a case that is currently
9 being litigated before the Commission. I think it's
10 irrelevant to this proceeding, number one; and number two, any
11 questions regarding the MGE rate case I believe would require
12 that those parties in that case be present so that any
13 questions regarding that litigated case might be answered by
14 those parties.

15 JUDGE DIPPELL: Well, I don't know what
16 Mr. Poston's question was going to be yet to determine whether
17 or not it's relevant, but I don't believe it's necessary to
18 have the other parties to the case present. If there's some
19 notice, some -- if some substantive issue comes about that
20 needs to be notified to the other parties in that case so that
21 they can respond in that case, the Commission can make such
22 notice available, but it will be in the transcript.

23 So I'm going to overrule the objection. I'll
24 let you make an objection regarding relevance once I hear the
25 question.

1 BY MR. POSTON:

2 Q. In the MGE case, did you propose your
3 decoupling rate design for MGE's small general service
4 customers?

5 A. I'll be honest --

6 MR. BERLIN: Your Honor, I still have to
7 object. I just don't -- that simply is not relevant to this
8 rate case proceeding.

9 MR. POSTON: Your Honor, if I may respond.

10 JUDGE DIPPELL: Mr. Poston.

11 MR. POSTON: To the extent that Staff did not
12 propose the same rate design for small general service in that
13 case, we believe the Commission and the parties here should
14 understand why.

15 MR. BERLIN: Judge, each case comes -- each
16 case comes to this Commission on its own merits. This is a
17 rather unique case, as I indicated in my opening statement and
18 the opening statement of the parties. And I still don't see
19 how what Staff may recommend or may not have recommended in a
20 case that is currently being litigated right now before the
21 Commission has any relevance whatsoever to this particular
22 proceeding. I have to object on the record strenuously that
23 MGE be left out of this case.

24 JUDGE DIPPELL: Okay. I don't believe that
25 anything -- I mean, that case isn't final, it's obviously

1 not -- nothing is final with regard to Staff's position in
2 that case; however, I believe it might be relevant with regard
3 to the fact that this -- the history of these cases comes
4 about at the Commission.

5 So I'm going to allow her to answer but the
6 weight of that will go toward -- I mean the relevance of that
7 will go toward the weight of the evidence. Go ahead,
8 Mr. Poston -- or, Ms. Ross, you can answer his question.

9 THE WITNESS: I have filed so much testimony
10 in the last two months that I would actually need to go back
11 to my MGE testimony and look at it. I think I know why, but
12 I'd like to review my testimony before I answer.

13 JUDGE DIPPELL: Are you stating you don't know
14 the answer?

15 THE WITNESS: Offhand. I think I know the
16 answer, but I -- I would hate to say it under oath.

17 MR. BERLIN: Judge, if she's being required to
18 answer that question, then I would ask that we take a break
19 and that she be given the opportunity to review that
20 testimony. If this is the road we're going to go down, then I
21 believe she needs to be prepared to answer those questions.

22 JUDGE DIPPELL: Mr. Poston, do you have a line
23 of questions on this topic or is your --

24 MR. POSTON: No.

25 JUDGE DIPPELL: -- question did they offer

1 this decoupling mechanism in the MGE case?

2 MR. POSTON: Yes. And I was going to then
3 just follow up, just with -- ask for an explanation as to why
4 that was not offered in that case.

5 MR. BERLIN: Your Honor, I think that -- if I
6 understand the point he's trying to make, I think he can
7 certainly ask questions in a manner that leaves MGE out of
8 this proceeding.

9 MR. POSTON: Your Honor, I'm not trying to
10 pull MGE into this case. I'm just trying to understand if
11 perhaps there were problems with that proposal that they
12 identified between the time they filed this case and MGE that
13 perhaps should be brought to light and if those were the
14 reasons why they did not propose the same thing.

15 JUDGE DIPPELL: Okay. I'm going to ask you to
16 continue with your other questions and we will let Ms. Ross
17 refresh her memory with regard to her testimony in MGE -- or
18 proposed testimony, which I'm not even sure what the status of
19 it is, but let's continue on with your other questions and
20 come back to this issue.

21 BY MR. POSTON:

22 Q. Okay. In your Direct Testimony, you discuss
23 Staff's proposal to break the current small general service
24 into two services by adding a medium general service.
25 Correct?

1 A. Yes, that's correct.

2 Q. And you chose 2,000 CCFs as a dividing line?

3 A. Yes.

4 Q. And your reasoning is that the meter regulator
5 and service line installed in the customer's premise would
6 most likely have been larger if the customer was using more
7 than 2,000 CCFs?

8 A. Could you point me to what you're looking at?

9 Q. I believe direct, page 6.

10 A. Six. Yes, that's what I said.

11 Q. And you used the term "most likely" because
12 not all equipment installed would follow this strict dividing
13 line?

14 A. I believe that there could be exceptions. I'm
15 not sure what would drive the exception in general. I believe
16 that -- that they are the same size and that -- that that's a
17 pretty good dividing line.

18 Q. So there could be small general service
19 customers using more than 2,000 CCFs per year that actually
20 have a residential type meter?

21 A. Only if they had a load factor that was
22 different from the residential load factor so they -- so they
23 weren't peaking in the winter and -- they could have the --
24 about the same usage if -- or a higher usage if they were
25 using it steadily all year. My -- I looked at the load

1 factors of the two groups though and they were -- they were
2 very close, the residential and the small general service, the
3 small, small general service.

4 Q. So did you do a study to determine how many
5 customers, under your proposal to divide the small general
6 service class, would actually pay for larger equipment than
7 employed to provide service to that customer?

8 A. No, I did not.

9 Q. And have you submitted any data to show
10 whether this 2,000 CCF dividing line was followed by Greeley
11 Gas, United Cities Gas and Associated Natural Gas Company?

12 A. I'm sorry. Could you -- I didn't understand.

13 Q. Have you submitted any data in this case to
14 show whether this 2,000 CCF dividing line was followed by the
15 three predecessor companies?

16 A. No, I have not.

17 Q. And what is your recommendation for the
18 customer charge for the medium general service and large
19 general service customer?

20 A. I believe that in her Surrebuttal Testimony,
21 Ms. Jackson identified a customer charge of -- I'd have to
22 look. Let me look before I say. I called you Ms. Jackson,
23 didn't I? Ms. Childers. I think it was around \$75.

24 Q. Okay.

25 A. So that would be --

1 Q. That's your recommendation?

2 A. That would be my recommendation.

3 MR. POSTON: That's all I have. Thank you.

4 JUDGE DIPPELL: Thank you. We will come back
5 to the other cross-examination question after we've had a
6 break. Are there questions for this witness on rate design
7 from Commissioner Gaw?

8 COMMISSIONER GAW: A few.

9 QUESTIONS BY COMMISSIONER GAW:

10 Q. Ms. Ross, when did you prepare your original
11 testimony for this case?

12 A. My Direct Testimony?

13 Q. Your original testimony, yes.

14 A. In September 2006.

15 Q. All right. And in regard to the rate design
16 issue on the Staff's position on placing all of the charges of
17 the LDC, other than the PGA charges, into a fixed rate charge
18 for residential consumers, did you decide on that part of your
19 testimony alone?

20 A. Oh, no.

21 Q. You consulted with others?

22 A. Yes. We had several Staff discussions.

23 Q. All right. And this position of Staff in this
24 case in regard to the issue, the customer charge, is this the
25 first time that Staff has taken this position in regard to

1 placing all of the costs in a fixed charge?

2 A. As far as I know, yes.

3 Q. And is it the only time Staff has taken the

4 position since? Has there been any other case where Staff has

5 taken this position?

6 A. This is the same as my position in the MGE

7 case.

8 Q. And when was the MGE -- when was your

9 testimony in the MGE case prepared?

10 A. I -- I couldn't give you a date with --

11 Q. Was it prior to or subsequent to --

12 A. Subsequent to.

13 Q. -- the preparation in this case?

14 A. Subsequent. It was after this.

15 Q. And can you tell me, do you know who made the

16 decision on Staff's part, who had the authority to make the

17 decision on Staff's part as to your position in this case?

18 A. Yes, sir. It was the division directors.

19 Q. Who is that?

20 A. Bob Schallenberg, Warren Wood.

21 Q. And have they filed any testimony in this

22 case?

23 A. No.

24 Q. Are you familiar with whether they had any

25 discussions with anyone above them in regard to this change of

1 position?

2 A. I do not know.

3 Q. And are they present in the building today?

4 A. I don't know.

5 Q. I'll ask counsel in a moment then.

6 Can you tell me, to the extent that you know,
7 whether Staff has taken positions in cases in the past in
8 opposition to the position that the Staff now takes in this
9 case regarding this issue of placing all of these costs into a
10 fixed charge?

11 A. Yes. I believe that we would have in the last
12 MGE case.

13 Q. And do you know whether, in fact, the Staff
14 has taken positions in other cases in opposition to this
15 position besides the one that you just stated?

16 A. I do not know.

17 Q. And who would know the answer to that,
18 Ms. Ross?

19 A. I think Warren -- Warren Wood or Bob
20 Schallenberg would definitely know the answer to that.

21 Q. And are you familiar with the rationale of
22 previous Staff witnesses who have testified on this subject
23 who have testified in opposition to the position that Staff
24 now takes in this case?

25 A. When you say "rationale," do you mean their

1 stated reasons, their thinking process?

2 Q. Are there other reasons that aren't stated as
3 an explanation for why Staff takes positions in cases like
4 this, Ms. Ross? Is it possible that there are other reasons
5 besides those stated by Staff in this case for Staff switching
6 or flip-flopping its position in regard to this issue in this
7 case?

8 A. I'm sorry, sir. I don't -- I can't answer
9 that.

10 Q. You can't answer it because you don't know or
11 you can't answer it because of other reasons?

12 A. Oh, because I don't know.

13 Q. Okay.

14 A. Maybe perhaps I don't understand.

15 Q. Well, you raised the issue -- you raised the
16 issue. You suggested, as I understood it, that there were
17 other reasons that might not be stated for Staff taking a
18 position. I'm just trying to understand what you meant by
19 that.

20 A. Oh, no. I don't know that.

21 Q. You don't know what?

22 A. That -- that there are other -- I'm trying to
23 remember how you said it. That there are reasons other than
24 the ones stated that Staff would take that position.

25 Q. So you don't know if that might be the case?

1 A. I do not know.

2 Q. Were there discussions about the rationale for
3 changing Staff's position in this case among Staff?

4 A. Yes.

5 Q. And can you tell me whether or not you
6 included all of those reasons in your testimony?

7 A. To the best of my ability, I think so. There
8 were -- there were so many -- after we had talked about this
9 for some time, there were -- there were a lot of reasons that
10 I believe that this is a good position.

11 Q. Why don't you list them for me right now?

12 A. Okay. I think it's fair. I do think that it
13 costs the same to -- to serve two residential customers
14 regardless of what their --

15 Q. So your position that Staff took in the past,
16 that it was unfair, you disagree with now?

17 A. Yes. I disagree that it's unfair, yes.

18 Q. Did Staff take the position that it was unfair
19 in the past?

20 A. Not that I know of.

21 Q. And you're familiar with how many cases,
22 Ms. Ross, where testimony was filed on this issue in the past?

23 A. One.

24 Q. But you believe there to be multiple cases
25 where Staff took position in opposition to this position that

1 you're taking in this case. Correct?

2 A. No. That's --

3 Q. You don't know the answer to that question?

4 A. I don't know the answer to that question.

5 Q. Have you done no research as to Staff's prior
6 position on this issue regarding its filings in front of this
7 Commission?

8 A. I have -- I have -- myself, I have not done
9 that analysis. As I said, we talked about this numerous times
10 amongst Staff.

11 Q. You're the only witness for Staff filing
12 testimony on this position. Correct?

13 A. That's correct.

14 Q. And yet you have done no research in regard to
15 the long history that Staff would have had on this issue in
16 the past to assist this Commission in explaining the Staff's
17 change of position from its past positions on this issue?

18 A. Sir, I've been here 17 years and I can only
19 remember it coming up one time before.

20 Q. So there are many cases where Staff has taken
21 the position where one fixed consumer charge -- customer
22 charge is appropriate. Is that what you're suggesting?

23 A. Could you repeat that question?

24 Q. I'll have it read back.

25 THE COURT REPORTER: "Question: So there are

1 many cases where Staff has taken the position where one fixed
2 consumer charge -- customer charge is appropriate. Is that
3 what you're suggesting?"

4 THE WITNESS: No. This is the first.

5 BY COMMISSIONER GAW:

6 Q. This is the first?

7 A. Yes.

8 Q. So in the past, Staff has not taken this
9 position in the 17 years that you have been here; is that
10 correct?

11 A. That is correct.

12 Q. So in the past, Staff has taken the position
13 that that is not the way to handle this particular portion of
14 the charges for customers; isn't that correct?

15 A. I don't know if that follows. We might have
16 felt that there were better ways --

17 Q. But you haven't --

18 A. -- at that time.

19 Q. -- done any research. You have not done any
20 research in order to assist this Commission with the reason
21 why this Commission might want to change its position on this
22 issue. Correct?

23 A. That is correct.

24 Q. And so if I wanted to ask somebody about the
25 reason why Staff is taking a position now that was different

1 than what it had taken in the past or the rationale for its
2 positions in the past, you couldn't help me with that; is that
3 correct?

4 A. I couldn't help you with its rationale for its
5 positions in the past. I could tell you why we're taking this
6 position now.

7 Q. That's not what I'm asking you though, is it?

8 A. No.

9 Q. I'm asking you whether you could help me, and
10 I think you just answered that and said, no, in regard to
11 those issues that -- this issue as it has been approached by
12 Staff in the past. Correct?

13 A. Correct.

14 Q. And Staff is offering no other witness for
15 this Commission to inquire as to what that position has been
16 in the past. Correct?

17 A. Correct.

18 Q. Even though it might appear that Staff is
19 changing dramatically its position on this issue from what it
20 has been in the past. Correct?

21 A. That's correct.

22 Q. So if I want to find that out, the only way
23 I'm going to be able to do that is either to just try to sort
24 through some old cases -- I suppose I could do that. I could
25 go back and see -- have somebody research all of the

1 Commission cases where this might have been an issue; is that
2 true?

3 A. Perhaps I'm misunderstanding. I don't think
4 that this has been an issue before. I don't -- I don't think
5 anyone proposed this so I don't remember there being a lot of
6 discussion about it.

7 Q. You haven't done any research on it though.
8 You just testified to that; isn't that correct?

9 A. I've been here 17 years and I've been involved
10 in a lot of gas cases. So, no, I have not done research on
11 this. My --

12 Q. You just don't remember, do you, Ms. Ross?
13 And you haven't done any research on it in preparation for
14 this testimony; isn't that correct?

15 A. It's correct that I haven't done any research
16 on this, yes.

17 Q. And you don't recall whether or not this has
18 come up before; is that correct?

19 A. Not with 100 percent certainty, no.

20 Q. So you were listing the reasons why, as I
21 recall, that this was a good position from Staff's viewpoint
22 now in opposition to the only case that you recall in the
23 recent past where the issue has come up. You said that you
24 believed it was fair and I believe we got sidetracked. So
25 what's the rest of your list of reasons?

1 A. A big reason that I think this is a good
2 position is that it removes the disincentive for the companies
3 to promote conservation. I've been working with low-income
4 issues for two or three years now and there's never enough
5 money to help people pay their bills. I believe that that --
6 that helping people pay their bills is a short-term solution
7 and it's needed sometimes, but I think we need to move beyond
8 that and to get to a longer-term solution, which is
9 conservation.

10 Q. Okay. What else? I'm going to come back to
11 that. We'll spend a little time on it.

12 A. Okay. Fairness is the big one. I believe
13 that there are some subsidiary benefit --

14 Q. You've already said that --

15 A. I have.

16 Q. -- one. I'm just wanting to get your complete
17 list before I go back and revisit them. What else? You said
18 fairness and you said removing this disincentive for
19 conservation that the company might otherwise have. And is
20 there anything else I should include on that list?

21 A. Yes. I believe that it -- that it works to
22 spread out the revenues. It -- it lowers their winter peak.
23 Not a lot, but some. I think that's good for customers.

24 Q. Anything else?

25 A. I'm thinking. I'm thinking. I think it sends

1 the correct price signals to customers, especially those that
2 are looking at coming on the system. The subsidization, the
3 cross-subsidization issue, that would be part of the fairness
4 issue. Let me look for a second because I do have a list.
5 That's all that I can come up with right now.

6 Q. Okay.

7 A. There may be some more in my testimony.

8 Q. Well, I'm asking for a complete list. If you
9 come up with some before you get down, maybe you could go back
10 to them.

11 Now, let's go back to this question about --
12 on this point that you made about spreading out revenues and
13 lowering the winter peak. I'm not sure I understand that.
14 Can you explain that in more detail?

15 A. By having a flat charge year-round, it will --
16 at the current time, customers pay a lot in their volumetric
17 rate in the winter just when they're paying a lot for their
18 gas. So their -- their winter peak is higher than it would be
19 if they were paying a flat amount throughout the winter for
20 their -- for their non-gas --

21 Q. So you --

22 A. -- charges.

23 Q. -- were not talking about actually lowering
24 the amount of gas that was being used during the winter as an
25 explanation of lowering the peak. You're talking about

1 lowering the amount of price that a customer might pay at a
2 particular time of the year?

3 A. Yes. Absent conservation, that is --

4 Q. Your terminology is a little different than
5 what I'm used to when I'm hearing about lowering peaks so I
6 wanted to understand what you were saying. Okay.

7 Now, in regard to this position that Staff is
8 taking, is there anything in your testimony that indicates
9 that this -- this approach is something that is supported by
10 anyone in particular? Are you pointing out anybody else
11 supporting this position as a rationale for your support of
12 this new position that Staff is taking?

13 A. I -- I'm not sure --

14 Q. Any organizations that might be taking this
15 position or some entities that you believe may be suggesting
16 that this is a better approach for regulation?

17 A. Oh, yes. Yes.

18 Q. That you cited in your testimony?

19 A. There's some that I cited in my testimony.
20 You can hardly pick up a regulatory magazine without reading
21 about revenue decoupling.

22 Q. Yes. Most of those revenue decoupling
23 articles, are they not talking about -- why don't you name the
24 ones that you've got in your testimony for me, first.

25 A. I'm sorry. Well, I have an article -- I have

1 an article by -- or a -- get the right -- Schedule 3
2 attachment to my direct is the NARUC Resolution on Energy
3 Efficiency and Innovative Rate Design.

4 Q. What page is that on again?

5 A. It's -- it's a schedule attached to my direct.

6 Q. What schedule?

7 A. 3.1, 3.2.

8 Q. 3.2, is that the one?

9 A. It's 3.1 and 3.2, yes.

10 Q. Ms. Ross, would it be your understanding that
11 most of these proposals in regard to decoupling are sung to a
12 tune that has two parts, one that talks about decoupling and
13 the other one that talks about conservation?

14 A. I'm sorry. I don't -- what do you mean sung
15 by a tune that has two parts?

16 Q. Maybe I shouldn't be so musical with my
17 question.

18 Let me ask you whether or not it is not true
19 that when we're talking about decoupling, generally the
20 discussion includes conservation?

21 A. Yes.

22 Q. Isn't that true of this resolution from NARUC?
23 It does not just talk about the wonders of decoupling. It
24 also talks about in order to facilitate conservation; isn't
25 that correct?

1 A. Oh, yes. Yes.

2 Q. In fact, decoupling as an issue has arisen
3 because, in part, of the desire to try to come up with ways to
4 implement expansive and innovative conservation programs;
5 isn't that correct?

6 A. That's exactly right.

7 Q. And, in fact, part of the stumbling block for
8 getting conservation programs which ought to be done in this
9 country completed is because utilities seem to resist
10 conservation programs because they believe -- or seem to be
11 protecting their self-interest on their bottom line. And the
12 thought is that decoupling may assist in lowering that
13 resistance; isn't that correct?

14 A. Sir, I would argue that they're working --

15 Q. Isn't that correct? I am asking a yes or no
16 question.

17 THE WITNESS: Okay. Could you read the
18 question back to me, please?

19 THE COURT REPORTER: "Question: And, in fact,
20 part of the stumbling block for getting conservation programs
21 which ought to be done in this country completed is because
22 utilities seem to resist conservation programs because they
23 believe -- or seem to be protecting their self-interest on
24 their bottom line. And the thought is that decoupling may
25 assist in lowering that resistance; isn't that correct?"

1 THE WITNESS: That is correct.

2 BY COMMISSIONER GAW:

3 Q. Okay. Now, in the articles that you have read
4 in regard to decoupling, it is true, is it not, that
5 conservation is always a part of that discussion? In any of
6 the articles that you've read, can you name one where that's
7 not the case?

8 A. No, I can't.

9 Q. All right. In this case that's in front of
10 us, I want you to describe for me in detail all of the
11 conservation programs that will be implemented as a result of
12 the adoption of Staff's position on decoupling in this case.
13 List them for me and give me every detail that you can.

14 A. Okay. Atmos has agreed to put \$78,000 into
15 low-income weatherization.

16 Q. \$78,000.

17 A. 78,000.

18 Q. How much is that per customer?

19 A. 2,600, which is the average per household.

20 Q. \$2,600?

21 A. Per household. And that's the average of the
22 current --

23 Q. Per customer -- in all of the customers
24 there's going to be spent \$2,600. What is that, a year, on
25 all of the customers in Atmos's territory?

1 A. No. \$78,000 a year on the -- on all of the
2 customers --

3 Q. My question was, how much does that amount to
4 per customer, all the customers?

5 A. I'd have to -- I don't know.

6 Q. You could probably make that calculation. How
7 many -- how many --

8 A. I could.

9 Q. -- customers does Atmos have?

10 A. Let's see. I don't see my sheet with the
11 billing determinants on it. Here we go. Just a rough
12 estimate, it looks like they have a little over 50,000
13 residential customers.

14 Q. No, I want to know total of all customers.

15 A. I'd have to -- I'd have to sit down and do the
16 math.

17 Q. Okay. But you say they have 70,000?

18 A. About -- it looks more like in the fifties
19 just from doing some long division here.

20 Q. Fifty -- 50,000 customers?

21 A. Uh-huh.

22 Q. And they're spending 2,600?

23 A. 2,600 for 30 customers.

24 Q. No, no. Well, okay. But 2,600 divided by
25 50,000 would be how much approximately, do you know?

1 A. I should.

2 Q. Well, I wouldn't expect you to do this in your
3 head. If you have calculator -- I'm hearing that maybe it's
4 78,000 total, but if you can't check that out, that's --

5 JUDGE DIPPELL: I just want to clarify because
6 I got a little confused. Ms. Ross, did you say that you
7 thought there was approximately 50,000 customers system-wide?

8 THE WITNESS: 50,000 residential customers
9 over that, yes.

10 JUDGE DIPPELL: Residential customers.

11 THE WITNESS: Yes. Yes.

12 JUDGE DIPPELL: And you testified that the
13 first dollar amount was 78,000 was what the company was
14 proposing?

15 THE WITNESS: Yes. For low -- for low-income
16 weatherization program.

17 JUDGE DIPPELL: And that's for 30 households
18 at \$2,600 per household?

19 THE WITNESS: Yes.

20 JUDGE DIPPELL: Okay. Just wanted to make
21 sure I had all the numbers straight.

22 BY COMMISSIONER GAW:

23 Q. So \$78,000 total?

24 A. Yes.

25 Q. As you say, there's about 50,000 residential

1 customers?

2 A. Yeah.

3 Q. And so if I excluded all the other customers
4 and just focused on residential, would it sound accurate that
5 that would amount to about \$1.56 maybe -- \$1.56 per customer?

6 A. Per year.

7 Q. Per year?

8 A. Yes.

9 Q. But that's only going to be used on
10 30 customers?

11 A. Yes.

12 Q. What else?

13 A. Atmos has also agreed to do a residential
14 audit program, efficiency audit program for all customers, not
15 just low-income customers. And I believe that the program
16 will only cost the customer \$25. Atmos will pick up the rest
17 of the costs.

18 Q. What would the rest of the costs be?

19 A. There will be an energy audit, so somehow
20 their usage will be determined. They'll be counseled as to
21 where they could save some money.

22 Q. Do you know what the rest of the costs would
23 be in addition to the \$25?

24 A. Oh, no. I'm -- I'm a member of the
25 Weatherization Advisory Policy Committee so I called over to

1 DNR and they said they thought that one would cost somewhere
2 from 60 to 100 dollars.

3 Q. And do know how many of these are going to be
4 done?

5 A. They're going to do as many as ask for them.
6 There is no upper limit.

7 Q. And is there any -- okay. Is there anything
8 else?

9 A. No.

10 Q. What else is being done?

11 A. No. That's it.

12 Q. Is that it?

13 A. Yes.

14 Q. Okay. Thank you. I'm sorry. I got
15 distracted.

16 So are you familiar with other kinds of
17 conservation programs that have been tried around the country?

18 A. Tried around the country?

19 Q. Yes.

20 A. Somewhat, yes.

21 Q. Okay. Can you give me a list of some of
22 those?

23 A. Not offhand.

24 Q. Would it be possible for you to come back and
25 give me that list?

1 A. Yep.

2 Q. You're familiar with the so-called PAYS
3 program, for instance. Correct?

4 A. Yes, I am.

5 Q. Or other programs that are similar to that?

6 A. Yes.

7 Q. Can you describe that for me?

8 A. Okay. It's my understanding that the PAYS
9 program -- in the PAYS program, the -- let me think. It's
10 been a long time since I've thought about the PAYS program in
11 detail.

12 The company or another party inspects the
13 residence and recommends cost efficient improvements that they
14 can make. There may be a payback period with some of those,
15 they may need to pay back in -- I forget -- I forget exactly
16 how that worked. I'm thinking there was a saying like 80/80.

17 Anyway, then they're billed for that on their
18 electric bill or on their gas bill, they're billed for the
19 charges. I don't believe that any improvements are made
20 unless it's expected that they -- the improvement will save
21 more for the customer than the amount that they would be
22 billed.

23 Q. But if it's determined that that would be the
24 case, then they may qualify for these loans. Correct?

25 A. Yes. Yes.

1 Q. With the idea that hopefully you will get
2 overall savings for that individual and for the system if the
3 residents or business or whoever qualifies is made more
4 efficient?

5 A. Yes.

6 Q. Okay. And what other programs are -- well, if
7 you want to just look at that and come back, I'll let you do
8 that --

9 A. I do.

10 Q. -- rather than trying to recall off the top of
11 your head.

12 My question then is -- next question is, in
13 regard to what the company is receiving out of this, how much
14 do you think that this reduces the risk of the company in
15 going to this system that Staff proposes?

16 A. I couldn't quantify that.

17 Q. Do you think it does lower the risk of the
18 company?

19 A. Sir, I'm sorry, but --

20 Q. Isn't it true -- isn't it true that you
21 testified earlier that this volatility that may exist in
22 regard to warm weather and other fluctuations, that that can
23 be of some risk to the company's revenue stream?

24 A. It can be of risk to the company and to the
25 customer as well, yes.

1 Q. Isn't it true that it can be a risk to the
2 company? You just said yes. Correct?

3 A. Well --

4 Q. Oh, are you changing your mind?

5 A. No, I'm not changing my mind. I mean, in
6 finance, risk is defined as variation. And so it wouldn't --
7 it wouldn't just be the risk of under-recovery in finance. It
8 would be the risk of over-recovery as well. That's why I'm
9 hesitating. Yes, I believe that revenue volatility is a risk.

10 Q. All right. So do you believe there is less
11 risk to the company in its revenue stream if you go to this
12 proposal that Staff has?

13 A. Yes.

14 Q. All right.

15 A. In its revenue stream.

16 Q. Okay. And -- well, I'll just leave it at
17 that.

18 Now, did you file any testimony that
19 criticized the provision that is in Senate Bill 179 regarding
20 the surcharge for weather fluctuations or conservation or
21 other things?

22 A. That criticized it?

23 Q. Yes, did you?

24 A. No, I didn't.

25 Q. Are you familiar with Staff's brief in this

1 issue -- in this case regarding this issue?

2 A. Yes.

3 Q. Do you recall Staff criticizing the provisions
4 in 179 in its brief?

5 A. No, I don't recall that.

6 Q. Does Senate Bill 179 provide that before the
7 provisions of the bill are effective, that rules would have to
8 be adopted by the Commission?

9 A. Yes. That's my understanding.

10 Q. Are rules adopted -- have rules been adopted
11 regarding the provisions of 179 that have to do with weather
12 normalization or conservation?

13 A. No, I don't believe they have.

14 Q. Rules have not been adopted nor have they been
15 started; is that correct?

16 A. That's correct.

17 Q. And it is a discretionary thing with the
18 Commission as to whether or not those rules are adopted or
19 not, do you know?

20 A. I believe it's discretionary.

21 Q. I'm going to switch topics just for a moment
22 with you. I want to ask whether or not you have filed any of
23 the testimony regarding the reconnection fees when someone
24 gets off the system and then wants to come back on?

25 A. No. Not in this case.

1 Q. Do you know who did that?

2 A. I believe that was Michael Ensrud.

3 Q. Okay.

4 JUDGE DIPPELL: Mr. Ensrud is planning to
5 re-appear for Commission questions.

6 COMMISSIONER GAW: Thank you, Judge.

7 BY COMMISSIONER GAW:

8 Q. Can you refresh my memory regarding
9 non-residential customers? How are you proposing that their
10 customer charge be handled?

11 A. In the case of the smallest -- small general
12 service --

13 Q. I want you to go through the list, but go
14 ahead.

15 A. Okay. Well, in my -- in my testimony I
16 propose that we take the company's customers that are
17 currently classified as SGS and split them because I found a
18 huge variation in the amount of usage. Some of them use zero,
19 some of them use close to a million CCFs in one year. I
20 suggested that we split out the very small ones, the ones that
21 are approximately the size of residential customers and use
22 the re-- residential delivery charge to collect their margin
23 costs.

24 Q. Okay. And the reason for that is again?

25 A. They're small and they're -- they're weather

1 sensitive. They look a lot like residentials --

2 Q. Okay.

3 A. -- if you just look at their characteristics.

4 Q. And the other group?

5 A. For all the other classes I suggested we would
6 have a new medium general service class, a large general
7 service class and a large volume service class. I recommended
8 that we go with the traditional rate design on those
9 customers.

10 Q. And the reason for that was why?

11 A. They're more diverse. A residential customer
12 is a residential customer is a residential customer as far as
13 the equipment that's serving them, as far as I believe the
14 amount of capacity the company has reserved for them. I don't
15 think that can be said as the customers get larger. Some of
16 them are weather sensitive, some of them aren't. There's a
17 huge variation in size.

18 Q. I'm a little confused --

19 A. Okay.

20 Q. -- I think. Explain to me why you view the
21 weather sensitivity as a reason to decide whether or not to
22 put all of the LDCs's charges in a fixed rate charge.

23 A. Well, there are a couple of reasons. There's
24 a reason -- I believe it's beneficial to the customer to not
25 have a relatively high volumetric rate to an average customer,

1 space heater, somebody that is going to peak in the winter. I
2 think that rate design that has a lot of coast -- a lot of
3 cost loaded into the volumetric rate is -- is harmful to those
4 customers.

5 Q. I understand your opinion, but it doesn't --
6 I'm not getting an explanation.

7 A. I don't --

8 Q. Help me to understand what your rationale is.

9 A. Could you read the question again, then?

10 THE COURT REPORTER: "Question: Explain to me
11 why you view the weather sensitivity as a reason to decide
12 whether or not to put all of the LDCs's charges in a fixed
13 rate charge."

14 THE WITNESS: Oh, that's not why I think it's
15 appropriate to put them all on a fixed charge. Would you like
16 for me to explain why I do think it is?

17 BY COMMISSIONER GAW:

18 Q. Yes. I'm trying to understand what your
19 rationale is, so go ahead.

20 A. Okay. I believe that the facilities that
21 it -- and the cost that a company incurs to serve a
22 residential customer doesn't vary with the variation in size
23 of residential customers.

24 Q. Okay.

25 A. Because when they hook up a residential

1 customer, they're not only hooking them up and providing the
2 equipment they need for their intended usage today, they also
3 put in equipment that will serve them if they change that
4 end-use.

5 So, for instance, if somebody gets on -- on
6 the system today and all they're going to do is cook with a
7 gas stove -- and we're just talking residential, they'll put
8 the exact same equipment outside the house on those
9 customer -- on that customer as they would on a customer that
10 came on and said, I'm going to space heat, run a water heater
11 and cook.

12 Q. And why is that?

13 A. There's a couple reasons. One is that the
14 customer that comes on today that's just planning to cook
15 with -- with natural gas might decide in five or ten years
16 that they would like to heat with natural gas. So they have
17 to -- they don't want to have to go back up and dig up the
18 pipe at that point.

19 Q. So that's for the company's benefit so they
20 don't have to do that. Correct? Not necessarily for that
21 particular consumer's benefit that doesn't want any more
22 service?

23 A. Not for that particular consumer. It would be
24 for all consumers' benefit because it would drive the cost up
25 if they -- if they just went in and put in exactly what that

1 person was going to use today and then changed that every time
2 the customer changed their end-use.

3 Q. Go ahead.

4 A. A second is that residential customers' usage
5 is so small that -- that it can be handled by the -- pretty
6 much the smallest equipment that the -- the company has, the
7 smallest pipe, the smallest meter. The mains are put in not
8 only for one customer, they're put in for groups of customers.
9 So -- so you -- you know, I can't say the smallest main for
10 that reason.

11 Q. Now, go over to the other side of the equation
12 where you're talking about those entities that are still going
13 to have a volumetric component.

14 A. Yes.

15 Q. And tell me why for those customers you
16 believe fixed charge isn't appropriate.

17 A. Because if you're talking about a medium
18 general service customer, for instance, and you talk about
19 usage variations, you're not talking about a difference in
20 usage of a few hundred CCFs like you are with residential.
21 You might be talking about a few thousand or tens of thousands
22 or even hundreds of thousands of difference -- yikes -- of
23 usage between customers in the same class when you get to --
24 to the larger classes.

25 At that point it wouldn't be fair to charge

1 them the exact same charge because they -- they very well
2 might have different equipment put on them. You might have
3 two large general service customers and one is a small grocery
4 store and the other is a Super Wal-mart. There's a difference
5 in size, there's likely a difference in equipment that's --
6 that's put on to serve them.

7 Q. Isn't an answer to that if you want to -- if
8 you want to promote your fixed charge, isn't an answer to that
9 just to have more breakdown in your groups, have more slices
10 to your groups so that you can more closely match that fixed
11 component that you are advocating for in the residential
12 classes?

13 A. I guess, yes, although we don't -- we don't
14 design rates on a per customer basis, which is, you know,
15 where you could go to that if you went to the extreme.

16 Q. But you wouldn't advocate going to that --

17 A. Absolutely not.

18 Q. -- extreme, would you?

19 A. I wouldn't.

20 Q. But you might -- you could see some similarity
21 if you go into fixed charges as the gold standard that you're
22 trying to seek for residential customers, having something
23 similar with smaller slices -- or more slices rather of your
24 large customers so you could more closely communicate to those
25 consumers what you're advocating for residential consumers on

1 fixed charges?

2 A. You'd have to have a lot of slices.

3 Q. But you could do it that way, couldn't you?

4 A. Theoretically, yes.

5 Q. Did you do any surveys or has the Staff done

6 any surveys in regard to what consumers would be interested in

7 regarding going to a fixed charge like you're advocating?

8 A. No official surveys, no. I've talked to --

9 Q. That's okay.

10 A. Okay.

11 Q. And I think you may have answered this

12 question, but would you say that based on your experience,

13 that the LDCs that you work with in Missouri would be

14 supportive of going to this fixed charge as opposed to having

15 volumetric component to their LDC charges?

16 A. Yes.

17 Q. In fact, they advocate for it, do they not?

18 A. I can't give you the position of every LDC. I

19 know of at least a couple that have advocated for that, yes.

20 Q. Who are they?

21 A. MGE. I believe that Laclede actually came in

22 with that proposal in a previous case. They -- they ended up

23 with something similar --

24 Q. And --

25 A. -- but --

1 Q. -- that was -- was that the case earlier that
2 you were referring to when you said that Staff had filed a
3 position that was opposite to the one that they had filed in
4 this case?

5 A. No.

6 Q. Was that a different case?

7 A. I was referring to the previous MGE case.

8 Q. So you weren't referring to the Laclede case.
9 And you don't recall what Staff's position was in regard to
10 that case, the Laclede case?

11 A. I read Dr. Proctor's testimony. And I
12 remember that he was not in favor of going to a fixed charge.

13 Q. Dr. Proctor isn't a witness on this case, is
14 he?

15 A. No, he's not.

16 Q. But he has been a witness on this issue in
17 past cases. Correct?

18 A. In that case I know.

19 Q. Yes. But he did not support the Staff's
20 position in this case in that case, did he?

21 A. Could you repeat that?

22 Q. In that case, Dr. Proctor took a position that
23 was different and in opposition to the position that you're
24 taking in this case; is that correct?

25 A. That is correct.

1 Q. And do you recall his rationale for his
2 position?

3 A. I believe it was impact concerns for the
4 low-use customers.

5 Q. Was Dr. Proctor consulted in regard to the
6 position taken by Staff in this case?

7 A. I do not know.

8 Q. While you were present, was he consulted?

9 A. No.

10 Q. What is Dr. Proctor's position with this
11 Commission?

12 A. I -- I couldn't give you his title,
13 Commissioner Gaw.

14 Q. Has he been here very long?

15 A. Yes, he has.

16 Q. How long would you say he's been here?

17 A. Twenty-five years, somewhere.

18 Q. And is he an economist?

19 A. Yes, he is.

20 COMMISSIONER GAW: Subject to getting
21 additional information back so I can continue the questioning,
22 I'll stop right now. Thank you, Judge.

23 JUDGE DIPPELL: I just wanted to clarify. I
24 was going to say exactly what it is you wanted Ms. Ross to
25 provide later?

1 COMMISSIONER GAW: I believe she was going to
2 come back and tell me all of the conservation programs that
3 she has seen around the country.

4 JUDGE DIPPELL: Around the country?

5 COMMISSIONER GAW: Yes. I think that was it.

6 JUDGE DIPPELL: And I will just -- Ms. Ross,
7 is that something that you'll be able to provide during the
8 course of this hearing or do you expect to provide something
9 written after?

10 COMMISSIONER GAW: I need to ask questions
11 about those things, Judge, so whenever.

12 JUDGE DIPPELL: I'll let you work on that when
13 we're on breaks then.

14 THE WITNESS: Yes.

15 JUDGE DIPPELL: Okay. Commissioner Clayton,
16 you had some questions?

17 QUESTIONS BY COMMISSIONER CLAYTON:

18 Q. There were a couple of things if you're going
19 to be digging for information. And I don't want to create a
20 burden that is too great for such a short amount of time. I'm
21 interested in conservation as well as energy efficiency
22 issues. And there were just some specific points that if you
23 have specific information, I wanted to mention these and then
24 you can report back if you have information or if you know
25 anyone on Staff who has the information.

1 I know that there is a program in Vermont on
2 grants for new construction of housing relating to energy
3 efficiency. Illinois has a low-income air conditioning and
4 lighting program on energy efficiency.

5 A. Did you say a low-income?

6 Q. Low-income, room, air conditioner and lighting
7 program. And I may be wrong. And I don't want you to go
8 research this unless you -- if Staff doesn't have any
9 information to support this, I don't expect you to go become
10 an expert.

11 A. The Illinois case I might not because that
12 would be an electric efficiency program.

13 Q. Yeah, yeah, you're right. You're right.
14 Thank you. Wisconsin has a natural gas best practices and
15 program design.

16 A. Okay.

17 Q. And thank you for bringing that up. I'm
18 looking at a -- if you all have any information on Energy Star
19 appliances or programs that recommend the use of Energy Star
20 appliances.

21 A. Okay.

22 Q. I don't know if the Midwest Natural Gas
23 Initiative has anything specific -- well, it's about
24 conservation so it -- I don't know if you all have anything --

25 A. I've -- I've --

1 Q. -- any information about that.

2 A. I think I do.

3 Q. Well, there's a lot of information out there.

4 It just seems like this is a wonderful opportunity, if we're
5 going to talk about decoupling, that we ought to be
6 emphasizing the conservation or providing some leadership
7 associated with conservation.

8 And I think one of the big problems that we've
9 had nationwide is that there's been, it seems like, not a
10 clear message on what is the appropriate action to take. And
11 I think at our level we need to be providing the guidance, the
12 suggestions for ratepayers to be -- how they can participate
13 in these programs. And I just -- any information that you can
14 come up with that would support the energy efficiency and
15 conservation side of this discussion would be very helpful.

16 Aside from the weatherization, the 78,000 for
17 low-income folks and the residential audit information, those
18 are the only items related to energy efficiency and
19 conservation included in your testimony --

20 A. Yes.

21 Q. -- is that correct?

22 And Staff doesn't have any additional
23 witnesses that will address those issues --

24 A. No.

25 Q. -- correct?

1 Okay. Does Office of Public Counsel address
2 this in their testimony that and I may have missed?

3 A. I --

4 Q. Do you know?

5 A. I don't believe so.

6 Q. If you don't know, you don't know.

7 Okay. With this move towards the fixed
8 delivery charge versus a volumetric rate design, at what point
9 in the future would you anticipate that Staff would propose
10 energy efficiency changes or modifications or suggestions or
11 leadership, however you want to -- how far off in the future
12 would those suggestions come from Staff, if ever?

13 A. For this company or --

14 Q. Yes.

15 A. I suppose it would be the next time they came
16 in for a rate case.

17 Q. The next rate case?

18 A. Yeah.

19 Q. So is there a rationale behind waiting until
20 the next rate case to address those issues? Is there reason
21 to wait that long?

22 A. Well, if we were going to -- I know that with
23 some of the other companies' programs -- I've been involved in
24 the AmerenUE gas program. I believe we meet once or twice a
25 year and go over to see if funds need to be shifted here or

1 there, if rebates changed. We would -- we would do something
2 like that on this program.

3 Q. Ameren Gas, I think they have a residential
4 audit of energy usage, don't they?

5 A. They have an online audit I believe.

6 Q. Well, I think I got a phone call personally
7 from them doing an audit, but you're not aware of that?

8 A. No.

9 Q. As an Ameren Gas customer I mean, I got a
10 call. It wasn't outside the --

11 A. Right.

12 Q. Don't have to file an ex parte here is not
13 what I'm saying.

14 A. No, not the audit. I'm familiar with their
15 furnace -- their furnace rebate program.

16 Q. How many programs -- would you say -- of all
17 the LDCs in the state, would you say that AmerenUE Gas is the
18 most ambitious of all the companies in terms of energy
19 efficiency or is there another company -- I don't want to say
20 most ambitious, but --

21 A. Right.

22 Q. -- but who has the most going on right now
23 that you're aware of?

24 A. I know that Aquila -- or what used to be
25 Aquila had -- it seems like they had several efficiency

1 programs. It's been a couple years since they've been --

2 Q. That would be Empire now? The Empire Gas
3 Companies now?

4 A. Yes.

5 Q. Did you look at any of those programs prior to
6 filing your testimony?

7 A. Not recently, no.

8 Q. Not recently? Okay. Are there things being
9 done in the state with other LDCs that would be appropriate in
10 this case?

11 A. Most, if not all, of the other LDCs do give
12 money for weatherization.

13 Q. Just weatherization?

14 A. For the low-income weatherization.

15 Q. How about energy efficiency, conservation
16 programs, Energy Star --

17 A. Yeah.

18 Q. -- distribution?

19 A. I mean, any of them could be appropriate, yes.

20 Q. Okay. Well, I'm not sure how much time -- how
21 much time is going to be afforded to you, but I think that
22 information would also be helpful.

23 A. Of the other -- the other utilities in the
24 state?

25 Q. Well, their programs -- I mentioned other

1 states originally and those are just places that I'm aware
2 have some sort of program. I don't expect you to become an
3 expert in an hour and a half on Wisconsin's natural gas usage
4 reduction program or whatever it is. I don't expect you to
5 become an expert.

6 However, Staff, in general, should be aware of
7 other energy efficiency programs that are being done currently
8 in the state of Missouri. And I guess, why couldn't those
9 move over? If we implement this rate design, then there -- it
10 seems that there wouldn't be the obstacle that would appear in
11 other cases. At the very least, could we consider what is
12 currently going on with other LDCs in regard to energy
13 efficiency and conservation?

14 A. Sure.

15 Q. Does that make sense?

16 A. Yes, it does.

17 COMMISSIONER CLAYTON: Okay. Thank you.

18 THE WITNESS: You're welcome.

19 JUDGE DIPPELL: All right. Let's go ahead and
20 do further cross-examination based on questions from the Bench
21 and then after we get through as much as we can with Ms. Ross,
22 then we'll break for lunch. I think we'll be able to --
23 Atmos.

24 MR. FISCHER: Your Honor, I'm going to have
25 extensive questioning of this witness based upon questioning

1 from the Bench.

2 JUDGE DIPPELL: Okay.

3 MR. FISCHER: I can go forward, but it might
4 make more sense unless you want to sit here for a while.

5 JUDGE DIPPELL: Okay. Well, maybe we should
6 just go ahead --

7 COMMISSIONER CLAYTON: If we're going to come
8 back to his questions then, I don't know that --

9 JUDGE DIPPELL: Okay. We'll go ahead then and
10 break for lunch and perhaps we'll give Ms. Ross enough time to
11 answer Commissioner Gaw's question. We can pick back up with
12 Commissioner questions after lunch and then just go straight
13 through.

14 Okay. Let's break for lunch. Let's come
15 back -- it's a quarter 'til 1:00. Let's come back at
16 two o'clock. Go off the record.

17 (A recess was taken.)

18 JUDGE DIPPELL: Okay. We'll resume. Ms. Ross
19 is retaking the stand and we'll resume with Commissioner
20 questions. Perhaps Ms. Ross can update the Commission or,
21 Mr. Berlin, you had some additional information also. Perhaps
22 you'd like to share what you all have been able to put
23 together at this point.

24 MR. BERLIN: Yes, Judge. In response to
25 Commissioner Clayton's questions regarding various energy

1 conservation-, weatherization-type programs, over the lunch
2 break we were able to copy different tariff provisions
3 reflecting those particular programs. I'm not sure the best
4 way to introduce this. Perhaps by taking administrative
5 notice or --

6 JUDGE DIPPELL: I think --

7 MR. BERLIN: We have copies for everyone here.

8 JUDGE DIPPELL: -- I'd like to go ahead and
9 just go ahead and mark those just as an exhibit just to keep
10 it straight in the record. So we could mark those tariffs as
11 Exhibit 138 and the Commission can take official notice of
12 those.

13 Would there be any objection to the Commission
14 taking official notice of the tariff provisions of the other
15 LDCs in Missouri?

16 Seeing none, then the Commission will take
17 notice of those.

18 MR. BERLIN: Judge, would now be a good time
19 to pass out the copies?

20 JUDGE DIPPELL: Yes, please. If you can just
21 give me six copies and one for the court reporter. And,
22 Mr. Berlin, there was one company that you hadn't yet gotten
23 to; is that correct?

24 MR. BERLIN: Yes, Judge. I have to go through
25 the list just to keep it organized in my mind here what we're

1 still working on. Okay. The next one is Ameren.

2 JUDGE DIPPELL: Okay. This was just Empire
3 or --

4 MR. BERLIN: I think I passed out Empire first
5 and I now have Ameren. I don't know if you want to mark them
6 consecutively as exhibits or if you want to do it under one
7 exhibit number.

8 JUDGE DIPPELL: I'll just call them one
9 exhibit, it will just be several parts.

10 MR. BERLIN: I'm bringing Southern Missouri Gas
11 to you, Judge. This next one, Judge, is Laclede Gas Company.
12 And the next one, Judge, is MGE.

13 (Exhibit No. 138 was marked for
14 identification.)

15 JUDGE DIPPELL: And that's all of the tariffs;
16 is that correct, Mr. Berlin?

17 MR. BERLIN: That is correct, Judge. Judge, I
18 do have one other document here. I think it's in response to
19 Commissioner Gaw's questions to -- I'm not entirely sure, but
20 we have here a -- Responding to the Natural Gas Crisis,
21 America's Best Natural Gas Energy Efficiency Programs dated
22 2003. We have that here as well. I don't know if -- what the
23 proper time might be to introduce that.

24 JUDGE DIPPELL: This is as good as any. And
25 you've given copies of that to counsel. I'll mark that as

1 Exhibit 139.

2 (Exhibit No. 139 was marked for
3 identification.)

4 JUDGE DIPPELL: And then I'll let you offer
5 that with Ms. Ross if that's --

6 MR. BERLIN: I think, Judge, that we already
7 admitted her testimony into evidence according to my records.

8 JUDGE DIPPELL: Yes. Yes. I'm sorry. I
9 meant -- well, let me just ask Ms. Ross.

10 Is this meant to be the list in response to
11 Commissioner Gaw's question?

12 THE WITNESS: Actually, I think it was
13 Commissioner Clayton's questions about -- but I think
14 Commissioner Gaw asked some questions too about programs in
15 other states. So it's a lengthy report so I just copied off
16 through the executive summary and then the -- there's an
17 appendix at the end that I added. And I can provide the
18 entire report if anyone wants that.

19 JUDGE DIPPELL: Okay. And so I guess did you
20 have other information in response to Commissioner Gaw's
21 question about conservation programs?

22 THE WITNESS: I do. I will need to make a --
23 to make copies of this. The Oklahoma Commission Staff
24 completed a survey on October 27th, a state survey. And they
25 asked questions about decoupling and then they asked some

1 questions about incentives -- incentives to promote the
2 efficient use of energy and about any programs that they might
3 have. And I'll make copies of that, but it takes legal paper
4 and we don't have one.

5 JUDGE DIPPELL: Okay. Commissioner Gaw, does
6 that give you enough to get started on asking the remainder of
7 your questions?

8 COMMISSIONER GAW: I think it will be a start.
9 I would like to see the rest of this report that's labeled
10 Exhibit 139.

11 JUDGE DIPPELL: Okay. Can Staff provide the
12 Exhibit 139 in its entirety then as a late-filed exhibit? Is
13 that okay, Commissioner Gaw?

14 COMMISSIONER GAW: Yes, Judge.

15 THE WITNESS: Yes.

16 FURTHER QUESTIONS BY COMMISSIONER GAW:

17 Q. Okay. Let me ask you, in regard to
18 Exhibit 139, first of all, what is this document?

19 A. Okay. Is this the Responding to the Natural
20 Gas Crisis? Okay. This is a report done by the American
21 Council For an Energy Efficient Economy. And in 2003, when
22 the natural gas prices started increasing rapidly and it was
23 becoming apparent that they were going to stay up, they --
24 they did a national survey on the different types of energy
25 efficiency programs being -- being carried out around the

1 country.

2 Q. And the authors here are listed on the front
3 page, this Dr. Martin Kushler, Dr. Dan York and a Patty Witte
4 (ph. sps.); is that correct?

5 A. Yes. That's how I'd pronounce it.

6 Q. Okay. And tell me who -- if you know, who the
7 American Council for an Energy Efficiency Economy is.

8 A. I don't -- I don't know well enough to explain
9 it. I believe it's a -- it's a national group obviously, so I
10 guess my answer to that would be I don't know.

11 Q. There are acknowledgments on page II. Do you
12 see that?

13 A. II?

14 Q. Yes.

15 A. Yes.

16 Q. It appears that there -- that there are
17 varying organizations that provided support for the work. Are
18 you familiar with any of them?

19 A. I've done some research on -- on at least one
20 of them.

21 Q. Can you tell me which one?

22 A. Yes. The New York State Energy Research and
23 Development Authority.

24 Q. Okay. And who is that?

25 A. They're a state body set up by New York.

1 It's -- it's a very comprehensive state organization.

2 Q. Okay.

3 A. New York's trying to take a very comprehensive
4 approach to energy efficiency, energy usage. So it's not all
5 residential, it's not all low-income, it's just covering the
6 entire spectrum of -- of energy issues for the state of New
7 York.

8 Q. Okay. And you're familiar, of course, with
9 Wisconsin Public Service Commission?

10 A. Yes.

11 Q. They're listed there. Correct?

12 A. Yes.

13 Q. And that would be the body that's similar to
14 the one here only in Wisconsin?

15 A. Yes.

16 Q. Okay. And then I also note that there's some
17 utilities that appears there, Excel Energy; is that correct?

18 A. Yes.

19 Q. That's a utility. Correct? It says Excel
20 Energy and the Excel CIP Advisory Group, but I'm just talking
21 about Excel Energy in my question.

22 A. Okay.

23 Q. That is a utility. Correct?

24 A. Yes.

25 Q. And do you know who the Northwest Natural Gas

1 Company is? I assume that's a utility, but I don't know.

2 A. I believe they're from Washington and, yes, I
3 believe that's a utility.

4 Q. Okay.

5 A. It might be Oregon. I'm not sure.

6 Q. Okay. Gas Networks, do you know who that is?

7 A. No.

8 Q. I'm not familiar either. All right. Have you
9 reviewed this entire document, not just the executive summary,
10 at some point?

11 A. It's been -- at some point I have. It's been
12 a couple of years. When we were writing the report for the
13 long-term energy affordability task force report.

14 Q. It was one of the documents you looked at
15 then?

16 A. Yes. Yes.

17 Q. And that task force was -- was a task force
18 that was in operation when? Within the last two or three
19 years?

20 A. 2004 I think is when we filed the report. It
21 might have been 2005.

22 Q. Okay. The programs that are discussed in this
23 report, are you familiar with the general nature of those
24 programs?

25 A. Not -- not individual programs in detail. The

1 general nature, yes.

2 Q. And in regard to their general nature, do you
3 have -- did you form some sort of an opinion about whether or
4 not these programs that are highlighted here in Appendix B,
5 whether or not those programs were worthwhile and beneficial
6 to encouraging energy efficiency and conservation?

7 A. Well, they were considered the -- America's
8 best natural gas programs so I assume that they are.

9 Q. Did you find -- did you believe that to be
10 true based upon the information that you reviewed?

11 A. Yes.

12 Q. Okay. And are these programs described in
13 detail or in sufficient detail to understand generally how
14 they work in the document when it's -- when the full document
15 is read?

16 A. Yes. I believe that most of them -- most of
17 them are.

18 Q. Okay.

19 A. If not, I'd be glad to research further any of
20 the programs.

21 Q. Do you know enough where you could
22 individually describe, without going back to the original
23 document, any of these programs?

24 A. Probably not.

25 Q. Okay. Is it your belief that based upon what

1 you testified earlier about in regard to the quality of these
2 programs, that at least some of these programs would have
3 beneficial impact in Missouri?

4 A. Yes.

5 Q. Do you know how these programs generally are
6 funded?

7 A. Some of them are funded through some type
8 of -- the public charge, the systems benefit charge.

9 Q. Okay.

10 A. Some of them are funded by the other
11 ratepayers.

12 Q. Yes.

13 A. Some of them -- some of them the costs are
14 absorbed by the company, I guess. So it would just be all the
15 different sources of funding. Some of them probably have some
16 state funding.

17 Q. Okay. The Energy Star programs that are
18 mentioned -- and it appears if I'm looking at this correctly,
19 that there are several different programs that mention Energy
20 Star. Can you tell me just generally how the energy -- first
21 of all, what is Energy Star?

22 A. Energy Star -- it's my understanding that it's
23 a department of the Department of Energy. And they certify
24 equipment as being Energy Star if it meets a certain
25 efficiency rating.

1 Q. Okay. And then if it achieves that rating,
2 then that designation is marked on the product some way?

3 A. Yes. Yes.

4 Q. Does it also apply to ratings of houses
5 themselves or is it just appliances, or do you know?

6 A. I believe it's just appliances.

7 Q. You're not sure though. Right?

8 A. No, not --

9 Q. Ms. Ross, is there anyone on Staff that is
10 more familiar than you are with these conservation programs
11 that you know of?

12 A. There are members of Staff that are -- that
13 are more familiar with some of the efficiency programs, yes.

14 Q. Okay. Can you name any of them for me?

15 A. Yes. One of them would be Lena Mantle.

16 Q. They would love you to name them.

17 A. I know. I didn't want to, but yeah, Lena
18 Mantle would be a person that's worked with the efficiency
19 programs for a long time.

20 Q. Okay. Anyone else?

21 A. Henry Warren has -- has been working with this
22 type of program.

23 Q. All right. Anyone else?

24 A. No. Not that I can think of offhand.

25 Q. All right. And are either one of them

1 witnesses in this case?

2 A. Henry was a witness on blocking for the -- for
3 the revenue requirement, but not on efficiency, no.

4 Q. Okay. Now, outside of this list that you have
5 given to us, are there additional programs that you're
6 familiar with around the country that you have observed as
7 having some merit?

8 A. Yes. Although it's hard for me to -- to come
9 up with the names right away. I would be glad to do that.
10 It's hard for me --

11 Q. So there are some, but you would have to go
12 back and look through your notes and your records and things
13 to determine what those are. Would that be --

14 A. Yeah.

15 Q. -- the way to capture it?

16 A. There's one that comes to mind and it's a
17 Missouri program that I think is an excellent program.

18 Q. What program that?

19 A. AmerenUE Gas program.

20 Q. Describe it for me.

21 A. They have a program where they offer to
22 residential and then to some extent to small commercial
23 customers -- they offer rebates for the purchase of furnaces,
24 I believe boilers, energy measures like thermostats. And I've
25 been in on some of the evaluations of that program and it

1 seems to be an excellent one.

2 Q. Okay. How is that program funded?

3 A. It was funded as a result of the last rate
4 case.

5 Q. Yes, it was funded out of company dollars;
6 isn't that correct?

7 A. That's my understanding.

8 Q. And do you know or do you recall the amount of
9 funding for that program?

10 A. I want to say a 155,000 a year, but I could
11 find that number for you easily.

12 Q. That would be fine. It's possible that that
13 number has varied from one year to another, isn't it?

14 A. It has. It's in -- in -- on the average it's
15 stayed that amount, the same amount, but the funds have to be
16 shifted a little bit.

17 Q. There may have been some carryover from the
18 first year into the second year --

19 A. Yes.

20 Q. -- perhaps; is that correct?

21 A. Yes. Uh-huh.

22 Q. And anything else that comes to mind?

23 A. No. Not right offhand.

24 Q. Okay. Now, but, again, that's because at this
25 point you don't recall everything, not because they don't

1 exist. Correct? It's not because you think there are no
2 other good programs, it's just that you don't recall any
3 without looking at your notes?

4 A. Yes, yes, that's true.

5 Q. Now, in regard to the Oklahoma study that
6 someone referred to, and I don't know if you did or --

7 A. Yes.

8 Q. -- counsel, but tell me a little about that,
9 if you would.

10 A. Okay. It's called -- it was called a revenue
11 decoupling survey. I have it right here. They sent a survey
12 to each of the -- each of the state regulatory bodies. We
13 filled ours out, it's -- our information is in here. I forget
14 how many -- how many results they had, quite a few.

15 It asks questions like, Does your state have a
16 decoupling statute or Commission rules? Has your state
17 initiated formal proceedings concerning gas and electric
18 industry decoupling, cost recovery mechanisms? Did your State
19 Commission hold any technical conferences and/or workshops to
20 address decoupling of the gas and electric industry? What
21 incentives does your State Commission offer to utilities to
22 promote the efficient use of energy? And finally, What
23 programs to promote the efficient use of energy are used by
24 the gas and electric industry in your state?

25 Q. Okay. And did you say that survey is

1 completed and the results are in that document that you have
2 in front of you?

3 A. Yes. And it's -- it's less than two months
4 old. It's a new one.

5 COMMISSIONER GAW: Okay. Not having a copy of
6 that in front of me it's a little difficult to ask questions
7 about it, Judge. I don't know if that's worthwhile or not at
8 this stage, but if there were a way that I could look at that
9 perhaps in a few minutes without just trying to guess what's
10 on there, I think it would be more efficient.

11 JUDGE DIPPELL: Can I get someone from Staff
12 to make some copies of that?

13 THE WITNESS: You have one. No, I thought
14 that Tom -- don't you have this (indicating)?

15 MR. BERLIN: Judge, can we see what document
16 she has?

17 THE WITNESS: I have it on my computer. I
18 could make more copies.

19 MR. BERLIN: Judge, we could have copies of
20 this made. I think it's what Commissioner Gaw is asking for.

21 COMMISSIONER GAW: That would be great.

22 JUDGE DIPPELL: If you can do that, we'll try
23 to keep moving and if the Commissioner has questions after he
24 sees it, we can always bring Ms. Ross back.

25 COMMISSIONER GAW: Thank you, Judge.

1 BY COMMISSIONER GAW:

2 Q. Ms. Ross, do you know whether we have in this
3 state any programs, either gas or electric, that implement any
4 kind of automated thermostat controls?

5 A. I believe that Kansas City Power & Light might
6 have a program like that. I -- I'm not real familiar with
7 their case, but I think I've heard that.

8 Q. Do you know whether or not there are programs
9 dealing with thermostat controls that are used for gas
10 purposes? Are you familiar with that?

11 A. No, I'm -- I'm not. I -- I have done quite a
12 bit of reading on prepaid meters. And I know that with the
13 prepaid meters there are -- there's the problem with them, of
14 course, running out --

15 Q. Yes.

16 A. -- and it being natural gas. I'm not sure
17 whether there would be the same type of problem. If it was
18 controlled by an outside source, I suppose not.

19 Q. You just don't know the answer to that
20 question. Right?

21 A. So I don't know the answer.

22 Q. Okay. And do you have your -- hold on just a
23 second, please. I'm sorry. I'm hoping Commissioner Clayton's
24 going to have a chance to ask some of these questions in a
25 moment, but let me just ask generally.

1 If you would, going to these exhibits that you
2 have on the different companies in the state, first, let's go
3 to 138 if you have that. I think it's 138.

4 A. Is that the tariff provisions?

5 Q. Yes.

6 A. I don't have those exhibits.

7 COMMISSIONER GAW: If counsel could provide a
8 copy for you.

9 MR. BERLIN: I think that's all of them there.

10 THE WITNESS: Thank you.

11 BY COMMISSIONER GAW:

12 Q. Do you have them now?

13 A. I have them now.

14 Q. I was just waiting for you. Let me ask you,
15 the first question is, as far as all of these exhibits are
16 concerned dealing with these tariffs that were provided as 138
17 all the way through in subparts, do any of the companies that
18 are referred to in here have currently a fixed surcharge that
19 encompasses all of the LDC revenues?

20 A. No.

21 Q. So at the present time no one has this rate
22 structure that you're proposing in the state for Atmos.
23 Correct?

24 A. That's correct.

25 Q. Now, in regard to the conservation programs

1 that are in these provisions on part -- this should be -- I
2 think it's part 1 of Exhibit 138, the Empire -- let's just
3 talk about it from the standpoint of it being Empire's
4 programs. Can you tell me whether or not those -- first of
5 all, what are the programs there, just generally speaking,
6 very generally --

7 A. Okay.

8 Q. -- that refer to conservation or efficiency?

9 A. Okay. Let me make sure they're the same ones
10 that I have on my list. Well, I have --

11 Q. I'm sorry. Go ahead.

12 A. That's okay. I have a document that I made up
13 a couple of years ago for the task force again. And actually
14 I have programs on my document that I don't believe are on
15 this -- on this exhibit.

16 For example, this would have been Aquila Gas.
17 According to this, they had a -- and I assume still do, a
18 residential customer purchase plan where they loaned up to
19 10,000 at prime plus 2 for purchases of NAECA minimum
20 efficiency rated natural gas heating, cooling or appliances.

21 Q. Okay. Who funded that, by the way? How was
22 that funded?

23 A. I wasn't involved with it. I don't know.

24 Q. Okay. If you know though, I'd like to know.

25 Go ahead.

1 A. They also do \$7,500 exper-- or they have
2 \$7,500 earmarked for experimental commercial energy audits.
3 If loans are made by outside lenders for natural gas heating
4 and cooling and other equipment, Aquila will collect payment
5 through the customer's utility bill.

6 Q. Okay.

7 A. And those are the two that I have, excuse
8 me -- that -- and they also have, of course, money -- money in
9 weatherization.

10 Q. Okay. What is this one provision -- oh, I
11 think that's a rate discount only. I was looking at 25,000
12 will be used to fund an experimental rate discount. But that
13 is --

14 A. Yes.

15 Q. -- that's a discount for low-income
16 ratepayers. Correct?

17 A. Yes.

18 Q. It's not really tied in necessarily to
19 conservation or efficiency?

20 A. No, no.

21 Q. Okay. What about, let's see, 138 part 2,
22 first of all, which company is that? Is that Laclede or
23 Ameren?

24 MR. BERLIN: Should be Ameren.

25 COMMISSIONER GAW: I'm sorry. I'm looking

1 right at it. It's Ameren.

2 BY COMMISSIONER GAW:

3 Q. Now, what is in this one? Does this
4 reflect -- does this reflect the programs that you've
5 discussed earlier?

6 A. Some of them. I think that there might be
7 more. Let me look at my list.

8 Okay. I misspoke on the energy efficient
9 natural gas equipment rebate program. It was funded at 55,000
10 per year.

11 Q. 55,000?

12 A. Uh-huh.

13 Q. Okay.

14 A. They also have -- according to my notes, they
15 have 150,000 in weatherization -- low-income weatherization
16 with another 68,000 directed at Scott Stoddard as part of an
17 experimental program.

18 Under commercial industrial efficiency
19 programs they have the energy efficient natural gas equipment
20 rebate program. That's part of the 55,000 that I talked about
21 before. Let's see if there's any more on the tariffs.

22 Q. And if you would, Ms. Ross, I know I will
23 forget to ask you this question. If any of these programs
24 that we're discussing are proposed in the current case, would
25 you make note of that on your --

1 A. Yes.

2 Q. -- when you're going through this?

3 A. Yes.

4 Q. So far have there been any of these programs

5 that are proposed in the current case?

6 A. No. Not -- not in the natural gas side.

7 Q. Okay. Anything else on the AmerenUE --

8 A. No. I don't believe so.

9 Q. -- provision?

10 There are references to Energy Star in the

11 tariff. Correct?

12 A. Yes.

13 Q. Energy Star rated programmable auto setback

14 thermostats; is that correct?

15 A. Yes.

16 Q. And also regarding the -- probably the program

17 you were talking about, the residential Energy Star rated

18 natural gas furnace rebate?

19 A. Yes.

20 Q. And a commercial Energy Star rated natural gas

21 utilization equipment; is that correct?

22 A. Yes.

23 Q. When it says commercial Energy Star, that's to

24 distinguish it from the residential side and -- I assume?

25 A. Yes. And there -- I'm not sure what the

1 definition of the commercial customer is for this, but it's
2 a -- the smaller general service customers.

3 Q. Okay. All right. Now, let's look at 138,
4 part 3. That's Southern Missouri Gas. Correct?

5 A. Yes.

6 Q. And can you tell me generally what programs
7 are there?

8 A. No, I am not familiar with the Southern
9 Missouri Gas program.

10 Q. Okay. Just looking at the document, there's a
11 reference to a program for the use of energy efficient natural
12 gas water heaters and Energy Star qualified natural gas
13 furnaces. Do you see that?

14 A. Yes.

15 Q. Do you know generally what that would refer
16 to?

17 A. It sounds as though it would be similar to the
18 AmerenUE program.

19 Q. Just not familiar with the details. Correct?

20 A. Exactly, yeah.

21 Q. Okay. Well, the document has some information
22 in it so we can look at that.

23 And then in regard to part four, that's
24 Laclede Gas Company's --

25 A. Yes.

1 Q. -- tariff or a portion of it?

2 A. Yes.

3 Q. Are you familiar with the program in this
4 tariff?

5 A. I am. I am.

6 Q. Tell me what they have in the Laclede tariff.

7 A. Okay. I believe in the last Laclede case
8 their weatherization -- low-income weatherization funding went
9 up to \$500,000. In addition, let me see -- they have -- I'm
10 going to have to look because they have some existing programs
11 and then we -- we came up with some new ones as well in the
12 last case.

13 Okay. They have a residential rebate program
14 for appliances and HVAC equipment for the residential
15 customers. Again, they have another one for the commercial
16 rebates. Those sound similar to the Ameren program. They
17 have rental property rebates where they've set aside a certain
18 amount for gas utilization equipment rebates for rental
19 properties of eight units or less. And this -- this is a neat
20 program because it rebates 50 percent of the cost of such
21 equipment up to a maximum of 750 per unit up to 200 rental
22 properties. So that's --

23 Q. You like this program?

24 A. I do. I do.

25 Q. Is this program included in the recommendation

1 for the current case?

2 A. No.

3 Q. And, again, you remember to mention that, if

4 you would --

5 A. Oh, I'm sorry.

6 Q. -- if we discuss any of these programs that

7 are recommended in this case.

8 A. I will.

9 Q. Thank you. Anything else here?

10 A. Yes, I don't see -- hang on. Let me see what

11 I've got on my list. Now on my list, but I don't see it --

12 see it on this list, we've got 50,000 -- an insulation

13 financing loan program up to -- then this is a program they've

14 had for a long time, I think, where they loan up to \$3,000 for

15 qualified residential customers at a 3 percent interest rate.

16 Q. All right.

17 A. It's collected through their bill. They --

18 Q. Has some similarity -- I don't mean to

19 interrupt you.

20 A. That's okay.

21 Q. It has some similarity to a PAYS-type program?

22 A. Yes.

23 Q. Okay. Keep -- I'm sorry. Keep going.

24 A. That's okay. Then they have a 1,000 -- and

25 this was proposed but -- I believe this one went through --

1 let's see. Energy 100,000 -- these are for energy-wise loans.
2 These are loans of up 10,000 at 3 percent. Once again,
3 they're collected through the bill.

4 And this -- this was the program I thought I
5 was talking about a second ago because I -- believe it's this
6 program that they agreed to not exactly lower their credit
7 standards, but take on more low-income customers. I believe
8 it was people that owned up to eight units in a building.

9 Q. Okay.

10 A. So --

11 Q. So with the idea that perhaps there would be
12 more individuals or -- eligible to get more eff-- or
13 conservation or efficiency matters implemented in additional
14 buildings, or do you know?

15 A. I proposed this one and I --

16 Q. Okay.

17 A. -- my thinking was that low-income people
18 probably have trouble getting credit. And these programs
19 are -- or these type of investments sometimes take a big up
20 front cost. I bought a furnace through the Ameren program
21 actually a couple of years ago, but you still have to come up
22 with -- you may get a rebate, you still have to come up with
23 the rest of the money.

24 Q. Yes.

25 A. They might have trouble borrowing the money.

1 They might have trouble with any inspections that have to be
2 done ahead of time to qualify them for this type of program.
3 So in the program that we ended up with, there's some
4 subsidization of those up front costs that hopefully would
5 remove some of the barriers.

6 Q. Do you know whether that has been working as
7 you envisioned it?

8 A. We haven't gotten a report from Laclede yet.

9 Q. But you anticipate having some sort of report
10 feedback so that that can be evaluated?

11 A. Yes.

12 Q. Anything else on Laclede --

13 A. That's all.

14 Q. -- that relates to efficiency or conservation?

15 A. That's all -- yeah, that's all I have on my
16 list.

17 Q. Okay. And then, finally, Missouri Gas Energy,
18 that's part 5 of 138.

19 A. Right. Okay. MGE has 500,000 in low-income
20 weatherization going system-wide. At the current time -- at
21 the current time, I don't believe they have any efficiency
22 programs. At least there's none on my list and I don't see
23 any on this tariff.

24 Q. I'm not sure what this is referring to, but
25 under terms and conditions is it -- when you say they don't

1 have any, you mean they don't have any other than this
2 residential weatherization program?

3 A. There was -- it was entitled weatherization
4 program. Let me see exactly -- yes. I don't -- I'm not sure
5 that there aren't any, but I'm not aware of other efficiency
6 programs offered by MGE.

7 Q. But this one does exist, to your knowledge,
8 this weatherization program?

9 A. Oh, yes. Yes. It's been going on a long
10 time, in fact.

11 Q. Okay. All right. Now, earlier we were
12 talking about this NARUC resolution in your Schedule -- what's
13 that, Schedule 3-2. I'm wondering if you can turn to that for
14 a moment for me.

15 A. I'm there.

16 Q. Okay. First of all, you've already noted this
17 concern I think in the last Whereas provision, haven't you?
18 The one that says, Current forms of rate design may tend to
19 create a misalignment between interests of natural gas
20 utilities and this customers?

21 A. Yes.

22 Q. I wondered if you could read the two Whereas
23 clauses? Hold on.

24 A. I'm not sure --

25 Q. Just above it.

1 A. Okay. Let me find it.

2 Q. It starts out with, Whereas, energy
3 conservation --

4 A. Whereas, energy conservation and energy
5 efficiency are, in the short term, the actions most likely to
6 reduce upward pressure on natural gas prices and to assist in
7 bringing energy prices down to the benefit of all natural gas
8 consumers; and whereas, innovative rate designs, including
9 energy efficient tariffs and decoupling tariffs such as those
10 employed by Northwest Natural Gas, Baltimore Gas and Electric
11 and Washington Gas in Maryland, Southwest Gas in California
12 and Piedmont Natural Gas in South Carolina. Fixed variable
13 rates --

14 Q. Excuse me. Is that South Carolina or North
15 Carolina?

16 A. Oh, North Carolina.

17 Q. I'm sorry. Go ahead.

18 A. That's okay. Fixed variable rates,
19 parenthesis, such as those -- that employed by Northern States
20 Power in North Dakota and Atlanta Gas Light in Georgia, end
21 parenthesis, other options, parenthesis, such as that approved
22 in Oklahoma for Oklahoma Natural Gas, end parenthesis, and
23 other innovative proposals and programs may assist, especially
24 in the short run, in promoting energy efficiency and energy
25 conservation and slowing the rate of demand growth of natural

1 gas.

2 Q. Okay. Now, my first question is, are you
3 familiar with any of these particular provisions that are
4 cited in that whereas provision?

5 A. Yes. I'm familiar with the Atlanta Gas Light
6 program.

7 Q. Okay. What is that?

8 A. It's a program that has I think two different
9 components to the bill. There's a customer charge that does
10 not vary among residential customers.

11 Q. Yes.

12 A. And then there's a charge -- and it's very
13 complicated because they have natural gas marketers and --
14 and -- but there's more of a demand-related charge that's --
15 that's determined from past information about the household.
16 And somehow it's -- it's allocated among the months. And I'm
17 a little fuzzy because it's a very complicated program. I've
18 read the tariff.

19 Q. Is there an intent there to help encourage
20 efficiency or conservation with this program?

21 A. I -- I don't know.

22 Q. Okay. You would note though, wouldn't you,
23 just to look back, it does say that these innovative rate
24 designs, including energy efficient tariffs. Correct?

25 A. Yes.

1 Q. All right. Now, in regard to -- are there any
2 others there that are listed that you're familiar with other
3 than Atlanta Gas Light?

4 A. Well, is the Northern -- if the Northern
5 States Power is -- is Excel Energy, then I'm familiar with
6 that, but I'm not sure if those are the same --

7 Q. Okay.

8 A. -- company.

9 Q. And I don't know the answer to that so -- in
10 regard to this -- to both of these paragraphs, would you agree
11 that there is a very significant statement proposed here in
12 regard to the importance of energy efficiency --

13 A. Yes.

14 Q. -- and conservation?

15 A. Yes.

16 Q. Now, if you would then, we've already talked
17 about that next paragraph. Would you read the resolve
18 paragraph, the first one, please?

19 A. Yes. Resolved that the Natural Association --
20 in the National Association of Regulatory Utility
21 Commissioners, NARUC, convene in its November 2005 annual
22 convention in Indian Wells, California, encourages State
23 Commissions and other policymakers to review the rate designs
24 they -- they have previously approved to determine whether
25 they should be reconsidered in order to implement innovative

1 rate designs that will encourage energy conservation and
2 energy efficiency that will assist in moderating natural gas
3 demand and reducing upward pressure on natural gas prices.

4 Q. All right. Now, would you agree with me that
5 the stated purpose then for this resolution is to encourage
6 energy efficiency and energy conservation?

7 A. Would you repeat that?

8 Q. Would you agree with me that the stated
9 purpose for this resolution in the resolution clause that you
10 just read is to encourage energy conservation and energy
11 efficiency?

12 A. Well --

13 Q. Should we go back and read it again? Let's
14 start again and beginning with, In order to.

15 A. In order to implement -- in order to implement
16 innovative rate designs -- is that -- am I where you --

17 Q. Yes.

18 A. That will encourage energy conservation and
19 energy efficiency that will assist --

20 Q. If you would, stop for a moment.

21 A. Okay.

22 Q. Now, would you agree with me that the stated
23 purpose of this resolution is to encourage energy
24 efficiency -- excuse me, energy conservation and energy
25 efficiency?

1 A. Yes.

2 Q. Okay. And then, further, that the reason or
3 the rationale for doing that is it will assist in moderating
4 natural gas demand and reducing upward pressure on natural gas
5 prices?

6 A. Yes.

7 Q. Okay. And when we get that additional
8 information back on the two reports --

9 A. Yes.

10 Q. -- we talked about, I'll come back, but I'll
11 step for now. Thank you.

12 MR. BERLIN: Judge, I do have the copies of
13 revenue decoupling survey responses from other State
14 Commissions I think that Commissioner Gaw was asking about.

15 JUDGE DIPPELL: Okay.

16 MR. BERLIN: I also would like to note that we
17 have an additional tariff section for Empire, formerly Aquila,
18 on residential customer purchase plan and commercial
19 industrial purchase plan. This section -- these two tariffs
20 were just brought to me. So if it please the Commission, they
21 can augment the Empire tariffs with this.

22 JUDGE DIPPELL: I will add that to our
23 previously marked Exhibit No. 138, that additional tariff.
24 And I'll mark the Oklahoma Commission report as Exhibit
25 No. 140.

1 COMMISSIONER CLAYTON: Did you all do that
2 survey over lunch?

3 JUDGE DIPPELL: This is an Oklahoma Commission
4 survey.

5 COMMISSIONER CLAYTON: Oh, the big survey's a
6 compilation of all states from Oklahoma.

7 JUDGE DIPPELL: Yes.

8 MR. BERLIN: This is the Empire tariffs
9 regarding residential and commercial purchase plans.

10 (Exhibit No. 140 was marked for
11 identification.)

12 JUDGE DIPPELL: Yes, Commissioner Clayton. Do
13 you want to ask some questions?

14 COMMISSIONER CLAYTON: Only if Commissioner
15 Gaw needs to catch his breath, I guess.

16 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

17 Q. Ms. Ross, how you doing?

18 A. I'm fine. How are you?

19 Q. When I heard that you had a survey -- because
20 I missed the beginning when you started back up -- I thought
21 you went out and did this survey over the lunch hour and I was
22 going to be very impressed that you all compiled this. I'm
23 still glad we have it.

24 I wanted to start off with Exhibit 138, part 6
25 of 6 now as it's revised. I believe that is -- this is

1 Aquila. It looks like Aquila Networks. But this looks
2 like -- isn't this the one that was adopted by Empire? Is
3 there any difference between this one --

4 MR. BERLIN: The Aquila tariffs were adopted
5 by Empire, Commissioner Clayton.

6 COMMISSIONER CLAYTON: So part 6 of 6, this is
7 just identical to --

8 MR. BERLIN: That would -- I believe item
9 No. 1 is the Empire tariffs or the adoption of this. And
10 so --

11 COMMISSIONER CLAYTON: It's not identical, I
12 don't think. So they'd both be adopted by Empire unless this
13 one relates to electricity also. I guess, Mr. Berlin, why
14 don't you describe what you just gave us so I know what we're
15 talking about.

16 MR. BERLIN: I handed to you -- let me start
17 with the Empire District Company. There is an adoption notice
18 on the cover page.

19 COMMISSIONER CLAYTON: And that is part 1 of 5
20 as it's listed -- it's actually part 1 of 6, Exhibit 138.
21 Correct?

22 MR. BERLIN: Correct. And that included the
23 experimental low-income program.

24 COMMISSIONER CLAYTON: Yeah.

25 MR. BERLIN: And what I just handed out was

1 another tariff section from Empire 9.06 titled Residential
2 Customer Purchase Plan and 9.07 Commercial and Industrial
3 Customer Purchase Plan, sheet No. R-49 and R-50.

4 COMMISSIONER CLAYTON: Okay. So just to be
5 clear, these sheets have been adopted by Empire as well?

6 MR. BERLIN: Yes.

7 BY COMMISSIONER CLAYTON:

8 Q. Okay. Ms. Ross do you have part 6 of 6,
9 Exhibit 138, Section 9.06?

10 A. Yes.

11 Q. Could you just describe these two plans, 9.06
12 and 9.07, to me?

13 A. Okay. 9.06, they will -- they will loan money
14 at prime plus 2 -- I'm trying to see. They'll loan up to
15 \$10,000. It looks like they can loan more than \$10,000 at the
16 company's discretion. The financing's made directly to
17 customers and it's for energy efficient equipment. I'm not
18 sure what NAECA stands for. I've heard of it, but I couldn't
19 name that right now, but it's an efficiency rating
20 organization, I would suspect.

21 Q. So 9.06 is a plan for residential customers to
22 finance certain energy efficient appliances and equipment?

23 A. Yes.

24 Q. And 9.07?

25 A. Well, it looks like 9.07 is basically the same

1 thing except that the company does not loan the money to the
2 commercial or industrial --

3 Q. But it's for a commercial, industrial
4 customer?

5 A. Yes.

6 Q. And it promotes energy efficient appliance --

7 A. Yes.

8 Q. -- purchases --

9 A. Yes.

10 Q. -- and usage?

11 A. Through the offering of a low interest rate, I
12 believe.

13 Q. Okay. Is this the first time that you've
14 looked at either of these?

15 A. I looked at 9.06 a couple of years ago when we
16 did the last Aquila case.

17 Q. Do you know the age of -- well, actually it
18 should be fairly apparent here. Can I look at the bottom of
19 these tariff sheets and identify the age of the programs? Is
20 that an accurate way of determining the age of each of the
21 programs?

22 For example, part 1 of 6 on Exhibit 138, which
23 is the first ELIP program, it says, Effective date,
24 October 17, 2004. Can I assume that this program has been in
25 existence since October 17, 2004?

1 A. No. I don't think so.

2 Q. Well, then I was going to ask that for each of
3 them. Do you know the age of each of the programs THAT we've
4 discussed here today?

5 A. I know the age of some of them, not each of
6 them.

7 Q. Okay. Well, I guess starting with -- starting
8 with part 1 of 6 on the old Aquila Gas ELIP program and the
9 residential and industrial customer purchase plans for
10 efficiency equipment, do you know the ages of these programs?
11 That would be part 1 and part 6 of 6.

12 A. Right. On the ELIP program, it's two or three
13 years.

14 Q. Two or three years old?

15 A. Yes.

16 Q. Okay.

17 A. That came about in the last Aquila case rate
18 case.

19 Q. Okay.

20 A. As far as the second one, no, I don't know.

21 Q. So this is pretty close to -- October 17, 2004
22 date's probably pretty close --

23 A. Yeah.

24 Q. -- to --

25 A. It may -- that may be when that was adopted.

1 Q. Okay.

2 A. It seems like longer ago than that.

3 Q. I know time passes.

4 A. Maybe not.

5 MR. BERLIN: Commissioner Clayton, perhaps I
6 can clarify that for you.

7 COMMISSIONER CLAYTON: Yes.

8 MR. BERLIN: Up in the upper right-hand corner
9 you'll notice that it says Original Sheet No. 69 under -- I
10 believe it's the ELIP program.

11 COMMISSIONER CLAYTON: 67.

12 MR. BERLIN: 67, 68 and 70. And since it's
13 the original tariff sheet, it was effective -- down in the
14 bottom right-hand corner you'll notice the date October 17th,
15 2004.

16 COMMISSIONER CLAYTON: Okay. Good. So that's
17 1 of 6. Can we say the same thing for part 6 of 6, the Aquila
18 residential and industrial customer purchase plan programs,
19 May 28, 2004?

20 MR. BERLIN: Correct.

21 COMMISSIONER CLAYTON: R-49?

22 MR. BERLIN: That's correct, Commissioner
23 Clayton.

24 COMMISSIONER CLAYTON: Part 2 is AmerenUE.
25 This has a date effective of -- it says Original Sheet 75,

1 February 18, 1998.

2 THE WITNESS: Then --

3 COMMISSIONER CLAYTON: I don't care who I'm
4 asking here. It looks like they are first revised too so
5 there are some changes, but the original sheet on the
6 experimental weatherization program appears to be February 18,
7 1998.

8 MR. BERLIN: That's correct, Commissioner
9 Clayton.

10 COMMISSIONER CLAYTON: Equipment rebate
11 program is fourth revised so this one doesn't look right. Do
12 you all know the date of that, the age of that? Can we safely
13 say 1998 also?

14 MR. BERLIN: We don't know that date,
15 Commissioner Clayton. We'd have to go back and research it.

16 BY COMMISSIONER CLAYTON:

17 Q. Okay. Do you know, Ms. Ross?

18 A. No, I don't.

19 Q. Okay. I assume the same would be the case for
20 Southern Missouri, that's in a revised sheet. Revised sheet
21 from Laclede goes back at least to 2002, it looks like.

22 A. Some of the Laclede programs I think were
23 new -- at least one of them in the last rate case.

24 Q. In the last case. Okay. Well, that's
25 helpful. I don't need the exact dates. What I was trying to

1 get a handle on is the amount of age that each of the programs
2 have so that we can determine their effectiveness or discuss
3 their effectiveness.

4 Before I do that, on the Aquila sheets that
5 have been adopted by Empire, part 6 of 6, are you recommending
6 the provisions of that part -- that Exhibit 138, part 6 of 6,
7 as part of your testimony in this case regarding Amos?

8 A. Okay.

9 Q. Are you recommending adoption of those
10 proposals?

11 A. Let me find -- so this is the Aquila part 6 of
12 6, which -- that --

13 Q. That would be the document that Mr. Berlin
14 gave me.

15 A. I know. Mine aren't marked though is my
16 problem.

17 Q. I had it marked as part 6 of 6. It was the
18 residential and industrial commercial purchase programs that
19 we talked about. Are you recommending any type of purchased
20 program for energy efficient appliances in this case?

21 A. No, not in this case.

22 Q. No. So you're not recommending these
23 provisions either --

24 A. No.

25 Q. -- associated with Aquila?

1 Okay. Are you aware of -- since we've gone
2 through the existence of each of these programs, are you aware
3 of any evaluation that has been done on any of the programs to
4 determine their effectiveness?

5 A. Yes. On the weatherization programs, MGE has
6 had at least one evaluation done. I believe there's been an
7 evaluation on the Ameren gas weatherization program.

8 Q. Just on weatherization?

9 A. Yes. Oh, we go through -- there hasn't been a
10 formal evaluation done on the Ameren Gas equipment rebate
11 programs, but, again, we meet every year and talk about those.

12 Q. So it's not a formal assessment, but you all
13 kind of --

14 A. It's not by an outside party, but --

15 Q. You all just talk about it and --

16 A. Yes. Yes.

17 Q. Okay. What was the result of the MGE and
18 Ameren Gas weatherization assessments?

19 A. I know the -- I believe that both of them got
20 a good assessment. I've got -- I've got those documents
21 upstairs, but I believe that they found that it was
22 successful.

23 Q. Okay. Anywhere within Exhibit 138 are there
24 any programs aside from energy efficiency that promote
25 conservation?

1 A. Not that I know of.

2 Q. Okay. Are you aware of programs anywhere in
3 the country that would relate to conservation aside from
4 energy efficiency? Are there separate programs designed just
5 to promote conservation of energy?

6 A. Yes,

7 Q. There are?

8 A. Although I could -- I do -- I could research
9 it and find them, but, yes, there are programs that -- I
10 believe there might be some in California that are tied to
11 conservation. I'm not sure if perhaps you get a lower rate.
12 I believe there's one where if you save 10 percent over your
13 usage last year -- it's complicated, but there are other
14 programs that relate specifically to conservation.

15 Q. Okay. So they can be identified as two
16 separate issues, conservation, energy efficiency?

17 A. Yes.

18 Q. Okay. Has anyone on Staff done significant
19 studies on energy efficiency or conservation in general, not
20 necessarily for this case, but worked on these issues in an
21 effort to develop a policy?

22 A. I'm not sure how to answer that.

23 Q. In English would be --

24 A. There are a couple of Staff members that have
25 worked on these issues in -- in -- for a long time and have

1 looked at -- into them in great detail.

2 Q. The programs that are in place associated with
3 other LDCs, were those programs put into place because of
4 Commission Staff research and development or were they put
5 into place because of utility work or utility design, do you
6 know?

7 A. I would say both. In some -- some of the
8 programs came from Staff proposals. Other programs I believe
9 were proposed by the company.

10 Q. How about the company purchase plans and
11 rebates? Who developed those programs, do you know? If you
12 don't know, that's --

13 A. Yeah, I'm not sure.

14 Q. Okay. Did you have an opportunity to review
15 any of the other states that I mentioned on the way in? I
16 know that was a very short amount of time. We talked about --

17 A. I didn't have a chance to read over it, no.

18 Q. Didn't have a chance to do that. Have you
19 ever studied California's energy efficiency planning and laws
20 that they've put into place?

21 A. Yes. A little.

22 Q. You have.

23 A. I've looked over -- I've read a few things
24 about --

25 Q. Well enough to talk about them or --

1 A. Not really.

2 Q. Is there anything that you've seen in
3 California that you thought would be applicable to Missouri
4 with regard to energy efficiency or conservation?

5 A. I'm sorry. I've looked at so many of these
6 programs. I could answer that tomorrow.

7 Q. That's okay. I know you've looked at a lot of
8 these programs.

9 A. Uh-huh.

10 Q. Is there any one that jumps out that suggests
11 that Missouri should be taking a hard look at it in promoting
12 some of the provisions within those programs? I know you've
13 looked at them, but is there anything that jumps out?

14 A. No. Not -- not -- that I could think of.

15 Q. Are you familiar with the Midwest Natural Gas
16 Initiative?

17 A. I expect I've read it. I'm not --

18 Q. But nothing jumps out --

19 A. -- familiar with it.

20 Q. -- that would be applicable for --

21 A. No.

22 Q. Do you think Missouri does enough with regard
23 to promotion of the -- well, first of all, do you believe the
24 Energy Star program is a worthy program that should be
25 promoted in this state?

1 A. The Energy Star program --

2 Q. The Energy Star rated appliances for energy
3 efficiency. The Energy Star -- do you know what Energy Star
4 is?

5 A. I do.

6 Q. The seal of approval that's on the appliances
7 says energy efficient appliances.

8 A. Right. That they meet a certain minimum level
9 of efficiency. Yes, I was -- I'm not sure if you were here
10 when I was saying earlier that Ameren has a good en-- a good
11 program that incorporates Energy Star equipment, a rebate
12 program.

13 Q. You think Energy Star -- the Energy Star
14 program, the certification, is something that ought to be
15 promoted in the state of Missouri --

16 A. Yes.

17 Q. -- regardless of LDC?

18 A. Yes.

19 Q. Okay. And you think Ameren Gas's -- or
20 AmerenUE's rebate program, appliance program is something
21 that's worthy of consideration in other jurisdictions or in
22 other --

23 A. Yes.

24 Q. -- LDC territories?

25 A. I do.

1 Q. Is that something that we should consider in
2 this case, in your opinion?

3 A. I suppose, yes. The reason we started smaller
4 in -- in -- with the Atmos case is that they don't really have
5 anything going on right now. So rather than come in -- we
6 wanted to talk to the company, see what they were capable of,
7 see what their -- their customers -- they felt that their
8 customers needed.

9 Q. What do you think --

10 A. I suppose --

11 Q. -- Atmos's customers need?

12 A. They definitely needed the low-income
13 weatherization that Atmos has -- has agreed to, because they
14 haven't had any funds going to low-income weatherization in
15 the past and there are a lot of low-income customers.

16 Q. More than 30?

17 A. More than 30.

18 Q. How many do you think?

19 A. Actually, I think I have -- there's a number
20 that we have somewhere for LIEAP and I think about
21 20 percent -- if you took LIEAP and multiplied it by 5.

22 Q. 20 percent of 50,000 then?

23 A. No, no, no. I think that whatever the number
24 is -- hang on. Is this it? No. Whatever the number is for
25 LIEAP -- traditionally I think LIEAP -- about 20 percent of

1 low-income --

2 Q. 20 percent of the LIEAP applications or --

3 A. 20 percent of the eligible population applies
4 for LIEAP.

5 Q. Okay.

6 A. So you could take that number and multiply it
7 by something to get to --

8 Q. So 20 percent of the LIEAP population you
9 identified need. Were there any other consumer or customer
10 needs that you identify in your evaluation?

11 A. Yes. Yes. I think that all customer groups,
12 not just low-income -- I think that -- that many residential
13 customers need help with conservation information. They need
14 education, they need to know what you can do, how much it
15 costs.

16 For example, I was surprised to find that a
17 programmable thermostat only costed about 20 bucks. You know,
18 I would have assumed that cost a lot more than that. And as a
19 result of education actually that I received here at the
20 Commission, I -- I found that out and I'll never be without
21 one. I think --

22 Q. And in response to that, there are those
23 audits that you have in there --

24 A. Yes.

25 Q. -- the customer audits?

1 A. Yes. I think it would help the customers
2 think of things they could do. I mean, you can only turn your
3 thermostat down so far. So perhaps it would give them some
4 ideas, some technical knowledge. The utility I think is a
5 good source of specific technical knowledge that they could
6 give to the customers, share with the customers.

7 Q. Okay. You mentioned that we should start
8 small because there isn't much going on with regard to
9 conservation, energy efficiency.

10 A. And they're a small company --

11 Q. They're a small company. I understand that.

12 A. -- in Missouri.

13 Q. But we should start small. Why is that? What
14 limitations? Is it a matter of money? Is it a matter of
15 resources?

16 A. No. And maybe my choice of the word "small"
17 was not good. I felt like it might be difficult for a company
18 that hadn't been doing this kind of thing in Missouri to jump
19 in to some of the programs maybe that the other utilities
20 have. Because they have the -- the billing system, the
21 computer system set up for it, they -- you know, they just
22 have things in place that Atmos probably doesn't yet.

23 Q. Do they have programs in any other states --
24 energy efficiency program in other states?

25 A. I believe so. I believe so.

1 Q. Are there programs that could be adopted here
2 with some flexibility?

3 A. I -- you'd -- you'd have to ask an Atmos
4 witness that. I'm not sure.

5 Q. So it's something we ought to look into or
6 perhaps Staff could look into or --

7 A. Sure.

8 Q. Okay. Is there anything else around the
9 country that you'd want to identify as being a bright spot or
10 something that we should consider as a shining example of
11 energy efficiency and conservation?

12 A. Not really specific programs. I think that
13 there are specific program factors that are -- that are very
14 important, and one of those being education. And, again and
15 again I've read that consumer education probably gives you
16 about the most bang for the buck as far as conservation and
17 efficiency goes. So I definitely think that not only Atmos,
18 but Missouri could use a lot more education of just its entire
19 customer base.

20 Q. What do you think the Commission's role is in
21 that educational process?

22 A. Well, I think that we -- we can help encourage
23 the companies. I think that it -- my opinion now, that it
24 would be useful to have a statewide-type of program rather
25 than a utility by utility program, something that's

1 consistent.

2 I think that if the Commissioners, for
3 instance, were to do public service ads, that type of thing, I
4 think that would mean a lot and would get people's attention.
5 So I can see really lots of goals. I think we could all work
6 together to further conservation in Missouri.

7 Q. Is there anything unique to Missouri that
8 would delay that discussion or further pursuit of that
9 education?

10 A. Not that I know of.

11 Q. I'm looking through this survey and there
12 aren't that many states that have decoupled.

13 A. Which one?

14 Q. From the Oklahoma Commission. I'm not sure
15 how they defined revenue decoupling. I'm not sure decoupling
16 is the same meaning that you go to fixed charges, but if
17 Missouri -- if we would adopt -- if we would adopt this
18 decoupling mechanism where we go to a fixed delivery charge,
19 is it accurate to say that we'd be one of four -- one of five
20 states in the country that have done this?

21 A. I'm not sure that we'd be one of five states.

22 Q. You're right. Maybe it's one of four. Does
23 that help?

24 A. Somewhere down there. I think it would be
25 fair to say that we're -- we would be one of -- one of a

1 handful of states that are doing it this way. I think that --
2 that the various revenue decoupling mechanisms are all trying
3 to get to the same place. Some of them use very complicated
4 rate schemes, some of them adjust usage. Ours is pretty
5 simple and straightforward and that's actually one of the
6 advantages of it.

7 Q. Do the other ones that have decoupled,
8 quote/quote, have programs for energy efficiency or
9 conservation attached to them?

10 A. I'm sure that a lot of them do, yes. I don't
11 know that all of them do, but --

12 Q. Would Missouri be the only state that
13 decoupled without implementing an energy efficiency program,
14 do you know?

15 A. I -- well, if we decoupled without -- without
16 energy efficiency program, yes.

17 Q. We'd be the only state that decoupled --

18 A. Without --

19 Q. -- without having an energy efficiency
20 program?

21 A. Well, I'm not sure I understand, because we --
22 we aren't proposing that we decouple without having energy
23 efficiency programs.

24 Q. Right. That's what I'm saying. We'd be the
25 only state doing it this way?

1 A. Actually, there may be one other.

2 Q. Do you know which one?

3 A. No. But I could get that for you. Because --

4 Q. Well, I got it right here.

5 A. -- I read that just recently.

6 Q. If you have an idea, I could look it up.

7 A. Yeah.

8 Q. No. Ms. Ross, I wanted to -- I'm not going to

9 ask you any more questions. Thank you for doing some extra

10 work over the lunch hour. I would ask if you do have

11 additional information that you think would be worthy of the

12 Commission to consider relating to these issues, I mentioned

13 some of those programs earlier --

14 A. Yes.

15 Q. -- regarding other states or the Midwest Gas

16 Initiative or other energy programs, please try to get that to

17 us. I know that's kind of an open-ended odd request. Thank

18 you?

19 A. Well, I do want to -- may I make one more?

20 Because just flipping through this, this actually isn't the

21 one I was talking about, but in Ohio, for instance, all they

22 have are the low-income weatherization programs. So they --

23 they really don't have efficiency or conservation programs per

24 se. It's on page 15.

25 Tennessee says a few companies have listed

1 conservation tips on their websites. This is on page 17.
2 Utah, the gas utility has not offered any incentives yet. If
3 the decoupling program is adopted, the utility is set to roll
4 out some DSM programs to help customers save energy use. And,
5 again, in West Virginia the three largest gas utilities
6 contribute funds to the DOE low-income weatherization program.
7 Those are things that our -- our companies are doing.

8 JUDGE DIPPELL: Thank you.

9 Commissioner Gaw, did you have additional
10 questions?

11 COMMISSIONER GAW: Yes. Hopefully not very
12 long.

13 FURTHER QUESTIONS BY COMMISSIONER GAW:

14 Q. Ms. Ross, have you seen any programs where the
15 rates that were charged for the customer were discounted in
16 the event that the residential customer or the business
17 customer was qualified under Energy Star or under some sort of
18 a rating for the building on efficiency where they actually
19 received a lower rate?

20 A. No. I think I said I've seen something
21 similar to that in the California -- in the state of
22 California, although I think at that point they -- they might
23 have had to show -- show an actual decreased usage rather than
24 qualifying by having a certain type of equipment.

25 Q. Would that make sense to you? And I know

1 there are arguments that could be made against it, but could
2 you see some sense made as an incentive to grant -- that would
3 be visible and transparent to a consumer if you said to them,
4 If you meet these set of criteria for energy efficiency for
5 your residents, you qualify for a discount on your customer
6 charge?

7 A. On your customer charge?

8 Q. Or any part of it, but it could be the
9 customer charge.

10 A. Yes. I think that there might be the usual
11 problems with rental -- renters, for instance, who don't have
12 a lot of control over that.

13 Q. But I specifically avoided the landlord rental
14 issue in this because it gets very, very complicated very
15 quickly.

16 A. Yes.

17 Q. And it could take us at least a day --

18 A. Yeah.

19 Q. -- to go through the set of issues that are
20 involved in that. And, of course, you're absolutely right,
21 that's a very important area that needs to be worked through
22 if we were -- if we were working on trying to develop an
23 energy efficiency program --

24 A. Yeah.

25 Q. -- and hit that core group of -- where renters

1 are paying the utility rates and the landlord may be
2 benefitting from the weatherization of the house but may or
3 may not care.

4 A. Yeah. And I put something in my direct, you
5 know, saying that that was something we were going to have to
6 look at.

7 Q. But aside from that, if we were dealing with
8 the customer who actually owned their property and we look
9 away for the moment on this question from the landlord/tenant
10 issue, would it not create some transparency in incentives if
11 you offered a discount if the residents met or the business
12 met certain qualifications for efficiency in their residence
13 or their business?

14 A. I guess my answer to that would be yes but.
15 Because you'd still -- I was talking earlier about the problem
16 of up front costs and the problem of making these investments.
17 And I think you'd still -- a lot of people would have
18 trouble making the investments needed to qualify for the lower
19 rate.

20 Q. So you would need some additional program to
21 help with that part of it, wouldn't you?

22 A. To make it a comprehensive program that, you
23 know, lower income, middle income customers could take
24 advantage of, yes.

25 Q. So if you put those two things together, you'd

1 be down the road a-ways toward creating that kind of a
2 comprehensive program, wouldn't you?

3 A. Yes.

4 Q. Let me ask -- and I don't know if you're the
5 witness on this, so -- and I know you're not up here at the
6 moment for this so you tell me if you're not the witness for
7 it. Okay?

8 A. Uh-huh.

9 Q. Did you file any testimony regarding the rate
10 blocks on the gas charges? Are you familiar with the rate
11 blocks for gas usage in this --

12 A. For this company?

13 Q. Yes. For this company.

14 A. I believe that they have one district, and I'd
15 have to look to see which one it is, that has blocked rates.

16 Q. Everyone else it's just one rate?

17 A. Yes. Everyone else is just one rate.

18 Q. On the one district that is blocked, do you
19 recall which one that is? And if you don't, that's okay.

20 A. No. I -- let me see. No, I don't.

21 Q. Do you know whether the blocks are increasing
22 or declining blocks?

23 A. No. Not offhand.

24 Q. Were you the one --

25 A. I believe they're declining.

1 Q. Were you the individual that testified about
2 the issues relating to that?

3 A. I just said that I thought that they -- that
4 the rates should be not normalized, but standardized and that
5 I -- I felt -- I believe they're declining block --

6 Q. That --

7 A. -- rates.

8 Q. -- that would not be unusual --

9 A. No.

10 Q. -- would, it for Missouri?

11 A. It wouldn't.

12 Q. But a declining block actually is counter to
13 encouraging conservation, isn't it?

14 A. Yes.

15 COMMISSIONER GAW: That's all. Thank you.

16 JUDGE DIPPELL: Thank you.

17 Okay. Before we get into the recross, let me
18 ask, Mr. Poston, are you still interested in asking your
19 question about MGE of Ms. Ross?

20 MR. POSTON: If she's had an opportunity to
21 review her testimony. I know she had a busy lunch.

22 THE WITNESS: No. I had a chance to do that.

23 JUDGE DIPPELL: Ms. Ross, can you answer his
24 question?

25 THE WITNESS: Yes. Could you repeat it,

1 please.

2 RECROSS-EXAMINATION BY MR. POSTON:

3 Q. I was just trying to understand the difference
4 between the testimony you filed in MGE and the testimony you
5 filed in this case, where in this case you proposed your
6 delivery charge for the small general service class and I do
7 not believe you proposed that for MGE; is that correct?

8 MR. BERLIN: I want to renew my objection,
9 Judge, on his line of questions with regard to MGE testimony.
10 And I want to renew it stating that, number one, it's not
11 relevant in this proceeding; secondly, whatever was filed in
12 the MGE case, the case is currently being litigated before the
13 Commission, has not been admitted into evidence; and finally,
14 MGE and the parties to that case are not present here today.
15 So I want to renew my objection and get a ruling.

16 JUDGE DIPPELL: I'm going to overrule your
17 objection.

18 You can answer the question, Ms. Ross.

19 THE WITNESS: Yes. No, I didn't propose that
20 in the MGE case. I did -- I said that I thought that it
21 needed to be done, that I felt that their general service
22 class needed to be split and that we should work on getting
23 the information to do that, but we didn't have the information
24 at that time.

25 BY MR. POSOTON:

1 Q. And what information was that that was
2 unavailable?

3 A. I think we would need individual customer
4 information.

5 Q. And you had that in Atmos?

6 A. I had that in Atmos.

7 MR. POSTON: That's all I have.

8 JUDGE DIPPELL: Thank you.

9 Were there any additional Commissioner
10 questions?

11 All right. Let's go ahead and take a
12 10-minute break until a quarter 'til 4:00 and we'll come back
13 for recross-examination.

14 (A recess was taken.)

15 JUDGE DIPPELL: Okay. I think we're up to
16 recross-examination based on questions from the Bench for
17 Ms. Ross.

18 Before we do that though, we had a couple of
19 exhibits that were requested by the Commission, one of which,
20 Exhibit 139, has not been provided in full. So what I will do
21 is when that is provided, I'll give the parties a chance to
22 make any objections at that time and admit that later or deny
23 it depending on the objections.

24 But let me ask, has everyone had an
25 opportunity to look at Exhibit 140, or do you need more time

1 to determine if you would have objections to that? That's the
2 Oklahoma Commission report.

3 MR. FISCHER: We have no objection.

4 MR. POSTON: We have no objection to it.

5 JUDGE DIPPELL: Okay. Then I will admit
6 Exhibit 140.

7 (Exhibit No. 140 was received into evidence.)

8 JUDGE DIPPELL: All right. Is there further
9 cross-examination based on questions from the Bench from
10 Atmos?

11 MR. FISCHER: Yes, your Honor.

12 RE-CROSS-EXAMINATION BY MR. FISCHER:

13 Q. Good afternoon, Ms. Ross.

14 A. Good afternoon.

15 Q. It's been a long afternoon, but I have just a
16 few more questions I'd like to ask you if you would help me.
17 Commissioner Gaw I believe was the principal Commissioner
18 asking a number of questions about why the Staff proposed the
19 delivery charge in this proceeding --

20 A. Yes.

21 Q. -- do you recall those?

22 On page 11 of your surrebuttal at pages -- at
23 lines 8 through 9 you state, I want to point out that this is
24 a wonderful opportunity for this Commission to do a great deal
25 of good for a great number of people; is that correct?

1 A. That is correct.

2 Q. Is that still your testimony today?

3 A. Yes, it is.

4 Q. Is that the reason the Staff is proposing the
5 delivery charge proposal?

6 A. That's part of the reason, yes.

7 Q. Okay. Then on page 12 of your Rebuttal -- or
8 Surrebuttal Testimony you state, We have an opportunity in
9 Missouri to align the interests of shareholders and customers;
10 is that correct?

11 A. Yes.

12 Q. Is that still your testimony?

13 A. Absolutely.

14 Q. Would you explain that concept to the
15 Commission, why you believe we have an excellent opportunity
16 to align the interests of shareholders and customers?

17 A. At the current time and with the current rate
18 designs, the utility's caught in the middle. They -- if they
19 help their customers by helping their customers lower their
20 usage, then they -- they're working directly against the
21 interest of their shareholders. If they work for their
22 shareholders' interest, which would basically mean increasing
23 sales, then they're hurting their customers.

24 I think that that's a significant
25 disincentive. And if we could decouple the utility's revenue

1 stream from the number of sales it makes, then we could -- we
2 could get the utilities to be a partner in -- in conservation
3 and efficiency activities. And personally I believe that the
4 utilities are probably the strongest partner we could have.

5 Q. Okay. Commissioner Gaw also pointed you to
6 the NARUC resolution, which was Schedule 3-2 which is attached
7 to your testimony. And I think he asked you about the whereas
8 clause where it says, Current forms of rate design may tend to
9 create a misalignment between the interest of natural gas
10 utilities and their customers. Do you recall that?

11 A. Yes.

12 Q. Is that the misalignment that you're talking
13 about in your testimony?

14 A. Yes.

15 Q. So you would agree with the NARUC resolution
16 on that point?

17 A. Yes.

18 Q. I believe you testified in answer to
19 Commissioner Gaw that the biggest reason for supporting the
20 delivery charge rate design was that it is fair. Do you
21 recall that?

22 A. Yes.

23 Q. On page 6 of your Surrebuttal Testimony at
24 line 17, you state, The low-usage customers on Atmos's system
25 are most likely customers using the Atmos distribution system

1 to do things like fuel for gas fire logs, cook on a gas stove
2 or use a gas water heater. The customers most likely to use
3 more natural gas than the average are those heating their
4 homes with natural gas; is that right?

5 A. Yes.

6 Q. Ms. Ross, isn't the cost of delivery for a gas
7 customer using just a gas log the same as the cost of delivery
8 for space heating, cooking and water heating?

9 A. Yes. I believe that it is.

10 Q. And under the current rate structure, would
11 you agree the gas log customer is not paying the same margin
12 rate as the full service gas customer, which includes space
13 heating, water heating and miscellaneous gas usages?

14 A. Yes. That was my testimony.

15 Q. Another way to say that is that the gas log
16 customer is being subsidized by the space heating customer?

17 A. Yes.

18 Q. Is it fair for the high-usage customer to
19 subsidize the margin rates for the gas log customer, in your
20 opinion?

21 A. No. In my opinion, it's not.

22 Q. Is it fair for the space heating customer to
23 subsidize the customer that just uses gas for cooking?

24 A. No.

25 Q. Ms. Ross, would you agree that the low-usage

1 customer is not necessarily the low-income customer?

2 A. Yes.

3 Q. So we can't equate low usage with low income?

4 A. No, no. I don't believe that we can.

5 Q. On page 7, lines 6 through 8 of your testimony
6 you state that, The same plant investment must be made for
7 both users and there will not be differences in billing, meter
8 reading and other expenses; is that correct?

9 A. That's correct.

10 Q. There you're making the point that the cost to
11 serve these customers are the same?

12 A. Yes.

13 Q. But Atmos has the same obligation to serve
14 these customers whether it's just a gas log customer or a
15 full-service space heating customer; is that right?

16 A. Yes. It's my understanding that if a customer
17 calls and asks to be hooked up, that Atmos has to hook them
18 up.

19 Q. So my brother-in-law that just has the gas log
20 that he turns on at Christmastime, he gets served just like
21 the customer that has the high-usage space heating
22 requirements?

23 A. Yes.

24 Q. I'd like to ask you to turn to your Direct
25 Testimony at page 9. At the bottom of page 9 and then

1 carrying over to page 10 I believe you answered the question
2 about why the Staff is recommending that Atmos collect all
3 margin costs in a single monthly charge; is that right?

4 A. Yes.

5 Q. Would you explain your first point there of
6 why it removes disincentives for utilities to encourage and
7 assist customers in making conservation and efficiency
8 investments?

9 A. Because utilities no longer lose revenues if
10 they encourage their customers to use less gas. That's
11 basically it.

12 Q. The utility is basically indifferent to the
13 fact if they conserve, use less energy, less gas, it doesn't
14 hurt their earnings and there's no reason not to help with
15 efficiency. Is that what you're saying?

16 A. That's true. It doesn't hurt their
17 shareholders' interests.

18 Q. And it does allow the customers to better
19 control their bills depending -- even if it's a cold weather
20 or a warm winter?

21 A. It will make -- it will make a little bit of
22 difference, only a few dollars.

23 Q. Can you explain why a customer might be better
24 off under the Staff's proposed rate design in a cold winter or
25 a cold day like today?

1 A. Well, in a cold winter, the customer pays a
2 piece of the margin on each unit of gas they use. So in a
3 cold winter, gas usage will go up and they will pay more. In
4 fact, they'll pay more than -- they may more than their cost
5 of service.

6 Q. So in a cold winter, the customer is better
7 off under the Staff's proposed rate design than under the
8 status quo; is that right?

9 A. Oh, yes. Any customer using more than the
10 average for any reason is better off.

11 Q. On the other hand, the company's earnings
12 might be higher in a cold winter, isn't that right --

13 A. Yes.

14 Q. -- under the current rate design?

15 A. Yes.

16 Q. But if we turn that scenario around and we
17 have a warmer than usual winter, what would the effect of the
18 current rate design be on the customer?

19 A. The customer would pay less than the cost
20 required to serve them.

21 Q. And the company, in terms of recovering the
22 cost of service of providing that delivery of service, what
23 would happen in a warmer than usual winter?

24 A. They wouldn't collect all of the -- all of the
25 revenue required.

1 Q. Okay. Let's look at the scenario with your
2 Staff's proposed delivery charge. What happens in a colder
3 than normal winter?

4 A. The customer pays let's say \$20 regardless of
5 usage the -- on the margin. The company collects \$20
6 regardless -- regardless of the customer's usage.

7 Q. And during that colder than normal winter, the
8 customer's going to be paying more in the commodity charges in
9 all likelihood; is that correct?

10 A. Yes. It's likely that their bill will go up
11 as their usage goes up.

12 Q. So if we keep the current status quo in that
13 colder than normal winter, we're going to be burdening the
14 customer with additional margin charges in addition to those
15 commodity charges; is that correct?

16 A. That's correct.

17 MR. POSTON: Your Honor, I object to this
18 line. I'm not sure what Commissioner questions these are
19 following up on.

20 MR. FISCHER: These are following up on the
21 question that Commissioner Gaw asked why the Staff was
22 proposing the delivery charge.

23 JUDGE DIPPELL: I'll allow her to answer the
24 question, but Mr. Fischer, I believe this is in Ms. Ross's
25 testimony and I think the Commission understands it. I'll

1 allow you to ask, but --

2 MR. FISCHER: I'm not sure based on some of
3 the questions, so I just want to make sure it's in the record.

4 BY MR. FISCHER:

5 Q. Let's talk about the conservation programs,
6 the efficiency programs. Is it correct that the Staff had a
7 rate design technical conference where the parties met in June
8 to talk about the Staff's proposed rate design and other items
9 that were relevant to that?

10 A. Yes.

11 Q. Is it your understanding that Atmos has
12 accepted the Staff's proposal on the delivery charge?

13 A. Yes.

14 Q. That was Staff's proposal; is that right?

15 A. Yes.

16 Q. And we discussed it at length during the
17 technical conference on rate design?

18 A. Yes.

19 Q. It's also the Staff's proposal to have the
20 company conduct residential energy audits as a part of this
21 case; is that right?

22 A. Yes.

23 Q. And is it your understanding that the proposal
24 of Staff was that it be \$25 for any residential customer that
25 requested an energy audit and that it --

1 A. Yes.

2 Q. And is it also your understanding that that
3 doesn't cover the cost of those energy audits?

4 A. Yes.

5 Q. And I believe you also proposed that
6 30 low-income homes be weatherized; is that correct?

7 A. Yes.

8 Q. Now, is it your understanding that the company
9 and Staff have agreed that there would be no increase in
10 revenue requirement in this case?

11 A. Yes.

12 Q. But, to your knowledge, is there any specific
13 charges, any specific charges included in the company's rates
14 to cover the cost of these energy efficiency audits or the
15 weatherization program that is being proposed by Staff?

16 A. No, there aren't.

17 Q. I think the Commissioners also asked you about
18 a number of LDC programs that are in existence in Missouri.
19 Is it your understanding that some are covered by ratepayer
20 funds and some are not?

21 A. Yes.

22 Q. There were also some questions regarding the
23 Energy Star program. Is that a program that's mandated by
24 state statute or where does that come from?

25 A. I believe that's a Department of Energy

1 program.

2 Q. Okay. It's not under the jurisdiction of this
3 Commission?

4 A. No.

5 Q. Okay. And other items that could promote
6 energy efficiency that aren't under the Commission's
7 jurisdiction would include things like building codes in local
8 areas; is that right?

9 A. Did you say that are or are not?

10 Q. Are not.

11 A. Are not. It's my understanding that they are
12 not.

13 Q. And in this case did Atmos originally propose
14 a weather normalization adjustment clause?

15 A. Yes.

16 Q. Is it your understanding that the company has
17 now abandoned that proposal and is endorsing the delivery
18 charge proposal in lieu thereof?

19 A. Yes.

20 Q. Commissioner Gaw also asked some questions
21 about the impacts on various customer levels of the Staff's
22 delivery charge proposal. Have you reviewed the schedule
23 that's attached to Pat Childers' Surrebuttal Testimony,
24 Surrebuttal Schedule No. 2?

25 A. Let me see.

1 Q. I've got a copy of that, if that would be
2 helpful.

3 A. That's okay. Did you say Schedule 2?

4 Q. Yes. Surrebuttal Schedule 2, page 1 of 2.

5 A. I have page 2 of 2. Hang on.

6 Q. Page 2 of 2. Maybe that's the better
7 schedule, yes. Do you have that?

8 A. I have them both.

9 Q. Does that indicate the impact on a percentage
10 basis of the proposed delivery schedule and three non-gas
11 rates and four PGA areas?

12 A. Could you repeat that?

13 Q. Yes. Is it your understanding that this
14 schedule would answer some of Commissioner Gaw's questions
15 regarding customer impact of the proposed delivery charge rate
16 design three non-gas areas and four PGA areas?

17 A. Yes.

18 Q. For example, for a typical residential
19 customer in the Butler area, the percentage change would be
20 1.4 percent?

21 A. Of -- yes, on their total bill.

22 Q. And then on the Greeley area, it actually goes
23 down by 6.9 percent, is that right, for residential firm?

24 A. Yeah. I'm not -- I don't see Greeley on my
25 schedule.

1 Q. I'm sorry. It's the second one, Missouri G,
2 division 29.

3 A. Okay. Okay. Yes, it goes down 6.9 percent.

4 Q. And then just looking at the largest division,
5 the SEMO division, what does that indicate for the percentage
6 change for residential?

7 A. The change in their total bill would be
8 .4 percent.

9 Q. And the other districts are listed here as
10 well. Right?

11 A. Yes.

12 Q. The Commissioner asked you some questions
13 regarding the survey responding to the natural gas crisis,
14 America's Best Natural Gas Energy Efficiency programs --

15 A. Yes.

16 Q. -- do you recall that?

17 A. Uh-huh.

18 Q. Would you turn to the executive summary? At
19 the very first paragraph of that executive summary it
20 indicates that the year 2003 marked a dramatic turnaround in
21 the situation regarding US natural gas market. After many
22 years of very low prices, there's been roughly a doubling of
23 gas prices in the wholesale market. Is that -- would you
24 agree with that statement?

25 A. I think so. Let me look. I'm still trying to

1 find it.

2 Q. I'm sorry. I've got a copy too, if you need
3 it.

4 A. Do you? May I?

5 Q. Although I may not be able to read it if I --

6 A. It's here somewhere.

7 Thank you. Okay. Could you repeat your
8 question?

9 Q. Yeah. I just read the first two sentences of
10 that paragraph and ask if you agree with that.

11 A. Yes.

12 Q. And then in the next paragraph it indicates
13 that in the face of these developments, there's been
14 considerable re-awakened interest in the subject of natural
15 gas energy efficiency programs; is that right?

16 A. That's correct.

17 Q. Is the fact that natural gas prices have gone
18 up so much one of the reasons why the Staff is interested in
19 decoupling the rates in this case?

20 A. Yes.

21 Q. There were also some questions regarding, I
22 think, some of Ameren's proposals or tariffed efficiency
23 programs. Do you recall those?

24 A. Yes, I do.

25 Q. Now, is Ameren the largest combination

1 electric and gas company in Missouri?

2 A. Yes.

3 Q. It's several times bigger than even the second
4 largest public utility in the state, is that right, on a
5 revenues basis or customer basis, either one?

6 A. I couldn't answer that. I know it's -- it's
7 quite a bit larger than any of the others.

8 Q. Okay. There were also some questions
9 regarding Laclede. That's the largest LDC in the state of
10 Missouri; is that right?

11 A. Yes.

12 Q. Do you know if it has more than 500,000
13 residential customers?

14 A. I think so.

15 Q. And is it your understanding that Atmos has
16 about 50,000 residential customers or about 1/10th the size of
17 Laclede?

18 A. Yes.

19 Q. There was also some discussion of the MGE
20 tariffed weatherization program. Paragraph 2 of that sheet 96
21 of that tariff indicated that MGE's weatherization shall not
22 exceed 3,000 and is expected to average about \$1,750. Does
23 that sound right to you? Is that correct?

24 A. You mean is that correct as to what the tariff
25 says?

1 Q. Yes. Paragraph 2, sheet 96.

2 A. Yes, that's what it says.

3 Q. Okay. Then on the Empire Exhibit 138, there's
4 an E paragraph where I believe it indicates that financing in
5 excess of \$10,000 will be at the discretion of the company on
6 a case-by-case basis; is that right?

7 A. Yes.

8 Q. Let's go back to that NARUC resolution, which
9 is attached to your Direct Testimony, Schedule 3-2.

10 A. Okay.

11 Q. It indicates in the next-to-the-last resolved
12 clause, NARUC encourages State Commissions and other policy
13 makers to review the rate designs they have previously
14 approved to determine whether they should be reconsidered in
15 order to implement innovative rate designs; is that right?

16 A. That's correct.

17 Q. Is that what the Staff is proposing to do in
18 this case?

19 A. Yes.

20 Q. Staff and the Commission have already approved
21 a rate design in Missouri that does have weather mitigating
22 effects. Is that your understanding?

23 A. It's my understanding, yes.

24 Q. And that would be for Laclede; is that right?

25 A. Yes.

1 Q. It's not a delivery charge, but it's a higher
2 customer service charge with a high first block; is that
3 right?

4 A. Yes.

5 Q. I'd like to refer you to Exhibit 140, which is
6 the Oklahoma Commission Staff survey. And I'd like to turn
7 you to page 13 of 22, which has the Missouri response.

8 A. Okay. I'm there.

9 Q. The last sentence of that response indicates,
10 Also, in many rate cases, Missouri Staff is looking at
11 changing our policy on customer charges to address this issue
12 directly without the need to implement surcharge provisions;
13 is that correct?

14 A. That's correct.

15 Q. Is that what you're doing in this case,
16 re-examining rate structures in rate cases?

17 A. We are re-examining rate structures in rate
18 cases. 179 was a peripheral issue.

19 Q. Okay. That's another thing that you're
20 addressing in the context -- or at least the weather
21 mitigating aspects of the policy behind 179. Is that what
22 you're saying?

23 A. We think of it as being 179 friendly.
24 We're -- we didn't want to come out with something that was
25 just absolutely totally against the intent of 179, but we're

1 not trying to address 179.

2 Q. I believe Commissioner Gaw also asked some
3 questions about the status quo rate design and why that wasn't
4 better.

5 A. Yes.

6 Q. Do you address that in your Rebuttal Testimony
7 on page 6?

8 A. Yes.

9 Q. I'm not going to go through these, but do you
10 agree that those are still valid criticisms of the status quo
11 rate design?

12 A. Yes.

13 JUDGE DIPPELL: Thank you, Mr. Fischer.

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

15 JUDGE DIPPELL: Thank you.

16 Is there further cross-examination based on
17 questions from the Bench from Public Counsel?

18 MR. POSTON: Yes. Thank you.

19 RE-CROSS-EXAMINATION BY MR. POSTON:

20 Q. Turning back to the Exhibit 140 that
21 Mr. Fischer just asked you about --

22 A. Is that the Oklahoma one?

23 Q. Yeah.

24 A. Yeah.

25 Q. There was that last sentence, it says, In many

1 rate cases, Missouri Staff is looking at changing our policy
2 on customer charges to address this issue directly without the
3 need to implement surcharge provisions.

4 Are you saying that that's incorrect, that
5 that's not why in this rate case you're looking at changing
6 your policy?

7 A. I think that this makes it sound more
8 important than it was in our decision making.

9 Q. So you'd say this is incorrect then?

10 A. I don't know if I -- if incorrect would be the
11 term I'd use. I'd say that to the extent that it
12 characterizes our decision process as being one to address
13 179, that that's incorrect.

14 Q. Who prepared this answer?

15 A. Warren. Warren Wood.

16 Q. And when Commissioner Gaw first started asking
17 you questions, one of the first questions he asked you was
18 about the proposal and how it was developed. I believe he
19 asked you if you came up with it alone and you said no, you've
20 had discussions with other people in Staff. Correct?

21 A. Yes.

22 Q. Before you filed your Direct Testimony in this
23 case, was Mr. Barnes one of the people you spoke with about
24 this?

25 A. We talked to Financial Analysis briefly so

1 that they'd be aware that we were proposing some rate design
2 changes.

3 Q. Did you personally speak with Mr. Barnes about
4 your Direct Testimony?

5 A. No. I don't believe that I did.

6 JUDGE DIPPELL: Ms. Ross, can I get you to
7 speak more into the microphone?

8 THE WITNESS: I'm sorry. I keep hitting it.

9 JUDGE DIPPELL: We do have people listening,
10 including some of the Commissioners.

11 BY MR. POSTON:

12 Q. And Commissioner Gaw also asked you questions
13 about what research you've done about past Staff positions.
14 And to the extent that the issue of how to proportion the
15 non-gas cost has come up before, is it true that you haven't
16 considered Staff's rationale in those case in forming your
17 position in this case?

18 A. Could you repeat that question?

19 Q. To the extent the issue of how to proportion
20 the non-gas costs has come up before, is it true that you have
21 not considered Staff's rationale in those cases in forming
22 your position in this case?

23 A. No.

24 Q. What past rationales of Staff have you taken
25 into consideration?

1 A. Well, I was involved in a lot of those cases
2 sometimes peripherally and sometimes I actually worked on rate
3 design. Our rationale has changed over the years. When I
4 first started, we were -- it seemed like the policy was to go
5 toward lower customer charges and higher volumetric rates.
6 That was 15 years ago.

7 As time has gone by, as -- if -- if -- as
8 things have happened, as gas prices themselves have gotten
9 higher, as there have been talks about shortages, our -- our
10 decision-making process has changed. So I'd hate to say I
11 didn't consider what we'd done in the past because that's not
12 true.

13 Q. Okay. You also replied, I believe to
14 Commissioner Gaw, that a flat charge year-round is a benefit
15 of your proposal; is that correct?

16 A. Yes.

17 Q. Isn't it true that Atmos' customers currently
18 have the option of leveling their bills through the level
19 billing plan?

20 A. If they want to completely level their bills,
21 yes. But that levels gas costs as well as the margin piece.

22 Q. And Commissioner Gaw asked you what other
23 states are doing with regard to conservation and we've had
24 those discussions. Do you believe it can be helpful to this
25 Commission to look at the other programs and other

1 conservation measures taken by the other states?

2 A. Sure.

3 Q. And the Exhibit 139, I believe that's the --
4 how would you characterize this? As a report?

5 A. Is it the responding to --

6 Q. Yes.

7 A. Yes, it was a report.

8 Q. And what is the date of this?

9 A. The date is December 2003.

10 Q. So is it possible that in the three years
11 since this was written, that there could be better programs
12 that are out there being implemented by other states?

13 A. Yes.

14 MR. POSTON: That's all I have. Thank you.

15 JUDGE DIPPELL: Thank you.

16 Is there redirect?

17 MR. BERLIN: Yes, Judge. I'll try to minimize
18 the redundant questions. I think Mr. Fischer asked many of
19 mine.

20 MR. BERLIN: I would like to just note to the
21 Commission that based upon some earlier questions by
22 Commissioner Gaw, that Bob Schallenberg is downstairs in his
23 office and certainly available to address any policy questions
24 that the Bench may have of him.

25 And that Henry Warren -- and this would be in

1 response to Commissioner Clayton's line of questions regarding
2 block rates -- is available for questions should the
3 Commission have those.

4 REDIRECT EXAMINATION BY MR. BERLIN:

5 Q. Ms. Ross, Commissioner Clayton asked you what
6 the acronym NAECA stood for. Do you recall that question?

7 A. No, I don't recall him asking me what that
8 stood for.

9 Q. He asked you I think in light of the line of
10 questions with regard to the Empire District tariff and it was
11 the part 6 of 138, sheet No. R-49, residential customer
12 purchase plan. And I believe it was used in the context of
13 paragraph B, Equipment finance must exceed the NAECA minimum
14 efficiency requirements.

15 A. Yes. I remember that.

16 Q. Okay. Would you agree with me that the NAECA
17 stands for the National Appliance Energy Conservation Act?

18 A. That -- that would give you NAECA, so yes.

19 Q. Okay. Mr. Poston had asked you some questions
20 regarding Staff's proposed rate design. Is it your opinion
21 that Staff's proposed rate design gives customers the greatest
22 break during the winter months?

23 A. Yes.

24 Q. Isn't the winter months when they need the
25 greatest pricing help?

1 A. If they're space heating and/or water heating
2 customers, yes, the winter months -- their usage will go up in
3 the winter months.

4 Q. And would low-income customers typically
5 reside in poor housing stock?

6 A. Yes.

7 Q. And would poor housing stock be a cause for
8 low-income customers to use more gas during the winter months?

9 A. Yes, it could.

10 Q. Mr. Poston had asked you about the largest
11 portion of the gas bill I think in some questions regarding
12 the effect on conservation. And I believe that you have
13 responded that the actual gas cost is the largest portion of
14 the gas bill; is that correct?

15 A. I don't remember responding to that. I agree
16 with that statement.

17 Q. Okay. Would the cost of gas then be an
18 incentive to conserve gas for a customer?

19 A. Yes.

20 Q. Okay. Commissioner Gaw had asked some
21 questions regarding the traditional rate design or the status
22 quo rate design. Would you agree that the status quo rate
23 design was implemented during a time period where the
24 utilities needed to offer low customer service charges to
25 entice customers onto the system?

1 A. The status quote rate design has been around
2 for about 100 years so, yes, I would -- I would agree that --
3 that that type of rate design was put in place to try to pick
4 up customers and encourage them to use more.

5 Q. So those low customer service charges were set
6 in order to compete with competitive sources of energy such as
7 propane?

8 A. Yes.

9 Q. Are we at a stage now in the natural gas
10 industry that would be characterized by a mature industry or
11 one that is undergoing rapid growth?

12 A. I believe that it's mature. In the last few
13 cases I've participated in, I don't remember the growth rate
14 in customers as being very large.

15 Q. Now, during your tenure here at the
16 Commission, has a utility ever proposed a fixed variable rate
17 or a fixed delivery charge such as Staff is proposing in this
18 case?

19 A. I believe that in the last MGE case, that they
20 proposed a fixed charge.

21 Q. Is that the current MGE case?

22 A. No. It would be 2004-0209.

23 Q. Okay.

24 A. I don't remember whether Laclede did or not.
25 That might have been one of their proposals as well in their

1 2003 or '4 case.

2 Q. Would Staff have any reason to review this
3 position?

4 A. I don't -- could you rephrase that?

5 Q. That is, would Staff have any reasons to
6 consider going to a fixed variable rate or fixed delivery
7 charge rate design?

8 A. So you mean would Staff have any reason to
9 revisit this --

10 Q. Yes. That's a better --

11 A. -- rate design?

12 Q. -- choice of words, yes.

13 A. Yes. I think that the national dialogue on
14 conservation and on decoupling has -- has really put this
15 issue out as something that all the commissions need to be
16 looking at.

17 Q. Okay. And if a utility's cost of service is
18 partially recovered by a volumetric rate charge, would the
19 utility have any reason at all to encourage conservation?

20 A. Not voluntarily, no.

21 Q. Okay. With regard to risk, I believe this was
22 also along the lines of Commissioner Gaw's questions, isn't
23 there a risk that the company's revenue stream can be
24 adversely affected by customers that drop off the system?

25 A. Yes. There are cus--

1 MR. POSTON: I'm sorry, objection. That's a
2 leading question.

3 JUDGE DIPPELL: Can you rephrase the question,
4 Mr. Berlin? Objection sustained.

5 MR. BERLIN: Yeah, sure.

6 JUDGE DIPPELL: Can you rephrase?

7 BY MR. BERLIN:

8 Q. Let me ask, do customers dropping off a system
9 pose a business risk to a utility?

10 A. Yes. That isn't the only risk that the
11 utility would face though.

12 Q. Is that a significant risk?

13 A. Yes.

14 Q. Have you spoken to any customers or groups of
15 customers that have indicated any preference of a rate design?

16 A. My mother and her friends is about all I've
17 talked to so, no, not -- not officially.

18 Q. Okay. Now, there were many questions, I
19 believe, with respect to Dr. Proctor's previous testimony in
20 past cases. Are the circumstances that prompted Dr. Prop--
21 Dr. Proctor's testimony in past cases, are they -- are those
22 circumstances the same as the circumstances in the Atmos case
23 today?

24 A. I don't know. Every case that we do is
25 different so I think that they very easily could be, but I

1 don't know.

2 Q. Now, will customers pay for the \$78,000
3 weatherization program in their rates under Staff's design?

4 A. No.

5 Q. And, finally, when the Commission issues an
6 order setting rates, are they deemed -- are the orders of the
7 Commission that set rates deemed to be just and reasonable?

8 A. Yes.

9 MR. BERLIN: Okay. No further questions,
10 Judge.

11 JUDGE DIPPELL: Thank you.

12 All right then. Ms. Ross, I believe that
13 concludes that portion of your testimony.

14 I think what we're going to do is we're going
15 to continue on with Ms. Meisenheimer with what Commission
16 questions we can and get as far as we can today on as many
17 things as we can. And then we'll probably end up coming back
18 tomorrow but we probably will not begin until 1:00 tomorrow
19 because of conflicts with agenda.

20 So let's go ahead and bring Ms. Meisenheimer
21 up. Let's see. Ms. Meisenheimer, you've been previously
22 sworn, we've already admitted your testimony but we haven't
23 done cross-examination on this issue. So we'll begin with
24 cross-examination by Atmos on rate design.

25 MR. FISCHER: I'll pass the witness at this

1 time.

2 JUDGE DIPPELL: Okay. Staff?

3 BARBARA MEISENHEIMER testified as follows:

4 CROSS-EXAMINATION BY MR. BERLIN:

5 Q. Ms. Meisenheimer, do you have a copy of your
6 Surrebuttal Testimony?

7 A. I do. Is there a page you'd like me to go to?

8 Q. Yes. Page 9. Go to line 11, please, and
9 starting with that question on line 11 and read through
10 line 14.

11 A. It says, Have you performed an analysis in
12 this case that compares low-income household use to average
13 use per customer?

14 The answer is, Yes. For each district, I
15 compared the average LIEAP customer use to the average
16 customer use and found them to be very similar in every
17 district.

18 And maybe to shorten this --

19 Q. Well, Ms. Meisenheimer, I only asked you to
20 read this, so thank you. I will follow up with a question
21 though. Is that your testimony -- does that remain your
22 testimony today?

23 A. I would add to it that that evaluation was
24 based on sample data that was --

25 Q. I would like to --

1 A. -- gathered by the Staff.

2 Q. Is that a yes or no answer? Is it yes or no?

3 I mean, does this remain your testimony today?

4 A. It's a qualified yes.

5 Q. Would you agree that low-income customers tend

6 to have older, less efficient gas furnaces?

7 A. Generally, yes, I -- I'd agree with that.

8 Q. Would you agree that low-income customers tend

9 to have less efficient appliances such as gas water heaters?

10 A. I -- I believe that as a general broad

11 statement, yes, that's probably true.

12 Q. And would you agree that low-income customers

13 tend to have less efficient or inadequate home insulation?

14 A. In -- unless they have participated in some

15 kind of program, then yes, I would say generally overall

16 across customers, I -- I wouldn't disagree with that.

17 Q. Would you agree that when a cold spell hits,

18 lower-income customers will need to buy more gas to heat their

19 homes and run appliances than the general population of

20 customers?

21 A. I -- I cannot agree with that.

22 Q. Okay.

23 A. It may be -- did you want me to explain or --

24 was that a no?

25 Q. No, I don't.

1 A. Okay.

2 Q. I'm just trying to understand, you know, your
3 position.

4 Do high-efficiency gas furnaces and
5 high-efficiency water heaters tend to be expensive items?

6 A. Yes.

7 Q. Difficult for low-income folks to buy?

8 A. Unless they have assistance through some type
9 of appropriate program that encourages efficiency and
10 conservation.

11 Q. Okay. Is it expensive to add home insulation?

12 A. Yes. Unless they participate in some type of
13 efficiency program such as a low-income weatherization program
14 or other programs such as perhaps PAYS that might assist them
15 defer the up front cost.

16 Q. Are many low-income customers rental-type
17 customers? Do many low-income customers live in rental
18 apartments or other multi-unit dwellings?

19 A. I'd say that's a fair characterization, that
20 low-income might be more likely to be renters.

21 Q. Under that scenario, do landlords of these
22 rental apartments or rental multi-unit dwellings have an
23 incentive to buy new, high-efficiency gas furnaces or
24 high-efficiency gas water heaters for their tenants?

25 A. Well, it depends on how the -- how their rent

1 is structured, you know. If the customer pays their own
2 utility bills, then no, it would not be likely unless there
3 were some additional incentives such as a program that
4 provided a discount on high efficiency provided to building
5 owners.

6 MR. BERLIN: Thank you, Ms. Meisenheimer.
7 Those are all of my questions.

8 JUDGE DIPPELL: Thank you.

9 Are there questions from the Bench?
10 Commissioner Gaw? Do you want -- if you have to leave --

11 COMMISSIONER GAW: I'm going to go for just a
12 little while and then I'll need to come back later.

13 QUESTIONS BY COMMISSIONER GAW:

14 Q. Ms. Meisenheimer, in regard to -- first of
15 all, let me ask you this. How long have you been with Public
16 Counsel?

17 A. Almost 11 years.

18 Q. And have you been involved in very many
19 rate-making cases involving gas companies in that 11 years?

20 A. I've -- not nearly as many as phone cases as
21 I've been involved in, but yes, I've been involved in I
22 believe all of the gas cases over the last couple of years.

23 Q. During the time frame that you've been there,
24 have you been at least somewhat familiar with the proposals
25 that have gone on in regard to rate design?

1 A. Yes.

2 Q. Do you recall ever in the past, other than
3 this case and potentially this MGE case that's been mentioned
4 that's currently ongoing, where the Staff has taken the
5 position it has in this case regarding placing all of the LDC
6 charges on a fixed charge?

7 A. I never remember seeing this before. It is
8 not like what -- like what occurred in -- in the Laclede
9 settlement proposal in terms of rate design. It has far
10 different impacts. I know of no other case where the Staff
11 has -- has proposed this in gas. And it is extremely -- it's
12 of great concern to Public Counsel that the Staff has -- has
13 taken a position that's even more attractive to the company
14 than its own proposal.

15 Q. Okay. Let me ask you this then. So at what
16 point in time in this case was it first made clear in the --
17 avoiding any settlement discussions that might have taken
18 place, but at what point in time did it become clear that
19 Staff was taking the position that it is in this case, if you
20 recall?

21 A. Well, I -- I read it in Direct Testimony of
22 Ms. Ross.

23 Q. Okay. Is that the first time that you have
24 seen Staff take this position in regard to rate design was in
25 that particular document? And I'm not just talking about this

1 case now.

2 A. We had -- we had preliminary discussions with
3 the company, but I honestly cannot remember whether those --
4 some of those occurred before testimony was filed or not.
5 So -- but I can fairly say that my recollection is that we had
6 not seen something like this from the Staff prior to this
7 case.

8 Q. Okay. And I recognize that you have made
9 statements in testimony regarding your views on this, and I
10 might have actually looked at some of that despite the feeling
11 of some counsel in this case. But I would ask you, if you
12 wouldn't mind, telling me what it is that concerns you about
13 this type of rate design in regard to the fixed charge
14 portion.

15 A. I have a number of concerns and I'm trying to
16 make a list so that I can be organized. I -- I guess let me
17 start with the issue of what is the need for change. In this
18 case, the company certainly came in claiming that it needed an
19 increase.

20 The Staff, in fact, found that this company
21 needed -- needed their rates decreased. I think that where
22 the Staff ended up was \$1.2 million in terms of their
23 testimony. They have now abandoned that position, instead
24 being willing to settle for no increase and no decrease as an
25 outcome and providing this rate design to the company.

1 So, number one, if the increase -- if there is
2 no increase -- and I believe that Mr. Imhoff actually in --
3 in -- in surrebuttal he may have done some testimony about --
4 or actually in rebuttal, he did some testimony about that if
5 there is no change, then there -- they don't need to do any
6 shifting, if you will, of the costs between districts and
7 they'll just collect from each district what it does now and
8 we're not opposed to that. That gets us halfway to our
9 proposal, which is don't change anything without a reason to
10 do so.

11 So this rate design, I think that there are
12 problems with issues related to compounding as well. And what
13 I mean by that is you are compounding the effects in the
14 Staff's original proposal of shifts between classes upon
15 consolidation where -- where I don't think there's been
16 adequate basis for that consolidation. And those two things
17 coupled with a rate design that collects all of the money in a
18 single, flat rate charge means that customers can't even
19 escape it if it's unfair to them.

20 And although Ms. Ross has spoken a lot in this
21 case about what costs are, she admitted here on the stand that
22 she doesn't know what the costs are. And I think that is
23 very, very important. We're not opposed to looking at
24 consolidation, we just don't think that a case where there's
25 absolutely no reason to do so based on cost is the appropriate

1 time or place to do it.

2 Q. Okay. And would one of the potential reasons
3 for -- and I'm not asking you whether Public Counsel would
4 support this or not, but would one of the potential reasons
5 for moving toward more of the charges or all of the charges
6 being fixed on the LDC portion be if there were significant
7 changes and efforts made on a conservation effort? Would that
8 be one factor to look at?

9 A. It -- it would be a factor to look at in terms
10 of what would -- what would get us closer to being willing to
11 give up --

12 Q. Yes.

13 A. -- a customer's ability to control how much
14 money comes out of their pocket.

15 Q. And that statement in regard to customer
16 control that you just made, is that one of the linchpins of
17 Public Counsel's position in this case?

18 A. Yes. And one of -- one of the things related
19 to that that I hadn't gotten to yet, one of the reasons we
20 oppose this rate design had to do with its impact on low-use
21 customers.

22 Q. All right.

23 A. And in my Direct Testimony I did not
24 specifically make claims about low use versus low income. And
25 that is because I -- I had actually looked at some data that

1 the Staff got, it was a small sample of data regarding
2 low-income customers.

3 And it -- based on that small sample -- and,
4 you know, granted it was a small sample, it didn't seem to me
5 that there was a substantial or a statistically significant
6 difference between, you know, anything measurable. So I
7 didn't raise that as a separate issue in this case.

8 But just as a rule, low use, whether it might
9 be a single, elderly low-income customer that is also a
10 low-use customer, whichever, this rate design collects more
11 from them and substantially more from them.

12 And so, you know, I think it's a bigger
13 problem than just conservation will solve, but conservation is
14 certainly -- a good conservation program is certainly one
15 thing that would get us a step closer to -- and other types of
16 programs -- to agreeing to something.

17 And there's also the issue of, you know, risk
18 to us, what is our risk of losing this issue. You know, we
19 agreed in the Laclede case. We agreed to a stipulation that
20 had a rate design that, you know, quite honestly, we weren't
21 really enamored with, but an evaluation of risk and an
22 evaluation of a number of programs being adopted, including
23 our GSIP, all of those things combined, those concessions by
24 the company got us there.

25 In this case, I do not feel like concessions

1 of meaning are being offered up here.

2 Q. For the customers that you represent?

3 A. Right. Yes.

4 Q. And just for the record, what is a GSIP?

5 A. Oh, that's the Gas Supply Incentive Plan. And
6 I don't -- I certainly don't mean to sound like we would be in
7 favor of any old GSIP. We specifically designed one that
8 Laclede accepted I believe twice.

9 Q. Now, you were asked some questions and I want
10 to get back to -- you were going through some details. And I
11 don't want to get too far afield here, but there was -- there
12 was a set of questions asked by I believe Staff counsel
13 regarding the impact on low-income customers of this move to a
14 fixed charge. Do you recall generally some of those
15 questions?

16 A. Yes. That -- that if they used more on
17 average --

18 Q. Yes.

19 A. -- and, you know, we need to be sure that
20 we're talking about on average versus -- I tried to talk more
21 about what is the range of impacts while the company and the
22 Staff like to focus on the average.

23 Q. Yes.

24 A. I like to talk about non-gas costs because
25 that's what's in this case. The company and the Staff like to

1 talk about the bill in total because it -- disguises the
2 change in non-gas cost.

3 Q. The change in non-gas cost, in your opinion,
4 it moves toward more disincentives for conservation rather
5 than more incentives. Wouldn't that be true?

6 A. Which one? The delivery charge?

7 Q. Yes. In Staff's position.

8 A. Yes. I believe that that's true. You get --
9 it's literally all you want to draw off the pipe comes at a
10 flat fixed rate. It's like a buffet.

11 Q. And currently with the volumetric portion,
12 that does at least provide some degree of disincentive for
13 more usage?

14 A. Yes, it does.

15 Q. Now, you said several times, I believe,
16 correct me if I'm wrong, that there was -- that if there was a
17 comprehensive program of some sort in regard to this going to
18 a fixed charge -- I want you to explain, if you would, what
19 you were talking about if you recall making those statements.

20 A. And I want to be clear that even if we got a
21 comprehensive conservation program, it is -- I would be
22 surprised to find myself in support of a flat fixed charge
23 that collects everything.

24 Now, if we're talking about something -- a
25 rate design that allows maybe some additional recovery of

1 non-gas costs on -- in a more predictable manner like maybe a
2 larger customer charge or other mechanism, then the type -- I
3 mean, I've already proposed a conservation program.

4 I came in I believe it was the last MGE case,
5 I -- you know, I -- there have been a lot of them. I believe
6 it was the last MGE case where I brought in a proposal for the
7 PAYS program. Actually, that was -- you know, I can't claim
8 it entirely as my own. Henry Warren and Ryan Kind had ex--
9 had described some interest in that in -- in electric.

10 Public Counsel actually hired a -- the -- a
11 consultant, the founders of the PAYS organization, to consult
12 with me regarding how might we do it in Missouri. We put on a
13 good case, I believe, for that. Ultimately, this Commission
14 decided that it was interested in a PAYS-like program, but did
15 not direct it to be implemented in that case.

16 Q. Now, back to my question again; that is, a
17 comprehensive program, do you believe it is necessary for that
18 to be a part of some sort of a move toward some fixed charge
19 or more of the charge being fixed if it is going to have the
20 kind of impact that you think from a policy standpoint is
21 warranted?

22 A. I think that there must be something paid back
23 to consumers. And a comprehensive conservation program might
24 be one element of that, as well as things like, you know -- I
25 like the idea of low-income weatherization.

1 I don't think that the proposals that the
2 Staff brought out and the company agreed to in surrebuttal
3 have enough detail to be sure that they're -- that they'll
4 actually happen. So I'm not real comfortable with these
5 particular proposals, not because I don't think the concepts
6 would work, but because I don't think there's any detail or
7 enough detail set out in them.

8 Q. Okay. Do you believe that Staff's position
9 perpetuates the status quo on conservation and inefficiency or
10 the lack of conservation and inefficiency among low-income or
11 other groups?

12 A. I think that it worsens.

13 Q. So it's not just the status quo, it's even
14 worse?

15 A. I think it's even worse.

16 COMMISSIONER GAW: I'm going to have to stop
17 for now, but I do have more questions.

18 JUDGE DIPPELL: Commissioner Clayton, do you
19 have more questions?

20 QUESTIONS BY COMMISSIONER CLAYTON:

21 Q. Could you repeat everything you said while I
22 was out of the room?

23 A. I'd be delighted to. Do you really want to
24 hear it again?

25 Q. Well, I didn't hear it the first time, but --

1 I apologize. I had to step out. I might as well put this on
2 the record. Our family had a little fender-bender last night
3 and we have an issue with one of our vehicles, so we are
4 getting that taken care of as quickly as possible so I
5 apologize for having to step out.

6 Ms. Meisenheimer, can you tell me just, in
7 general, can you summarize each of the points that you make in
8 your testimony? How many issues are we involving? Is it just
9 energy efficiency and conservation or are there more issues
10 than that you're testifying on?

11 A. Well, I testified on many issues of --
12 primarily our concern is this rate design proposal. I also
13 testified on miscellaneous proposed tariff changes.

14 Q. Do you testify on PGA or district
15 consolidation?

16 A. Yes. I testified on both. Did you -- did you
17 want to --

18 Q. Anything else?

19 A. -- know our position on either of those?

20 Q. We'll get to those. Let's talk about the
21 issues first. I want to see which ones I want to talk about
22 and maybe quickly go through them.

23 A. Economic development rider.

24 Q. I'm sorry. Say that again.

25 A. Economic development rider. And I had also

1 filed testimony on research and development, but I think that
2 that was resolved.

3 MR. FISCHER: Yes. That's on the resolved
4 list. Company's withdrawn that.

5 COMMISSIONER CLAYTON: Non-unanimous
6 stipulation?

7 MR. FISCHER: No. We just withdrew it.

8 COMMISSIONER CLAYTON: Gotcha.

9 THE WITNESS: I also filed testimony on cost
10 of service, which is -- since the parties ultimately agreed
11 to -- to retain the current revenues generated by classes and
12 just deal with the issue of do you roll them up for
13 consolidation or not, then the cost testimony that I did,
14 we've settled away from that.

15 BY COMMISSIONER CLAYTON:

16 Q. So is that the district-specific cost of
17 service --

18 A. Yes.

19 Q. -- or are you talking about class cost of
20 service or both?

21 A. It actually affects both.

22 Q. Both. Okay.

23 A. And if I could look at the issues list, I can
24 make sure.

25 Q. Why don't we focus on these since it's 4:55

1 here.

2 A. Okay.

3 COMMISSIONER CLAYTON: Well, I guess, Judge,
4 this is my question. I'm going to have questions regarding
5 the PGA consolidation, district cost of service consolidation,
6 and rate design I believe is where I'm going to focus. Can I
7 proceed on all those or do you just want me to focus on --

8 JUDGE DIPPELL: If you would start with rate
9 design, because that's what we've been talking about, I'd like
10 to let the parties do their recross on that issue.

11 COMMISSIONER CLAYTON: Okay.

12 JUDGE DIPPELL: And then I would like to see
13 if maybe we can skip to Mr. Ellis briefly because he's flown
14 in and I'm not sure if he's planning on being here tomorrow.
15 So --

16 MR. DORITY: Would you like for me to go ahead
17 and respond?

18 JUDGE DIPPELL: Yes, if you don't mind,
19 Mr. DORITY.

20 MR. DORITY: Mr. Ellis's testimony has been
21 received and he is here this afternoon.

22 JUDGE DIPPELL: Right.

23 MR. DORITY: He would be available in the
24 morning. I think his travel plans were to leave, fly back out
25 of St. Louis tomorrow afternoon. So I was going to ask if

1 there are any questions for Mr. Ellis, if they could either be
2 provided this evening or perhaps in the morning prior to
3 agenda then that would at least get he and perhaps Mr. Kerley,
4 I'm sorry, on the stand in the morning.

5 Now, Mr. Kerley is the Atmos witness on the
6 other tariff issues, which is the last segment that we have
7 not gone to yet. I don't want to speak for Mr. Poston, but
8 it's my understanding that neither he nor the Staff had any
9 questions for Mr. Kerley. So if the Commissioners had any
10 questions, again, if we could take those up this evening or
11 perhaps in the morning, then those gentlemen could at least
12 have a chance of getting out of here tomorrow afternoon.

13 JUDGE DIPPELL: And correct me if I'm wrong,
14 Mr. Dority, but did Mr. Ellis actually testify about the
15 reconnection charge or that was --

16 MR. DORITY: That was primarily --

17 JUDGE DIPPELL: -- Ms. Childers?

18 MR. DORITY: -- Mr. Ensrud had proposed that
19 and the company has agreed to the Staff's proposal.

20 JUDGE DIPPELL: So the only testimony on the
21 company's part with regard to that issue is just that you
22 accept Staff's position?

23 MR. DORITY: That's correct.

24 JUDGE DIPPELL: And Mr. Kerley, what was his
25 issue?

1 MR. DORITY: The other tariff issues which
2 include the main extension policy, the transportation tariff
3 changes to that.

4 JUDGE DIPPELL: Okay. Well, what I want to do
5 is stay and finish those things, go through the cross or if
6 there's no cross -- but make sure we've got all of that taken
7 care of and get whatever Commission questions we have for
8 those people tonight, if we can, so we can get them back out.

9 COMMISSIONER CLAYTON: What is Mr. Ellis's
10 topic? Forgive me for asking.

11 MR. DORITY: It was the miscellaneous tariff
12 issue.

13 COMMISSIONER CLAYTON: So Mr. Kerley and
14 Mr. Ellis are the miscellaneous tariff issues?

15 MR. DORITY: One's titled Miscellaneous Tariff
16 Issues and the other is Other Tariff Issues. They were broken
17 apart in the issues list. For instance, the miscellaneous
18 included the late payment fees non-sufficient funds, those
19 sorts of issues.

20 COMMISSIONER CLAYTON: I'm not going to have
21 any questions for those two witnesses. So as far as -- I was
22 going to say, if you wanted -- because I think we're going to
23 have to come back for Commissioner Gaw. He's not going to let
24 Ms. Meisenheimer off the hook that easily, so -- but I don't
25 think I'm going to have any questions, Judge. So I can either

1 proceed or --

2 JUDGE DIPPELL: Okay. Well, I don't believe
3 that there are any Commission questions for either Mr. Ellis
4 or Mr. Kerley. Would there be -- are there going to be
5 cross-examination questions for either of those witnesses?

6 MR. BERLIN: Judge, with regard to
7 Mr. Ellis --

8 JUDGE DIPPELL: Yes.

9 MR. BERLIN: -- there is a rate design
10 question that Gary Smith punted to him.

11 JUDGE DIPPELL: That's right. You had one.

12 MR. DORITY: But I believe Mr. Smith is the
13 witness that is going to re-answer that question and put that
14 exhibit in is my understanding.

15 MR. BERLIN: Okay. I have no problem with
16 that, Judge.

17 JUDGE DIPPELL: Okay. Mr. Poston, were you
18 going to have questions for either of those two company
19 witnesses?

20 MR. POSTON: No, Judge.

21 JUDGE DIPPELL: Okay. Well, then seeing no
22 questions for them, I thank Mr. Ellis for making the effort to
23 be here today. I apologize. Okay. So I will excuse those
24 two witnesses.

25 MR. DORITY: Thank you, Judge. We really

1 appreciate it.

2 JUDGE DIPPELL: They can be on their way.

3 This whole schedule has been a little hectic so -- what I
4 would like to do then is go ahead and -- Commissioner Clayton,
5 while we've got Ms. Meisenheimer on the stand, if you want to
6 ask your rate design questions, why don't we do that and then
7 take up the other issues that you might have questions for.
8 I'd like to get as much accomplished tonight as we -- as you
9 feel like staying for.

10 COMMISSIONER CLAYTON: I'm not -- I'm not
11 going to go that long. I assure everyone that I'm not going
12 to go that long.

13 BY COMMISSIONER CLAYTON:

14 Q. Ms. Meisenheimer, do you make a proposal for
15 energy efficiency and conservation in your testimony?

16 A. I do not.

17 Q. Do not. Okay. Is there any energy efficiency
18 or conservation program that the Commission could implement
19 that, in your opinion, would justify the rate design that the
20 Staff has proposed and the company has agreed to?

21 A. I can think of no conservation program that is
22 going to justify a rate design that collects everything
23 through a fixed cost. If you want to move more toward
24 collecting through fixed cost, I had originally -- or I had in
25 the MGE case, the last MGE case, proposed a PAYS plan that was

1 thoroughly discussed in the context of that case.

2 Ultimately, the Commission decided that it was
3 interested in PAYS, but did not go forward with the PAYS
4 program. We would have happily spoken to this company about
5 developing some type of PAYS conservation program in exchange
6 for a more reasonable rate design, but that's not what we have
7 in this case at this point.

8 Q. Do you know of any state in the nation that
9 has a rate design where 100 percent of the delivery costs are
10 in a fixed rate?

11 A. I know of one that is not quite as extreme as
12 this. And that is North Dakota.

13 Q. And they do 100 percent of the delivery costs
14 in a fixed charge?

15 A. And -- and in -- it was done through a
16 settlement where the parties agreed to --

17 Q. So is that a yes?

18 A. Yes.

19 Q. They do 100 percent of their fixed costs?

20 A. Yes.

21 Q. And that was North Dakota?

22 A. The -- there is also an -- an Atlanta --
23 Atlanta Gas Light. They collect everything through a fixed
24 charge, but the issues are how is the fixed charge determined
25 and was -- did it affect like the return, if you will, that

1 the company was allowed.

2 Q. In those cases or in this case, when you say
3 the issue?

4 A. That -- that's what I'm saying is different
5 about this proposal than those. In one of those, the company
6 accepted a lower return. In the other one in Atlanta, I
7 believe customers actually have a choice of gas -- of
8 marketer. So they get some competition in their commodity
9 rate.

10 And the actual fixed charge the way that it's
11 developed takes into account what the usage is at, if you
12 will, the premise. So a customer that conserves under that
13 program actually sees some kind of benefit from it, unlike
14 this plan that the Commission Staff is proposing to you.

15 Q. Was it Atlanta Gas Light -- was that where the
16 competition in the commodity purchases occurred?

17 A. They can choose from different marketers, I
18 believe, to provide their commodity. I actually have a little
19 handout that I think makes that clear if you'd like me to make
20 copies of it. I printed it from their website.

21 Q. Sure.

22 A. Okay. I will --

23 Q. I mean, unless there's any opposition. I
24 don't know if there's a problem with that.

25 JUDGE DIPPELL: I don't see any such

1 opposition, but perhaps we should let the parties see it
2 before --

3 MR. FISCHER: That would be our request, if we
4 could look at it before we have to answer that question.

5 THE WITNESS: And it is available on that
6 company's website. It's a description of how their rates are
7 determined. So -- and it wouldn't hurt me to make a better
8 copy of it.

9 BY COMMISSIONER CLAYTON:

10 Q. That's all right. You can make a copy of it
11 and then give it to us later unless there's an objection.

12 North Dakota, you say there was a reduction in
13 the rate, you said, or was it a reduction in the revenue
14 requirement or reduction in the ROE? What did you mean
15 reduction?

16 A. In the revenue requirement. The parties
17 agreed to take two alternatives to their Commission and let
18 their Commission pick. One of those alternatives had
19 everything recovered in a fixed rate and a total lower revenue
20 requirement or -- I don't even know -- if it's a settled
21 amount of money, I don't even know -- I guess you still call
22 it a revenue requirement, a target.

23 The other proposal actually maintained a rate
24 design more traditional like what we have here where there is
25 a fixed portion of non-gas recovery and volumetric portion and

1 gave the company a higher overall revenue requirement. And
2 the parties just agreed to take these two options to the
3 Commission and let them pick.

4 Q. Do you recall what the return on equity was on
5 the fixed charge in North Dakota? Did they have an agreement
6 on the ROE?

7 A. They -- I think it was done -- what I read
8 presented it in total dollars.

9 Q. Okay. Do you recall what the ROE would have
10 been in the Atlanta Gas Light case for the distribution
11 company?

12 A. No. At that -- at the point I was writing
13 this testimony, I was primarily concerned with the structure
14 of the rate itself and -- and I did not dive into all the
15 underlying revenue requirement type information and rate --
16 like ROE versus ROR.

17 Q. In the MGE case and the program that you
18 suggested, is it primarily focused on low-income or
19 lower-income customers or is it everyone or --

20 A. It -- it is -- it could be everyone. The idea
21 is that primarily the thing -- or the primary obstacle that
22 keeps people from efficient -- or attempting to be more
23 efficient in their use is generally the up front cost. It's a
24 big investment to do a lot of these efficiency measures.

25 And so what PAYS -- the PAYS program was

1 designed to do is that it puts up the money. You create a
2 pool of money. Customers can draw on this pool of money to
3 make those initial investments. And then over time, the
4 customer pays back that money that they borrowed from the
5 pool. So the pool is replenished and they pay it back in a
6 way that their total bill is actually lower on a monthly basis
7 because they are saving more than they're paying back.

8 Q. But it's not restricted to a particular income
9 class, or is it?

10 A. No, it is not. And I believe that when I
11 proposed it -- I should be careful because I think I actually
12 did put a cap on it. If you made above a certain amount of
13 money per year, you wouldn't qualify. I can't remember if it
14 was \$150,000 or something.

15 Q. You couldn't resist, could you?

16 A. But the -- I couldn't resist. Well, I didn't
17 want anybody claiming, oh, you're going to have millionaires
18 taking advantage of this program. So --

19 Q. Well, if we instituted the program that you
20 suggested in the MGE case, would you then support -- be in a
21 support to support the rate design supposedly agreed to in
22 this case?

23 A. I -- as I tried to explain earlier and maybe
24 didn't do it well enough --

25 Q. Just say yes or no.

1 A. -- I would not -- I could not support this
2 extreme proposal.

3 Q. No would be the answer then. Correct?

4 A. No.

5 Q. Okay. Can you explain to me what percentage
6 of the cost of service being placed in fixed rates would be a
7 level that you could support if implemented with a program
8 such as Pay as you Save or another conservation, slash, energy
9 efficiency program? Is it easy to identify 60 percent, 80
10 percent?

11 A. I -- I can, you know -- this Commission
12 actually did for MGE allow it to recover 55 percent of its
13 costs as a fixed rate. And I've said in I believe the current
14 MGE case that we're not going to oppose that. Could we go to
15 something more? It would depend on how good the conservation
16 program was and if there were additional programs that went
17 with it. So, no, I can't give you a number.

18 Q. So let's think about what with your answer was
19 here. You said that you wouldn't oppose if 55 percent were
20 placed in fixed rates?

21 A. Because we've already -- we've already done
22 that in another case. You already decided that was okay.

23 Q. But there is potential that you could agree to
24 more depending on the program?

25 A. Yes. I can't -- I don't have authority to

1 pick a number without running that by my attorney and by my --
2 ultimately by my boss.

3 Q. Okay.

4 A. I -- personally I think depending on what the
5 programs were, we could see to go, you know, maybe something
6 more than 55 percent.

7 Q. What is so magical about 55 percent?

8 A. You chose that number before in MGE.

9 Q. I'm talking about from your perspective. I
10 don't know if it was me that picked it either.

11 A. The last MGE case I think you -- you were one
12 of the Commissioners still -- I think.

13 Q. You think?

14 A. I think.

15 Q. Maybe you can check that out.

16 Is there anything magical about 55 percent
17 that Office of Public Counsel would be willing to not oppose
18 or whatever your language?

19 A. I think it's fair to say the reason we
20 wouldn't oppose 55 percent is because it's -- it's a threshold
21 you've already -- this Commission has already used.

22 Q. So there's nothing magical from your
23 perspective other than that the Commission has suggested a
24 willingness to adopt 55 percent?

25 A. Yes. I don't -- I don't know whether I would

1 have, on my own, even gone to 55 percent.

2 Q. Okay. Now, you've mentioned a lot about
3 conservation. Does the Public Counsel have a position
4 regarding energy efficiency, the Energy Star program,
5 education of the public on energy efficiency? Is there an
6 official position that Public Counsel has?

7 A. Public Counsel has tried to be very supportive
8 of implementing efficiency and conservation program that --
9 that can be shown to, you know, be of benefit to the entire
10 customer base. In gas it's a little harder to find those than
11 it is in electric because of the nature of the service.

12 Q. On energy efficiency?

13 A. In terms of what can benefit the entire
14 customer base. In electric where you're talking about
15 electric generation and potentially having to build new
16 generation facilities, there's -- you really -- you know, it's
17 more clear that you're creating a benefit to all the other
18 customers by not -- by conserving.

19 Q. Why do you say that?

20 A. Because it costs a lot of money, say, for
21 example, to build a new power plant. If you can avoid that
22 through conservation, you're benefiting all the customer base.
23 In gas, how -- what's the likelihood that this -- you know, a
24 reduction in my use is going to affect the natural gas price
25 overall?

1 Q. Does that mean you don't buy into the
2 statement that some energy efficiency groups have said
3 where -- and I don't even know if this is accurate, but like a
4 reduction of 5 percent of the overall natural gas usage would
5 reduce the price of natural gas by 25 percent? I make that
6 statement because it is an assertion that's been made by
7 energy efficiency groups in some form of what I just said.
8 Does that mean that you disagree with reducing the overall
9 usage of customers will not benefit all the customers?

10 A. I've done no elasticity study to determine
11 what's the relationship between a reduction in quantity of a
12 certain amount and a change in the price of a certain amount
13 so --

14 Q. So I guess that would be --

15 A. It's not fair for me to say.

16 Q. -- no?

17 A. No.

18 Q. No, you don't buy that?

19 A. No. I can just say no.

20 Q. Yeah. Okay.

21 A. Did you want me to go on about the Energy Star
22 and the efficiency programs?

23 Q. Yeah. Do you believe that the Commission has
24 a role in -- well, first of all, do you believe it's a good
25 program? Should we be promoting it? Should we be taking

1 steps here to make people aware of the Energy Star program,
2 make people aware of energy efficiency?

3 A. Yes. We -- we have actually -- Public Counsel
4 has actually worked with companies in an attempt to get them
5 to promote more efficient use by their customers. I think it
6 was Southern Missouri Gas that was mentioned here. They have
7 a tariff.

8 Also, we have participated in the Ameren
9 groups that have reviewed the programs that Ameren is
10 promoting. I -- I do have a little bit of concern about the
11 Ameren programs that over time they've been reducing the types
12 of efficiency measures that are available to customers through
13 that program; in other words, the smaller, less expensive ones
14 they didn't find there was a big take rate for those so
15 they -- they trimmed those from the program, if you will.

16 But in terms of encouraging people to install
17 more efficient home heating and -- I think it's been a very
18 good program.

19 Q. The Ameren program?

20 A. Yes. Funded by ratepayers.

21 Q. Is it your opinion that energy efficiency and
22 conservation programs should be funded by ratepayers or funded
23 by the company or both?

24 A. Or I'm sorry. I'm sorry. That's funded by
25 shareholders. I'm sorry. That was my -- I misspoke. The

1 Ameren program is funded by shareholders. It was, if I
2 remember correctly, a result of the last complaint case that
3 created a program.

4 Because, as a rule, some programs I think can
5 reasonably be funded by shareholders and certainly ratepayers
6 may have a reason to contribute to some. Let me give you an
7 example. In a case where a company is trying to compete --
8 say, for example, you have a gas company that's trying to
9 compete with a propane dealer, the state -- or the
10 shareholders may have an interest in providing additional
11 benefits to their customers that draw customers to them, and
12 one of them is to encourage ways where the customer's total
13 bill will be lower.

14 In other cases where you have a program that
15 can be shown to benefit the entire customer base or meet some
16 other goal such as substantially targeting reductions in
17 uncollectibles and other things, there may be a reason for
18 residential customers and other customer groups to help fund
19 those measures. And we've supported both. Our office has
20 supported cases where discounts were provided or measures were
21 supported by shareholders and in -- and there are cases where
22 they've been supported by ratepayers.

23 COMMISSIONER CLAYTON: I don't have any other
24 questions at this time. If you can submit that document you
25 referenced earlier to the parties, make sure there are no

1 objections; and if there are, we can take that up. But
2 subject to looking over that, possibly asking a question about
3 that, I don't have anything further for this witness tonight
4 on this issue.

5 JUDGE DIPPELL: Okay. Ms. Meisenheimer, tell
6 me again exactly what that item you had was.

7 THE WITNESS: What it is, is I printed it off
8 Atlanta Gas Light's website. It is a description for
9 customers, available to customers to read that describes their
10 basic -- how their basic rates are determined. And it goes
11 through actually a series of Q and As for customers to help
12 them understand better how their bill will be calculated. And
13 it has numerical examples. So it's a publicly available
14 document. It's not something I got --

15 JUDGE DIPPELL: Okay. Just to keep track of
16 things on the record, I'm just going to mark that as -- I'll
17 mark it as a -- I've been marking the others in order as if
18 they were Staff exhibits, but they were Commission exhibits
19 when they were requested from the Commissioners, but I'm just
20 going to keep in that line.

21 So I'm going to mark that just for
22 identification purposes as Exhibit 141. And if you could make
23 copies of that and provide that Mr. Poston as a late-filed
24 exhibit, then we'll take objections at that time.

25 All right. I know that Commissioner Gaw has

1 additional questions for Ms. Meisenheimer, so do you prefer to
2 ask your recross questions now while they're fresh in your
3 memory or save them until Commissioner Gaw is finished?

4 MR. FISCHER: Given the time, I can save
5 those.

6 MR. BERLIN: Staff would prefer to wait until
7 he's finished.

8 JUDGE DIPPELL: Okay. Let's stop then with
9 Ms. Meisenheimer on this topic until another day.

10 All right. Let's go ahead and take a
11 10-minute break. I think our court reporter might need a
12 little break. And in that time we'll talk off the record a
13 little bit more about the schedule and then see where we are.
14 So let's break until 5:30 by that clock.

15 I will note that I imagine the front doors to
16 the building will be locked so if you go outside, you may need
17 a Staff person to let you back in. So let's go off the
18 record.

19 (A recess was taken.)

20 JUDGE DIPPELL: Okay. We discussed about
21 scheduling after the -- or during the break and what we're
22 going to do is we're going to put Mr. Smith back up to talk
23 about rate design, we're going to ask him Commissioner
24 Clayton's questions and I may have a couple and then we'll
25 have him come back tomorrow for Commissioner Gaw's questions.

1 And after we're finished with him tonight, we will break until
2 one o'clock tomorrow. So can we have Mr. Smith back on the
3 stand, please?

4 Thank you, Mr. Smith. You were previously
5 sworn and your exhibits have already been admitted so you can
6 go ahead and sit down. I'll just remind you that you're still
7 under oath.

8 THE WITNESS: Okay.

9 JUDGE DIPPELL: And Commissioner Clayton.

10 COMMISSIONER CLAYTON: Thank you, Judge.

11 GARY SMITH testified as follows:

12 QUESTIONS BY COMMISSIONER CLAYTON:

13 Q. Mr. Smith, good evening. We'll try to get out
14 of here in short order. I won't keep you too long.

15 What is the flag that's on your lapel?

16 A. This is a little company logo, Atmos Energy
17 and the American flag.

18 Q. American flag. Good. Good. I couldn't tell
19 when you walked by. I didn't know if it was a particular
20 state.

21 Where are you from?

22 A. I live in Kentucky.

23 Q. Kentucky. What part of Kentucky?

24 A. A little place called Owensboro right along
25 the Ohio River.

1 Q. That's a big river down there.

2 A. It is.

3 Q. Mr. Smith, you have basically adopted the rate
4 design -- or your company has adopted the rate design proposed
5 by Staff; is that correct?

6 A. Yes.

7 Q. Could you explain to me the difference between
8 the rate design that was proposed by Staff versus what Atmos
9 originally filed?

10 A. Well, Atmos originally filed for higher base
11 charges, among other things that were sponsored by
12 Ms. Childers, in addition to other service charge changes and
13 so forth. One -- one feature of our proposed rate design was
14 weather normalization of which I was the sponsor.

15 And then really as you stated, the Staff
16 proposal was for the delivery charge. And as the company
17 really considered the totality of their proposal, the zero
18 revenue increase, the rate design, the -- the weatherization,
19 etc., you know, then the company did more or less adopt their
20 rate design or recommend their rate design.

21 Q. In the original testimony filed by Atmos --
22 and if this goes to another witness, I apologize, just
23 identify what you know and what you don't know and we'll move
24 on. That's okay. No penalties for that.

25 What percentage of the delivery cost was

1 placed in a fixed rate in Atmos's original case?

2 A. You know, I don't have that information. That
3 was not something I sponsored. That would have probably been
4 Pat Childers.

5 Q. Well, I've already lost that opportunity. You
6 don't have an estimate or any idea off the top of your head?

7 A. I'm sorry, I do not. Because the rate
8 structures here in Missouri are somewhat complicated because
9 of the multiple rate divisions that we have.

10 Q. Okay. So basically your role was just weather
11 normalization; is that right?

12 A. That's correct.

13 Q. Okay. You didn't testify to change in the
14 revenue requirement at all in your testimony?

15 A. No, I did not.

16 Q. Okay.

17 A. You know, I should clarify that when the
18 delivery charge did come up in the Direct Testimony of the
19 Staff and so forth, then I did expand my -- my role into --
20 into that element of the rate design as well.

21 Q. Well, on the weather normalization was your
22 testimony basically in the form of an amount of revenue to
23 somehow normalize weather patterns and establish more
24 stability in the rate?

25 A. We proposed actually a mechanism that we

1 employ in several other jurisdictions which mathematically
2 protects the customer from variations in the margin collected
3 due to weather. And it -- and it obviously stabilizes that
4 feature for the company as well.

5 Q. Obviously the Staff's rate design would
6 stabilize it even more, wouldn't it?

7 A. Yes, it -- it does. It's also weather
8 mitigating in that for the two classes of customers that it --
9 that the delivery charge applies to, the residential class and
10 small general service class then, that would be a mitigation
11 completely of weather for those classes, but not for the
12 others.

13 Q. Okay. Are you aware of whether Atmos has any
14 conservation or energy efficiency programs in any of its other
15 jurisdictions, any of its other territories in other states?

16 A. You know, I can -- I can speak to Kentucky
17 where I live. There is a weatherization -- low-income
18 weatherization program that we employ. But it sounds somewhat
19 similar to the -- to the program that is proposed here.

20 Q. That's the only program. Nothing relating to
21 general conservation or energy efficiency that you're aware
22 of?

23 A. Not that I'm aware of. Not that I'm aware of.

24 Q. But you probably wouldn't know? It doesn't
25 sound like that's your area of expertise.

1 A. I'm pretty sure that if they exist, they would
2 be few. I'm not -- I think I would be aware of it if they
3 were prevailing throughout the company.

4 Q. Okay. If the Commission were to adopt the
5 rate design that shifts the cost of service into a fixed
6 charge, can you think of any reasons why the company would be
7 opposed to energy efficiency programs or conservation
8 programs?

9 A. Well, you know, I think that in that regard, I
10 guess what we would have to consider really is how those
11 programs would work and the -- the cost responsibilities of
12 those programs. I was able to arrive today so I've heard a
13 lot of the dialogue in regard to the other programs in
14 Missouri and so forth that have been discussed after lunch.

15 Of course, in our case, we really more or less
16 endorsed the Staff plan in aggregate of so many features,
17 mainly the revenue requirement and so forth. So one would
18 have to consider expanding those programs, you know, really
19 the economics on the shareholders probably is one of the first
20 things that we would want to look at. And then really because
21 of our --

22 Q. Well, let me phrase --

23 A. -- lack of experience --

24 Q. -- phrase the question this way. I mean, I
25 don't want to cut you off, but let me rephrase the question.

1 If you remove the aspect of financial contribution, whether it
2 be from shareholders versus ratepayers, if you remove that
3 item of discussion, let's just say we threw an amount in
4 rate-base. Would there be any opposition or problem of the
5 company for implementing some sort of energy efficiency or
6 conservation program?

7 A. I think the company is very open to discussing
8 that. I mean, we really do not want to see customers consume
9 any more than they need to consume.

10 Q. So if we remove the incentive to sell the gas
11 and you're making your money on the fixed charge, you don't
12 have weather as a component anymore and you eliminate the
13 whole need for creating demand. That would be an instance of
14 where conservation, energy efficiency would be in line with
15 goals of the company. Correct?

16 A. Absolutely.

17 Q. Now, from your limited role -- and I'm
18 probably going to go down a path where you're not the right
19 witness to ask, and I let Ms. Childers off the hook without
20 laying into her more this morning.

21 But what would it take to instigate
22 discussions about energy efficiency and conservation programs
23 if this type of rate design were utilized?

24 A. Well, I think the company would be willing to
25 sit down with the interested parties to discuss a program. We

1 are interested in the economics of such programs where -- it's
2 interesting because what I was going to state, as you
3 clarified, is, you know, with -- with our little experience at
4 such programs, we just want to make sure that the value of
5 such programs hits the right customers.

6 And often what you have, regardless of who the
7 payor is, whether it appears to be the shareholder or the
8 ratepayer, you know, sometimes the program cost can really be
9 greater than the benefits derived from that program and that
10 would be something we would want to understand better.

11 Q. Where have you seen that occur? What
12 experience have you seen where the program costs exceeded the
13 benefits?

14 A. Well, you know, I can't say that -- I don't
15 want to extend beyond my expertise, but I've been involved in
16 discussions of such programs before. And I guess it's based
17 upon those discussions that I'm left with some concern that
18 that may be the case.

19 Q. In what jurisdictions have those conversations
20 occurred, do you know?

21 A. They've been multi-jurisdictional, that's why
22 it's hard. But I do know that California is often cited, not
23 by me but by others, in these discussions that seem to be more
24 familiar with the details, that it may be one of those type of
25 states.

1 Of course, I believe that it would be pointed
2 out that their drivers of cost, of energy costs and their
3 environmental concerns and their growth, I think there's a
4 number of factors that -- that -- that -- that although others
5 may view them as having crossed that line, maybe for their
6 case it's appropriate. I'm not trying to judge that. But I'm
7 just saying it would be difficult to take their circumstances
8 and overlay them on ours.

9 Q. Do you all have territories in California?

10 A. We do not.

11 Q. You do not. Atmos is the largest natural
12 gas-only utility in the United States; is that correct?

13 A. That is -- yes, that's correct.

14 Q. And you are not aware of any -- you personally
15 are not aware of any existing energy efficiency or
16 conservation programs that are done by Atmos anywhere in any
17 of its territories?

18 A. No, I am not.

19 Q. Okay. And you cannot testify as to any
20 particular state that you would see as a shining example of an
21 effective and worthwhile energy efficiency or conservation
22 program?

23 A. That's true. I would not be able to do that.

24 COMMISSIONER CLAYTON: Thank you very much.

25 JUDGE DIPPELL: Thank you.

1 QUESTIONS BY JUDGE DIPPELL:

2 Q. I just had a couple of questions, Mr. Smith,
3 really quick. In your testimony, in your Direct Testimony at
4 page 12 you testified about -- when you were testifying about
5 the weather normalization, you were saying that there
6 basically wouldn't be any additional cost to administer that
7 or let me make sure -- is that what you said? Is that what
8 you said?

9 A. Which line number?

10 Q. I'm looking at line No. 11 -- starting at line
11 No. 11.

12 A. That -- yes, we're saying that there's no --
13 computer programs or data collection systems would have to be
14 developed.

15 Q. Right. With regard to the Commission -- or
16 the Staff's delivery charge proposal, do you know if there
17 would be any additional costs with that?

18 A. There would not be, no.

19 JUDGE DIPPELL: Okay. And that is actually my
20 only question. So with that then, we will go ahead and
21 adjourn for the evening. I'll ask you to remain -- to come
22 back tomorrow for additional Commissioner questions.

23 MR. FISCHER: Judge, there was one question
24 from Gary -- from Mr. Smith's earlier testimony that he did
25 not have information readily available for related to -- I

1 think a question both from Staff counsel and Commissioner
2 Applying related to low-income annual usage of typical
3 customers.

4 And we have an exhibit that the parties have
5 seen now, but would it be appropriate to deal with that
6 tonight?

7 JUDGE DIPPELL: Yes. Yes.

8 REDIRECT EXAMINATION BY MR. FISCHER:

9 Q. Okay. Mr. Smith, do you recall a question
10 from I think Mr. Berlin regarding LIEAP customers and how
11 their annual usage compared to other typical customers?

12 A. Yes, I do.

13 Q. Have you caused to be prepared an exhibit
14 which would answer that question?

15 A. Yes, I have

16 MR. FISCHER: Judge, I'd ask -- I'm not sure.
17 Did we mark this earlier? We may have marked it already.
18 It's the FY 2005 data is what it was titled.

19 JUDGE DIPPELL: Yes.

20 MR. BERLIN: Exhibit 19.

21 MR. FISCHER: Exhibit 19?

22 JUDGE DIPPELL: We marked it as Exhibit 19.

23 BY MR. FISCHER:

24 Q. Mr. Smith, do you have Exhibit 19 in front of
25 you?

1 A. Yes, I do.

2 Q. Was this exhibit prepared by you or under your
3 direction?

4 A. Yes, it was.

5 Q. And does the information contained herein, is
6 it accurate to the best of your knowledge and belief?

7 A. Yes, it is.

8 MR. FISCHER: Judge, I'd move for the
9 admission of Exhibit 19 in answer to those questions.

10 JUDGE DIPPELL: Would there be any objection
11 to Exhibit 19?

12 MR. POSTON: Yes, your Honor. We'd object to
13 this exhibit. We have had no opportunity to verify the
14 numbers in this exhibit or the underlying data. And these
15 numbers did not appear in any of the pre-filed testimony and
16 for these reasons we object. I'm sorry. Just I guess the
17 LIEAP customer use data.

18 MR. BERLIN: Judge, I'd like to weigh in on
19 that.

20 JUDGE DIPPELL: Yes, Mr. Berlin.

21 MR. BERLIN: Under the direction of
22 Commissioner Appling -- and perhaps he made it a rhetorical
23 comment, but he had expressed great desire to understand the
24 low-income impact of Staff's rate design, the same rate design
25 adopted by the company.

1 In going back last week, I had asked Mr. Smith
2 a question regarding low-income customers and their annual
3 consumption of gas as it relates to the annual average
4 customer consumption of gas. At that time he had indicated
5 that -- and this goes back last week -- that Mr. Ellis would
6 be better able to answer that question.

7 And I believe that since then, the company has
8 been able to respond to that question. It was one that I
9 asked and I know one that Commissioner Appling has a great
10 interest in. And I believe it to be highly relevant to the
11 rate design question and certainly relevant by way of
12 Ms. Meisenheimer's Rebuttal Testimony which contains results
13 of her study.

14 MR. POSTON: Your Honor, I have not objected
15 to relevancy. The data that this purports to show could be
16 relevant. That's not what I'm saying. I'm saying we haven't
17 had an opportunity to look at it and verify it and so we don't
18 know if these numbers are accurate.

19 MR. BERLIN: Okay. This information is
20 relevant in the sense that it is probative of the effect that
21 Staff's rate design has on low-income customers. The company
22 has prepared information or had information available, but I
23 was unable to cross Mr. Ellis last week on this.

24 JUDGE DIPPELL: Okay. I'm going to take the
25 easy way out and reserve my ruling until tomorrow. It's too

1 late to think too hard at this point so we're going to go
2 ahead I believe and adjourn until one o'clock tomorrow. Thank
3 you. We can go off the record.

4 WHEREUPON, the hearing was adjourned until
5 December 5, 2006 at 1:00 p.m.

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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Hearing

8

December 5, 2006

Jefferson City, Missouri

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Volume 9

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In the Matter of Atmos Energy)

Corporation's Tariff Revision)

13

Designed to Consolidate Rates and)

Implement a General Rate Increase) Case No. GR-2006-0387

14

for Natural Gas Service in the)

Missouri Service Area of the)

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Company)

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NANCY M. DIPPELL, Presiding,

18

SENIOR REGULATORY LAW JUDGE.

STEVE GAW,

19

ROBERT M. CLAYTON,

COMMISSIONERS.

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22

REPORTED BY:

23

KELLENE K. FEDDERSEN, CSR, RPR, CCR

MIDWEST LITIGATION SERVICES

24

25

1

APPEARANCES:

2

JAMES M. FISCHER, Attorney at Law

LARRY W. DORITY, Attorney at Law

3

Fischer & DORITY

101 Madison, Suite 400

4

Jefferson City, MO 65101

(573) 636-6758

5

DOUGLAS C. WALTHER, Associate General Counsel

6

Atmos Energy Corporation

P.O. Box 650205

7

Dallas, TX 75265

8

FOR: Atmos Energy Corporation.

9

ROBIN FULTON, Attorney at Law

135 East Main

10

P.O. Box 151

Fredericktown, MO 63645

11

(573) 783-7212

12

FOR: Noranda Aluminum, Inc.

13

MARC D. POSTON, Senior Public Counsel

14

P.O. Box 2230

200 Madison Street, Suite 650

15

Jefferson City, MO 65102-2230

(573) 751-4857

16

FOR: Office of the Public Counsel

17

and the Public.

18

KEVIN THOMPSON, General Counsel

STEVE REED, Deputy General Counsel

19

LERA L. SHEMWELL, Senior Counsel

ROBERT S. BERLIN, Associate General Counsel

20

P.O. Box 360

200 Madison Street

21

Jefferson City, MO 65102

(573) 751-3234

22

FOR: Staff of the Missouri Public

23

Service Commission.

24

25

1 P R O C E E D I N G S

2 JUDGE DIPPELL: We'll go ahead and go on
3 the record. Good afternoon. This is Case GR-2006-0387,
4 and this is December 5th in the afternoon. We're
5 reconvening the hearing. My name is Nancy Dippell. I'm
6 the Regulatory Law Judge. And we're going to begin with
7 just a couple of housekeeping things. We left pending an
8 objection to Exhibit 19. Mr. Poston, you wanted to make a
9 remark?

10 MR. POSTON: Yeah. We were going to
11 withdraw our objection to that exhibit being introduced in
12 evidence. We have some follow-up questions that we would
13 like to introduce on redirect of Ms. Meisenheimer. So I
14 understand there will be no objections to those, so we
15 withdraw our objection.

16 JUDGE DIPPELL: Then I will receive
17 Exhibit 19 into evidence.

18 (EXHIBIT NO. 19 WAS RECEIVED INTO
19 EVIDENCE.)

20 JUDGE DIPPELL: And I also received copies
21 of the complete Exhibit 139 from Staff counsel, and you
22 gave copies to the other counsel, is that correct,
23 Mr. Berlin?

24 MR. BERLIN: I did.

25 JUDGE DIPPELL: I'm not going to rule on

0510

1 that. I'm going to let you-all have a chance to look at
2 that, since it's rather lengthy, unless you know that you
3 don't have objections to it.

4 (No response.)

5 JUDGE DIPPELL: Okay. I'll give you-all a
6 chance to look at that in its entirety, and you can make
7 objections -- I'll set a time for that.

8 MR. POSTON: Judge, we also have the
9 Atlanta Gas Light exhibit webpages that Ms. Meisenheimer
10 talked about.

11 JUDGE DIPPELL: All right. That was marked
12 as Exhibit 141.

13 (EXHIBIT NO. 141 WAS MARKED FOR
14 IDENTIFICATION BY THE REPORTER.)

15 JUDGE DIPPELL: Has counsel had a chance to
16 look at this? Do you need more time?

17 (No response.)

18 JUDGE DIPPELL: Mr. Berlin, have you had a
19 chance to look at this?

20 MR. BERLIN: I have just glanced over it.

21 JUDGE DIPPELL: Okay. I'll give you more
22 time. We'll --

23 MR. POSTON: Judge, you said this is 141,
24 right?

25 JUDGE DIPPELL: Yes. It's as if it had a

0511

1 Staff number, but -- okay.

2 Okay. I said we were going to begin, we
3 were going to call Mr. Smith back up to the stand, and
4 finish with Commissioner questions. We're not going to
5 have any further Commissioner questions, but we did have
6 some recross, is that correct, based on yesterday's
7 Commission questions?

8 MR. BERLIN: That's correct.

9 JUDGE DIPPELL: Okay. So let's go ahead
10 and call Mr. Smith back up.

11 Mr. Smith, you were sworn in yesterday and
12 your exhibits have been admitted -- or you were sworn in
13 Thursday, I think?

14 THE WITNESS: Yes.

15 JUDGE DIPPELL: So you remain under oath in
16 this proceeding.

17 THE WITNESS: Okay.

18 JUDGE DIPPELL: All right. Is there
19 cross-examination based on questions from the Bench from
20 Staff?

21 MR. BERLIN: Yes, Judge. I have just a
22 couple questions.

23 GARY L. SMITH testified as follows:

24 RECROSS-EXAMINATION BY MR. BERLIN:

25 Q. Mr. Smith, are you familiar with the

0512

1 Atlanta Gas Light Company?

2 A. Yes, sir.

3 Q. Were you present during the line of
4 questionings -- questioning yesterday with regard to
5 Atlanta Gas Light?

6 A. Yes, I was.

7 Q. Are you aware or can you tell me what their
8 authorized rate of return is?

9 A. Yes, I can. Their authorized rate of
10 return is 10.9 percent.

11 MR. BERLIN: Staff has no further
12 questions.

13 JUDGE DIPPELL: Okay. Is there any further
14 cross-examination from Public Counsel?

15 MR. POSTON: No.

16 JUDGE DIPPELL: All right. Is there
17 redirect?

18 MR. FISCHER: Just a little bit.

19 REDIRECT EXAMINATION BY MR. FISCHER:

20 Q. Mr. Smith, Commissioner Clayton asked you,
21 I think, to compare the weather normalization adjustment
22 mechanism that Atmos originally had proposed in this case
23 to the Staff's proposed rate design. Would you elaborate
24 a little bit on your answer on that, compare the
25 differences?

0513

1 A. And I believe that's in regard to the
2 weather mitigating impact of either rate design?

3 Q. Yes, please.

4 A. Well, both, you know, the -- I guess
5 basically, you know, if you look at it, there is
6 weather -- there's pretty full weather mitigating
7 coverage under the delivery charge rate structure for the
8 residential class and for the small general service class.
9 And if you look at the original proposal by the company,
10 we proposed to do really two things in regard to weather
11 mitigation. One is a modest move of the base customer
12 charge, and secondly the weather normalization adjustment,
13 which I sponsored.

14 Actually, that weather normalization
15 adjustment was to apply to the residential and commercial
16 class. And so really for the two service types that are
17 subject to the delivery charge rate structure, I would
18 kind of view it as there's pretty full weather mitigating
19 effects of the delivery charge rate structure that would
20 have been basically the same under the proposal of the
21 company.

22 Q. I believe the Commissioner also asked you
23 about what percent of fixed costs were included in the
24 company's original customer service charge. Have you had
25 a chance to check the answer to that?

0514

1 A. I did. As I suspected, that was in
2 Ms. Childers' testimony and that was in her prefiled
3 direct. And basically in her testimony on page 9,
4 line 25, she references a table, which is also adjoining
5 her testimony, which points out that really under the
6 proposed rate design by the company, we were going to
7 have 39 percent of our total revenue would be through the
8 customer charge.

9 Q. But am I correct that as a part of that
10 proposal, you also had the WNA?

11 A. That is correct, yes. Layered on top of
12 that for residential an and commercial, we have had WNA.

13 Q. And how would that affect the overall
14 weather mitigating impact of both combined proposals?

15 A. As I say, really for the residential and
16 the small general service, I look at both as being full
17 weather mitigating rate designs. For the other classes of
18 service, there isn't any weather protection for the
19 company or for the customer.

20 Q. I believe there were also some questions
21 regarding the limited number of companies that had the
22 fixed delivery charges. Do you recall those?

23 A. Yes, I do.

24 Q. Could you also indicate whether there are
25 other companies that have other weather mitigating

0515

1 adjustment mechanisms?

2 A. Yes, and I've not attempted to recount
3 those, but when you're looking at weather mitigating rate
4 designs, even just through the weather normalization
5 adjustment mechanism itself, for example, by last count
6 there are nearly 20 states that have such mechanisms
7 approved by one or more utilities in their service area.
8 And I believe that I counted nearly 40 utilities by my
9 last count that have weather normalization, weather
10 mitigating rate designs.

11 Q. Okay. And in the discussion with
12 Commissioner Clayton, while you were talking about the
13 Staff's rate design proposal, I think you also indicated
14 that the company chose to abandon its original weather
15 normalization adjustment proposal. Would you explain why
16 they did that, why you did that?

17 A. Well, we did that -- in my prefiled
18 testimony, I also talked a little bit about decoupling
19 mechanisms and the dilemma that is faced by utilities in
20 this environment that we're in. But really in this case
21 when the Staff proposed a delivery charge, Staff witness
22 Ross made some pretty compelling arguments for the
23 delivery charge rate structure.

24 The ones that really struck me, resonated
25 well with me was, for one, the rate design that she

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1 proposed that the Staff was proposed was simple, it was
2 understandable by the customers and, unlike many other
3 decoupling mechanisms that are cropping up throughout the
4 US, it didn't have a correction factor component whereby
5 you go back in and calculate the dollars lost to
6 conservation and get a little bit -- those are much more
7 complicated and certainly, from the customer standpoint,
8 not as understandable.

9 And then finally, I think she made some
10 very good points that I had not seen raised in the way
11 that she did in her testimony which dealt with the cost to
12 provide service, and the examples that she used were
13 really small, low-use customers, say logs-only-type
14 customers, and that the cost really to serve them is no
15 different than a larger multi-appliance residence. And I
16 thought that was a good compelling argument.

17 So those were the primary reasons why we
18 were drawn to endorse their rate design.

19 MR. FISCHER: I believe that's all I have,
20 Judge. Thank you.

21 JUDGE DIPPELL: Thank you. Mr. Smith, I
22 believe that concludes your testimony, and you may -- this
23 is the last issue, right, for you, the only one for you?

24 THE WITNESS: I believe it is.

25 JUDGE DIPPELL: You may be excused.

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1 THE WITNESS: Thank you.

2 JUDGE DIPPELL: All right, then. I
3 believe we also concluded Ms. Ross' testimony on the
4 rate design issue, and we were going to go back and
5 complete Ms. Meisenheimer's testimony on rate design
6 with Commissioner questions. So if we could have
7 Ms. Meisenheimer to come back to the stand.

8 Ms. Meisenheimer, you've also been
9 previously sworn, and your exhibits have been previously
10 admitted, and I'll just remind you that you're still under
11 oath.

12 Commissioner Gaw, did you remember where
13 you left off?

14 BARBARA MEISENHEIMER testified as follows:

15 QUESTIONS BY COMMISSIONER GAW:

16 Q. It's a little off topic from where we were
17 yesterday, but let me -- you have testified, I believe, in
18 regard to this disconnection charge, and I'd like to ask a
19 few questions about that.

20 A. Okay.

21 Q. First of all, can you briefly describe the
22 proposal for the disconnection charge that I believe Staff
23 has and Atmos is in the same position, if I'm correct. If
24 I'm not correct, tell me.

25 A. And are you talking about the seasonal

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1 disconnect --

2 Q. I am.

3 A. -- aspect.

4 Okay. The -- the Staff proposes to have
5 customers that have been -- or that leave the system
6 voluntarily to repay, if you will -- or to pay, not to
7 repay, but to pay any lost delivery charge that the
8 customer might have avoided, so the Staff wants its
9 delivery charge and to, on a mandatory basis, allow the
10 company to recover that equivalent amount of revenue from
11 customers if they voluntarily leave the system and sign
12 back up.

13 Q. Now, how long would they have -- how long
14 would they have before that would not apply, if you know?

15 A. I'm going to -- I'm going to have to look
16 in Mike Ensrud's testimony. He specifically addressed
17 that, and I --

18 Q. I can --

19 A. I want to say a year, but I need to verify
20 that. He's not shaking his head, so yes, one year.

21 Q. Okay. So if they -- if they reconnect
22 after a year's period, then this penalty wouldn't apply?

23 A. Yes.

24 Q. But if they reconnect within the year
25 period, then it would apply?

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1 A. Yes.

2 Q. Now, what if they moved from one residence
3 to another and there was a time frame in between when they
4 weren't hooked up? Would they pay that -- would they pay
5 that additional amount during the time when they weren't
6 hooked up if they change residences but both times they
7 were being served by Atmos?

8 A. I'm sorry, .I'm not sure of Mr. Ensrud, his
9 intention on that, and I think it's fair to let him
10 characterize his position on that.

11 Q. Okay.

12 A. In the event that he were to propose that a
13 customer moving from one location to another should have
14 to pay it, I don't think that would be appropriate, just
15 like I don't think it's really appropriate to force the
16 customer to pay for service when they don't use it.

17 Q. So Public Counsel opposes this position,
18 correct?

19 A. Yes.

20 Q. Now, have you ever seen this kind of a
21 proposal before, and if so, when?

22 A. I have not seen this type of proposal
23 coupled with a delivery charge that collects everything on
24 an equal basis from residential customers. And there are
25 companies and, in fact, this company in its -- in a number

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1 of its districts has a mechanism by which it can recoup a
2 portion of costs that is the customer charge for a number
3 of months if a customer disconnects. And I actually have
4 that detailed information in something I could root out,
5 if you need that level of detail.

6 Q. I'm not sure that I do, but would it tell
7 me how -- what's in existence now compares to this
8 proposal --

9 A. Well --

10 Q. -- in regard to the impact on a consumer?

11 A. Typically, traditionally, we have
12 determined a customer charge, and what's included in that
13 customer charge includes things like the cost of the meter
14 and the cost of the service line, those things which are
15 dedicated on the customer's premise to serving the
16 customer. And so in that case, where the company tradit--
17 or already has mechanisms in place to go back and collect
18 revenue that it did not collect because the customer was
19 not taking service, it would have, in theory, recovered
20 the cost of the service line and the meter and the other
21 dedicated at the premise revenue, if you will. The
22 Staff's proposed delivery charge, however, collects the
23 entirety of non-gas cost from residential customers. So a
24 customer that took no service at all in terms of volumes
25 would not only be forced to pay the cost of the meter and

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1 the service, but they would also be asked to pay toward
2 the other costs of the system, whether or not they took
3 volume one.

4 Q. Explain the distinction you're making, if
5 you would.

6 A. Well, I think that it makes a large
7 difference in terms of dollars that a customer would have
8 to pay if they -- let's say they disconnected for a month,
9 and certainly it's going to depend on what month it is,
10 but let's say there's a \$7 customer charge. The
11 customer's off for a month. They have to pay an
12 additional \$7 plus reconnection charges, things like that
13 to get back on the system.

14 In the case of the delivery charge and --
15 and I don't have the updated number. It varies by
16 district. Let's say that the Staff's proposed delivery
17 charge in an area is \$20. Then that means the customer
18 who's off for a month has to pay back \$20 instead of \$7.
19 Actually, I keep using the word pay back, but I don't mean
20 that. It's not a -- it's not that the customer owes it
21 from my perspective. It's instead that the company is
22 allowed to charge it to the customer.

23 Q. And what I was really asking is, do you
24 believe that that is unfair or inappropriate and, if so,
25 how?

1 A. I believe that it is unfair and
2 inappropriate. The -- the company lays service pipe and
3 obviously, you know, has a customer base. That customer
4 base varies. Some costs are not directly attributable to
5 a particular customer. Instead they're common costs that
6 must be allocated in some fashion, and typically the value
7 of service, the theory of value of service says there's a
8 value in both having access to and in actually utilizing
9 facilities.

10 So I think it's fair and appropriate that
11 both elements be recognized in designing rates, and that's
12 traditionally supported a customer charge and a volumetric
13 rate.

14 Q. And in this case the proposal is not for
15 that, but all of them to be in the one fixed charge. So
16 how is that -- how does that match up with what you just
17 said?

18 A. Well, it is not consistent with a
19 traditional mechanism which values of service to both
20 aspects, access to and use of, instead of --

21 Q. I'm sorry. Can you give me an example of
22 what you mean as a portion of what is access to and then
23 the other portion that you refer to? Can you give me an
24 example of what you're referring to?

25 A. Well, and please feel free to stop me if

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1 I'm not headed in the --

2 Q. Obviously I am, but go ahead.

3 A. Certainly there are facilities on a premise
4 that are dedicated to that premise, and in my perspective
5 more than a particular customer, because there's the issue
6 of renters and whether the Staff is going to apply the
7 same policy to renters as non-renters. But the meter, the
8 service line, those are more obviously dedicated to a
9 premise and that's the piece that has traditionally been
10 collected in a customer charge. This company, some other
11 companies, but I don't believe all districts for all
12 companies have the ability to recoup that if the customer
13 chooses not to take service for some number of months.

14 Q. Okay. There's some other portion of the
15 charge that you think really isn't attached to the
16 premises, right?

17 A. Not -- not directly attributable to a
18 premise.

19 Q. And can you give me an example of something
20 that fits into that category?

21 A. Mains, measuring equipment also, you know,
22 traditionally we have assigned costs where expenses follow
23 plant. So the expenses associated with, say, for example,
24 mains would be allocated traditionally in the same
25 mechanism as the main plant would be. So in addition to

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1 just the actual physical facilities, a lot of the expenses
2 including directly attributable expenses and then some cut
3 of the overhead costs also tend to be allocated in that
4 same fashion, and I might point out that the Staff, in
5 fact, in preparing their own cost studies used that
6 traditional method.

7 Q. And when you're using that method, the kind
8 of services that you're referring to, the mains and the
9 overhead, would that generally be more attributable to --
10 in the rates as to the volumetric portion?

11 A. Yes.

12 Q. All right. So Staff is in this -- in its
13 proposal, even though you've just testified that they --
14 that they used this in their analysis, they have ignored
15 that traditional way of allocating to some degree those
16 costs between a volumetric and a fixed charge?

17 A. Yes. There is a disconnect between their
18 cost studies and their cost methodology and their rate
19 design proposal.

20 Q. Who did their cost studies, do you know?

21 A. Tom Imhoff sponsored the cost studies. I
22 believe that Dan Beck also worked with developing some of
23 the allocators. Ms. Ross actually crunched some numbers
24 in term of the large customer usage patterns, and I think
25 there were other people. There were a couple of people, I

1 think, that worked on weather normalization. All of those
2 different aspects go into portions of developing the cost
3 study, but the cost study witness was Tom Imhoff.

4 Q. Okay. Was that cost study done before
5 Staff formulated its direct testimony on rate design?

6 A. It was filed with the rate design. I'm not
7 sure, you know, before -- all I know is what they said
8 when they filed, and the cost of service I saw at the same
9 that I saw this rate design proposal.

10 Q. If I were looking at -- well, let me ask
11 you this: In looking at the cost study that you're
12 referring to, did it infer a certain appropriate division
13 in rates between a volumetric and a fixed charge amount,
14 do you know?

15 A. Yes, I do know. I actually --

16 Q. Can you go into that a little bit for me?

17 A. I'd be happy to. Actually, as part of
18 our -- as part of our preliminary agreement in this case
19 with respect to the exchange of data, the Staff provided
20 to me their work papers, including their cost of service
21 studies. And typically I rely on a lot of the data
22 produced by Staff to do my own cost studies, and in fact,
23 as this case progressed, I ultimately agreed to use their
24 mains allocator.

25 But the Staff, just like our cost study, at

1 one step in their process they sort out what are the costs
2 of, say, for example, services, and what are the cost of
3 meters in total? What's the total dollar amount that's
4 going to be allocated to each customer class? And so you
5 are able to divide that by the number of customers in that
6 district, if you will -- the Staff used three, I used
7 seven -- and that would come up with the portion of those
8 costs that are going to be allocated if you did it on a
9 per customer basis, which the customer charge
10 traditionally is.

11 So the Staff actually did have in their
12 studies -- I think it's a historic thing. I don't know if
13 they're going to try and change that in the future or not,
14 but historically they've calculated that inside their cost
15 studies, and I believe they relied on it in testimony in
16 the past.

17 Now, I don't -- what I remember seeing
18 specifically are the plant-related accounts, and so, you
19 know, had identified as being related to a customer
20 portion. And I don't know if, you know, they intend to
21 change that going forward so it won't be -- so it won't
22 disagree with their rate design or not.

23 Q. If you were looking, again, at their cost
24 studies and their allocation, if the rate design had been
25 similar to that, would the current rate design in the

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1 division between that Atmos is using now, would it vary
2 far from those cost studies in regard to what should be in
3 volumetric and what should be in fixed charge, if you
4 recall?

5 A. Yes. Yes.

6 Q. In what way? Give me some --

7 A. Well --

8 Q. -- inclination.

9 A. The Staff's cost studies would pick up
10 certain elements of plant cost, primarily the meter and
11 the service, the cost of the service line at the premise,
12 and they would capture that in those costs which they
13 would later identify as being customer related and recover
14 through a customer charge.

15 In this case, it literally takes every type
16 of cost -- the rate design from a theoretical perspective
17 takes every type of cost and recovers it as part of a flat
18 fixed rate.

19 Q. That's the proposal that Staff has?

20 A. That's the proposal.

21 Q. Now, what I'm asking you at this point is,
22 does the cost study, if it were split along the lines that
23 you have traditionally seen Staff do it, would it -- would
24 it be close to the current, not the proposal, but the
25 current split that we have in Atmos, if you recall?

1 A. There were a number of districts.

2 Actually, I may have that information right here with me.

3 Q. Okay. Good.

4 A. The west central rate district which
5 includes Greeley and Butler, and this is -- this is a copy
6 of the Staff's cost study that I printed off. It was the
7 work papers that supported direct testimony.

8 Q. Okay. Is it marked as an exhibit, do you
9 know?

10 A. No. I have all three and would be happy to
11 make you copies if you would like them.

12 Q. Perhaps if we're going to get into too much
13 detail on the numbers, we would want to do that. I'll ask
14 the Judge how she would prefer to handle the record.

15 JUDGE DIPPELL: I can certainly mark that
16 as an exhibit or I'll -- you say there's three?

17 COMMISSIONER GAW: The main purpose at this
18 point, Judge, is in the event we're talking about numbers
19 off of a document, there be some identification of that
20 document in the record.

21 THE WITNESS: I'm looking at what I have
22 printed off as the second page, and if you decide you'd
23 like them, you know, I'll certainly be happy to number the
24 pages to correspond to this discussion. That's --

25 JUDGE DIPPELL: And this is, you said, the

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1 cost studies from Staff?

2 THE WITNESS: Yes.

3 JUDGE DIPPELL: That was to support --

4 THE WITNESS: Their direct testimony. It
5 was filed -- it was the work papers from their direct
6 testimony. And they may have changed some numbers, you
7 know, along the way to agree with their accounting
8 schedules. Okay.

9 BY COMMISSIONER GAW:

10 Q. Now, is any of this HC, highly
11 confidential?

12 A. I don't believe that the -- that the
13 structure of the Staff's cost study could really be
14 considered highly confidential. I can talk generally
15 about that. There are specific numbers that are
16 allocated, like tens and hundreds of thousands of dollars
17 of, if you have any interest in those, but I think I can
18 shorten the answer.

19 Q. That would be good.

20 A. And what I tell you I don't think would be
21 highly confidential.

22 Q. Okay.

23 A. All right. The -- this is the Staff's cost
24 study, as I said, for the west central rate district,
25 keeping in mind the Staff did three consolidated areas.

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1 Even though their accounting Staff did seven revenue
2 requirements, the Staff combined and only did three class
3 cost of service studies.

4 All right. On the second page of this, the
5 Staff has identified -- and I did verify that these cells
6 actually pull from numbers and they're entered elsewhere
7 in their studies. They weren't just hard-coated leftover
8 things. There are some titles. One is total revenue to
9 collect from class, and then a subtitle of that, amount to
10 be collected in customer charge, and then identifies a
11 group of costs. One of them is direct service line cost.
12 Another is direct meter cost. Another is direct regulator
13 cost. And those three categories of cost actually have
14 numbers in them.

15 Then there's some other things below it,
16 and I don't really know whether because of the Staff's
17 rate design they're doing this part specifically
18 differently or not. I didn't go back and compare to like
19 their cost studies in the ANG case or anything, but they
20 have direct billing costs, direct meter reading costs and
21 direct customer service costs, all three have zero in
22 them.

23 Anyway, the next line says dollars to
24 collect in customer charge, and it comes up with a total
25 amount of dollars. They do a little gyration for

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1 transport customer adjustment. Come up with the remaining
2 dollars, divide by the number of bills, so that this gets
3 you a per bill customer charge, and so it's titled
4 customer charge from COS, which typically means cost of
5 service, in this case \$6.

6 Q. That would be the fixed charge or variable
7 charge?

8 A. And then they have customer charge rounded
9 to \$7.

10 Q. All right.

11 A. But I mean, I actually went in and looked
12 at these numbers, and it looked to me like the Staff did
13 not, in fact, actually just round each of these. Where
14 they were -- where they were different, one of them
15 actually should have rounded to 6 and instead it was hard
16 coated 7. So I think maybe the Staff might have been
17 considering -- I don't really know why they did it, but I
18 don't think the rounded number is actually correct for
19 each of the districts, just a qualification.

20 And similar, but the reason that I say that
21 is because the Staff did something similar for the other
22 two districts, and while it rounded to -- while in its
23 cell it calls rounded to, they put the same number. It's
24 not really the same if you actually do the rounding
25 mathematically. So while it appears that, you know, they

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1 round all to the same for each district, that's not really
2 the case if you were to actually do the calculation.
3 That's what I was trying to say.

4 Q. Okay.

5 A. Did you need anything more than that?

6 Q. What I'm asking you is, based on the cost
7 studies that you have there, can you -- is there a way to
8 derive what would be an appropriate split between
9 volumetric and fixed charges if you were using cost
10 studies as a guide?

11 A. Well, if the cost studies, the
12 customer-related portion of the cost studies, directly
13 assignable cost looks to be something more in the
14 neighborhood of 6 to \$7.

15 Q. Okay. And as you go through the other
16 districts, can you give me a number for them?

17 A. Yeah. What I was -- what I was trying to
18 say is I think they end up almost identical for the
19 districts, that piece of it, although that's not exactly
20 the case because the numbers aren't -- they're hard coated
21 in some cases.

22 Q. Thank you. I think that clarifies that
23 part for me.

24 A. Okay.

25 Q. So the other portion of whatever the

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1 charges would be would fall into a volumetric rate?

2 A. Yes.

3 Q. Yes.

4 A. Typically. And as I said, you know, the
5 Staff may or may -- they may or may not. If they were
6 proposing a traditional rate design, I'm not sure if they
7 would want to capture other things in that basket. I'm
8 sure that Tom Imhoff or Dan Beck, who's been doing these
9 cost studies for years, could tell you about that.

10 Q. Okay. Now, what are the current fixed
11 customer charges in those districts?

12 A. I have these on a worksheet, and I'm hoping
13 I actually have it with me today. They vary from -- I
14 mean, I can give you an idea without --

15 Q. Well, if you have a range, that would be
16 helpful.

17 A. I believe the range is from \$5 up to maybe
18 \$9.05.

19 Q. Okay. And Staff's proposal again is to go
20 to what fixed charge?

21 A. It varies by district, and I really do need
22 that sheet to be able to answer these questions well. I
23 calculated them based on the billing determinants that
24 have been agreed to in the case.

25 JUDGE DIPPELL: Ms. Meisenheimer, is that

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1 the same as what Ms. Childers had attached to her
2 surrebuttal at -- page 1 of 2 of her Schedule 2 of her
3 surrebuttal had the current -- currently effective rates,
4 including a customer charge, or is what you're talking
5 about different?

6 THE WITNESS: I do remember talking at this
7 hearing about what they were and confirming -- confirming
8 that I agreed with them, but for some reason I was
9 thinking that that was as compared to Ms. Ross' testimony.

10 I hid them right in the front. All right.
11 Here we go. Are you interested in what they would be on a
12 consolidated basis as the Staff's proposed or
13 unconsolidated?

14 BY COMMISSIONER GAW:

15 Q. Why don't you give me both?

16 A. Okay.

17 Q. I want the unconsolidated ones first.

18 A. Unconsolidated first. Kirksville 11.94;
19 Butler 18.67; SEMO 13.86; UCG 25.33; Palmyra 14.12;
20 Greeley 25.37; Neelyville 18.28.

21 On a consolidated basis, Kirksville 20.61;
22 Butler 19.43; SEMO 13.92; UCG 20.61; Palmyra 20.61,
23 Greeley 19.43, Neelyville 13.92. And those are based
24 on -- or the way I got the calculation is I took the
25 revenues that have been agreed to in this case by district

1 and divided by the customer bills that have been agreed to
2 in this case by district.

3 Q. Okay.

4 A. And then I combined where there was a
5 consolidated district as proposed by the Staff.

6 Q. Okay. I apologize for jumping around here,
7 but you filed testimony, I know, along with Mr. Trippensee
8 in regard to an appropriate ROE; is that correct?

9 A. Primarily I introduced Mr. Trippensee as
10 the witness on that issue. I did mention -- I did mention
11 that, you know, we believe it's appropriate that there be
12 some consideration, I think I said some things probably
13 about the Laclede stipulation, which I participated in, in
14 working on, and then I think I also mentioned something on
15 the North Dakota rate design where there was a different
16 revenue requirement offered.

17 Q. Would you feel comfortable in answering
18 questions in regard to a reduction in ROE because of a
19 decreased amount of risk?

20 A. To the extent my expertise allows as an
21 economist, and, you know, to the extent I worked a little
22 bit in this area before. But as a general rule, you know,
23 if it gets very complicated, it would probably be better
24 to talk to Mr. Trippensee.

25 Q. Well, if it does, just let me know.

1 A. Okay.

2 Q. I'm interested just in general at this
3 point in the -- in the concept of risk to the company, and
4 whether or not moving to a fixed charge as opposed to a
5 fixed charge plus a volumetric charge increases, decreases
6 or leaves risk the same for the company.

7 A. When you allow the company a fixed recovery
8 and couple it with a mandatory recovery mechanism that
9 benefits the company, then you certainly reduce the
10 company's risk of not earning a level that will satisfy
11 investors.

12 Q. And if you -- just generally, how is that
13 risk lowered?

14 A. The company -- the company's revenue stream
15 is less dependent on the weather. Each year there is more
16 certainty that the company will achieve a certain level of
17 performance from the viewpoint of shareholders, and
18 therefore, it appears to be less risky investment.

19 Q. Generally, when -- is a company's risk of
20 importance in traditional ratemaking and making decisions
21 about what the appropriate return on equity should be?

22 A. Generally, yes. If you would like to go
23 more into it, this would be close to where I'll pass it
24 off.

25 Q. All right. And Public Counsel has proposed

1 a reduction in ROE if the Staff's proposal on rate design
2 is adopted; is that correct?

3 A. Yes.

4 Q. Now, do you know whether Staff proposed as
5 a part of its ROE recommendation that their resulting
6 recommendation included a reduction because of the
7 lowering of risk with the fixed rate? Do you know the
8 answer to that?

9 A. I believe the answer to that is no, and I
10 base that on a number of things. One of them is that
11 Ms. Ross agreed or admitted that she had not spoken to
12 Mr. Barnes prior to Mr. Barnes filing his testimony. It's
13 my recollection from prehearing -- discussions at the
14 prehearing conference that, in fact, the Staff had not
15 included a consideration of a reduction of rate of return.

16 Certainly that was an issue near and dear
17 to our hearts. We wanted to talk about that. We talked
18 about it at length in Laclede, and it -- as you know, the
19 Laclede stipulation specifically indicates that return was
20 considered in developing the stipulation in the case where
21 we gave them a rate to design which reduced their weather
22 risk, and we felt that was appropriate.

23 We believe it would be appropriate in this
24 case, as it would be in the future as well. In cases
25 where you reduce a company's weather risk, you know, I

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1 think it's reasonable and fair to customers to account for
2 it by a lower return.

3 Q. In some of the discussions in the
4 Prehearing Briefs, if I recall correctly, there was
5 some -- some discussion about an allegation or a question
6 of whether or not Atmos might actually be overearning. Is
7 that true, that there's some discussion of that? Do you
8 know?

9 A. I -- I know that that is an issue for us.
10 I actually spoke about it in my testimony and would be
11 able to address it.

12 Q. I'm interested in knowing, first of all,
13 does Public Counsel believe that currently Atmos is
14 overearning?

15 A. This is an area where we typically rely on
16 the Staff. We have a limited accounting staff of two
17 that's working on all the cases --

18 Q. All right.

19 A. -- in the state, and the Staff, the
20 Staff's, you know, witnesses filed testimony that was
21 supported in -- not just presented in direct, supported in
22 rebuttal, and also in surrebuttal that they believed the
23 company was earning by approximately 1.2 -- overearning by
24 1.2 million. So I assume that the Staff could support
25 their claims.

1 Q. Well, but Staff isn't taking a position in
2 this case, are they, that there should be a reduction in
3 revenues by that 1.2 million?

4 A. That's true. They're willing to go to
5 zero. I'm not entirely clear why.

6 Q. In other words, what you're saying is
7 they're willing to not advocate for a reduction in the
8 revenues of the company, even though they appear to have
9 filed testimony that suggests there is that overearning
10 occurring?

11 A. Yes.

12 Q. I assume that's not Public Counsel's
13 position?

14 A. No. I mean, we -- I'm not really our --
15 I'm not an accountant, and we have Russ Trippensee who
16 watches over that area for us and might be better able.

17 But, you know, to the extent that we review
18 and rely on the Staff's testimony in those areas, and I
19 think that there was one -- one issue maybe that
20 Mr. Trippensee still had a concern with with respect to
21 the Staff's revenue requirement, one or two, but as a rule
22 we supported the Staff's decision and were concerned that
23 they appeared to be leaving \$1.2 million on the table in
24 this case.

25 Q. There is that \$78,000 or something, though,

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1 that's being contributed for conservation efforts?

2 A. Well, that's another area where I don't
3 think that the details are concrete enough to ensure that
4 this is actually going to happen in any reasonable time
5 frame. There's not detail about who's going to run this
6 program. I'm not sure if the Staff is now proposing that
7 the company do it, contrary to the Staff's position in
8 past cases where local community action agencies handle
9 those type of programs.

10 I don't think there's enough detail for us
11 to feel confident that that will actually happen any time
12 soon to aid those -- you know, to provide weatherization
13 to those 30 homes.

14 Q. Now, so I think you've answered this
15 question. I don't want to belabor this. So you believe
16 there is a significant benefit to the company in going to
17 this rate design?

18 A. Absolutely. They like it better than what
19 they proposed themselves.

20 Q. What makes you say that?

21 A. They have abandoned their own position
22 proposing a weather normalization adjustment instead to
23 give up \$3.3 million that I assume they believe that they
24 needed in order to go to zero and get this rate design.

25 Q. Is it understandable that they would prefer

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1 this rate design, in your opinion, based upon your
2 experience, to the one they proposed initially? Is it
3 understandable that that would be more beneficial to the
4 company than the one the company actually proposed?

5 A. I think when you balance the support from
6 the Staff, together with the revenue stream that it
7 produces, against the past decision of this Commission not
8 to accept a weather normalization in another case, so when
9 you consider all of those factors, then yes.

10 Q. Now, I want you to tell me, because I've
11 heard testimony, the suggestion that this is going to
12 benefit those people that you represent, this rate design.
13 And I'd like to hear your view on whether -- what your --
14 your opinion on that position.

15 A. There are some customers that would benefit
16 under this rate design. High use customers are going to
17 get a bargain compared to what they've been paying. I
18 mean, I reviewed underlying data from a subset of
19 customers based on testimony or data that Anne Ross
20 requested from the company and found that, you know, the
21 usage might vary from 200 CCF annually up to, I believe
22 one of the levels I saw was 2700 CCF annually. So there's
23 a huge difference in some cases between the usage of
24 individual customers.

25 Those high use customers, they're going to

1 benefit because they won't pay as much. Low use customers
2 are going to be negatively impacted. They are going to
3 pay more, and that varies by district. There's also this
4 issue of or this -- the consolidation issue also creates
5 issues between how our customers in the current districts
6 are affected. Say, for example, Kirksville. When you
7 combine kirksville with other areas, is Kirksville -- or
8 is there the amount that they pay distorted from what it
9 was? Yes, it will be. So there are impacts both just on
10 low use customers within a district and there are impacts
11 across districts that are being proposed to be
12 consolidated.

13 Also, another problem that -- a serious
14 problem that I see with this rate design is the Staff
15 proposed it for the smallest small general service
16 customers, and I did an analysis, and it's in my
17 testimony, and I felt that I did that very conservatively,
18 and what it showed was that if you go from 2,000 CCF per
19 year, where you'll pay the residential delivery charge, to
20 2,001 CCF, you could pay substantially more.

21 It creates discontinuity in terms of the
22 rates, and I -- honestly, I do not feel that there is
23 substantial evidence the Staff has provided with any
24 numbers backing it that you should rely on to impose this
25 type of rate design in a case where you're not going to

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1 give a company any increase.

2 Q. So overall, I assume that it's Public
3 Counsel's view that those that you represent are more
4 harmed -- there's a net harm to the group as a whole?

5 A. Yes, in this case, and also potentially in
6 the future, if the Staff continues to propose this type of
7 a rate design. I mean, where does it stop? Does it stop
8 at natural gas or do they then decide that they need to
9 introduce this into electric? Do they think it needs to
10 apply to generation facilities where the fixed -- where
11 the costs are primarily fixed?

12 I mean, I see this -- this proposal is bad
13 in this case. It is bad policy. I cannot recommend that
14 you would adopt this. I hope you won't. It would be even
15 worse to spread this type of policy, not just in this
16 state but then to other states that go, oh, let's go look
17 at what other states are doing. Here's Missouri, they've
18 got this rate design, and maybe we ought to look into it.

19 So this is not a model. There may be
20 models for us to adopt in Missouri, and Public Counsel has
21 proposed programs. We are willing to look at rate designs
22 that accomplish additional conservation in energy
23 efficiency. This is not the one. Send us to the table --
24 may I read you something that you guys said?

25 Q. Well, let me -- well, let me ask you what

0544

1 it is.

2 A. It's from the MGE case. It's what the
3 Commission said about the PAYS program that I'd proposed
4 in this case.

5 Q. MGE case, regarding?

6 A. It's in the Order.

7 Q. Regarding a question of a rate design that
8 was similar to the one that's proposed?

9 A. No. It discusses the customers -- or the
10 Commission's interest in the PAYS program.

11 Q. Why don't you just refer to it, and then we
12 can read it?

13 A. It -- essentially what I think it says is
14 that the Commission is interested in the PAYS program.
15 You're interested in conservation and efficiency. You,
16 however -- or the Commission, the majority of the
17 Commission felt that it was appropriate to look at that in
18 a broader -- to address it in maybe -- maybe a statewide
19 consideration.

20 But, I mean, those kind of things, if you
21 allow this type of rate design now, where you give a
22 company everything that it could ask for and more, without
23 reasonable concessions that benefit customers, it will --
24 it will never bring them to the table.

25 Q. Is implementing a move toward design,

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1 toward a fixed charge an opportunity for your office, for
2 conservation advocates and others to propose a more
3 comprehensive overall policy that perhaps results in a
4 more beneficial structure and conservation and efficiency
5 effort for consumers and overall for the interests of
6 saving energy in this state?

7 A. Yes, and in a manner that is responsible
8 towards the ratepayers that will fund those programs.

9 Q. And is the carrot that brings the company
10 to the table on those discussions, at least one of the
11 carrots, the very thing that Staff appears to be giving to
12 the company here, a fixed rate design?

13 A. Yes. As I said, I don't know that Public
14 Counsel would be willing to go to a fixed recovery because
15 I think that there are just -- I mean, I think from a
16 costing perspective, the methodology is not -- it's not
17 appropriate.

18 Q. I understand that's your position, but I'm
19 asking you whether or not this is a carrot that normally
20 would be available in those kind of discussions with all
21 of those interests that we were just lining up?

22 A. Sure. Yes.

23 Q. And the carrot is being fed in this case by
24 Staff without any real concessions from the company in
25 regard to an overarching overall efficiency and

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1 conservation effort, wouldn't you say?

2 A. Yes, I would.

3 Q. So if we're out of carrots, how do we get
4 this discussion to occur?

5 A. Well, I'm not sure that we will, and I'm
6 not sure that you're going to see the companies back for a
7 while. So, you know, you give them this rate design, even
8 though there's not support for it based on cost, even
9 though theoretically I don't think it's good. I don't
10 know what will bring them back to talk about conservation
11 programs.

12 COMMISSIONER GAW: That's all I have,
13 Judge. Thank you.

14 JUDGE DIPPELL: Thank you. Is there
15 further cross-examination based on questions from the
16 Bench from Atmos?

17 MR. FISCHER: Just briefly, your Honor.

18 RECROSS-EXAMINATION BY MR. FISCHER:

19 Q. Good afternoon, Ms. Meisenheimer.

20 A. Good afternoon.

21 Q. I've got a few questions based upon
22 questions received yesterday from Commissioners and maybe
23 a couple from today's discussion.

24 A. Okay.

25 Q. If you have a minute. Am I correct that

0547

1 you've not proposed any weatherization or energy
2 efficiency programs in your testimony in this case?

3 A. That's true, and I'd like to explain why.

4 Q. That's all right. You can do that on
5 redirect.

6 A. Okay.

7 Q. And no other witness for Public Counsel has
8 suggested that Atmos initiate any specific weatherization
9 or energy efficiency program in Public Counsel's prefiled
10 testimony; is that correct?

11 A. That's correct.

12 Q. Am I correct that you testified that in
13 your opinion there is no energy efficiency program that
14 would justify the adoption of Staff's proposed delivery
15 charge in your discussion with the Commissioner?

16 A. I don't doubt -- I don't doubt that I said
17 that, I don't disagree with it, but I don't specifically
18 remember saying it. The transcript will show whether I --
19 you know, that's exactly what I said or not. In terms of
20 agreeing with that general theme, yes, I agree.

21 Q. I think you indicated to the Commissioner
22 that even if they proposed energy efficiency plans, that
23 wouldn't have been enough to get the Public Counsel on
24 board the delivery charge proposal?

25 A. Not this proposal. There may be other

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1 proposals that would not be -- or that, you know, we might
2 ultimately agree to. This one is extreme.

3 Q. I understood your answer to Commissioner
4 Clayton, too, you indicated that even if the Commission
5 adopted the PAYS proposal in this case, which I don't
6 think anybody's proposed, but if they did, Public Counsel
7 would not be supporting Staff's delivery charge; is that
8 true?

9 A. That's true.

10 Q. Public Counsel is not supporting any
11 weather normalization mechanism in this case or any other
12 case; is that correct?

13 A. We settled with Laclede. We entered a
14 stipulation with Laclede.

15 Q. Was that a weather normalization adjustment
16 clause?

17 A. It was a weather mitigation rate design.
18 So, you know, if you're talking about did the mechanics
19 work exactly the same way, I would say no. Did the result
20 provide them less susceptibility to weather risk? Yes.

21 Q. Okay. But as far as a weather
22 normalization clause, you haven't expressed any support
23 for that concept in this case; is that correct?

24 A. That's correct.

25 Q. And is it also true that in the workshops

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1 related to SB 179, you haven't been a big supporter of
2 that concept either?

3 A. I didn't participate in those.

4 Q. Do you know if the Office of Public Counsel
5 has supported weather normalization clauses in the context
6 of those workshops?

7 A. I don't specifically know. I'd be
8 surprised if we had.

9 Q. Would you expect your position on weather
10 normalization adjustment clauses to change in the future,
11 your office's position?

12 A. I don't know what those things might look
13 like, and so I can't say -- I can't say unequivocally no
14 at this point.

15 Q. Has Public Counsel made any proposals in
16 this case that would reduce the impact of weather on
17 customers' bills?

18 A. No.

19 Q. And I believe you've indicated in your
20 rebuttal testimony at page 23 that you agree that Staff's
21 proposed delivery charge would reduce the effects of
22 weather on customers' bills. It's at line 15. Is that
23 right?

24 A. I'm going there.

25 Q. Okay.

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1 A. 23, line 15?

2 Q. Yes.

3 A. What I say is I agree that the delivery
4 charge will reduce the effect of weather on customers'
5 bills, but I disagree that mandatory imposition of such an
6 effect as would occur under the Staff's delivery charge
7 is -- delivery charge proposal is desirable.

8 Q. So you disagree with the policy, but you
9 don't disagree with the effect that the Staff's proposed
10 rate design would do. It would reduce the effect of
11 weather on customers' bills; is that right?

12 A. I -- I agree that it will reduce the effect
13 of weather on customers' bills. I don't think that's a
14 good thing.

15 Q. I understand. And has Public Counsel made
16 any proposals in this case that would reduce the impact of
17 weather on the volatility of the company's earnings?

18 A. No.

19 Q. And on that page 32 of your rebuttal,
20 lines 3 through 5, you indicate that the company's
21 original weather normalization adjustment proposal --

22 A. If I could get there and then hear the
23 question, it will help me so I won't have to --

24 Q. I'll try to slow down. I apologize. I was
25 referring to page 32.

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1 A. Yes.

2 Q. At your lines 3 through 5.

3 A. Okay.

4 Q. Is it true that you indicate that the
5 company's original weather normalization adjustment
6 proposal would create fluctuating rates? That was one of
7 your criticisms of it?

8 A. Effective rates, yes.

9 Q. Would you agree that the Staff's proposed
10 delivery charge would be a fixed rate and not a
11 fluctuating rate?

12 A. Well, I mean, here I was talking about
13 effective rates, which include volumetric-based rates.
14 The Staff's would have absolutely no volumetric-based
15 rates.

16 Q. So the answer is yes?

17 A. It would literally be a rate.

18 Q. So the answer to my question would be a
19 yes?

20 A. Well, I don't think it's apples to oranges,
21 or I don't think it's apples to apples. I think it's
22 apples to oranges.

23 Q. Okay. So are you disagreeing that the
24 Staff's proposed delivery charge would not be a
25 fluctuating rate? It's a fixed rate, that's by

1 definition, isn't it?

2 A. It is a single fixed rate.

3 Q. And then on page 13 of your surrebuttal
4 testimony, you state that, in my opinion, taking no action
5 in response to Senate Bill 179 in this case is preferable
6 to taking the wrong action. Is that right? Is that what
7 you said?

8 A. Yes.

9 Q. Isn't that a statement of Public Counsel's
10 bottom line position in this case, that you believe taking
11 no action to address the issue of weather mitigation on
12 customers' bills is the approach the Commission should
13 take in this case?

14 A. Yes, where the company is not underearning,
15 has agreed to a zero increase in revenue requirement, yes,
16 I think no change is an appropriate place to be.

17 Q. Public Counsel just doesn't believe that
18 the Commission should take any action which would address
19 the issue of weather mitigation on customers' bills; is
20 that correct?

21 A. That's overly broad. If you're asking me
22 in the context of this case under the conditions that I
23 just mentioned, then my answer would be yes. If you're
24 asking me in a broader sense, then no, that might not be
25 my answer.

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1 Q. Is it correct that Public Counsel is
2 supporting basically the status quo or the existing rate
3 design in this case?

4 A. Yes. The one that was approved by the
5 Commission previously, yes.

6 Q. You had quite a discussion about the cost
7 of service studies in this case, and I'd ask you to turn
8 to your surrebuttal testimony, your surrebuttal Schedule
9 SUR-1?

10 A. Yes.

11 Q. This schedule shows the revised results of
12 the Public Counsel's cost of service study; is that
13 correct?

14 A. Yes.

15 Q. And the first page of that schedule related
16 to the Butler district shows that the residential class
17 would need to increase by 13.22 percent to equalize the
18 class rates under your cost of service study; is that
19 correct?

20 A. Yes, and I would like to qualify that.

21 Q. Well, your counsel can ask you about that.
22 Just looking through those briefly, your cost studies
23 would indicate Kirksville's residential rates would need
24 to go up by 17.616 percent to equalize rates of returns on
25 classes; is that true?

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1 A. Yes, with the same qualification.

2 Q. And Neelyville at 23.19?

3 A. Yes, with the same qualification.

4 Q. And Palmyra at 5.24?

5 A. Yes.

6 Q. And SEMO --

7 A. With the same.

8 Q. -- at 14.80?

9 A. Yes, with the same.

10 Q. And United Cities at 1.40; is that correct?

11 A. Yes, with the same qualification.

12 Q. In this case, isn't it true that Staff,
13 Public Counsel and the company have agreed there won't be
14 any -- won't be any class shifts to the residential class
15 even though your cost studies indicate that increases
16 might be appropriate; is that true?

17 A. Yes, as I will qualify on redirect
18 hopefully.

19 Q. Okay. And also you had a discussion with
20 Commissioner Gaw regarding whether the Staff's proposed
21 rate design would benefit customers that you're
22 representing. Do you remember that discussion?

23 A. I'm sorry. Can you repeat that?

24 Q. Yeah. Do you recall the discussion you had
25 with Commissioner Gaw regarding whether the Staff's

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1 proposed rate design would benefit customers that you
2 represent?

3 A. Yes.

4 Q. And I think you indicated that high use
5 customers are going to get a bargain, I think was the term
6 you used?

7 A. Yes.

8 Q. Does Public Counsel represent high use
9 residential customers in this case?

10 A. Sure.

11 Q. I believe you indicated that low use
12 customers would be negatively impacted; is that right?

13 A. Yes.

14 Q. And Public Counsel would represent low use
15 customers in this case; is that true?

16 A. Yes, that's true.

17 Q. And I'd like to refer you to Exhibit 19.

18 A. I don't know what exhibit --

19 Q. I'm sorry. It's that one about the LIHEAP
20 customers that we talked about just before we started
21 back.

22 A. Is it what you provided, what the company
23 has submitted?

24 Q. Yeah. And I'm going to ask you to take a
25 look at that and assume that the data is correct.

1 A. And I also need to verify which document it
2 is. I've now received two documents from the company, one
3 you sent to me in e-mail today.

4 Q. The first cover sheet. Let's look at the
5 one that we marked as Exhibit 19, and I can show you a
6 copy of that.

7 A. I'm sorry. I'm going to have to get you to
8 give me a copy.

9 Q. I sure will.

10 A. Thanks.

11 Q. Assuming that that data is correct, would
12 you agree with me that this indicates that LIHEAP
13 customers, those Low Income Housing Assistance Program
14 customers on annual bases in 2005 would actually be higher
15 than average usage levels in each of those districts?

16 A. If this were the relevant data and it were
17 correct, then yes, I would agree with.

18 Q. For example, the largest -- or in Butler,
19 which is the largest difference, there's 2.5 percent, and
20 the data -- we don't have to go through it, but those
21 customers you would represent as well, correct?

22 A. Yes.

23 Q. And so those high use customers would be
24 benefiting by the Staff's rate design; is that correct?

25 A. Yes. I mean, I don't dispute that there

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1 are customers that will not pay as much if the Staff's
2 rate design is approved.

3 Q. And you represent those customers as well?

4 A. Yes, Public Counsel represents those
5 customers.

6 Q. You were also asked some questions about
7 Atmos overearning. Is it correct that Public Counsel has
8 not filed a complaint in this case?

9 A. That's true.

10 MR. FISCHER: I believe that's all I have,
11 your Honor. Thank you very much.

12 JUDGE DIPPELL: Thank you. Is there
13 further cross-examination from Staff?

14 MR. BERLIN: Yes, Judge.

15 RE-CROSS-EXAMINATION BY MR. BERLIN:

16 Q. Ms. Meisenheimer, you were just asked some
17 questions, I believe, from Commissioner Gaw regarding
18 Staff's class cost of service study and the resulting
19 customer charges. Do you have your worksheets in front of
20 you?

21 A. I have copies of the Staff's cost studies
22 that I printed off, and I do have them with me.

23 Q. What value does the sheet say for -- the
24 sheet say for residential in the amount of customer
25 service?

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1 A. Which district, please?

2 Q. Southeast.

3 A. And I'm sorry, I need you to tell me again
4 which account.

5 Q. I'm looking at the worksheet and the amount
6 for customer service costs, meter reading costs, billing
7 costs.

8 A. As I believe I indicated to Commissioner
9 Gaw, those numbers are zero.

10 Q. Do you believe those numbers, those values
11 are actually truly zero?

12 A. In terms of the portion that the Staff
13 would normally allocate -- I mean, we're not saying that
14 there.

15 Q. Is it yes or --

16 A. No costs.

17 Q. You believe those numbers are truly zero?

18 A. They say zero on the document, yes.

19 Q. Do you believe that that could be an error
20 in that spreadsheet?

21 A. If the Staff made an error, I assume the
22 Staff would correct it.

23 Q. So would correcting that error likely
24 increase the resulting customer charge?

25 A. If you raise those, if you raise that

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1 number from zero to a positive value, yes, it would.

2 Q. Thank you. With regard to the
3 disconnection charge questions asked to you by
4 Commissioner Gaw earlier, you were asked about the impact
5 on a customer. Have you performed any studies as to what
6 impact that would be to disconnect seasonal disconnect
7 customers?

8 A. I'm not sure what type of study you might
9 be asking me about.

10 Q. Well, did you do any studies with regard to
11 customer impacts regarding seasonal disconnects?

12 A. In terms of, say, how many actual customers
13 that it might affect based on historic data, I mean,
14 Mr. Ensrud did an analysis, and I didn't provide any
15 rebuttal to his analysis, or maybe I'm thinking about
16 another one. Never mind. I'll take that answer back.

17 Q. Let me clarify the question. Did you do
18 any studies with regard to customer impacts, customer
19 impact on seasonal disconnects on all ratepayers? What is
20 the impact on ratepayers of the seasonal disconnects?

21 A. I did not perform a separate study on that.
22 It was taken into account when I did.

23 Q. Okay. Thank you.

24 A. I was trying to tell you that's where it
25 was included in the studies I did.

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1 MR. BERLIN: I'll let counsel cover that on
2 redirect.

3 MR. POSTON: Your Honor, wasn't that the
4 question?

5 JUDGE DIPPELL: He asked if she ever
6 performed any studies. She said no.

7 THE WITNESS: I --

8 BY MR. BERLIN:

9 Q. Now, would it be fair to say that the
10 customers who remain on the system pay for that customer
11 who opts off the system for some period of time?

12 A. I can't agree with that because I believe
13 it's a simplistic characterization. It's not accurate.

14 Q. Do the cost of distribution mains vary with
15 the amount of volume that flow through them?

16 A. Yes. Would you like me to explain? Maybe
17 it would help if you tell me whether you want to know
18 about short-run or long-run costs.

19 Q. Well, in answer to the question, you do --
20 is it correct to say that you do not believe that -- or
21 you do believe, if I heard you correctly, that the costs
22 related to distribution mains varies with the amount of
23 volume that flows through them?

24 A. In the long run, yes, I do.

25 Q. All right. Thank you. Are you aware that

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1 the companies, the comparable companies that Staff witness
2 Barnes used in his analysis on ROE have weather mitigating
3 rate designs?

4 A. I have -- I have very limited knowledge on
5 this. I mean, I did review some types or some companies
6 that may have been on his list. I should probably pass
7 this type of a question to Mr. Trippensee who specifically
8 addressed it. He would have been the witness. I don't
9 know if he's coming back or not.

10 Q. Were you here on Thursday when Staff
11 witness Rackers testified?

12 A. I was here for at least part of it, maybe
13 all of it. I can't recall.

14 Q. Can you recall the list of reasons that
15 Mr. Rackers gave with regard to not pursuing a complaint
16 case?

17 A. I remember some of them.

18 Q. Can you recall those?

19 A. As I said, I recall some. I don't know if
20 I recall all. If you could list them for me, I can verify
21 that I remember him talking about them.

22 Q. I believe yesterday Commissioner Gaw asked
23 you a question about the rate design technical conference.
24 Do you recall that that rate design technical conference,
25 was that held prior to the filing of testimony?

1 A. We've had many conversations. I can't
2 remember the names of each of the meeting that we have.
3 I'm sorry.

4 Q. If you can't recall, then --

5 A. I just -- I mean, if you're asking me
6 whether we met with the company before we filed testimony,
7 then that may be the case.

8 Q. Well, were you invited to the rate design
9 technical conference?

10 A. My difficulty is that you're calling it the
11 rate design technical conference, and I'm having
12 difficulty remembering which name with which meeting. I
13 feel confident that I was there. Does that help?

14 Q. Is your answer that you were invited to the
15 rate design technical conference?

16 A. I'm sure Public Counsel would have been
17 invited to that. I participated in some meetings. I
18 don't know that I participated in all. I was working on a
19 number of other cases at the time.

20 Q. In your opinion, what defines a low use
21 customer?

22 A. Well, generally when I was talking about
23 low use customers, I was talking customers that are below
24 a reasonable range at the average. There was specific
25 data that we looked at. And so often when I talked about

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1 low use customers in my testimony, I was talking about
2 specific categories of customers as defined in that data
3 set.

4 Q. Is your answer that -- and I'm not trying
5 to put words in your mouth, but what I think I heard was
6 that low use customers fall below the average use?

7 A. Well, it was a little more qualified than
8 that. I would say that it wouldn't need to be like just a
9 few below the average. It would have to be within a range
10 or beyond a range around the average.

11 Q. What range is that?

12 A. When I talked about low use customers in my
13 testimony, often I was specifically referring to data that
14 was grouped in some cases that went as low as 200 CCF per
15 year.

16 Q. What --

17 A. And I have it in schedules. I mean, I can
18 refer you to schedules.

19 Q. What does a low use customer typically use
20 gas for?

21 A. Well, I think there are a number of things
22 a low use customer could use gas for. Ms. Ross talked
23 about some things. They may also be someone who keeps a
24 thermostat just extremely low, barely --

25 Q. Would low use customers be ones that use

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1 gas fireplaces?

2 A. They may also have alternative forms of
3 heat. They may have a wood stove that they run for, you
4 know, the majority of the time and I mean, I don't think
5 it's that simple to characterize.

6 Q. Did you do any studies on determining what
7 a low use customer is?

8 A. No, and I didn't dispute categories gen--

9 Q. Thank you. That answers my question. In
10 your mind, where does the PGA rate have to go before a
11 customer will conserve the use of gas solely based on PGA
12 rate?

13 A. Well, I mean, from an economic perspective,
14 generally there is some level of elasticity between price
15 and quantity, and therefore customers, you know, in theory
16 should respond to increases in price, so that as price
17 increases, it should become more and more important to
18 them to conserve. They should have more and more interest
19 in conservation.

20 Q. Can you give me a rate that triggers a
21 customer's incentive to conserve?

22 A. No.

23 Q. With regard to Staff's delivery charges,
24 there's still a risk that during the cold winter months
25 that customers will not be able to pay their bill?

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1 A. Sure.

2 Q. Would that risk fall under the subject of
3 uncollectible expense, uncollectibles?

4 A. If it went uncollected long enough, yes.

5 Q. And would not the cold weather be a cause
6 of uncollectibles?

7 A. Yes. Colder than normal weather especially
8 when coupled with higher gas cost, sure.

9 Q. Okay. I have -- I have here some questions
10 that go to some -- a line of questions from Commissioner
11 Gaw, I believe, yesterday regarding Staff's rate design
12 compounding effects and unfairness. And perhaps to follow
13 along, it might be easier to follow the actual pieces of
14 the exhibit that I have, Judge. So may I approach?

15 JUDGE DIPPELL: Yes. And this exhibit that
16 you're handing out is what you used in your opening?

17 MR. BERLIN: That's correct. It's also
18 part of Anne Ross' surrebuttal and rebuttal testimony.

19 JUDGE DIPPELL: I don't believe we
20 previously gave this specific document an exhibit number,
21 since it was part of the other exhibits, but I think just
22 to keep the record straight, it might be a good idea if we
23 did, so I'm going to go ahead and assign it Exhibit
24 No. 142.

25 (EXHIBIT NO. 142 WAS MARKED FOR

1 IDENTIFICATION BY THE REPORTER.)

2 BY MR. BERLIN:

3 Q. Ms. Ross, do you have that document that I
4 just handed out to you?

5 A. I'm Ms. Meisenheimer and I do have it.

6 Q. Ms. Meisenheimer, excuse me. In looking at
7 the front page of that, would you agree that the average
8 residential annual CCF usage for the northeast Missouri
9 service territory is 836 RCF?

10 A. I agree that that's what the number on the
11 thing says. If you'll give me a minute, I can verify that
12 I agree with the number. I assume you'd like me to do
13 that.

14 Q. Go ahead.

15 A. And this is for, yes, residential.

16 Q. Maybe to save time, would you agree
17 that the number, the average number is somewhere around
18 830 CCF?

19 A. I mean, I have them -- I have done that
20 calculation by district, and provided that, you know,
21 those numbers can be derived from the billing units we
22 agreed to in the case, then I wouldn't dispute them.

23 Q. Okay. Going to the next page is a graph or
24 a chart rather, and on top you'll note the northeast
25 Missouri service territory. Now, let's say, for example,

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1 that I'm a -- I'm a somewhat average but actually a
2 conserving gas user and I have a modest home in Hannibal,
3 and you also have a modest home, but you live in
4 Kirksville. Now, if I'm about 86 percent of the average
5 720 CCF in my gas purchases and you're also at 720 CCF but
6 you live in Kirksville, is it fair that the Hannibal
7 customer pays \$106 more a year than does the Kirksville
8 customer for provision of the same residential gas
9 service?

10 A. It may be, depending on the plant and other
11 facilities that have been put in place over time to serve
12 those customers.

13 Q. So you believe that the cost of Atmos today
14 to provide gas service to my home in Hannibal costs twice
15 as much as what Atmos pays to provide gas service to you
16 at your home in Kirksville; is that correct?

17 A. It may be, and if you have a copy of the
18 Staff accounting schedules for the Hannibal/Canton/Bowling
19 Green area versus the Kirksville area, maybe I can help
20 explain why, why those might be closer to the case.

21 Q. Do you believe that the costs associated
22 with that are related to the past operational realities of
23 the predecessor companies?

24 A. Yes. That doesn't mean they've changed for
25 this company --

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1 Q. Thank you.

2 A. -- that bought them.

3 Q. You answered the question. Is it Public
4 Counsel's position, then, that Hannibal, Canton and
5 Bowling Green customers should pay \$106 or almost double
6 what a Kirksville customer pays?

7 A. It might be appropriate, depending on the
8 facilities that are in place to serve them, the historic
9 cost and other considerations that have occurred over time
10 to result in the embedded cost.

11 MR. BERLIN: Staff has no further
12 questions.

13 JUDGE DIPPELL: Thank you. Is there
14 redirect?

15 MR. POSTON: Yes, thank you.

16 REDIRECT EXAMINATION BY MR. POSTON:

17 Q. Yesterday Mr. Berlin asked you questions
18 about your position regarding LIHEAP and low use
19 customers. Do you recall those? And he referred you, I
20 believe, to page 9 of your direct testimony.

21 A. Yes, or --

22 Q. Surrebuttal testimony. Do you recall which
23 testimony it was?

24 A. Let me find --

25 Q. Surrebuttal, page 9.

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1 A. Okay.

2 Q. I believe the question he asked was whether
3 you still believe that the average LIHEAP customer use
4 compared to the average customer use were similar; is that
5 correct?

6 A. To be similar in every district, I believe
7 is what I said at line 14 of page 9 of my surrebuttal.

8 Q. Would you believe it would assist the
9 record if your supporting work papers that support that
10 statement were entered into this case?

11 A. I do, and I should -- I feel like it would
12 be fair for me to explain a little bit the development of
13 those calculations.

14 Q. Let me --

15 A. Okay.

16 MR. POSTON: May I approach, your Honor?

17 JUDGE DIPPELL: Yes. And this was the
18 other exhibit that you mentioned earlier, Mr. Poston?

19 MR. POSTON: One of two.

20 JUDGE DIPPELL: One of two. I will mark
21 this particular exhibit, I believe your next number, 205.

22 (EXHIBIT NO. 205 WAS MARKED FOR
23 IDENTIFICATION BY THE REPORTER.)

24 BY MR. POSTON:

25 Q. Do you have what's been marked as 205?

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1 A. Yes.

2 Q. Can you please identify this exhibit?

3 A. Yes. This is actually a copy of something
4 that I produced when I was first considering what to do in
5 terms of filing testimony in this case and it -- behind it
6 is included the data that I relied upon. The data is
7 provided in request to Data Request responses to the
8 Staff. Part of it was provided in response to Anne Ross,
9 who asked about the company -- about LIHEAP customers and
10 their winter usage, and the rest of it was the actual
11 billing data that's not normalized that was requested from
12 the company.

13 This is --this is the update that the
14 company provided. They had provided a previous set of
15 data, and then updated it through June of 2006. And what
16 the document or what the spreadsheet shows -- I didn't
17 actually use this in direct testimony, and that was
18 because I didn't find any substantial difference between
19 LIHEAP customers and the average customers, so I didn't
20 feel it was fair for me to be criticizing proposals based
21 on differences that I didn't really believe existed. So I
22 didn't use this.

23 However, I had done it, and later Ms. Ross
24 made some unsubstantiated claims about low-income
25 customers and impacts, and I made a simple statement, in

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1 response the Staff later has come back and wanted to make
2 an issue about what data I relied upon. I had actually
3 looked at data -- two sets of data. One of them dealt
4 with a small sample of customers. This data was actually
5 or was characterized in the data response, it was
6 responding to a Staff request that asked for the average
7 LIHEAP for each district.

8 In particular Ms. Ross asked for, for each
9 of Atmos' six rate districts, please provide the average
10 monthly usage and/or bill frequency analysis for all
11 customers receiving LIHEAP energy assistance grants in the
12 2004-2005 heating season, as well as the number of
13 customers receiving these grants during that time period.
14 Please provide the same information for customers
15 receiving LIHEAP EA in the 2005-2006 heating season.

16 So I had two years of heating season data.
17 I compared the period where I also had billing data from
18 the company, and so what you see at the top is for each
19 month, I went through and for each district calculated the
20 difference between the average bill -- these are not
21 normalized by the way -- and the LIHEAP usage, and if you
22 look over at the side, I mean, you can see that probably
23 the one that looks farthest apart is Greeley. The rest
24 look fairly close together.

25 I didn't believe that any of these were so

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1 far apart that they would be statistically significant in
2 terms of the difference. And that's what my statement was
3 based on, and why I didn't distinguish specifically
4 between LIHEAP customers and the average customers in
5 statements that I made.

6 JUDGE DIPPELL: Mr. Poston, I see that on
7 the back chart or papers attached it says highly
8 confidential. Should Exhibit 205 be marked as HC?

9 MR. POSTON: Yeah, I just noticed that
10 myself. I believe it should.

11 THE WITNESS: No.

12 MR. FISCHER: Judge, the company will waive
13 any concern about that.

14 JUDGE DIPPELL: Okay.

15 THE WITNESS: When I received it, it was
16 marked highly confidential in the file, and all I did was
17 print off the file so you could see the actual category.

18 BY MR. POSTON:

19 Q. And, Ms. Meisenheimer, you were in here
20 when -- well, of course, you were in here because
21 Mr. Fischer asked you to look at an Exhibit 19 regarding
22 LIHEAP data, fiscal year 2005; is that correct?

23 A. Yes.

24 Q. Have you seen any other data regarding the
25 calculation Atmos did when it came up with these numbers?

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1 A. Yes. We contacted the company this morning
2 when there was an attempt yesterday to introduce data that
3 I felt like we hadn't seen the support for. The company
4 provided to us this morning the background information
5 that they used, and I have seen -- I have reviewed that.
6 There appears to be -- I mean, the company relied on this
7 fiscal year 2005. In addition, what was contained in that
8 material that was provided to us was a two-year average
9 which, in fact, shows that for SEMO the average customer
10 use is lower than if you only looked at 2005. And it's
11 actually -- since SEMO constitutes the vast majority of
12 customers and also the vast majority of LIHEAP customers,
13 I think in total it has -- it heavily weights the results.
14 So...

15 Q. So would the impact of Staff's rate design
16 proposal have a much heavier impact on this SEMO area
17 because of this data?

18 A. I think it would more heavily affect SEMO
19 in terms of the -- at least for that period of time, that
20 two-year average period of time, LIHEAP -- there were
21 LIHEAP customers used less in SEMO than the average
22 customer.

23 MR. POSTON: Your Honor, I'd like to have
24 another exhibit marked.

25 JUDGE DIPPELL: Okay. That will be

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1 Exhibit 206.

2 (EXHIBIT NO. 206 WAS MARKED FOR

3 IDENTIFICATION BY THE REPORTER.)

4 BY MR. POSTON:

5 Q. Would you please identify Exhibit 206 for
6 me? Just briefly identify.

7 A. Okay. This is a copy of a worksheet that
8 was provided in response to our inquiries regarding the
9 backup support for the LIHEAP average use to average
10 customer use on a district basis that was introduced as
11 a -- or the company would like to introduce as an exhibit
12 in this case.

13 MR. POSTON: Your Honor, I move for the --
14 to have Exhibits 205 and 206 entered into the record.

15 JUDGE DIPPELL: Would there be any
16 objection to Exhibits 205 and 206?

17 MR. FISCHER: Judge, could I just ask a
18 question to clarify what the nature of the exhibit is?

19 JUDGE DIPPELL: Yes.

20 MR. FISCHER: Ms. Meisenheimer, is this
21 just a copy of what the company provided to you or did you
22 modify it in some way?

23 THE WITNESS: I did not modify it. This
24 is -- this is -- there might have been additional sheets
25 provided, but I did not modify this data in any way.

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1 MR. FISCHER: So this is just a copy?

2 THE WITNESS: This is what the company
3 provided as they provided it.

4 MR. FISCHER: I have no objection. No
5 objection, your Honor.

6 JUDGE DIPPELL: Seeing no objection, I'll
7 receive 205 and 206 into evidence.

8 MR. FISCHER: Judge, on 205 I also had a
9 question regarding whether we needed to object to that or
10 not. We did not see that. Could I ask just a question
11 about that as well?

12 JUDGE DIPPELL: Yes, I'm sorry.

13 MR. FISCHER: Before I waive an objection
14 on that, I think on the stand perhaps yesterday you
15 indicated that your study of the LIHEAP customers was
16 based on, I think you called it a small sample of
17 customers?

18 THE WITNESS: There were two parts to the
19 LIHEAP data. Did you want me to explain?

20 MR. FISCHER: I was going to ask, does this
21 represent this small sample that you were talking about?

22 THE WITNESS: No. This is an additional
23 element of the research that I did that I -- that I didn't
24 mention yesterday, but I did -- I did review the material
25 at the exact same time as I reviewed a sample of data. I

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1 received multiple data in the same data set.

2 MR. FISCHER: So 205 does not directly
3 support your statements in your testimony. It's something
4 in addition to what you were talking about in that
5 testimony?

6 THE WITNESS: It's attempted to clarify why
7 I said in my testimony that I felt that the usage was
8 approximately the same.

9 MR. FISCHER: Is 205 based on a larger
10 sample than the one you used earlier?

11 THE WITNESS: It's all the same data that I
12 reviewed at the very beginning when I was preparing
13 testimony. I've not reviewed additional data or anything.
14 It was just a clarification. I've looked at a ton of data
15 in this case.

16 MR. FISCHER: Okay. I was just curious. I
17 think you said it was based on a sample of five LIHEAP
18 customers in each of the districts, and I was just
19 asking -- really kind of trying to clarify whether 205 is
20 based upon that sample of five.

21 THE WITNESS: It came out of the same data
22 set. They were different sheets in the same data set, and
23 we were having discussion yesterday, my memory was not
24 entirely clear on this issue, and this is to clarify, this
25 is --

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1 MR. FISCHER: Okay. I understand.

2 THE WITNESS: -- what I relied on for my
3 testimony.

4 MR. FISCHER: Okay. But it is based on a
5 sample of five for each of the districts?

6 THE WITNESS: These are all based on, I
7 believe, all the LIHEAP customers by district. I misspoke
8 when I said that I had reviewed a sample. I had reviewed
9 samples of five customers. I had also reviewed this
10 (indicating).

11 MR. FISCHER: I have no objection, your
12 Honor.

13 JUDGE DIPPELL: All right. So both
14 Exhibits 205 and 206 are entered into evidence.

15 (EXHIBIT NOS. 205 AND 206 WAS RECEIVED INTO
16 EVIDENCE.)

17 BY MR. POSTON:

18 Q. Yesterday, I'm not sure of where the
19 question came from, but there was questions about customer
20 programs that promote energy efficiency that Public
21 Counsel's office has endorsed.

22 A. Yes.

23 Q. And there was discussion about the PAYS
24 program. Could you please explain a little more, what is
25 the PAYS program?

1 A. The PAYS program, it stands for Pay as You
2 Save. It's a program that provides a pool of money that
3 customers withdraw upon to implement efficiency measures
4 in their homes to defray the up-front costs. They then
5 repay the money they used over a period of time out of
6 a -- out of savings that are achieved on the bill due to
7 lower use.

8 Q. And why didn't Public Counsel propose that
9 in this case?

10 A. There are a couple of reasons. One of them
11 has to do with the decision of the Commission in the MGE
12 case, GR-2004-0209. The Commission expressed an interest
13 in the PAYS program, indicated that it believed that it
14 needed to be a broader discussion than in a particular
15 rate case. And so, you know, we would -- we would be
16 interested in participating in that, we believe it's a
17 good thing to do. I have not proposed this program in
18 additional rate cases since then, in part due to that
19 decision.

20 In addition, Public Counsel has limited
21 resources. We have been very focused on what we view as
22 an extreme rate design and responding to that. That has
23 taken a great deal of my time in preparing data to support
24 my statements, and so there is also an issue of we just
25 did not have the time to bring in, you know, to do the

1 type of substantial review across the country that I
2 believe is appropriate for us to be reviewing what other
3 alternatives are out there.

4 Q. Did any of the other parties ask Public
5 Counsel if we would consider conservation programs?

6 A. I don't remember that specific -- well, I
7 don't remember specific discussions about a particular
8 program until I saw the Staff in testimony, which I think
9 is a response to our testimony, criticizing the fact there
10 was none proposed.

11 We certainly would be open to discussing
12 conservation programs, and actually when I started out in
13 this case, what I proposed was that since you don't have
14 good cost data upon which to grant any changes in the rate
15 design, that you do a spinoff case and talk about rate
16 design based on gathering appropriate data and conducting
17 cost studies.

18 JUDGE DIPPELL: Ms. Meisenheimer, I'm going
19 to ask, you answered Mr. Poston's question, and --

20 THE WITNESS: And went on.

21 JUDGE DIPPELL: And kept going.

22 THE WITNESS: Sorry.

23 JUDGE DIPPELL: Let's just answer the
24 questions and let's keep things moving.

25 MR. POSTON: I wasn't going to object.

1 JUDGE DIPPELL: I understand.

2 BY MR. POSTON:

3 Q. Today you were asked a question about
4 seasonal disconnects from Commissioner Gaw.

5 A. Yes.

6 Q. Is customer service a cost that you had not
7 tied to a specific premise?

8 A. I'm sorry. I don't understand the
9 question. I'm sorry.

10 Q. I'll move on. I believe Mr. Fischer asked
11 you questions about your surrebuttal schedules, and I
12 believe he started with SUR-1, and he highlighted under
13 Butler district the figure you have under residential, do
14 you see the 13.22 percent?

15 A. Yes, I do.

16 Q. Could you please explain further these
17 figures and why you've included this in your testimony?

18 A. Yes. I performed class cost of service
19 studies not because I felt that there was good data upon
20 which to base class cost of service studies, but instead
21 to attempt to do the best I could with the data that was
22 available. I -- the Staff prepared three studies. I felt
23 that it was important, given that the Staff accounting
24 department prepared different district costs for all seven
25 districts, they went in and actually looked at the

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1 historic cost, the embedded cost, came up with what they
2 believe the costs were, based on history, and I felt that
3 it was appropriate to look at a class cost of service
4 marrying that level of detail to see what potentially
5 could be the impacts, even within consolidated districts.

6 And I feel like I was very clear in my
7 direct testimony that I didn't feel that there was
8 appropriate data provided upon which to produce reliable
9 results that could be the basis for change. I also
10 pointed out in my rebuttal testimony where I believe that
11 Mr. Dan Beck raised a number of questions with the
12 underlying cost information.

13 So while certainly there are particular
14 numbers stated in here in terms of percent and changes,
15 and I believe that Mr. Fischer walked me through ones for
16 the Butler district, Kirksville, Neelyville, Palmyra, and
17 SEMO, and UCG also, I believe, I think that these
18 are -- they're something for us to look at, but I don't
19 really consider them to be as -- I don't consider the
20 Staff studies or the statewide work that the company did
21 to a limited degree, I don't believe that they're a
22 reasonable basis to change customer rates in this case.

23 Q. You were also asked a question, if you
24 performed studies on seasonal disconnects, and you said
25 no, but wanted to explain. What was your explanation?

1 A. I didn't produce a separate study on
2 seasonal disconnects. I did take into consideration
3 seasonal disconnects when I determined customer impacts
4 because I was working under the assumption -- I did a
5 schedule where I showed customer impacts of the different
6 rate designs, and one part of Staff's rate design proposal
7 is this coupling, the delivery charge mechanism where they
8 collect all non-gas costs in a single flat rate with the
9 policy of the customers pay even when they don't use
10 service for certain months.

11 So I actually -- when I calculated what the
12 cost a customer would pay would be, I actually included
13 the concept of that the customer would pay even if they
14 weren't taking service at that time. So to that extent,
15 seasonal disconnects were included in a portion of the
16 analysis I did for this case.

17 Q. And you were asked a question by Mr. Berlin
18 regarding to costs for distribution mains, and could you
19 please explain the short-run and long-run costs that you
20 identified?

21 A. Yes. Primarily what I was trying to point
22 out was that in the long run, companies design their
23 systems to meet anticipated load of existing customers and
24 future customers. Typically designing those systems
25 involved many considerations of cost and physical

1 characteristics of both the lay of the land and the
2 materials that are available to design a system with.

3 And so, in fact, a company might very well,
4 depending on what those are, their anticipated demand and
5 other costs and physical characteristics, they might very
6 well change the amount of capacity that they make
7 available throughout their system. And so customer use
8 might very well impact the long-run cost. So long-run
9 costs are not fixed, is what I was trying to point out.

10 Q. And Mr. Berlin asked you a question about
11 the cost among districts. I believe you had answered that
12 the embedded costs were different, and is there anywhere
13 in your testimony you can point me to, and the Commission
14 to support your statement?

15 A. Well, I think that there are a number of
16 things in my testimony and elsewhere in the documents in
17 this case. On page 11 of my testimony --

18 Q. Which testimony?

19 A. Page 11 of my surrebuttal testimony, I
20 include a table which does, in fact, show a difference in
21 the mains investment for Palmyra, UCG and Kirksville. I
22 took these numbers, these plant investments and these
23 distribution main reserve account levels. These are out
24 of the Staff's accounting data. And what I was trying to
25 show there is that the investment per customer might be

1 significantly different as a base, based on, you know,
2 maybe it was due to what the predecessor companies did.

3 That's fine. The predecessor companies are
4 not irrelevant if that plant is still in the ground. And
5 you might notice that the net distribution mains plant per
6 customer for Kirksville is less than half of what it is
7 for UCG. So --

8 Q. And is UCG, is that what -- what district?

9 A. Hannibal, Canton.

10 MR. POSTON: Thank you. That's all I have.

11 JUDGE DIPPELL: Thank you.

12 Ms. Meisenheimer, I believe that concludes your testimony
13 on the rate design portion.

14 THE WITNESS: Thanks.

15 JUDGE DIPPELL: Okay. We're going to take
16 a ten-minute break. When we come back, we're going to
17 switch gears. We're going to go back to return on equity
18 and those issues, we're going to have Commission
19 questions, and I think we'll start with Staff witness Matt
20 Barnes. So we can come back in ten minutes.

21 We're off the record.

22 (A BREAK WAS TAKEN.)

23 JUDGE DIPPELL: We're going to shift back
24 to Commissioner questions for Mr. Barnes, who was
25 previously sworn in, and I'll just remind you, Mr. Barnes,

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1 that you're still under oath in this proceeding.

2 THE WITNESS: Okay.

3 JUDGE DIPPELL: And your exhibits have all
4 been entered. Commissioner Gaw, do you have questions for
5 Mr. Barnes on rate of return, return on equity, revenue
6 requirement?

7 MATT BARNES testified as follows:

8 QUESTIONS BY COMMISSIONER GAW:

9 Q. Mr. Barnes, let me ask you just a few
10 questions. Hopefully that will be it. Can you tell me
11 whether or not you believe that Staff's rate design
12 results in less risk to the company that and -- excuse
13 me -- that Staff's proposal for rate design for the
14 company results in less risk for the company than its
15 current rate design?

16 A. From the way I understand, all else being
17 equal, yes, it would reduce the risk.

18 Q. Okay. And your calculation of an ROE in
19 this case resulted in what? What was the result?

20 A. The return on equity piece?

21 Q. Yes.

22 A. 8.59 to 9.39 percent.

23 Q. All right. And how did you generally, just
24 very generally arrive at that?

25 A. I used a comparable company analysis, a

1 group of seven limited distribution companies that are
2 classified as LDC companies by Edward Jones, and that was
3 my first piece of my selection for those companies, and I
4 performed a DCF analysis on those group of companies and
5 used a capital asset pricing model to check the
6 reasonableness of my results.

7 Q. All right. And the results that you --
8 that you achieved, give me the two general areas of spread
9 on the ROE, on the CAPM and DCF.

10 A. The DCF after my proposed dividend yield
11 was 4.4 percent, which is a growth rate of 4.35 to 5.15
12 percent, to arrive at 8.59 to 9.39 percent for the DCF
13 model.

14 Q. Right.

15 A. And for the CAPM, using the geometric CAPM
16 cost of common equity, I arrived at 9.17 percent.

17 Q. Okay. So the CAPM, in your opinion,
18 verified that your range was not inappropriate --

19 A. Correct.

20 Q. -- in the DCF?

21 A. Correct.

22 Q. Now, of the companies that you examined,
23 how many of them had a rate design similar to the one that
24 Staff has proposed?

25 A. The seven out of eight had a weather

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1 mitigation rate design that specifically AGL Resources
2 has, my understanding, rate design that is similar to what
3 Staff is proposing.

4 Q. Okay. So what type of weather mitigation
5 clause did they have, the other companies?

6 A. Give me a second here. I'm going to go
7 through the Standard & Poors research reports that I
8 relied on and go through each company to tell you what
9 they have. And if it's okay, can I just read from these
10 reports what Standard & Poors says?

11 Q. That would be fine.

12 A. Each regulated -- this is for AGL
13 Resources. Each regulated utility benefits from some
14 combination of performance-based rate plans, weather
15 normalization mechanisms and purchased gas clause, each of
16 which causes regulated cash flows to be stable,
17 predictable and insensitive to commodity price
18 fluctuations. That was from the Standard & Poor's rating
19 director research report dated August 4th, 2006.

20 Q. And do you know, did you study what the
21 makeup of those rate designs were, other than what you
22 just read to me?

23 A. I did not.

24 Q. You don't know the details of how those
25 rate designs are put together; is that correct?

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1 A. No, I do not.

2 Q. Do you believe that there is a difference
3 in the ROE that should be awarded to a company if it does
4 have a rate design similar to the one that Staff proposed,
5 as compared to a company exactly the same except that the
6 rate design is similar to the one that the company now
7 has?

8 A. Should there be a difference in the ROE, is
9 that --

10 Q. Yes.

11 A. -- between what the company has proposed
12 compared to what they have now?

13 Q. Yes, all other things being equal.

14 A. All other things being equal, which in my
15 opinion does reduce the business risk, I would think that,
16 yes, a reduction would be needed, but it's very difficult
17 to quantify how much of a reduction.

18 Q. Okay. And you haven't done that
19 specifically; would that be correct?

20 A. Not specifically, but --

21 Q. But do you think you have some portion of
22 the risk adjustment factored in because of the group of
23 companies that you use?

24 A. That's correct.

25 Q. Okay. But you don't know the specifics of

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1 the rate design in order to tell me whether -- what the
2 details are in order that I could assess whether this is
3 an apples to apples comparison on rate design?

4 A. I do not, just based on these reports that
5 I have.

6 Q. Did you have anything to do with any
7 analysis of whether or not this company might be
8 overearning?

9 A. No, I did not.

10 Q. Okay. Who would be the ones that would
11 have done that?

12 A. I believe Steve Rackers would be the one to
13 ask.

14 COMMISSIONER GAW: That's all I have.
15 Thank you, Judge. Thank you.

16 JUDGE DIPPELL: Thank you. Commissioner
17 Clayton?

18 COMMISSIONER CLAYTON: Thank you, Judge.
19 Just a few.

20 QUESTIONS BY COMMISSIONER CLAYTON:

21 Q. Mr. Barnes, I want to be clear just on a
22 few things. Your surrebuttal testimony states that the
23 return on equity component is a range of 8.59 to 9.39; is
24 that correct?

25 A. That's correct.

1 Q. Did that position change at all from your
2 either rebuttal or direct testimony?

3 A. No, it did not.

4 Q. So the ROE didn't change at all with the
5 rate design that the -- well, some of the parties
6 supposedly agree to?

7 A. No, it did not.

8 Q. It did not change?

9 A. No, it did not.

10 Q. Okay. Does that mean that you don't see
11 any difference in risk from an investor's point of view
12 with the original rate design proposed by the company and
13 the rate design that has now been proposed by the Staff?

14 A. It's possible that investors may perceive
15 that as being less risky. Again, that's hard to quantify,
16 I believe I've reflected that in my comparable group
17 analysis because seven out of eight companies has some
18 sort of weather mitigation rate design in place.

19 Q. Do any of your comparables have the
20 100 percent in the fixed delivery charge?

21 A. I don't know specifically.

22 Q. What -- do any of them have 80 percent of
23 their delivery costs in a fixed charge?

24 A. I do not know. I'd have to look -- I have
25 not looked at the specifics of each rate design for those

0591

1 companies.

2 Q. When you say weather normalization
3 component, what did you mean by that?

4 A. From the Standard & Poors research reports
5 that I have, they list -- they normally refer to it most
6 of the time as weather mechanism or weather normalization
7 clause that's in place.

8 Q. What does that mean, though? What is a
9 weather normalization clause?

10 A. It's my understanding that if, say, in the
11 wintertime is more warmer than normal, that it would be
12 less revenues that the companies receive.

13 Q. I understand what the problem of weather
14 fluctuations would be, but how do the companies address
15 that in your comparables?

16 A. It's reflected in the company's price stock
17 or the price of the stock and the credit rating assigned
18 by Standard & Poors.

19 Q. How do they address that in rates to --
20 with the fluctuations in weather, weather normalization is
21 to make it more steady, I would assume, and avoid
22 fluctuations in usage. Is that a fair assessment? Do you
23 agree with what I just said?

24 A. I believe that would be a fair assessment,
25 yes, but I don't know the specifics of how that would --

0592

1 Q. In your comparables, do they use a
2 surcharge or do they just use a component built into the
3 revenue requirement, or is there another component in the
4 rate design or do you know?

5 A. I don't know.

6 Q. You don't know?

7 A. No.

8 Q. So your comparables only have -- it's your
9 testimony that the comparables only have some form of
10 weather normalization, but you don't know what kind of
11 weather normalization it is?

12 A. No, I do not. The only one I -- the only
13 company I do know of is AGL Resources, that they have a
14 rate design that's similar to what Staff is proposing.

15 Q. What company is that?

16 A. Atlanta Gas and Light.

17 Q. Oh, Atlanta Gas and Light.

18 A. Yeah. That's the only company I'm familiar
19 with that has --

20 Q. And what return on equity does Atlanta Gas
21 and Light have?

22 A. They've been authorized a 10.9 percent.

23 Q. 10.9?

24 A. Yes.

25 Q. Is it a comparable company to Atmos Gas?

0593

1 A. I believe it is, yes.

2 Q. How come you didn't suggest a 10.9 ROE?

3 A. That was just -- my analysis didn't come up
4 to that number. I base it on my group of comparable
5 companies, and my proposed growth rate range for the --
6 based on those companies applied to Atmos.

7 Q. Do you leave the 100 percent in fixed
8 costs, would you agree that it is the ultimate in weather
9 normalization? It's about as far as you can go in
10 mitigating fluctuations in usage due to weather?

11 A. From what I understand with some of the
12 rate designs that I have briefly looked at, I believe so.

13 Q. Okay. And by eliminating fluctuations in
14 weather, does that improve the risk profile of the
15 company? Does it make them less risky?

16 A. All else equal?

17 Q. Well, yes, all else being equal.

18 A. Yes.

19 Q. It does?

20 A. Yes. And let me restate my answer. I
21 can't say if it would reduce 100 percent, but it's pretty
22 close, I would think. I would think more than 80 or even
23 90, but I don't know about 100 percent.

24 Q. Why not 100 percent?

25 A. From what I have discussed with other

1 members of Staff, Laclede has a -- Laclede Gas has a
2 weather normalization clause, I believe, and that they're
3 exposed to about 3 percent of weather, from what I
4 understand. So it's not completely eliminated, but it's
5 very close.

6 Q. But this goes farther. This doesn't have
7 any volumetric -- according to the Staff proposal, there
8 is no volumetric change in the price of the delivery cost
9 because it's 100 percent on a fixed charge that everybody
10 would pay. So how is it not 100 percent mitigated from
11 weather or removed from weather effects?

12 A. I don't have an answer for you. I don't
13 know.

14 Q. Don't know. Okay. What was the proposed
15 rate design at the time you suggested the 8.59 through
16 9.39, what rate design were you using or were you --

17 A. At the time, I -- at the time I filed
18 direct, I knew rate design was an issue, but I did not
19 know the details of what Staff was going to propose at
20 that time.

21 Q. So to you, does rate design matter? Does
22 the rate design matter for how you -- how you evaluated
23 return on equity?

24 A. I believe that it does, and with my
25 comparable group analysis, I believe that's already been

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1 reflected in the comparable group stock price and credit
2 rating. So I felt that there was no need to make a
3 reduction, lower my recommended ROE.

4 Q. Well, I guess just before we talk about
5 changing it, maybe I jumped the gun too much. Before we
6 talk about any potential changes, but looking at the rate
7 design, let me ask the question this way: Did you look at
8 rate design when you developed your range of 8.59 through
9 9.39, rate design for Atmos in this case?

10 A. No, I did not.

11 Q. You did not. Does that mean that rate
12 design was not important in your evaluation of what the
13 ROE should be for Atmos?

14 A. I believe it is important. I just --

15 Q. But you didn't look at it?

16 A. At the time, I did not know the rate design
17 proposal was going to be this big of an issue until OPC
18 filed.

19 Q. But you didn't know what the rate design
20 was at all. It doesn't matter if it's at issue. You're
21 saying that rate design doesn't matter in your assessment
22 of return on equity, aren't you?

23 A. I believe that it does matter, but --

24 Q. But you didn't look at it?

25 A. Correct.

1 Q. With the Staff proposal on rate design,
2 do you understand -- how we've talked about it here, do
3 you understand how the rate design works, as Staff -- as
4 your colleagues have proposed?

5 A. I think I have a general understanding that
6 all the costs associated with delivering the gas is going
7 to be rolled into a fixed cost for the customer.

8 Q. And you have some knowledge of the rate
9 design of your comparable companies?

10 A. Just general, just if they have some sort
11 of weather mitigation rate design in place, that's all I
12 know. I don't know the specifics.

13 Q. Do the rating agencies look at rate design?
14 Do they look at rate design in determining how a company
15 is rated?

16 A. That's one of the risks that they look at,
17 yes.

18 Q. When they look at it, how deep into rate
19 design do they look? Do they look at it like, as you've
20 said, as just say, well, whether they have some weather
21 normalization factor built into rates, or do they look
22 deeper or do you know?

23 A. I don't know without talking to them.

24 Q. Okay. Would you agree with me that a rate
25 design that's based on fixed rates gives a greater

1 assurance that the company will have revenues to meet
2 their authorized rate of return? Do you agree with that
3 statement?

4 A. I think they have a greater chance of
5 recovering those costs.

6 Q. Okay. And with a greater chance, does that
7 mean we should increase their authorized rate of return,
8 decrease their authorized rate of return or just leave it
9 the same?

10 A. I believe that it should be left the same,
11 based on my analysis.

12 Q. You think it should be -- so you believe
13 that they -- that if they have a greater opportunity to
14 earn their rate of return or meet their revenue
15 requirement, they have a greater opportunity to do that,
16 you do not believe there should be any reflection in their
17 authorized rate of return?

18 A. Their authorized rate of return, yes, I
19 believe that that would deem a lower amount of ROE. By
20 how much, I can't quantify that.

21 Q. Okay. So you believe it should be reduced,
22 but you don't know how much?

23 A. Correct.

24 Q. Okay. Why didn't you -- why didn't you
25 reduce -- why didn't you file in your testimony somewhere

1 suggesting a reduction in ROE based on that rate design in
2 line with what you've just said?

3 A. I believe it's already reflected in my
4 analysis, in my comparable group analysis, so there was no
5 need to make a further adjustment downward.

6 Q. How could it be reflected when you didn't
7 contemplate the rate design in the first place? How could
8 it be contemplated?

9 A. It's contemplated in the stock price of the
10 company and the credit rating of the company, of my
11 comparable companies.

12 Q. I'm not following. I'm not following. I'm
13 not following your analysis.

14 A. My comparable group analysis, seven out of
15 the eight companies have some sort of weather mitigation
16 rate design in place. And I don't know the specifics of
17 each of those rate designs. I believe that in my
18 comparable companies, each one of those, that risk is
19 reflected in the stock price of those companies, which is
20 part of the DCF model. It's also reflected in the
21 company's credit rating.

22 And I believe that if -- and I have not
23 discussed this with Standard & Poors, but if there is a
24 significant reduction in risk, that they would have a
25 higher credit rating, and the average of my credit rating

0599

1 for the group was A credit rating.

2 Q. So basically you look at their credit
3 rating?

4 A. Correct.

5 Q. You don't look at any other factors?

6 A. Correct. The credit rating, and that's
7 based on an aggregating. All the risk combined is
8 reflected in their credit rating, one of those being rate
9 design or weather mitigation rate designs that are in
10 place for the company.

11 Q. So to you, credit rating is the only factor
12 that should be reviewed in establishing an ROE?

13 A. On an aggregate level, yes.

14 COMMISSIONER CLAYTON: Okay. Thank you.

15 COMMISSIONER GAW: I was through, but now
16 I'm not.

17 JUDGE DIPPELL: Commissioner Gaw, you had
18 additional questions?

19 FURTHER QUESTIONS BY COMMISSIONER GAW:

20 Q. Is it your testimony, Mr. Barnes, that this
21 Commission should just defer to credit rating agencies in
22 determining what an ROE should be? Is that what your
23 testimony is?

24 A. No, I don't believe that the Commission
25 should set the return on equity based on my recommendation

0600

1 of my comparable group analysis.

2 Q. I thought you just testified that your
3 analysis was entirely based upon their credit rating?

4 A. Part of that and the DCF model that's based
5 on the stock price for each company in that DCF model.

6 Q. How did the credit rating agencies play
7 into your setting of the ROE in your recommendation here?

8 A. Based on each company's credit rating, I
9 believe that they reflect that risk in their credit
10 rating, and for what -- on my Schedule 19 I show the
11 credit rating for each company and also, the lower the
12 credit rating, riskier that company is; the higher the
13 credit rating, the less risky that they are.

14 Most of my companies are in the A range,
15 and if it has not been reflected, then they would be
16 deemed more risky. I believe that as Standard & Poor's
17 and other credit rating agencies that have reflected that,
18 that's -- that's one of the things that I looked at
19 besides running the DCF model and the CAPM model.

20 Q. But your testimony, your recommendation
21 here is entirely, as I understood it earlier, based upon
22 the running of the DCF model, correct?

23 A. Yes.

24 Q. That's your range, it matches exactly what
25 your calculation was under the DCF model, correct?

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1 A. Correct.

2 Q. And would it be accurate to say that the
3 way that the input comes in from the credit agencies is
4 because that's how you chose your comparable part?

5 A. No. I chose my comparables based on a
6 group selected by Edward Jones. That was what I started
7 with.

8 Q. And did you choose those comparables
9 intentionally looking for companies that had some weather
10 mitigation rate design?

11 A. That was not one of my criteria, no.

12 Q. How did it end up that you had seven of the
13 eight companies with that type of design, just purely by
14 accident?

15 A. Just by reading the Standard & Poors, what
16 the issue reports by Standard & Poor's, by reading those,
17 that's how I determined what -- if they had some type of
18 weather mitigation rate design in place.

19 Q. But that was after the fact, after you had
20 already chosen those companies?

21 A. That is true, yes.

22 Q. So my question is, is it not just by
23 accident, then, that you came up with these seven of eight
24 companies that just happened to have a weather mitigation
25 provision?

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1 A. Yes.

2 Q. Even though --

3 A. It's possible, yes.

4 Q. Even though -- well, is that not the case?

5 I'm trying to understand how you chose these companies,
6 and if you chose these companies because they had some
7 weather mitigation provision, that's fine. I just want to
8 know if that was the case.

9 A. That was not one of my criteria, no.

10 Q. So by accident, we have seven of the eight
11 here that have a weather mitigation provision?

12 A. It looks that way.

13 Q. Which you determined after the fact when
14 you found out that rate design was going to include
15 something that insulated the company from fluctuations in
16 weather, fluctuations in conservation, fluctuations from
17 anything that has to do with those kind of events?

18 A. After I filed direct testimony, that's when
19 I found out that these companies did have weather
20 mitigation rate designs.

21 Q. That's despite the fact that there -- at
22 least according to the survey we saw a while ago, only
23 four of the 27 states that responded, including Missouri,
24 that has a weather mitigation or has some sort of a rate
25 design provision that takes into account weather

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1 mitigation?

2 A. I'm not familiar with that study.

3 Q. That's all right. It was introduced
4 yesterday, so I understand if you weren't. And then after
5 you found out that rate design was one of the things that
6 you needed to take into account, you did nothing further
7 to determine what the type of weather mitigation
8 provisions were in those comparables, correct?

9 A. That's correct. I'd have to call each
10 state or the company to find out, and I have not done
11 that.

12 Q. And you have not done that. So we don't
13 know and the Commission cannot know based on your
14 testimony and your study how insulated the companies are
15 from fluctuations in weather, efforts of the customers to
16 conserve, other factors that may be a part of what sets
17 the risk of these companies?

18 A. That would be correct.

19 Q. If it turned out that the rate design in
20 this case was left as it is currently, would you then
21 suggest that this Commission should raise the ROE in this
22 case from your recommendation? That's not my last
23 question.

24 A. I would suggest that the Commission still
25 utilize my analysis that I have done here.

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1 Q. Okay. So in other words, you would not
2 recommend raising the recommendation; is that correct?

3 A. Correct.

4 Q. Explain that for me, please.

5 A. I will try. Again, I'm going to refer back
6 to my comparable company analysis. I believe all the risk
7 factors have already been contemplated in each company's
8 stock price and the credit rating. If something changes,
9 I'd probably have to just go back and look at it in more
10 detail. I can't give a definite answer how much it should
11 be raised or if it should really go up at all.

12 Q. What would you look at?

13 A. I would start with some other companies
14 that have a rate design like Atmos has and go back and
15 look at factors of those companies and determine if
16 they're comparable to use in performing an analysis based
17 on that.

18 Q. Would you -- that would have other
19 characteristics that were similar to Atmos as well?

20 A. Correct.

21 Q. And you'd have to go through and process
22 that, correct?

23 A. Correct.

24 Q. Would you also perhaps go back and look at
25 the comparables that you have utilized to see whether the

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1 weather mitigation provisions that they have are of enough
2 significance to warrant using a different set of
3 comparables?

4 A. I could do that, yes.

5 Q. Would that be appropriate?

6 A. If Atmos keeps the same rate design?

7 Q. Yes.

8 A. I think it would be one criteria to use,
9 yes.

10 COMMISSIONER GAW: Okay. Thank you.

11 JUDGE DIPPELL: Commissioner Clayton.

12 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

13 Q. Mr. Barnes, how -- what division of which
14 department are you in?

15 A. I'm in the financial analysis department.

16 Q. And that's under utility services?

17 A. That's correct.

18 Q. And how many Staff members are in the
19 financial services --

20 A. Just two.

21 Q. -- division?

22 You and who?

23 A. David Murray. And our supervisor, Ron
24 Bible, but he's out at the moment.

25 Q. He's out? Isn't he back from Iraq?

1 A. He's been in an accident.

2 Q. Oh, sorry to hear that.

3 A. He's going to be out for a little bit. So
4 it's technically three people we have.

5 Q. Technically three. That's down because you
6 used to have at least one other in that department?

7 A. That's correct. At one time we had --
8 including the supervisor, we had four.

9 Q. You had four?

10 A. Yes.

11 Q. Mr. Kiebel, I think?

12 A. That's correct.

13 Q. What did you-all do when Mr. Bible was in
14 Iraq?

15 A. Bob Schallenberg was our supervisor. We
16 reported directly to him.

17 Q. Is he doing -- is he doing any of the
18 financial services work right now?

19 A. Yes, he is.

20 Q. He is. Okay. How many rate cases are you
21 working on right now where you're the ROE man or person?

22 A. This will be -- this is actually my second
23 one. I just filed testimony in the Algonquin Water case
24 that's currently pending. I just filed direct last
25 Thursday, I think.

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1 Q. So Algonquin, Atmos?

2 A. And Kansas City Power & Light.

3 Q. KCP&L. And then are you participating in
4 any other cases?

5 A. Just some small water and sewer cases.

6 Q. Like how many? Just some small water and
7 sewer, how many of those?

8 A. Approximately -- I don't know the exact
9 number. Probably five.

10 Q. Five small companies. Would you say
11 Mr. Murray's load is about the same?

12 A. Same as mine, my load?

13 Q. Yeah. Does he have three or four big cases
14 and --

15 A. Yes.

16 Q. -- a handful of small cases?

17 A. Yes.

18 Q. Okay. Is that -- well, who else is
19 handling the financial side of ROE analysis with Mr. Bible
20 out and just the two of you there now?

21 A. That's it.

22 Q. That's it. So just the two of you?

23 A. Yes.

24 Q. Who was the ROE witness in Empire,
25 Mr. Murray?

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1 A. Yes.

2 Q. And you did KCP&L, Atmos. Does Mr. Murray
3 have MGE?

4 A. Yes.

5 Q. Ameren?

6 A. That's being consulted out.

7 Q. Consulted out?

8 A. Yes.

9 Q. And Aquila?

10 A. That's also being consulted out.

11 Q. That's going to be consulted out. Am I
12 missing any?

13 A. I've heard Missouri-American's going to
14 file.

15 Q. They've been saying that for a long time.
16 Laclede just filed, but that's awfully early. Is the
17 workload more than what it has been in recent years?

18 A. Yes, it is.

19 Q. Can you give me a comparison of how the
20 workload compares?

21 A. Since I've been with the Commission, which
22 is going on a little over three years now, I would say
23 this is the busiest year that I've experienced since I've
24 been here.

25 Q. Okay. Do you-all feel like you're pretty

0609

1 much pushed to the limit? I mean, would you have room to
2 take on another big case yourself or could Mr. Murray take
3 on another big case?

4 A. I think we're being pushed to the limit.
5 That's why we're consulting some of these out because it's
6 just so much of a workload.

7 Q. You've been with the Commission three
8 years; is that right?

9 A. Yes, sir, going on three and a half now.

10 Q. Three and a half. Me too. Three and a
11 half. When did you start?

12 A. June of 2003.

13 Q. Me too. No kidding. We ought to get a pin
14 together sometime.

15 A. We can do that.

16 COMMISSIONER CLAYTON: I don't have any
17 other questions. Thanks.

18 JUDGE DIPPELL: Okay. Is there
19 recross-examination based on questions from the Bench from
20 Atmos?

21 MR. FISCHER: Just briefly.

22 RECROSS-EXAMINATION BY MR. FISCHER:

23 Q. Mr. Barnes, did you have the occasion to
24 review the prepared surrebuttal testimony of the Atmos
25 witness on ROE, Don Murry, Exhibit No. 15?

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1 A. Yes.

2 Q. And do you recall that his surrebuttal
3 testimony did go through your comparable gas companies one
4 by one and discuss the revenue stabilization adjustments
5 that those companies had or other weather normalizing?

6 A. Yes, he did.

7 Q. And is it your understanding that these
8 were not just fixed charge rate structure, but they also
9 included either weather normalization adjustments or some
10 other revenue stabilization adjustment mechanisms?

11 A. Based on what he testified to, yes, that's
12 what I understand.

13 Q. And his analysis agreed with yours that
14 seven out of the eight companies that you had in your
15 comparables had some sort of weather mitigating or revenue
16 stabilization adjustment --

17 A. Yes.

18 Q. -- is that your memory?

19 Okay. And if I recall, the Staff filed a
20 range of ROEs in this case like you typically do; is that
21 right?

22 A. That's right.

23 Q. And that covers a variety of risks, all
24 kinds of risk that might be affecting companies; is that
25 right?

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1 A. Yes.

2 MR. FISCHER: Okay. That's all I have.

3 Thank you.

4 JUDGE DIPPELL: Thank you. Is there
5 further cross-examination from Public Counsel?

6 MR. POSTON: Yes, thank you.

7 RE-CROSS-EXAMINATION BY MR. POSTON:

8 Q. Mr. Barnes, on the seven out of eight
9 comparable companies, did you analyze those companies for
10 any other type of risk that they may have in addition to
11 weather?

12 A. Just their business risk, financial risk.
13 As far as specific details, it's reflected in their credit
14 ratings and capital structure.

15 Q. Did you look -- with the Atlanta Gas
16 and Light, did you consider the effect that a company
17 operating in a market in which the gas bills are
18 actually -- scratch that.

19 Did you consider the regulatory market that
20 AGL works in when you wrote your testimony?

21 A. The regulatory environment?

22 Q. Yes. Sorry. Thank you.

23 A. No, I did not.

24 Q. So is the company that works in an
25 environment that's different where gas marketers are used,

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1 is that something that should be considered?

2 A. I think it's considered on an aggregate
3 level, all the risks. That's one of them, I would think.

4 Q. And do you know if Atlanta Gas and Light
5 has exposure to manufactured gas plant cleanup costs?

6 A. I don't know.

7 Q. Can those type of cleanup costs represent a
8 major risk exposure for a company based on site-specific
9 information?

10 A. I don't know.

11 MR. POSTON: Your Honor, I don't know if I
12 offered Exhibit 141. It was the Atlanta Gas and Light
13 website that Ms. Meisenheimer testified to earlier. I
14 just don't remember if I offered that one.

15 JUDGE DIPPELL: It was sort of requested
16 during her Commission questions, so no, it wasn't
17 officially offered, but I'm --

18 MR. POSTON: Well, I would like to offer
19 that one based on Ms. Meisenheimer's earlier testimony.

20 JUDGE DIPPELL: Would there be any
21 objection to Exhibit 141? That was the Atlanta Gas and
22 Light website information. Have you-all had an
23 opportunity now to look at it, I hope?

24 MR. FISCHER: No objection from Atmos.

25 MR. THOMPSON: No objections.

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1 JUDGE DIPPELL: Thank you. Then I'll
2 accept Exhibit 141 into evidence.

3 (EXHIBIT NO. 141 WAS RECEIVED INTO
4 EVIDENCE.)

5 MR. POSTON: That's all I have. Thank you.

6 JUDGE DIPPELL: Is there redirect?

7 MR. THOMPSON: Why, yes, your Honor.

8 REDIRECT EXAMINATION BY MR. THOMPSON:

9 Q. You testified, Mr. Barnes, to both
10 Commissioner Gaw and Commissioner Clayton -- sorry, your
11 worship -- that you thought that the adoption of Staff's
12 rate design would result in less risk for Atmos, but that
13 you believed it was hard to quantify how much less; isn't
14 that correct?

15 A. Yes.

16 Q. Would you quantify it the way
17 Mr. Trippensee has?

18 A. I don't believe so.

19 Q. And with respect to your ROE
20 recommendation, Staff's current case is a no change in
21 revenue requirement; isn't that correct?

22 A. Yes.

23 Q. And that was a development that occurred
24 after you had submitted your original testimony, isn't it?

25 A. That's my understanding.

0614

1 Q. So Staff's present revenue requirement
2 recommendation, in fact, doesn't rely on your ROE
3 recommendation, does it?

4 A. I don't think so. I don't know what number
5 they would have used for their revenue requirement.

6 Q. Mr. Trippensee testified yesterday it would
7 equate to about 12.5. Do you disagree with that?

8 A. No, I don't.

9 MR. THOMPSON: No further questions.

10 JUDGE DIPPELL: Thank you. Mr. Barnes, I
11 believe that concludes your testimony. I believe you may
12 be excused. I'd like to -- next we'd like to have
13 Mr. Trippensee on the same issues.

14 Mr. Trippensee, again I'll remind you that
15 you were previously sworn. You remain under oath in this
16 proceeding.

17 THE WITNESS: I understand that.

18 JUDGE DIPPELL: Commissioner Gaw, do you
19 have questions for Mr. Trippensee on these issues?

20 COMMISSIONER GAW: Yes.

21 RUSSELL TRIPPENSEE testified as follows:

22 QUESTIONS BY COMMISSIONER GAW:

23 Q. Mr. Trippensee, let me start by asking you
24 about the ROE. Your recommendation in this case is for an
25 ROE of 7 percent; is that correct?

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1 A. I believe that is correct, yes, sir.

2 Q. Now, is that based upon the assumption that
3 a rate design were adopted similar to what Staff proposes?

4 A. That would be correct. It's if the Staff
5 rate design is rejected by this Commission consistent with
6 past Commission decisions, Public Counsel would support
7 the range filed by Staff witness Barnes.

8 Q. All right. Now, first of all, help me to
9 understand why you believed it was appropriate to discount
10 the ROE to 7 percent from that range that Staff witness
11 Barnes supports because of the rate design change.

12 A. The rate design change that the Staff
13 proposed in their direct testimony and has been accepted
14 by the company creates a virtual guarantee of a revenue
15 stream from the customer classes affected for this
16 company. A basic fundamental of risk that a company faces
17 is business risk, and a primary measure of business risk
18 is the variability of the revenue stream and thus the
19 variabilities of earnings on the company or the resulting
20 variability of earnings for that company.

21 If you suggest I will reduce that risk,
22 there should be -- if the ratepayer is required to
23 significantly reduce that risk, the ratepayer should also
24 then see a corresponding reduction in the cost that is
25 incorporated into the revenue requirement found

0616

1 appropriate by this Commission.

2 Q. Is it your belief that the rate design
3 proposed by Staff represents a significant decrease in
4 that risk?

5 A. Yes, I do.

6 Q. And tell me why that is your belief.

7 A. That belief is based on the concept that
8 commodity -- changes in the usage by customers creates the
9 difference in revenue streams for the customer classes
10 involved. If you eliminate that commodity component, all
11 that is left in the mathematics of calculating their bills
12 is the number of customers.

13 Atmos has had a fairly stable, slightly
14 growing customer base over the last three years data
15 available to me in public record. There's no reason to
16 believe a significant decline in their customer base is
17 going to occur. Thus, their revenue stream is virtually
18 assured, and to the extent there's growth, it's actually
19 going to increase a little bit, which would benefit the
20 stockholder.

21 Q. Once the rates are set in the rate case,
22 then going forward the revenue stream would be based upon
23 the set number of customers that they had during the test
24 year, I assume?

25 A. The billing determinants the parties have

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1 agreed to, yes.

2 Q. And then going forward, then there could
3 actually be some increasing revenue stream because of
4 increasing customers, that's historically been what's
5 occurring?

6 A. That would be my expectation, yes, sir.

7 Q. And then you would have eliminated what you
8 consider the primary risk factor for the company?

9 A. With regard to their business risk and that
10 variability, yes. The rate design, as it's proposed, goes
11 well beyond what was contemplated in Senate Bill 179,
12 which discussed weather and conservation. This discusses
13 all variability.

14 Q. All right. Would you -- would you give me
15 some examples of some additional variability that would be
16 outside of what was contemplated by 179, if you can?

17 A. Variability as an example, general reading
18 I've done indicates that housing stock, new housing stock
19 is growing in size relative to average, what's in place.
20 I have no reason to believe Atmos' service area, as varied
21 as it is throughout the state, is not experiencing the
22 same thing. So even with -- even with good insulation,
23 with good -- with modern day Energy Star appliances, that
24 type of activity is going to increase the per use customer
25 usage on an average basis.

1 Energy Star appliances, it may be a
2 semantical difference, but Public Counsel doesn't view the
3 purchase of a new appliance to replace one that is broken
4 as being conservation. If that type of appliance is the
5 only one available, that's all the customer can purchase.
6 So that would be -- it's not a conscious decision by the
7 customer, it's simply a replacement of what they had.
8 That would be a couple of examples.

9 Q. So how does that play into the
10 variabilities of the company? I'm not sure I follow.

11 A. Well, to the extent that that variability,
12 the risk is either way, up or down.

13 Q. Okay.

14 A. And assurance is what business risk is
15 associated with. If you can reduce the variability either
16 up or down, that reduces the risk from the investor
17 standpoint. If you are guaranteed a revenue stream, you
18 have a lower risk. I think Staff witness Ross talked
19 about variability up and down as a lose/lose. It's not
20 that at all.

21 Q. Okay. There's also in 179 the company
22 mechanism that provides for that weather moderation
23 provision or weather catchup provision and the
24 conservation provision that provides for additional
25 recovery. There's a lag time in 179, isn't there, in that

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1 recovery or --

2 A. Yes.

3 Q. -- payment out?

4 Does that also add or increase risk?

5 A. Elimination of lag would also reduce risk.

6 Cash flow is a major factor to rating agencies, to the
7 investor. I mean, you can have an income statement that
8 shows you're making a profit, but you can also be broke
9 cash-wise and be out of business if you're insolvent.

10 Q. This rate design that Staff is proposing
11 is -- it eliminates that lag time that would be in a
12 179-type provision, doesn't it?

13 A. Yes, it does. One of our other concerns
14 with 179 is all the parties are involved in that case or
15 will be involved. This is one of our smaller utilities,
16 and it's a -- without adequate data, I think
17 Ms. Meisenheimer addressed, to make this dramatic a
18 change, without looking at all the factors and how it
19 affects across the entire state, it's just not something
20 Public Counsel believes is a good policy for this
21 Commission or good procedure to develop policy for this
22 Commission.

23 Q. Okay. Now, you -- your discount here to
24 7 percent is somewhere around 1 and a half to over
25 2 percent discount, isn't it?

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1 A. Compared to the Staff range --

2 Q. Yes.

3 A. -- that would be correct.

4 Q. And how did you come up with that amount of
5 reduction?

6 A. Business risk is the risk of the
7 variability. The company would still incur financial
8 risk, which is, as I believe I defined in my testimony,
9 the additional risk placed on the common stockholders as a
10 result of financial leverage. So they will still face
11 that. So I looked at the difference between the
12 completely risk free rate as identified by Mr. Barnes. I
13 believe his was approximately 5 percent. It's since
14 declined in more current Staff testimony to around 4.75.

15 I looked at the difference between risk
16 free rate and the debt cost of the company, which would be
17 the -- a risk that debt holders would -- risk premium that
18 debt holders would require and assign then the same risk
19 premium to stockholders for their financial leverage,
20 financial risk issues. I then rounded it up to 7 percent
21 just to be conservative for lack more of a reason than
22 that, just simply to be conservative, because I think as
23 Mr. Barnes testified, as I discussed this morning in
24 deposition, I have not seen anybody make a firm hard
25 calculation. I've not seen any discussion -- theoretical

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1 discussion of how to do it.

2 Public Counsel was trying to present this
3 Commission with something that was based on some hard data
4 and just not simply, as in the case of testimony that's
5 been filed in the MGE case by the company witness, just 25
6 basis points based on his opinion. We tried to look at
7 firm data.

8 Q. Okay. So your calculation at 7 percent,
9 you didn't give us a range here, right?

10 A. I didn't give you any flexibility. I'm
11 sure the Commission will take that flexibility if they
12 think it appropriate.

13 Q. If there was, would you -- did you make any
14 calculations that would have provided any flexibility in
15 that number?

16 A. I don't think I made any calculations that
17 would provide it. I would simply say that if you're
18 looking at a range, it would be somewhere between the
19 7 percent and the low end of Staff's filed testimony.

20 Q. Okay. Now, and that's what you meant when
21 you said you were being conservative with 7 percent?

22 A. Yes.

23 Q. Okay. Now, let me ask you this: You were
24 just here when Staff witness Barnes was testifying,
25 correct --

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1 A. Yes, I was.

2 Q. -- just before you?

3 And he testified to, if I remember
4 correctly, that seven of the eight companies that he
5 examined had some sort of weather mitigation provision
6 according to information he looked at. Did you hear him
7 testify to that generally?

8 A. Yes, I did.

9 Q. Do you know or have you looked at the rate
10 designs of those companies that are in his group of
11 comparables?

12 A. I looked at some of the rate designs.
13 Probably the one I've seen most is the Atlanta Gas. It is
14 a rate design that is somewhat similar to what Staff has
15 proposed here, but it is based on premise-specific
16 information and not average just all customers pay the
17 same. It looks at specific capacity demanded by that
18 premise before the rate is set. So in that regard, it is
19 definitely different.

20 Secondly, Atlanta Gas has marketers
21 involved in their process. They are truly a local
22 distribution company. They do not produce the gas for
23 their customers --

24 Q. I see.

25 A. -- so that is another major factor as -- as

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1 events over the last five years have shown us with
2 marketers.

3 Q. Do they have retail competition there?

4 A. Between the marketers, yes, they do, it's
5 my understanding. I also noticed on their website it
6 appears they have a manufactured gas cleanup fee, which
7 would indicate they have some exposure to manufactured gas
8 plants, which is a significant -- potentially significant
9 factor for the company as --

10 Q. Risk factor?

11 A. -- a definite high risk factor because you
12 have costs that are unknown, and you have federal
13 government and Super Fund involvement, and there are very
14 strict protocols for cleaning up those sites if, in fact,
15 they're identified and the company has found to be the
16 last deep pocket available to take care of those
17 obligations.

18 Q. Did you look at any of the other companies
19 in regard to rate design?

20 A. I did. There was some different -- I think
21 most of the companies involved had some clauses, unlike,
22 say, a Laclede-type weather mitigation rate design, they
23 had more clauses than a rate design.

24 Q. What does that mean, that they had clauses?
25 Explain that.

1 A. It would be a clause would be a charge that
2 would be a separate charge to the customer to catch up or
3 to refund revenue flows that differentiate, were different
4 than what was expected due to weather. I believe one of
5 them also did have a conservation clause included in that.

6 Q. Okay. So would you regard those clauses as
7 being less comprehensive than the one proposed by Staff in
8 this case?

9 A. The proposal in Staff's case eliminates all
10 variability.

11 Q. So in regard to comparing risk clauses that
12 you have described, all other things being equal to the
13 clause that is -- or to the rate design proposed by Staff
14 for Atmos, would you say the risk is lower for Atmos, all
15 other things being equal?

16 A. Yes.

17 Q. And so therefore, would you also say that
18 the ROE that should be recommended, all other things being
19 equal, in comparing Company A that has rate a clause like
20 you describe to Company A with a rate design like Staff
21 has proposed, that the ROE for the company when it has
22 Staff's design should be lower?

23 A. I believe the answer to that is yes, and
24 that's the underlying premise of Public Counsel's
25 testimony.

1 Q. Okay. And it sounds like, if I'm following
2 you, that from your analysis, you are building your
3 recommendation on ROE at least in part from a risk-free
4 environment up, rather than taking Staff's original
5 recommendation and working down, but I'm not sure if I'm
6 following that exactly.

7 A. The calculation itself is built that way
8 from risk free up to the extent Staff's testimony would
9 serve at the upper bounds if, in fact, you were looking at
10 a range. We tried to develop in this case a specific
11 number, and we worked it off of the risk-free rate.

12 Q. Now, are you familiar with the issue of the
13 company's -- the company at least at some point having
14 been alleged to be overearning?

15 A. Yes, I am.

16 Q. Would you mind giving me just a very quick
17 background of whether or not Staff at some point in time
18 offered testimony or suggested that indeed the company was
19 overearning?

20 A. I believe Staff's direct testimony asserted
21 that on a going-forward basis, if current rates were
22 maintained, that the company would overearn by
23 approximately 1.2 at the mid point of -- I believe it was
24 the midpoint. It might have been at the high end of
25 Mr. Barnes' recommendation on rate of return on equity.

1 Subsequent to that time, Staff made some
2 corrections and adjustments in their case, but I believe
3 Mr. Rackers testified last Thursday that those corrections
4 and adjustments did not materially change the 1.2 number,
5 negative number.

6 Q. In other words, they would still be
7 overearning using Staff's recommended ROE?

8 A. That would be correct. And I think
9 Mr. Rackers testified to the fact that Staff believes
10 those -- that number is still defensible and -- based on
11 the practices and the recommendations that Staff made in
12 their direct testimony.

13 Q. Do you agree with Staff in regard to those
14 questions?

15 A. Yes, I do.

16 Q. Does Public Counsel?

17 A. With one exception.

18 Q. All right. Go ahead.

19 A. That exception is an issue before this
20 Commission with regard to a negative amortization of the
21 depreciation reserve.

22 Q. And how does that impact the outcome?

23 A. That actually would raise the 1.2 or make
24 it a smaller decrease. It would move it \$591,000 closer
25 to zero. So that would make it 6 -- a little over

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1 600,000 negative.

2 Q. So --

3 A. On that issue. And then there's the rate
4 of return, which takes it back the other direction, if the
5 Staff rate design is accepted. If the Staff rate design
6 is not accepted, Public Counsel's recommendation, based on
7 the Staff work that they believe is defensible, is in the
8 neighborhood of 600 to 750,000 negative.

9 Q. All right.

10 A. I'd have to go back and look at exactly the
11 range created by Mr. Barnes' ROE recommended ranges.

12 Q. So, Mr. Trippensee, Public Counsel's
13 position is that Atmos is currently overearning but that
14 the amount of the overearning is impacted by the rate
15 design and by this negative amortization issue. Am I
16 following?

17 A. In general terms, yes, but I do like to
18 say, Commissioner, that since the rate case is a
19 forward-looking item, that they would overearn in the
20 future.

21 Q. Thank you for that correction. So that is
22 Public Counsel's position?

23 A. Right, because the Staff, this Commission
24 uses year-end rate base, things along that line. We're
25 not going back and looking at actual. Probably over

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1 95 percent of the revenue requirement has been adjusted in
2 one way or another from the test year.

3 COMMISSIONER GAW: I thought I had
4 something else, but I'm not seeing it right now, so thank
5 you.

6 JUDGE DIPPELL: Thank you. Commissioner
7 Clayton?

8 (No response.)

9 JUDGE DIPPELL: Is there further
10 cross-examination based on questions from the Bench, from
11 Atmos?

12 MR. FISCHER: Judge, we had extensive cross
13 earlier in the proceeding. I'm going to largely stand on
14 that, but I did have a couple things I just wanted to
15 clarify. It won't take very long.

16 RE-CROSS-EXAMINATION BY MR. FISCHER:

17 Q. Mr. Trippensee, is it your understanding
18 that Atlanta Gas is part of AGL resources, which is a
19 holding company?

20 A. That's my understanding.

21 Q. Are you also aware that they operate in a
22 number of states, Virginia, Tennessee, Florida and New
23 Jersey?

24 A. I did not look at the extent of their
25 service companies.

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1 Q. So you didn't study whether weather
2 mitigation occurs in all of those states?

3 A. No, I did not.

4 Q. And do you know if they have marketers in
5 all those states?

6 A. Since I didn't study those states, the
7 answer would be no.

8 Q. You also brought up manufactured gas plant
9 remediation. Are you aware that Atmos had an AAO case
10 pending in front of this Commission a few years ago
11 involving a similar plant in the Hannibal area?

12 A. Yes, I am.

13 Q. And are you also aware that Atmos serves
14 the New Orleans area?

15 A. That's not the Missouri jurisdiction.

16 Q. No, it's not. But would you agree with me
17 the company did face a significant weather risk last
18 summer that wouldn't be reflected in any kind of a
19 normalization clause there?

20 A. If they can find that manufactured gas
21 plant site after last summer, they may still have some
22 liability.

23 Q. That would be true if New Madrid's
24 earthquake goes off, too?

25 A. We may become part of Iowa and that would

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1 be true.

2 MR. FISCHER: Thanks a lot. That's all I
3 have.

4 JUDGE DIPPELL: Thank you. Is there
5 further cross-examination from Staff?

6 MR. THOMPSON: Yes, Judge. Thank you.

7 RE-CROSS-EXAMINATION BY MR. THOMPSON:

8 Q. Mr. Trippensee, during one of your answers
9 to Commissioner Gaw, you referred to Laclede-type weather
10 mitigation rate design. Do you recall that response?

11 A. I remember referring to it, yes.

12 Q. Would you be surprised if I told you that
13 when this Commission granted Laclede a weather mitigation
14 rate design, that its credit rating was downgraded?

15 A. Would I be surprised?

16 Q. Would you be surprised, sir?

17 A. Based on my conversation with Standard &
18 Poors, I would not be surprised at anything they do, since
19 they didn't know that Kansas City Power & Light built a
20 power plant.

21 MR. THOMPSON: Judge, could I get a yes or
22 no answer?

23 JUDGE DIPPELL: Mr. Trippensee, can you
24 answer Mr. Thompson's question. Would you be surprised --

25 THE WITNESS: I think I said I would not be

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1 surprised at anything at Standard & Poors, so, no, I would
2 not be surprised.

3 MR. THOMPSON: Thank you, Mr. Trippensee.
4 No further questions of this witness.

5 JUDGE DIPPELL: Thank you. I believe that
6 concludes Mr. Trippensee's -- oh, I'm sorry. Is there
7 redirect?

8 MR. POSTON: No, your Honor, thank you.

9 JUDGE DIPPELL: I believe that concludes
10 your testimony on this topic or these topics. Before you
11 step down, Mr. Trippensee, I'm going to see, would it be
12 possible, Mr. Dority, to get Dr. Murry on the phone at
13 this time or --

14 MR. DORITY: We can certainly try. I
15 didn't know if we would have any notice in the regard, but
16 he's supposed to be standing by.

17 JUDGE DIPPELL: We can take a break and try
18 to set that up, and then we'll move on from there.

19 COMMISSIONER CLAYTON: Judge, if that's
20 going to be a hardship on him, if he has to be tracked
21 down, it's not worth it, because I don't have that many
22 questions.

23 MR. FISCHER: I have a cell phone number
24 and that's how we track him down.

25 COMMISSIONER CLAYTON: If he's going to be

1 somewhere where he -- that makes it difficult, I just --

2 MR. FISCHER: We're at the discretion of
3 the Commission on that.

4 COMMISSIONER CLAYTON: Jim, we know you
5 are. We appreciate that. But if you find he's at the
6 club or something like that, don't bother him, okay.

7 JUDGE DIPPELL: Let's take a ten-minute
8 break, see if Dr. Murry is available and I'll bring a
9 phone in here.

10 Thank you. You can go ahead and step down,
11 Mr. Trippensee.

12 Let's go off the record.

13 (A BREAK WAS TAKEN.)

14 JUDGE DIPPELL: Okay. Dr. Murry wasn't
15 available, so we're going to just keep going. We are
16 going to go to the other tariff issues and also pick up
17 some Commissioner questions on the miscellaneous charges
18 issues.

19 So Staff's witness Mr. Ensrud has come to
20 the stand, and he was previously sworn. So, Mr. Ensrud,
21 you may remain under oath. That's correct, you were
22 previously sworn?

23 THE WITNESS: Yes, I was.

24 JUDGE DIPPELL: Okay. You remain under
25 oath. So your exhibits have already been admitted. Was

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1 there cross-examination on the other tariffs issues from
2 Atmos?

3 MR. DORITY: No questions, your Honor.

4 JUDGE DIPPELL: From Public Counsel.?

5 MR. POSTON: Yes, just one. Thank you.

6 MICHAEL J. ENSRUD testified as follows:

7 CROSS-EXAMINATION BY MR. POSTON:

8 Q. I'm going to ask you a question about the
9 line extension policy.

10 A. All right.

11 Q. And in your direct testimony you say that
12 Atmos proposes to use a computer model to estimate the
13 cost of the main extension and the revenue that will be
14 derived; is that correct?

15 A. Which line? I address it in both
16 surrebuttal and direct, if I remember right.

17 Q. Well, actually, I can't find the line. I
18 might have given you the wrong page number. But is that
19 your testimony?

20 A. That's generally -- generally, yes, that
21 they use a scientific approach in that they use both a
22 computer model and in that they use traditional finance
23 principles to generate a rate.

24 Q. Okay. Will you please explain in detail
25 how that model works and what assumptions are made that go

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1 into that model?

2 A. In its entirety, general discussion of what
3 it is is basically a model that determines cost. It bases
4 the price of a project to construct that project, meaning
5 building in such things as time, labor, duration of the
6 project and et cetera. So there were a number of factors
7 that were discussed as being included in the cost
8 component.

9 Once you've got a cost that is
10 representative of a specific project, the next step is you
11 would take the rate of return that the Commission granted
12 in the case, take that times the projected revenues. They
13 project out the revenues based upon the size of the house,
14 the type of the house and et cetera. And so you take the
15 return times the projected revenues. That's the offset to
16 the -- that specific project. That's how you determine
17 what the -- what the offset is for a project that would be
18 specific to you.

19 Q. So have you studied this model itself and
20 seen how it --

21 A. I was provided the model, but I've not done
22 a whole lot with it. Most of it was based upon
23 discussions with various company members as to how it
24 functions.

25 MR. POSTON: That's all I have. Thank you.

1 JUDGE DIPPELL: Thank you. Are there
2 questions from the Bench, then, for Mr. Ensrud? And
3 Commissioner, this involves both the other tariff issues
4 and the miscellaneous issues.

5 COMMISSIONER GAW: Yes, I appreciate that,
6 Judge. Thank you.

7 QUESTIONS BY COMMISSIONER GAW:

8 Q. Mr. Ensrud, I want to go to the
9 connection/reconnection and transfer charges, and first of
10 all, can you tell me under Atmos' current tariffs what
11 the -- what those charges are?

12 A. For connection and transfer, there is no
13 charge today, for the cost of dispatching, someone calling
14 a dispatch board and then sending someone out to connect
15 it to. So those two, the current cost is zero.

16 Q. Okay.

17 A. In relation to the reconnection charge, I
18 believe I have a copy somewhere of their existing rates.
19 For reconnections today, the -- the normal business hour
20 would be for Areas P and U 40 bucks, for Areas P K and
21 S -- or B -- excuse -- B, K and S, \$30, and for Area G,
22 \$25.

23 Q. Okay. That's the --

24 A. That's normal business hour reconnection.
25 And I propose a \$24 rate.

1 Q. Okay. So you're proposing \$24, and the
2 rates that you just read me are all above that? I'm
3 sorry. I was reading while you were talking.

4 A. All of the normal hours are higher than
5 what I propose. So my rates are lower than -- than the
6 existing rates for those. In relation to -- to the
7 outside business hour connections, reconnections outside
8 the traditional business hour, it would be -- I propose
9 50, and there is one for areas P and U that was a \$51
10 charge. So for that one it's going down, but for the
11 other areas, my \$50 is higher than the 40 or the 25.

12 Q. Okay.

13 A. The net impact of it all is \$29,000 less.
14 If you took the test year, priced out the test year, mine
15 would produce \$29,000 less on the reconnection rates.

16 Q. Now, that is without considering this
17 additional charge that you're proposing, correct, this
18 makeup of misdelivery charges?

19 A. That is true. That is just for the
20 dispatch service.

21 Q. Now, in regard to this so-called makeup
22 amount, first of all, give me an example of how that would
23 work.

24 A. If someone -- if someone were to go off the
25 system either by saying, it's summer, I don't need your

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1 service, thank you very much, or if they just simply don't
2 pay and go off in March, they come back on four months
3 later, whatever the delivery charge is, which ranges
4 between 15 and \$20 approximately, you would be charged for
5 the cost of sending a person out to reconnect you, and
6 they would make up all the fixed costs that occurred for
7 the period that you were out.

8 Q. Okay. So in addition to the connection
9 charge of \$24 or \$50, whichever it is, you would pay this
10 additional makeup charge, correct?

11 A. Correct.

12 Q. Now, that would be a charge that you would
13 pay if you were disconnected for anywhere up to a year?

14 A. Correct.

15 Q. And do we have this type of a reconnection
16 charge currently for another gas company in the state?

17 A. We have it in a certain form for Atmos for
18 Area S. Let me just read the connection. This language
19 is not exactly verbatim, but the content is pretty close
20 all the way through. I can read as many as you want, but
21 the flavor of one will get you there.

22 This schedule is a continuous service
23 schedule. If service is disconnected at the request of
24 the customer and thereafter restored at the same location
25 for the same occupant within 12 months, period. Following

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1 the date service was disconnected, a reconnection charge
2 will become due and payable when service is restored of
3 transportation service reconnection charges equal to the
4 monthly customer charge times the number of months or
5 fractions of months that service was disconnected.

6 Essentially the same principle. One of the
7 problems they have today is that they have a computer
8 problem where they have to flip between screens. For
9 administrative sake, I would accept where they simply take
10 the number of days that you were disconnected, which is on
11 one screen, divide by 30, and that would be the charge.
12 In all cases, that would generate -- you would pay at
13 least -- or you would pay no more than what you would
14 under counting up the charges that were missed.

15 Q. All right. Now, so is Atmos the only
16 company in that one geographic area, is that the only
17 company that has this type of provision in the state right
18 now?

19 A. For the counting of them, they are the only
20 ones.

21 Q. Okay. Now, in regard to -- and, of course,
22 this current provision that's in this one area of Atmos --

23 A. Well, it's actually in three areas.

24 Q. Three areas. Excuse me. Which three
25 areas?

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1 A. Area S, Area B and Area K.

2 Q. And this is with the customer charge which
3 is just the fixed charge and does not -- would not include
4 the volumetric component, correct?

5 A. That is -- that is absolutely correct.

6 Q. So the amount here, even in those areas,
7 would be going up significantly?

8 A. Right. There's also one other thing I want
9 to bring to your --

10 Q. Would it not, it would be going up
11 significantly?

12 A. It would go from -- yes.

13 Q. And then go ahead. I'm sorry. I'll let
14 you finish.

15 A. There's one other aspect that's a little
16 bit different. In discussing, you know, what they have
17 today, one of the problems is that a person has to
18 request, at the request of the customer.

19 Q. Yes. I was going to get to that.

20 A. Okay.

21 Q. So let me ask you that question. In the
22 proposal that you have, is this limited just to cases
23 where the customer has requested the disconnection?

24 A. No.

25 Q. So you would also require a customer who is

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1 disconnected for other reasons other than their choice to
2 have to pay this additional charge on reconnection as
3 though they had been receiving the service the entire
4 time?

5 A. If there's no change in cost on the short
6 run, that seems appropriate to me. That is a correct
7 understanding.

8 Q. I'm not asking for your analysis at this
9 point. Is that true, that they would be required to
10 pay --

11 A. Right.

12 Q. -- that amount as though they were
13 continuing to receive service for the entire time they
14 were disconnected?

15 A. I would eliminate the distinction between
16 people who request disconnection and those who are
17 disconnected by not --

18 Q. But the answer to my question first is yes,
19 correct?

20 A. Correct.

21 Q. Now, so would you say that the customers
22 that generally are disconnected have any demographic that
23 tends to be true in regard to their incomes? In other
24 words, are low-income customers potentially more likely to
25 be disconnected or do you know?

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1 A. My dealings would indicate that there
2 probably is some correlation of that, but there's also
3 a --

4 Q. There is a connection, correct?

5 A. There would be propensity for low-income
6 people probably to be disconnected more than high-income
7 people.

8 Q. Okay. Now, so --

9 A. Not a perfect match, but close.

10 Q. -- this provision then will have a
11 disproportionate impact on low-income customers, wouldn't
12 you agree?

13 A. More of them will pay, but given the
14 demographics of the Atmos territory, more of them would
15 benefit under the other plan, under my plan than exist
16 today. More would pay, there's no debate about that,
17 but --

18 Q. Okay.

19 A. But given the statistics of the components
20 of the numbers, you can calculate or back into about
21 30,000 customers qualify for low-income in the Atmos area.
22 About 10,000 engage in disconnect, summer disconnect or
23 disconnect. Therefore, you have 10,000 who benefit from
24 the practice, but 30,000 poor -- not poor -- low-income
25 who pay more than they otherwise would because of the

0642

1 practice.

2 Q. Do you have that on paper somewhere?

3 A. I have Exhibit 19. I'll tell you how I got
4 into it. I have Exhibit 19, which dealt with the number
5 of LIHEAP customers that were available, which was 6,105.
6 Ms. Ross talked yesterday about that only one in five on
7 average take. If you take that figure times five, you
8 come up with 30,000 customers.

9 Q. Wait a minute. Hold on. What figure?

10 A. The 6,105, which is the cumulative number
11 of customers, if you run a tape --

12 Q. Cumulative number of customers who are
13 what?

14 A. Who are --

15 Q. Who are you talking about?

16 A. Who are users of LIHEAP.

17 Q. Is that the total number of LIHEAP
18 qualified customers --

19 A. No.

20 Q. -- or users?

21 A. That's the number of users.

22 Q. In the entire Atmos territory in Missouri?

23 A. That's the representation of --

24 Q. Do you know how many qualifiers for LIHEAP
25 there are in the entire territory?

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1 A. Because by what --

2 Q. Do you know the answer to that question?

3 A. Yes, you can calculate that.

4 Q. What is the entire number of customers that
5 are qualified for LIHEAP in that territory?

6 A. Using the factor that Ms. Ross had, it
7 comes out 30,000.

8 Q. 30,000. So there are 30,000, and only a
9 little over 6,000 are actually receiving the benefits to
10 which they are --

11 A. Right.

12 Q. -- otherwise entitled if it were not for
13 budgetary problems, correct?

14 A. That would be -- yes, that would be one of
15 the conclusions. But my point --

16 Q. So in other words, at this point in time,
17 those low-income consumers who may be disproportionately,
18 as you testified to, impacted by this additional fee
19 that's going to be tacked on to those who are
20 disconnected, they are in a position where they're going
21 to be, as I understand it, be subject to this additional
22 amount of money upon reconnection?

23 A. Only 30 -- well, yes, that would -- that in
24 itself was true.

25 Q. Okay. Now, does Staff believe that

0644

1 low-income consumers will pay for this out of some new
2 income sources that they may have as a result of this
3 policy if it's adopted?

4 A. No. My point --

5 Q. Does this give access to additional LIHEAP
6 dollars, for instance, to customers that may try to be
7 reconnected? Is that possible?

8 A. No, but it would reduce their rates.

9 Q. Well, Staff was proposing at one time that
10 rates be lowered in this case, were they not, Mr. Ensrud,
11 and now Staff is proposing that there is no lowering of
12 rates; isn't that correct?

13 A. That's my understanding.

14 Q. That would have lowered their rates as
15 well, wouldn't it?

16 A. Yes.

17 Q. Yes. And so it would have also lowered
18 their rates, would it not, or at least it wouldn't have
19 increased the rates of those who were trying to be
20 reconnected if you hadn't proposed, assuming the
21 Commission would adopt, this additional fee for
22 reconnection?

23 A. If they adopt the initial -- the additional
24 fee for reconnection, the hope would be or the desire,
25 results would be that less people would engage in summer

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1 disconnect, which transfers cost to those who remain on
2 the system year round.

3 Q. How much of a reduction in the rates that
4 Staff is proposing is reflected by this change? How many
5 dollars of reduction are in this rate case as a result of
6 this proposal by Staff?

7 A. None.

8 Q. Now, if I were an individual that -- I'm
9 seeking clarification here. If I'm an individual that
10 seeks disconnection because I want to move to another
11 place --

12 A. Right.

13 Q. -- in the same Atmos territory, am I
14 subject to this proposal from Staff?

15 A. No, you're not. It's only if you jump in
16 and out at the same location.

17 Q. Okay. So it's tied specifically to a
18 particular location, correct?

19 A. It is.

20 Q. Now, what if I move temporarily out of
21 my -- of this house and move back within a year, but I
22 have left the premises and come back, then what?

23 A. The charge would be applicable because the
24 same name would be being pulled back up on the screen as a
25 reconnection.

1 Q. What if I'm a renter, I move out, move to
2 another residence for a while, and then six months -- and
3 I establish service there, and then I move back, do I have
4 to pay?

5 A. In that odd occurrence, the way I
6 understand it, because the name would -- they do a search
7 of the new name compared to the old name, and I don't
8 know -- I don't believe there is a search for an
9 intermediate name, and it was within the 12 months, with
10 all those caveats, I think you would.

11 Q. Why should that individual have to pay?

12 A. Under those specific -- under those
13 specific odd circumstances, there is some inequity in the
14 plan.

15 Q. Of course, I could also move -- even though
16 the answer would be the same, I could move outside of the
17 Atmos territory and move back into the same residence and
18 have the same predicament, correct?

19 A. Right. If it's a mechanical process, that
20 would also generate.

21 Q. And that would be true even if I were a
22 renter in that house, not just that I own the house and
23 decided to disconnect, move and then come back, it would
24 also be true if I were a renter and terminated my rental
25 arrangement, went to another residence, and then moved

1 back and entered into a new agreement, correct?

2 A. In that odd situation, that would be
3 correct, my understanding.

4 Q. Now, let me go to a different category for
5 a moment. I want to ask you -- on the same general topic,
6 though. I want to ask you about your level of knowledge
7 as to these districts and whether or not any of them have
8 any presence of propane. Do you know?

9 A. It's rural Missouri, so yeah, there are
10 probably -- there are probably propane dealerships who
11 are -- who are fairly available. I mean, I don't consider
12 any of the -- even Kirksville and stuff like that is not
13 major metro areas.

14 Q. So let's assume, then, that I have a house
15 and I have decided I've had enough of paying these natural
16 gas prices and I'm going to switch to propane. I'm off
17 for a few months, less than a year, and I decide I want to
18 go back. Your proposal, does it make me pay for all of
19 those charges that I would have incurred in the event that
20 I had stayed hooked up to the natural gas service and had
21 the propane service at the same time?

22 A. That would have been one of the many
23 charges, yes.

24 Q. So I would be paying both for this gas
25 connection and for my propane service, correct?

1 A. You would have paid all the costs

2 associated with the tank and converting all your --

3 Q. Isn't that correct, Mr. Ensrud, I would be

4 paying --

5 A. Yes, you'd pay an abundance of different

6 costs.

7 Q. I would be paying for those gas charges as

8 though I were hooked up if I wanted to go out and try the

9 propane tank, correct?

10 A. Yes.

11 Q. And, Mr. Ensrud, does this Commission

12 engage in interfering with competition between the natural

13 gas providers and propane as a matter of policy?

14 A. Probably not, but it should reflect costs.

15 Q. Mr. Ensrud, is it not true that by doing

16 this, if this Commission were to approve your proposal,

17 Staff's proposal in this case, we would be creating a very

18 significant disincentive for individuals who wish to

19 switch to propane because they would have to repay -- if

20 they decided they didn't like it, they would have to pay

21 for their service as though they continued to be hooked up

22 to the gas service; isn't that correct?

23 A. There would be abundance of --

24 Q. Isn't that --

25 A. Cost is a --

1 Q. Isn't that correct? That's a yes or not.

2 Isn't that correct?

3 A. In that particular instance, yes.

4 Q. All right. Thank you.

5 A. But there would be a number of costs.

6 Q. Did Staff make a decision to in regard --
7 did it make its decision for this proposal taking into
8 account the fact that this is a -- has an impact, a
9 negative impact on a consumer's right to choose between
10 natural gas and propane service? Did that weigh in to the
11 Staff's decision in proposing this plan for reconnection?
12 Do you know?

13 A. Yeah, there was discussion about -- about
14 that this would be a deterrent to some things, but the
15 proper allocation of costs was an overriding concern.

16 Q. So in other words, the Staff has
17 consciously decided that it's appropriate to create
18 disincentives to switch away from natural gas service,
19 correct?

20 A. Some viewed it -- no. The discussion was
21 that there might be an incentive to convert to gas, to
22 propane or other or all-electric homes in that now I see
23 on my bill what used to be a \$7 bill is now a 15 or \$20
24 bill. I may have greater motivation to convert. That was
25 the most -- that was it. It wasn't that you lock in

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1 customers. It's that you may scare away people, that
2 existing customers may look at the -- go 15, 20 bucks, I'm
3 going to migrate to something else.

4 Q. So in order to counteract that, you
5 proposed -- Staff has proposed that it is more difficult,
6 then, to leave by adopting this --

7 A. No.

8 Q. -- this reconnection fee, correct?

9 A. We gave credence to that -- to that
10 argument, but the final justification was the inequitable
11 distribution of costs was an overriding factor and that
12 setting the proper pricing signal, if you drive people
13 off, that's part of the market.

14 Q. Did you consult with any of the propane
15 dealers in the state when you made this decision or this
16 recommendation --

17 A. No.

18 Q. -- analysis?

19 Did you give them any notice that you were
20 making this kind of a proposal in this case? Did you have
21 any discussion with them that you were going to do this
22 kind of proposal?

23 A. No.

24 Q. Do you believe the propane industry in this
25 state would be pleased with your recommendation?

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1 A. Yes, I think -- I think they'd be --

2 Q. You think they would be pleased?

3 A. I think they would look at this as a
4 potential --

5 Q. With this reconnection fee?

6 A. Yeah, because -- well, with the
7 reconnection fee. With the delivery charge, it would act
8 as a disincentive to propane or to a motivation to convert
9 to propane.

10 COMMISSIONER GAW: Thank you, sir. I think
11 that's all.

12 JUDGE DIPPELL: Okay. I don't believe
13 Commissioner Clayton had any questions for you,
14 Mr. Ensrud. So is there further cross-examination based
15 on questions from the Bench from Atmos?

16 MR. DORITY: Just a couple, your Honor.

17 RECROSS-EXAMINATION BY MR. DORITY:

18 Q. Mr. Ensrud, regarding your seasonal
19 disconnect customer analysis, would it be appropriate to
20 characterize the focus of your approach as dealing with
21 customers who interrupt service for an interim period of
22 time?

23 A. Correct.

24 Q. And is it your testimony that 1/10,
25 7,000 out of 70,000 Atmos customers disconnect for a month

0652

1 or more every year?

2 A. Right, and reconnect is my understanding.

3 JUDGE DIPPELL: Can I get you to speak into
4 the microphone?

5 THE WITNESS: And reconnect.

6 BY MR. DORITY:

7 Q. Mr. Ensrud, on pages 11 through 13 of your
8 surrebuttal testimony, you address some of the concerns
9 raised by OPC witness Meisenheimer concerning the
10 reconnection fee. Would that still be your testimony
11 today?

12 A. Yes, it would.

13 MR. DORITY: I believe that's all I have,
14 Judge. Thank you.

15 JUDGE DIPPELL: Thank you. Is there
16 further cross-examination from Public Counsel?

17 MR. POSTON: Yes. Thank you.

18 RECROSS-EXAMINATION BY MR. POSTON:

19 Q. Mr. Ensrud, would your proposal for
20 seasonal disconnects place greater strain on LIHEAP funds
21 in order to reconnect these customers?

22 A. Yes, there would be a -- there would be an
23 increase for those who engage in seasonal disconnect, but
24 eventually those who stay on the system would pay less, so
25 over time, over a long period of time, there could be

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1 countervailing effects. But probably you are correct in
2 that the primary effect would be that it would draw LIHEAP
3 funds to a greater degree to those people.

4 Q. If a student living in Kirksville renting
5 an apartment leaves for the summer, comes back, would they
6 have to pay to catch up?

7 A. To the very same apartment, yes.

8 Q. How about an elderly resident that's in an
9 unfortunate accident and must be hospitalized for ten
10 months, family shuts off service?

11 A. To reconnect, there would -- that charge
12 would be -- would come into play for any of these.

13 Q. And all of the months that she was
14 hospitalized?

15 A. For the interim months, the charge would be
16 applicable.

17 Q. And how about a soldier that's deployed to
18 Iraq for 11 months, must disconnect, would the soldier
19 when he returns have to pay?

20 A. Be kind of cold on his family, but I guess
21 that's possible.

22 Q. If he has no family.

23 A. In those rare instances, it would come into
24 play.

25 Q. So your proposal for seasonal

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1 disconnections is not taking into account the reason why
2 people may have to disconnect?

3 A. Yes, it did, because most of them
4 probably -- the assumption is that most of them do it to
5 save money and come back on board at a later time, thereby
6 shifting costs to those who stay on the system year round.

7 Q. So that's just an assumption that doesn't
8 take into account these examples?

9 A. The specific examples, that's correct.

10 MR. POSTON: Thank you. That's all I have.

11 JUDGE DIPPELL: Is there redirect from
12 Staff?

13 MR. REED: Yes, thanks. I'll be brief,
14 though.

15 REDIRECT EXAMINATION BY MR. REED:

16 Q. Mr. Ensrud, how big a problem is it, the
17 seasonal disconnect problem?

18 A. One in ten Atmos customers engage in that
19 type of activity, so I see it as a fairly big problem.

20 Q. And what's the number? What's one in ten
21 mean?

22 A. 7,000 out of 70,000 are off the system for
23 a month or more each year.

24 Q. If a -- if a customer has to pay the
25 additional charges, the makeup charges, how's that worked

0655

1 out? Is it one large payment?

2 A. No. There were terms set forth. If it was
3 a forced disconnect, the additional rules would apply for
4 repayment. If someone had contacted and said, I would
5 like to leave for the summer, or the example where someone
6 closes their home for whatever reason for a while, under
7 most circumstances they would have up to three months. If
8 you were off for one month, you'd have a month to repay.
9 If it was two, it was two. If it was three, it was three.
10 After three, you had three months to repay the obligation.
11 So it could be distributed over time.

12 Q. So if you were off the system for 11
13 months, you would have how long to repay?

14 A. Three months.

15 Q. You would have three months?

16 A. Right. That's the maximum.

17 Q. Who pays -- when customers disconnect for
18 the summer, for instance, who pays the costs for that sort
19 of customer?

20 A. What happens is really -- it really isn't a
21 deferral of costs. The revenue stream is suppressed or
22 lowered, and so, therefore, you need to spread the cost
23 over lesser number of billing increments, and that
24 inflates the rate is what it really does.

25 Q. It inflates the rates for the rest of the

1 customers?

2 A. It inflates the rates for the rest -- for
3 those who stay on year in and year out, that inflates the
4 rates for those.

5 Q. Is Staff in cahoots with the propane
6 industry on this proposal?

7 A. No. As I say -- as I say, the initial view
8 of this was that it was a windfall for the propane, not
9 that it was a detriment to them.

10 Q. Is LIHEAP granted according to need or to
11 income, do you know?

12 A. My understanding is an income based. It's
13 based upon housing, I believe, or something.

14 Q. What about the size of the bill, how does
15 that factor in?

16 A. I'm not sure.

17 Q. If Staff's reconnection charge is adopted
18 by the Commission, will the actual lower reconnection
19 charge be realized by the customers?

20 A. You're talking about the element for
21 dispatching a person and for having the person drive out
22 there, yes, it would be -- my rate is 24 -- 24 -- my
23 proposed rate is \$24.

24 Q. During questions from Commissioner Gaw you
25 were -- you had mentioned that you believe that more of

1 the customers would benefit from this proposal that you've
2 offered. Why is that?

3 A. More of the low-income customers would
4 eventually benefit.

5 Q. Explain why.

6 A. All right. Because if you take -- if you
7 take the figure of 6,105 and you take what --

8 Q. What is 6,105?

9 A. That is the number -- that is the number of
10 Atmos customers receiving LIHEAP benefits. Take that
11 times five, which is what witness Ross said was the number
12 of people who -- that only one on five actually apply for
13 LIHEAP and get it compared to those that are eligible,
14 that's a typical figure. You end up with a figure of
15 30,000 out of the 70,000 customers who actually qualify
16 for LIHEAP, which to me translates to low-income.

17 If only 10,000 -- or if only 7,000 are
18 availing themselves of the savings from LIHEAP, you end up
19 with the low-income subsidizing the low-income in that
20 30,000 pay higher rates because the 7,000 engage in this
21 foisting of cost off on to other people.

22 MR. REED: Thank you.

23 JUDGE DIPPELL: Thank you. Thank you,
24 Mr. Ensrud. I believe that is all the questions for you,
25 and you may be excused.

1 Before we go to another witness, let me
2 just make sure we don't have -- I know we had some child
3 care issues and other conflicts yesterday. Is everyone
4 able to stay this evening?

5 We're going to keep going with the other
6 tariff issues, then. Was there cross-examination for
7 Ms. Meisenheimer on these issues? Staff?

8 MR. REED: No.

9 JUDGE DIPPELL: Will you have questions for
10 Ms. Meisenheimer on -- I think you asked questions about
11 the reconnection fee, Commissioner, already.

12 All right. If there's no questions, then,
13 for her, Commissioner Clayton didn't have any on those
14 issues.

15 MR. DORITY: Your Honor, if I might?

16 JUDGE DIPPELL: Yes.

17 MR. DORITY: Mr. Kerley was the Atmos
18 witness regarding the other tariff issues. I don't know
19 if just to keep the record straight, if you would like for
20 me to go ahead and offer his testimony at this point.

21 JUDGE DIPPELL: That will be fine.

22 MR. DORITY: I would offer the direct
23 testimony of Robert Kerley, which has been previously
24 marked as Exhibit No. 9NP and 9HC, into the record.

25 JUDGE DIPPELL: And would there be any

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1 objection to Exhibits 9NP and 9HC?

2 (No response.)

3 JUDGE DIPPELL: Hearing none, I will
4 receive those exhibits into evidence.

5 (EXHIBIT NOS. 9NP AND 9HC WERE RECEIVED
6 INTO EVIDENCE.)

7 MR. DORITY: Thank you, Judge.

8 JUDGE DIPPELL: We previously excused
9 Mr. Kerley as there were no questions for him.

10 All right, then. I think we can go back.
11 Commissioner Gaw, did you have any questions for -- on
12 depreciation for any of the witnesses?

13 JUDGE DIPPELL: I was going to defer to
14 Commissioner Clayton on that.

15 JUDGE DIPPELL: Commissioner Clayton told
16 me he only has questions related to the PGA consolidation
17 and the district consolidation. And did we have
18 Mr. Cagle? We haven't had Mr. Cagle here yet, or we
19 haven't introduced his testimony either.

20 MR. FISCHER: Judge, we could offer that
21 testimony. He didn't specifically address the negative
22 amortization issue. He was just available in the event
23 the Commissioners had any questions from the Atmos
24 perspective, and I don't think there were any at that
25 time. But he did have some testimony that we could offer

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1 on other issues.

2 JUDGE DIPPELL: All right. We haven't
3 previously offered that?

4 MR. FISCHER: No.

5 JUDGE DIPPELL: Okay. Let's go ahead at
6 this time then and take that up.

7 MR. FISCHER: That would be James Cagle's
8 direct testimony, Exhibit No. 11NP and 11HC. Would move
9 to have that offered at this time.

10 JUDGE DIPPELL: Would there be any
11 objections to Exhibit 11NP and HC in the record?

12 MR. REED: No.

13 JUDGE DIPPELL: Seeing none, then I will
14 receive those exhibits into the record.

15 (EXHIBIT NOS. 11NP AND 11HC WERE RECEIVED
16 INTO EVIDENCE.)

17 JUDGE DIPPELL: Okay. Then I believe since
18 there are no further Commission questions on depreciation,
19 that that will conclude Mr. Trippensee's testimony also,
20 and he may be excused.

21 COMMISSIONER CLAYTON: Wait. Just kidding.

22 JUDGE DIPPELL: Got me. Okay. Then let's
23 move on to the PGA consolidation. I know Mr. Imhoff is
24 anxiously waiting. We also have Ms. Childers available
25 for the company, and I believe you were on the stand

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1 previously, weren't you, Ms. Childers?

2 Commissioner Clayton, did you have
3 questions for Ms. Childers on the PGA consolidation?

4 COMMISSIONER CLAYTON: I think I've already
5 addressed those.

6 JUDGE DIPPELL: Then let's move on to
7 Mr. Imhoff. And Mr. Imhoff, we previously swore you in,
8 so you remain under oath in this proceeding. Your
9 exhibits have been previously admitted.

10 MR. DORITY: Your Honor, I'm sorry to
11 interrupt.

12 JUDGE DIPPELL: That's all right.

13 MR. DORITY: I just received a call from
14 Dr. Murry. He would be available should the Commissioners
15 desire to ask him any questions, and I just wanted to
16 alert you to that.

17 COMMISSIONER CLAYTON: Did you want to do
18 him now?

19 MR. DORITY: I can let him know the time
20 frame.

21 JUDGE DIPPELL: He's available immediately
22 or we can --

23 MR. DORITY: He can do it now, or if you
24 want to give me a time slot, I can try to check his
25 availability. We'll just work with you in whatever way we

0662

1 can.

2 COMMISSIONER CLAYTON: I'm at your
3 disposal. It doesn't -- if you want to do him now or --

4 JUDGE DIPPELL: Could you ask Mr. -- or
5 Dr. Murry to stand by until we finish with Mr. Imhoff and
6 then we'll -- hopefully that will be within the next 15,
7 20 minutes.

8 MR. DORITY: Sure.

9 JUDGE DIPPELL: Okay. Commissioner
10 Clayton, do you have questions for Mr. Imhoff on PGA
11 consolidation?

12 THOMAS M. IMHOFF testified as follows:

13 QUESTIONS BY COMMISSIONER CLAYTON:

14 Q. Mr. Imhoff, thank you for being patient
15 with us here. First of all, I want to make sure that I'm
16 asking you the right questions. There's been some
17 confusion on some witnesses in the past. Are you the
18 witness for both the PGA consolidation as well as district
19 consolidation?

20 A. No. I am only the witness for the PGA
21 consolidation.

22 Q. Okay. And then Ms. Ross would have been
23 the witness on that issue for Staff?

24 A. That is correct, on the margin rate
25 consolidation.

0663

1 Q. Okay.

2 JUDGE DIPPELL: And she is available to
3 return for Commission questions.

4 COMMISSIONER CLAYTON: I've had already my
5 shot at Ms. Ross. I don't want to cause her any more
6 grief.

7 BY COMMISSIONER CLAYTON:

8 Q. Mr. Imhoff, Staff's original proposal is
9 what is in supposed agreement between you and the company
10 right now; is that correct?

11 A. That is correct.

12 Q. And that proposal would be to reduce the
13 PGA filings of the, is it seven districts currently into
14 four districts; is that correct?

15 A. That is correct.

16 Q. If Atmos had not requested consolidation
17 into -- if they hadn't requested any consolidation for PGA
18 filings, can you tell me whether Staff would have made
19 this proposal of consolidation into four districts?

20 A. I don't really know whether or not we would
21 have.

22 Q. So it is possible that you and that Staff
23 made this proposal based in response to a different
24 consolidation proposal?

25 A. Basically, yes.

1 Q. Now, is it also possible that you-all could
2 have made this proposal even if they hadn't brought up
3 consolidation?

4 A. Yes.

5 Q. Well, let's address that scenario. In
6 Staff's opinion, or in your opinion, whichever -- I'm not
7 sure if there's any difference between Staff's opinion and
8 your opinion -- but are you testifying that consolidation
9 under the four PGA districts is preferable to maintaining
10 the seven districts right now?

11 A. Yes, I am.

12 Q. Why is that?

13 A. You have one company, and they are now
14 currently doing all the purchasing for all of the various
15 districts. One of the -- as part of their hedging
16 strategy, that they're purchasing blocks of gas for their
17 Missouri jurisdiction. I did combine the Butler/Greeley
18 districts into one because their primary source of gas
19 comes from the Mid Continent Basin.

20 And I also proposed that the
21 SEMO/Neelyville be combined because they do have similar
22 pipeline. I realize SEMO has three different pipe --
23 three to four different pipelines feeding it, but they do
24 have NGP&L, which is the pipeline that feeds the
25 Neelyville district, also feeds part of the SEMO district

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1 as well.

2 Q. Is it significant that different pipelines
3 are involved in each of these different districts? Is
4 that a significant factor?

5 A. That was one of the factors, yes. I also
6 look at the --

7 Q. I understand, but that's a significant
8 factor?

9 A. Yes.

10 Q. Okay. Is the price of gas, of the actual
11 commodity, does it vary from pipeline to pipeline?

12 A. There's not much difference in the price of
13 the transportation for each of the various districts, no.

14 Q. I don't think I said transportation. I
15 said the commodity, the actual natural gas coming through
16 the pipeline. Is there --

17 A. Oh, okay.

18 Q. Does the price of the gas --

19 A. I'm sorry.

20 Q. -- differ by pipeline?

21 A. You're kind of confusing me whenever you
22 say that the price is different by the pipeline.

23 Q. I don't want to confuse you, so --

24 A. When they purchase it -- when they purchase
25 it from the various gas supply basins, they do have a

0666

1 price there. When I look at the overall transportation
2 price itself, there's not that much difference in the
3 commodity part of the transportation.

4 Q. You're confusing me now.

5 A. Okay.

6 Q. So you've got to pay --

7 A. Well --

8 Q. Hang on. Hang on now. Mr. Imhoff, really,
9 I don't want to belabor this and I want to get through
10 this. So let me try to work us down a path here. For an
11 LDC to supply gas to its customers, it has to buy the
12 commodity from somewhere, correct?

13 A. Correct.

14 Q. All right. Then it's got to pay to
15 transport that commodity to its system. Would you agree
16 with that statement?

17 A. Yes.

18 Q. Now, that would be the transportation cost
19 for the service, correct?

20 A. Correct.

21 Q. Now, that's separate than the commodity
22 cost, actual buying the molecules of gas, correct? Are
23 they separate or are they the same?

24 A. Well, when you transport gas over the
25 interstate pipeline, you have a reservation charge, which

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1 is the fixed charge, but you also pay a certain rate on
2 the commodity piece. They do have a small volumetric
3 rate. That's what was kind of throwing me.

4 If you're talking about when they purchase
5 it from a gas supplier, I can -- since they're purchasing
6 it -- I'll take, for instance, Butler and Greeley. They
7 are purchasing their gas from the same supply basin, so
8 the rates are basically the same as far as the cost of the
9 commodity. Even though it's being transported over two
10 different pipelines, they're still pulling it over the
11 same -- they are purchasing it from the same supply basin.

12 Q. So one gets it from Panhandle Eastern, the
13 other one from Williams?

14 A. I believe it's Southern Star, yes.

15 Q. Yes, it's Southern Star?

16 A. Yes. I'm sorry. Southern Star.

17 Q. All right. Well I'll check on that. So is
18 gas that comes out of Panhandle Eastern Pipeline, does it
19 cost the same as gas that comes out of say the MRT line?

20 A. It depends on the supply. It depends on
21 where they are purchasing -- where they are purchasing the
22 supply of gas. Most likely it's not because most of the
23 gas that's flowing over the MRT Pipeline is coming down
24 from the Gulf.

25 Q. So you'd agree with me that the price is

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1 different of -- that gas costs different amounts of money
2 depending on where it comes from and which pipeline it is
3 in, correct? Would you agree with that statement?

4 A. I would agree that --

5 Q. Do you agree with the statement, yes or no?
6 I don't want any more explanations. Yes or no?

7 A. Yes.

8 Q. You agree or disagree?

9 A. Yes, they do have different prices.

10 Q. Okay. Now, explain to me how the
11 company -- how does the company hedge or make purchases of
12 gas when the supplies come from different places, when it
13 has supplies coming from the Gulf, from the Panhandle, and
14 I assume from the Rocky Mountains for a bit of -- I assume
15 ANR Pipeline comes out of the Rocky Mountains; is that
16 correct?

17 A. I don't really know for sure on that.

18 Q. You don't know. Okay. Well, tell me, how
19 does the company hedge, how does it do its purchasing for
20 gas that comes from different places over different
21 pipelines going into different regions?

22 A. Because when they purchase blocks of gas or
23 they're purchasing the various molecules through their
24 various hedges, they do a -- they do have a hedging
25 program. They do very --

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1 Q. Do they have to have a separate hedging
2 program for each area?

3 A. No, they do not have a separate hedging
4 program. They have one overall hedging program.

5 Q. Okay. So are they buying the gas from the
6 same person for each of their districts, the same company,
7 the same companies potentially?

8 A. I don't know for a fact, but I would assume
9 that they purchase from different companies, but they are
10 purchasing as far -- as far as part of their portfolio,
11 they try to get the best deal they can from wherever.

12 Q. I would hope that they try to get the best
13 deal.

14 A. Yes.

15 Q. But don't they have to have a separate
16 hedging plan for each area? I mean, how do you hedge over
17 even four districts let alone seven districts? Don't you
18 have to have a separate hedging program for each area?

19 A. This company does not. They have one
20 overall hedging program strategy, and they purchase their
21 various blocks of gas for each individual district, but
22 they do have an overall --

23 Q. So an overall hedging plan, does that mean
24 that, you know, they --

25 A. Some of it also depends on their storage as

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1 well. Some -- some of their districts they have more
2 storage than others. So that is also a part of their
3 hedging strategy. So they can purchase the cheaper gas
4 during the summer and they can put it in storage.

5 Q. What I'm trying to understand, the reason
6 why I'm asking all these preliminary questions is that I
7 don't understand the entire PGA/ACA process, and I'm
8 trying to get a handle on why the PGA rates vary so much
9 from district to district. And since we're talking about
10 consolidating these districts and potentially causing an
11 11 percent increase in Palmyra and Kirksville, some of
12 these other places, I'm trying to get a handle on why
13 their prices are the way they are right now.

14 A. Okay.

15 Q. And looking at the commodity, I think
16 Ms. Childers said the other day that they are hedged at an
17 \$8.50 per million BTU price. And I'm trying to understand
18 how they could have an \$8.50 price for the commodity when
19 the gas comes from potentially three or four or more
20 pipelines. It comes from three pipelines in the south,
21 two pipelines in the west, and potentially two pipelines
22 in the northeast.

23 And what I'm trying to understand is, how
24 does a hedging strategy work with seven districts and with
25 four districts and why are the prices different? That's

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1 where I'm trying to go, and I'm not getting there. So can
2 you help me get there? Do you understand what I said?
3 Show me some acknowledgement.

4 A. I'm trying to --

5 Q. Did I confuse you?

6 A. -- sort it out?

7 Q. Did I confuse me?

8 A. Well, I'm a little confused. I can tell
9 you what the current cost of gas for each individual
10 district as they are today, the actual cost of the
11 commodity.

12 Q. So it's not accurate to say that they're
13 hedged at \$8.50 for each of their districts? That's
14 basically just an average or --

15 A. I believe that that was an overall average
16 from the company witness.

17 Q. That is a -- that is a misunderstanding on
18 my part. So that is helpful.

19 So basically there's going to be a
20 different commodity price for gas in each of these
21 districts, correct?

22 A. Yes.

23 Q. All right. And then in addition to that
24 commodity price, you've got the transportation costs?

25 A. Yes.

1 Q. All right. So you've got a PGA, I think,
2 currently right now in Kirksville of 68.6 cents per CCF,
3 which I believe is the lowest of all of the systems; would
4 you agree with that?

5 A. Yes, with the caveat that that is net of
6 their ACA factor.

7 Q. I understand. So they've got to probably
8 have a significant ACA there?

9 A. Yes.

10 Q. Can you tell me why Kirksville has such a
11 high ACA?

12 A. We've noticed with this particular company,
13 Atmos, it's like a pendulum swing. We go from a huge
14 overcollection one year to a huge under collection the
15 next year, and it's -- it's been something that we've been
16 trying to work with the utility as far as to try to work
17 out how they can either overestimate what their PGA rate
18 should be or grossly underestimate what their PGA would
19 be.

20 I'm -- I think that after this last session
21 with them, I believe we have that particular problem
22 worked out. I'm hoping that we shouldn't see very much
23 change in their ACA factors itself. Some of the -- now,
24 some of their ACA factor would be attributable to the
25 weather because if it is warmer than normal and they try

1 to hedge a certain percentage, if they don't sell those
2 volumes but they already purchased them, they will have an
3 undercollection of their gas costs itself.

4 But if you would like, I could tell you
5 what their -- what the respective current costs of gas are
6 for each of the districts.

7 Q. Will, let's ask that. The northeast -- the
8 northeastern district, the Hannibal, Canton, Bowling Green
9 and Palmyra district that Staff has proposed to be
10 consolidated, did I accurately describe the region?

11 A. No. They will not be consolidated.
12 Kirksville will still --

13 Q. Did I say Kirksville?

14 A. -- remain by itself. No, but --

15 Q. I said Hannibal, Canton, Bowling Green --

16 A. They're not changed by this either.

17 Q. -- Palmyra.

18 A. They're not changed by this either. They
19 currently have the same PGA rate. So --

20 Q. But they're not in the same district right
21 now, are they?

22 A. Yes, they are.

23 Q. They are?

24 A. Yes, they are.

25 Q. Is it not true that Missouri P is Palmyra

1 and Missouri U is Canton, Bowling Green?

2 A. This is -- yes, but if you look at their
3 PGA rates, they are the same. They were combined, oh,
4 gosh, it's probably been about seven or eight years ago.

5 Q. I thought there were -- I thought there
6 were seven PGA districts, correct?

7 A. The way that the tariffs are currently set
8 up -- I'm sorry. It's not as easy as saying yes or no. I
9 apologize for this.

10 Q. We notice that witnesses in this room have
11 difficulty saying yes or no, and it's not -- I don't want
12 to single out anybody, but there are a lot of witnesses
13 who have trouble saying yes or no, and everything always
14 has an explanation.

15 A. All right. Well, the way the Hannibal,
16 Canton, Bowling Green, Palmyra district is sets up, even
17 though they have the same rates, they still have to file
18 separate PG -- PGA rates because of the predecessor
19 companies that were --

20 Q. Because they're in a separate district,
21 correct? They're considered a separate PGA district,
22 right? No?

23 A. No. No. They -- they are classified as
24 the same PGA rate district. They --

25 Q. So you're saying that they're not --

1 A. Every time that Atmos files -- every time
2 that Atmos files their PGA rate for what's classified as
3 the United District, which is -- which is the Hannibal,
4 Canton, Bowling Green, Palmyra, it's the same PGA rate,
5 it's the same ACA factor. Although when the company files
6 it, due to predecessor companies, they have to file them
7 as separate PGA tariffs, but they still have the same PGA
8 rate and the same ACA factor.

9 Q. So there's no consolidation in northeast
10 Missouri, nothing's changing in northeast Missouri?

11 A. Correct.

12 Q. So who is changing then, because Kirksville
13 you're leaving alone?

14 A. Yes. I am combining Butler and Greeley
15 districts, and I am combining the SEMO with Neelyville.

16 Q. Okay. Well, if Palmyra and Hannibal and
17 all them are already included, why are Palmyra's rates
18 going up 11 percent and Hannibal's rates are going down
19 5 percent or whatever it is, if they're the same? Am I
20 wrong?

21 A. I don't believe that the PGA rate
22 percent -- I mean, you might be talking about the margin
23 rate, but not the PGA, because the PGAs are the same.

24 Q. I'm going to have to find my schedule.

25 A. I'm sorry, but...

1 Q. What schedules -- Ms. Childers, what
2 schedule were we on? Is that in your rebuttal testimony?

3 MS. CHILDERS: It was in the surrebuttal.

4 COMMISSIONER CLAYTON: Surrebuttal. I'm
5 looking at direct.

6 BY COMMISSIONER CLAYTON:

7 Q. Well, since Commissioner Gaw isn't here,
8 I'm going to blame him for losing that.

9 A. Excuse me, Commissioner. I'm looking at
10 this schedule, and that pertains to the margin rates, not
11 the PGA.

12 Q. So to make the statement that there are --
13 that there are six or seven PGA districts is not accurate?
14 There are not six -- is it six or is it seven? Maybe it's
15 just six.

16 A. It's just six, but when they file for the
17 Hannibal, Bowling Green and Palmyra, they still have to
18 file separate tariffs.

19 Q. Okay. So the Palmyra increase for
20 residential firm service, I'm looking at PJC surrebuttal,
21 page 2 of 2, it says, residential firm service, Missouri P
22 or Palmyra has increase of 8.8 percent, while in Missouri
23 U, which an Hannibal, Canton and Bowling Green, has a
24 reduction of 4.4 percent, that's based purely on the
25 delivery charge change, is what you're saying?

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1 A. That is correct.

2 Q. Okay. So in northeast Missouri there is no
3 consolidation?

4 A. That's correct.

5 Q. That is helpful. Now, what is the
6 commodity price of -- do you know what the commodity price
7 is in this north-- I don't even know how to call it, the
8 Palmyra/Hannibal consolidated PGA district?

9 A. I can tell you what the current -- I'm
10 sorry. I can tell you what the current cost of gas is for
11 the Hannibal/Canton area, which does not take into
12 consideration the ACA factor. This is what --

13 Q. Yeah. I just want the commodity price.

14 A. -- they currently have. Okay. It is
15 .93070 per CCF.

16 Q. .93070?

17 A. Per CCF.

18 Q. Kirksville?

19 A. Kirksville is .90290 per CCF.

20 Q. .9020?

21 A. No. It's .90290 per CCF for Kirksville.

22 Q. Okay. And then the Butler and Greeley are
23 being combined?

24 A. Yes.

25 Q. Now, are they the same right now?

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1 A. No. Butler's current cost of gas is
2 .87880. Greeley's current cost of gas is .84790.

3 Q. Okay. And then southeast?

4 A. Okay. SEMO is 1.01100 per CCF. Neelyville
5 is currently at 1.01240 per CCF.

6 Q. That makes sense. That makes sense.
7 Ms. Childers was on the stand, was it yesterday, last
8 week, I don't even know when it was, and we were talking
9 about this, and what I didn't understand was why the PGA
10 price, why the PGA in Butler and Neelyville, which gets
11 their gas presumably from the same place, very similar
12 pipelines, was higher than what Hannibal was or what
13 Palmyra, Canton, but it's not. The commodity price is
14 lower.

15 So all these differences in the PGA are
16 just basically messed-up ACA balances; is that correct?

17 A. That's correct.

18 Q. Now, does this -- well, whoever's being
19 consolidated, is anybody being consol-- Butler and --

20 A. Butler and Greeley.

21 Q. And Greeley. So B and G are being
22 combined?

23 A. That is correct.

24 Q. So will there be a Missouri P and U anymore
25 after this case? You're laughing. This is serious stuff.

1 Or will it just be called P and U.

2 A. Hopefully it will just be called U, United,
3 which will have the Palmyra, Hannibal, Canton, Bowling
4 Green, which currently have the same rates anyway.

5 Q. Okay.

6 A. The unfortunate thing is that since they
7 were owned by different predecessor companies, in their
8 tariff book we have a PGA tariff language for each
9 individual one, which I would like to eliminate so we can
10 actually make the --

11 Q. Is it different?

12 A. No.

13 Q. Is the PGA language different?

14 A. No.

15 Q. Are the balances done differently?

16 A. No. They are all calculated out the same
17 way.

18 Q. Okay. Well, that makes -- logically
19 speaking, the commodity price matches up what the
20 conventional wisdom to me would be, that Kirksville would
21 pay -- well, that Butler and Greeley would pay the lower
22 rate because it had the gas that's less distance to travel
23 to get to Hannibal, and Kirksville gets its gas off that
24 ANR Pipeline, which is probably Rocky Mountain, which is
25 probably a little cheaper, and that SEMO and Neelyville

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1 have the most expensive gas because it comes from the
2 Gulf.

3 Now, those statements, are those accurate
4 statements, do you think? Did I accurately characterize
5 those prices?

6 A. The way the prices are set today, yes.

7 Q. Now, is the Staff making recommendations
8 for any other changes in the PGA/ACA process, aside from
9 consolidating Butler and Greeley and Neelyville?

10 A. Other than eliminating the repetitive PGA
11 tariff language for each individual section.

12 Q. So no, so basically they're just being
13 consolidated?

14 A. Correct.

15 Q. Butler and Greeley are similar. Who gets
16 the increase? Does that mean that Greeley gets a slight
17 increase by consolidating Butler and Greeley?

18 A. Yes, they will.

19 Q. Okay. And then who gets -- is SEMO and
20 Neelyville, are you consolidating anyone there or am I
21 making that up?

22 A. No, no. I am consolidating the SEMO and
23 Neelyville.

24 Q. Who gets the increase there?

25 A. Actually --

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1 Q. Looks pretty close?

2 A. Yeah. You're talking .0014 cents per CCF.

3 So it's -- you really can't calculate it.

4 Q. Okay.

5 A. I figure that if you had an individual
6 in -- actually, Neelyville would see a very slight
7 decrease, and the SEMO customers won't even realize it
8 because of the difference in size of the district.

9 Q. Are the PGA and ACA balances, are the
10 problems with overcollection and undercollection because
11 of the number of filings that Atmos does on an annual
12 basis?

13 A. I think that's part of it. I think they
14 wait -- it could be that they may wait too long to file if
15 they were in a large undercollection, or if they're in a
16 large overcollection, maybe they wait too long. I'm not
17 exactly sure. there could be a number of circumstances.

18 Q. Okay. We got to where I wanted to go. We
19 just took a different path than what I thought we were
20 going to take.

21 A. I'm sorry it took so long.

22 Q. No. That's quite all right. We've been
23 here a long time.

24 COMMISSIONER CLAYTON: Thank you, Tom.

25 THE WITNESS: Thank you.

1 JUDGE DIPPELL: Thank you. Commissioner
2 Gaw, you didn't have any questions?

3 COMMISSIONER GAW: I'll pass.

4 JUDGE DIPPELL: Is there further
5 cross-examination based on those from the Bench from
6 Atmos?

7 MR. FISCHER: Just briefly, your Honor.

8 RECROSS-EXAMINATION BY MR. FISCHER:

9 Q. Mr. Imhoff, would you agree that the cost
10 and benefits of Atmos' hedging program are allocated
11 throughout the company's service area in Missouri?

12 A. Yes, I would.

13 Q. And would you also agree that the Staff's
14 consolidation proposal is actually quite modest, what
15 you're really doing is moving the two smallest areas like
16 Rich Hill into Butler and Neelyville into the SEMO area?

17 A. I'd agree with that, yes.

18 Q. And Kirksville isn't being changed because
19 it's on ANR, where the Hannibal/Canton is still on
20 Panhandle Eastern? It's really a pipeline issue there, is
21 that the reason the Staff is keeping those separate?

22 A. That's the main reason, yes.

23 Q. And if I told you that ANR Pipeline
24 actually is served out of Mid Continent but might be
25 connected to the Rocky Mountain region, would that sound

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1 consistent with what your understanding might be?

2 A. Yes, it is.

3 MR. FISCHER: I think that's all I have.

4 Thank you.

5 JUDGE DIPPELL: Is there further
6 cross-examination from Public Counsel?

7 MR. POSTON: No questions.

8 JUDGE DIPPELL: Is there any redirect?

9 MR. REED: No, thank you.

10 JUDGE DIPPELL: All right, then.

11 Mr. Imhoff, I believe what conclude your testimony, and
12 you may be excused from this hearing.

13 Do you think it's still possible to get
14 Dr. Murry on the phone at this point?

15 MR. DORITY: Yes, ma'am.

16 JUDGE DIPPELL: Let's take a three-minute
17 break, long enough to set up the phone and get him on the
18 line. Go off the record.

19 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

20 JUDGE DIPPELL: Okay. We've returned to
21 the record. We have Dr. Murry on the telephone. And,
22 Dr. Murry, you were sworn in the other day in this
23 proceeding, and I'll just remind you that you remain under
24 oath.

25 THE WITNESS: I understand.

1 JUDGE DIPPELL: Thank you. Some of the
2 Commissioners have questions for you, and so I will turn
3 it over to Commissioner Gaw, do you have -- or did you
4 want Commissioner Clayton?

5 COMMISSIONER GAW: Pass to Commissioner.

6 JUDGE DIPPELL: Commissioner Clayton?

7 COMMISSIONER CLAYTON: Thank you, Judge.

8 DONALD MURRY, Ph.D., testified as follows:

9 QUESTIONS BY COMMISSIONER CLAYTON:

10 Q. Dr. Murry, thank you very much for being
11 available. This is Robert Clayton. I'm one of the
12 members of the Commission. Can you hear me?

13 A. Yes, I can.

14 Q. Hopefully we're not bothering you at too
15 exotic a location here today.

16 A. No. That's fine. I understand.

17 Q. Good. I wanted to ask you a handful of
18 questions that I tried to dictate to my staff upstairs
19 while I was out of town for the hearing, and I think it
20 was suggested that maybe it would better -- that I was
21 dictating too many questions and that maybe I ought to ask
22 them myself. So I appreciate you being available.

23 First of all, I just wanted to ask a few
24 basic questions. You're from Oklahoma, Dr. Murry?

25 A. Yes. I live in Oklahoma, and I also live

1 in Florida. I'm here at the Oklahoma City office,
2 University of Oklahoma.

3 Q. Okay. And do you consult strictly for
4 natural gas utilities or do you consult for all utilities?

5 A. I consult for natural gas utilities and
6 also some electric utilities, some cooperatives, and I
7 work for other groups as well --

8 Q. Okay.

9 A. -- over the time.

10 Q. Okay. It is my understanding -- well, let
11 me ask you this: Your analysis in this case suggested
12 what return on equity for Atmos Energy?

13 A. I recommended 12 percent as a -- actually,
14 I recommended a range of 11 and a half to 12 and a half,
15 but I recommended 12 percent as a recommended return.

16 Q. Okay. And were there any unique
17 characteristics for Atmos that caused you to make that
18 recommendation?

19 A. Yes, I'd say there were a number. Of
20 course, I applied the DCF and CAPM analyses. I looked at
21 returns of comparable companies, and the returns of
22 comparable companies were running in the 11 and a half
23 range. But Atmos has a very low equity ratio relative to
24 most gas distribution companies in today's market,
25 including comparable companies that I reviewed.

1 43 percent equity is really quite low, a lost cost total
2 cost of capital as well.

3 The return for Atmos has been relatively
4 low to the industry and to the comparable companies I
5 analyzed.

6 Q. When you say the return, you mean --

7 A. The return to common stock that they've
8 been earning recently. I think -- I think my schedule has
9 them at 9 percent currently, and the -- my Schedule 6, I
10 guess, has an estimated return of 8.5, and I think now
11 it's up to -- I think it's at 9 percent by my
12 recollection, but that's not in my schedule.

13 Q. Were there any unique causes for that
14 particular return that you identified in your analysis?

15 A. No, I guess I couldn't -- I couldn't
16 identify specifically. It might be a -- I mean, I would
17 be speculating to say that. I think it's possible it has
18 to do with the -- with the impact of bringing together the
19 two companies, the Texas company into the company. So
20 there may be some effects that are not necessarily
21 Missouri regulatory effects that have brought it down.

22 But the return in 2005 was 8 and a half
23 percent according to ValueLine. 2004 it was 7.6 percent.
24 So in the last several years Atmos has been relatively low
25 in the industry as far as returns are concerned.

1 Q. Would you agree that in part that was due
2 to weather fluctuations or do you think it's other factors
3 primarily?

4 A. I guess I have no reason to believe it was
5 due to weather. I can't say it was not.

6 Q. You just don't know. That's okay.

7 A. I really can't say that I know, but I have
8 no reason to believe it was weather.

9 Q. Are you aware of how many states -- excuse
10 me. I'm sorry, Doctor.

11 A. No. I'm sorry. I couldn't hear that.

12 Q. Are you aware of how many states Atmos
13 provides LDC natural gas service at this time?

14 A. I believe it's -- I believe it's 12, but
15 I'm not positive. It's in that general number.

16 Q. Did you do a comparison of the authorized
17 returns in the other 11 states in which Atmos has a
18 presence?

19 A. No, I didn't for this particular case.
20 I've been familiar in the past, but I don't -- I can't
21 recall exactly what the other returns are that have been
22 allowed in other states.

23 Q. Have you testified for Atmos in other
24 states, in other --

25 A. Yes, I have.

1 Q. -- rate cases in other states?

2 A. Yes, I have.

3 Q. What were your recommendations for return
4 on equity in those other states for Atmos?

5 A. It's been in the general -- generally in
6 the same range. I think it's been in the 11 and a half,
7 11 and three-quarters, 12 percent range, depending on
8 circumstances in that particular state, often the capital
9 structure.

10 Q. How many -- and in how many states would
11 you have -- have you testified on behalf of Atmos, would
12 you say?

13 A. Well, over the years I've testified in a
14 number of states. I'm sure it's been close to six, eight
15 or more.

16 Q. Okay. And in those six to eight, would
17 you -- would you believe that your recommendations for ROE
18 have been in that 11 and a half to 12 and a half range?

19 A. Well, I think -- I would think that's been
20 consistent in the last -- in the last couple of cases, the
21 last few years, last two or three years, but I think going
22 back it's probably been lower than that because interest
23 rates have been moving up in the last two years, and I
24 don't recall specifically.

25 Q. So there was a time when you recommended a

1 lower ROE in one of Atmos' states?

2 A. I can't -- I can't say that for certain,
3 but I think that's probably true.

4 Q. Okay. So considering that you just in
5 recent years, if we focus on your recent testimony, that
6 your recommendations have been between 11 and a half and
7 12 and a half in the states where you've recently
8 testified, does that -- can I take from that the inference
9 that the specific characteristics of the system in each
10 state plays very little into the analysis of what the
11 return on equity ought to be in a given territory?

12 A. No, I don't think so. I think -- I think
13 there obviously is an overall risk to the company that
14 obviously using another word, I guess, spills from one
15 state to the other or would affect jurisdiction. I do --
16 I did testify recently in Texas, and I recommended
17 11.75 in Texas, and the difference there is the capital
18 structure in Missouri is a very low capital structure, and
19 that's why I think 12 percent's more appropriate.

20 Q. Okay.

21 A. But I think the characteristic of the state
22 definitely has a bearing, but there are characteristics of
23 the state -- of the company overall, such as its bond
24 rating, it does raise money on the national markets, of
25 course, and those risk factors affect the company wherever

1 it is.

2 Q. Wherever it is. So you believe that
3 Missouri's a more risky state than Texas to do business?

4 A. I'm not referring to the business risk
5 particularly. I do think that the capital structure in
6 Missouri is very low, and so in that sense, I think one
7 has to take it into account in selecting allowed return.
8 There is that difference.

9 Q. Are there any other elements of risk that
10 would be greater in Missouri than in, say, Texas, other
11 than capital structure?

12 A. I don't know that I can identify any that I
13 think I'd uniquely relate to Missouri. I think in the
14 past the weather adjustment may have been a bigger issue
15 in Missouri, but I understand that's proposed in this --
16 in this case, and so that -- that may have been mitigated
17 because of the proposal in this case.

18 Q. Does the 12 percent recommendation that
19 you've made, does that take into consideration weather
20 volatility and problems with weather normalization in
21 Missouri?

22 A. I think -- I think it does. My view of the
23 of the weather normalization issue, as I pointed out in my
24 rebuttal, most gas distribution companies now have some
25 kind of a vehicle for dealing with that, but I'm not

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1 persuaded that variability is, in fact, a risk, because if
2 you look at most of the weather proposals, they have an
3 upside and a downside mitigating factor.

4 So on one hand it removes the risk of a
5 very cold winter from the ratepayers, but on the other
6 hand, of course, it removes the risk of a very warm winter
7 from the company and the stockholders. What that has done
8 essentially is collapsed the distribution of likely
9 possible outcomes going forward. It doesn't move the
10 expected value in the eyes of an investor.

11 And so just reducing the variability I
12 don't think is an important risk factor. I can't say some
13 people wouldn't consider it a factor they want to
14 consider. But if you think about it, unless it changes
15 the expected return to an investor, it probably doesn't
16 affect the investor's willingness to invest, if you will.
17 And so the -- so just collapsing that distribution itself
18 is not necessarily a reduction in risk.

19 I think it's probably -- I think it's
20 advantageous, but I think it's advantageous both to the
21 company as well as the stockholder -- or as well as the
22 ratepayer, and it probably means the company doesn't have
23 to spend so much money on short-term borrowing. It
24 probably reduces some of the operating issues the company
25 might have in maintaining a revenue stream and balancing

1 with its gas requirements.

2 So I think there's probably some benefits,
3 but those should flow through on a cost to the company as
4 well.

5 Q. Well, I appreciate that. I want to go back
6 to a statement where I thought you said that there was a
7 component of the 12 percent return on equity that took
8 into consideration weather normalization problems in
9 Missouri, and maybe I misheard you on that.

10 A. I said in the past. I felt like in the
11 past Missouri was a Commission -- or that Missouri had
12 more difficulty in flowing through fuel costs on the
13 electric side. That was in the literature. I look at
14 things that investors might be aware of, not trying to be
15 judgemental on my own, just saying that I know that was an
16 issue in some financial literature. And I think there's
17 been a question of the recovery of gas costs. I thought
18 that might be important in Missouri. I don't --

19 Q. I'm sorry, Dr. Murry. How does recovery of
20 fuel costs relate to the analysis of the ROE on Atmos?

21 A. It doesn't at all. No, it doesn't at all.
22 I just said that was a matter that was in financial
23 literature. It doesn't affect Atmos at all.

24 Q. Okay. I was just -- I wasn't sure how --
25 okay. So I think you also mentioned that an investor's

1 going to look at the amount of revenue that is coming in
2 to the company to ensure that there will be a sufficient
3 return to -- return on common stock. I'm not sure if I
4 heard that properly, but I thought I heard you say that
5 the revenues of the company were very important in
6 determining what a return on equity ought to be.

7 A. I'm not sure exactly what that question
8 pertains to. I don't remember exactly that sentence. But
9 yes, revenues, of course, are important to an investor.

10 Q. And we've talked a lot about weather, but
11 would you not agree that the rate design that's been
12 proposed by the Staff would completely remove weather as
13 any sort of risk factor for the shareholders in this case?

14 A. I'm not sure I'd say -- I'm not sure I'd
15 say completely.

16 Q. Well, tell me how weather would --

17 A. It certainly mitigates it, as I understand
18 the proposal.

19 Q. Tell me how weather would play any role on
20 the revenues of the company if this rate design is
21 adopted.

22 A. Well, it would affect the amount of sales.

23 Q. But if sales aren't dependent for the
24 company's delivery costs, then why would weather make a
25 difference?

1 A. I'm not sure that -- I'm not sure to the
2 extent it would, the way you used it, and I said I'm not
3 positive it removes all of it. It has a factor, of
4 course.

5 Q. Could you give me an example of where
6 weather would play a factor?

7 A. If it changes the sale, if it changes the
8 sales and the adjustment of the -- of the cost of gas, it
9 may affect the company's short-term borrowing and some of
10 its operating costs, and I don't know whether -- I can't
11 say that it does. I can't say that it doesn't. But the
12 volumetric piece fluctuates, as I understand the proposal,
13 and I haven't studied the proposal in great detail.

14 Q. Do you think the proposal is --

15 A. I understand there's a straight fixed
16 variable proposal.

17 Q. So there's no variable, there's no
18 volumetric pricing for the distribution costs; is that
19 your understanding of the rate design?

20 A. I just understood it was a straight fixed
21 variable rate design. That's all I understand.

22 Q. A straight fixed variable. I thought it
23 was a straight fixed delivery charge without any variable
24 component.

25 A. I think -- I think the delivery charge is

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1 in the fixed component.

2 Q. 100 percent of it's in the fixed component,
3 correct?

4 A. That's my understanding, yes.

5 Q. Okay. So if 100 percent is in a fixed
6 charge, how does weather affect the revenues of the
7 company under this type of rate design?

8 A. If I understand the rate design correctly,
9 there is a change in the volumetric sales.

10 Q. I don't think that's correct.

11 A. Okay.

12 Q. Have you -- have you been given an
13 opportunity to review the rate design that's been
14 proposed?

15 A. I have not looked at the rate design in
16 detail, no.

17 Q. Okay. Would a rate design -- so you
18 haven't done any analysis on the effect of the rate design
19 on what -- what the impact would be on revenues and
20 correspondingly what the return on equity ought to be for
21 common equity?

22 A. I have not considered whether this rate
23 design would have an appreciable effect upon the -- upon
24 the cost of equity.

25 Q. I'm sorry. Would you repeat that for me?

1 A. I said I've not made a detailed analysis of
2 the effect of the rate design upon the cost of equity.

3 Q. So then if the Commission were to adopt
4 this rate design, then would you agree that it would be
5 inappropriate to adopt your recommendation for return on
6 equity because you haven't taken into consideration that
7 factor in the case?

8 A. No, I don't think I would go that far. I
9 pointed out in my testimony, I thought the total range
10 that's relevant was 11 and a half to 12 and a half, and I
11 would -- and I think that if the Commission should adopt
12 that, it certainly would be appropriate to go to the low
13 end of my range.

14 Q. So is there any rate design that -- any
15 rate design that would be available that would cause you
16 to reevaluate the overall range?

17 A. I would have to know the specific rate
18 design, I think.

19 Q. How about if the company were --

20 A. Excuse me. I looked at financial issues,
21 and such things as the coverage ratio is still very thin
22 given this capital structure, and I think those are -- I
23 think that's a more important issue than the rate design
24 issue is the amount of coverage for the interest.

25 Q. Is it an important factor when determining

1 a return on equity percentage to look at the stability of
2 the revenues and the lack of volatility of the revenues of
3 a company? Is that an important factor?

4 A. No. I've already -- that's in my direct
5 testimony, and I said that earlier. I don't think the
6 volatility of revenues is very important to investors. I
7 think the expected return is important to investors.

8 Q. Okay.

9 A. And let me give you an example. Let me say
10 it this way. If you have a stock that was -- you expected
11 it to trend upward but it was highly volatility, that
12 would probably be a stock that you prefer over stock that
13 was trending downward that was not volatile, let's say it
14 just went straight down and followed a trend line
15 perfectly. But the alternative would be a stock that's
16 going up, but it's volatile. You'd probably prefer the
17 stock going up that's volatile over the one going down.

18 So the reason, that tells you there's
19 something more to risk than volatility. That's my point.

20 Q. Okay. So it would be your testimony that
21 the -- that the rate design that's been proposed by the
22 Staff really isn't that important financially speaking?

23 A. I think it probably -- no. I think it
24 probably is, because the weather is being captured -- as I
25 understand, the weather variability is being captured in

1 the fixed portion, and I said that I think it would
2 probably justify going to the low end of my range or
3 making some consideration, but I don't think it's a major
4 consideration. 25 basis points, 50 basis points at the
5 most would be in the rate design.

6 Q. I know you're a financial witnesses, but
7 wouldn't this -- this type of rate design tend to shift
8 more risk to ratepayers than to shareholders? Would you
9 agree with that statement?

10 A. I don't -- I don't see how it does. I know
11 that's -- I know some people would contend that, and let
12 me explain. As an economist, I look -- I look at a
13 straight fixed variable rate, and I go back to when FERC,
14 I guess originally maybe even FBC, but FERC certainly
15 started looking to this sort of rate design. The
16 intention was treating it more as a market efficiency rate
17 design, a market efficient rate design as opposed to one
18 that would shift any kind of risk.

19 I don't see how it can shift risk to
20 ratepayers if the ratepayers are, in fact, benefiting
21 because they're no longer exposed to a very cold winter.
22 They are benefiting from that as well as -- they also
23 don't have -- they have less volatility in their payments
24 as well. So I think there are benefits on both sides.

25 Q. I didn't think volatility was important.

1 A. What's that?

2 Q. I didn't think volatility was important.

3 A. I don't think it's as important -- I'm
4 talking about to the investor. I don't think it's that
5 important to the investor. I think vol-- the point is,
6 there may be some investors who think it's important, but
7 I'm trying to tell you, risk is much more complicated than
8 that, and I don't think there's any question about that.
9 Decrease in volatility does not necessarily remove risk.

10 Q. So in your analysis of the company, if you
11 were looking at this company, it doesn't make any
12 difference in how we -- how we -- how we design the rate
13 structure or it matters very little, is that a correct --

14 A. I think -- no. I think the rate structure
15 is very important. Now I'm speaking as an economist
16 dealing with rates and the signals they send. Let me
17 speak to the concept of a straight fixed variable. The
18 way the economic literature speaks to it, and what I think
19 was why FERC started looking to it, you look to providing
20 the service of a customer even if they don't take any
21 service.

22 That supposedly rich couple leaves the
23 country and tours during the winter and they have no
24 consumption. They should still be charged for the
25 connection to their -- to their domicile, and they should

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1 pay for that fixed cost of making that connection. And
2 there's no -- and that's a very fair charge.

3 On the other hand, if a person uses a lot
4 of gas and spreads those costs over a long period of time,
5 they should pay for that volumetric service. You sort of
6 think of this -- you sort of think of this as two
7 different products, if you will, and they're being priced
8 separately.

9 And that's kind of an economic efficient
10 way to look at this kind of rate design, and I think -- I
11 think most economists look at it that way. You're
12 capturing the fixed costs in one component, and you're
13 capturing the variable costs pretty much in the other
14 component, and then the people make the right economic
15 decision because the signals are captured in those two
16 separate components.

17 And, you know, I've taught this in graduate
18 seminars on rate design, and I think as an economist
19 that's the way I would look at it. So I think the rate
20 design is very important, but to an investor, I don't
21 think it is as important as it probably should be from a
22 policy standpoint of rate design.

23 Q. When you make your recommendation for the
24 12 percent, are you wearing an economist's hat or are
25 you wearing a different hat?

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1 A. Well, I guess it's partially economist's
2 hat, but I think it's more a financial economics --

3 Q. So you basically --

4 A. -- than a micro-economist.

5 Q. Basically you've worn two hats in your
6 testimony here today?

7 A. Well, I'm trained as an economist and as an
8 area in finance, and I guess I merged the two.

9 Q. Do you get to charge twice for that?

10 A. No, I don't, unfortunately.

11 Q. You ought to look into that.

12 COMMISSIONER CLAYTON: Thank you,
13 Dr. Murry.

14 THE WITNESS: Sure.

15 JUDGE DIPPELL: Thank you, Dr. Murry. Is
16 there any additional cross-examination based on those
17 questions from the Staff?

18 MR. REED: I'm sorry. From Staff? Yes.

19 JUDGE DIPPELL: Yes.

20 RE CROSS-EXAMINATION BY MR. REED:

21 Q. Dr. Murry, can you hear me?

22 A. Yes, I can.

23 Q. With the straight fixed variable rate
24 design, which part of the customer's bill is fixed?

25 A. Excuse me?

1 Q. Which part of the customer's bill is fixed
2 and which part is variable?

3 A. Well, traditionally the fixed portion is
4 based on capacity, the ability to -- the requirement to
5 serve. Let me put it that way. If you follow those --
6 the logic that I was presenting in treating it as a two
7 component charge, an economic efficient argument, the cost
8 associated with being able to serve and standing by to
9 serve would be the fixed portion, and the variable portion
10 would be the portion based on how much you use, and that
11 would be true for any utility.

12 Q. Are weather mitigating rate designs in
13 other states designed to collect the company's fixed
14 costs?

15 A. Have to look -- have to look at the
16 individual, individual rate designs. Are you referring to
17 weather? I want to make sure I'm following the question.

18 Q. I'm asking about the weather mitigating
19 rate designs in other states. Does that make sense?

20 A. Yes, I think it does. And let me say that
21 I can't say -- I think you know I've not made a study of
22 all other weather rate designs in all other states, but
23 I've looked at a number. I looked at some in relation to
24 this case, and I looked at others, and I can't cite
25 specifically any that have, but I can say with certainly

1 that the various weather mitigating rate designs are
2 very -- they vary over a wide range that I view, and they
3 seem to have a lot of different components and different
4 approaches.

5 Q. Dr. Murry, has it been your experience in
6 other states that an adjustment is made to ROE when a
7 weather mitigating rate design is put in place?

8 A. I can't cite a specific example, but I
9 think the answer is undoubtedly yes, in some states.

10 MR. REED: That's all I have.

11 JUDGE DIPPELL: Thank you. Is there
12 anything further from Public Counsel?

13 MR. POSTON: No questions.

14 JUDGE DIPPELL: Is there any redirect?

15 REDIRECT EXAMINATION BY MR. FISCHER:

16 Q. Dr. Murry, this is Jim Fischer representing
17 Atmos. I just wanted to clarify, when you were talking
18 about the capital structure varying from state to state,
19 is it true that Atmos uses a consolidated capital
20 structure and what you were talking about was the capital
21 structure that might exist depending on a specific test
22 year involved in a case?

23 A. It might be based on different test years,
24 yes, and different circumstances of the company. For
25 example, the recent acquisition in Texas reduced equity

1 ratio a great deal, which is the one being used in this
2 case. So a capital structure in a prior period of time or
3 one that did not recognize the debt that was used for that
4 acquisition, capital structure would be quite different,
5 even though it was the capital structure of the company as
6 a whole.

7 Q. And I believe you mentioned that many
8 companies have some sort of weather mitigation measure.
9 Did you look at some of those in your surrebuttal
10 testimony?

11 A. Yes, I did. I spelled those out in my
12 surrebuttal testimony.

13 Q. Okay. I believe you looked at seven out of
14 eight of those that the Staff had in their comparables, is
15 that right, that had a weather mitigation measure of some
16 sort or a revenue stabilization measure?

17 A. That is correct. Of the eight companies
18 that were in the Staff witness', Mr. Barnes' testimony,
19 seven had some weather mitigation --

20 Q. And if I understood what you --

21 A. -- component.

22 Q. If I understood what you were saying in
23 answer to Commissioner Clayton, you view volatility, the
24 risk of weather as greater to the consumer than it really
25 is to the investor; is that right?

1 A. That the volatility affects the consumer
2 more than the investor?

3 Q. Yes.

4 A. Yes, I think -- I think it doesn't affect
5 greatly because it doesn't change the expected returns.
6 It reduces the volatility, but it doesn't increase the --
7 or decrease the expected returns. It increases the range.

8 Q. That would be because cold weather means
9 higher bills if more costs are recovered in the volumetric
10 charges; is that what you're saying?

11 A. That's correct.

12 MR. FISCHER: I think that's all I have.
13 Thank you.

14 JUDGE DIPPELL: Thank you. Thank you
15 again, Dr. Murry, for being available.

16 COMMISSIONER CLAYTON: Can I ask a
17 question?

18 JUDGE DIPPELL: Oh, I'm sorry.

19 COMMISSIONER CLAYTON: I hate to do this.

20 JUDGE DIPPELL: Commissioner Clayton wants
21 to ask one more.

22 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

23 Q. Dr. Murry, just on that last question, I
24 understand the concern about fluctuations of volatility
25 for a customer, but also the problem with the return on

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1 common stock that you suggested was a problem for Atmos,
2 that could also be blamed on warm winters, could it not?

3 A. Of course it could.

4 Q. So that would be added risk to the company
5 that an investor would consider; would you agree with
6 that?

7 A. Of course investors would consider it,
8 sure.

9 Q. So warmer weather and fluctuations in
10 weather from that standpoint are greater risk for an
11 investment; you'd agree with that statement?

12 A. A series of warm winters is a risk to
13 investors, a series of winters that would be very warm
14 back to back or something, so anomalous winter is a risk
15 to the investor.

16 COMMISSIONER CLAYTON: Thank you.

17 JUDGE DIPPELL: Thank you. Is there any
18 additional cross-examination based on the Commissioner's
19 last question?

20 MR. REED: No.

21 MR. POSTON: No.

22 JUDGE DIPPELL: Any redirect?

23 MR. FISCHER: No, your Honor.

24 JUDGE DIPPELL: Thank you. Thank you,

25 Dr. Murry, again for being available, and you may be

1 excused.

2 THE WITNESS: Thank you very much.

3 JUDGE DIPPELL: We'll sign off. Thank you.

4 Okay. Commissioner Clayton has a few
5 questions related to customer service issues, and so we're
6 going to ask Ms. Kremer to come forward even though she
7 didn't -- wasn't scheduled to be a witness. Have her come
8 forward, and then we'll wrap up the remaining issues.

9 There were no additional questions on the other issues,
10 but I want to make sure we got all the parties' questions,
11 and so we'll run through those things after we finish with
12 Ms. Kremer, and then I think we'll be able to conclude.

13 (Witness sworn.)

14 JUDGE DIPPELL: Thank you. Let's see. I
15 don't believe we've had Ms. Kremer's testimony, prefiled
16 testimony put in the record yet, have we?

17 COMMISSIONER CLAYTON: So if I wouldn't
18 have called Ms. Kremer, you-all wouldn't have put her
19 testimony in the record?

20 MR. REED: We'd have caught it at some
21 point.

22 JUDGE DIPPELL: That's part of what we're
23 going to do after we finish with her. Go ahead, Mr. Reed.

24 MR. REED: What number is it, Judge,
25 because I don't have the chart?

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1 JUDGE DIPPELL: It's No. 122, 123HC, 124
2 and 125.

3 LISA A. KREMER testified as follows:

4 DIRECT EXAMINATION BY MR. REED:

5 Q. Ms. Kremer, are you the same person who
6 caused to be recorded or documented the testimony and
7 exhibits No. 122, 123, 124 and 125?

8 A. Yes.

9 Q. Do you have any changes or corrections to
10 that?

11 A. I do, a couple of small changes. In my
12 direct testimony, on page 19, line 7, FY should just be
13 calendar year instead of fiscal year. And then in our
14 supplemental report, this is in the HC portion of that
15 report, page 6, but I think I can make this correction
16 without needing to go in-camera. But it's the second
17 sentence there, the word a should be at.

18 Q. Any others?

19 A. No, sir.

20 MR. REED: At this time, Judge, I'd move
21 for admission of Exhibit 122 through 125.

22 JUDGE DIPPELL: Thank you. Would there be
23 any objections to those exhibits?

24 (No response.)

25 JUDGE DIPPELL: Seeing none, then I will

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1 receive Exhibits 122, 123HC, 124 and 125 into the record.

2 (EXHIBIT NOS. 122, 123HC, 124 AND 125 WERE

3 RECEIVED INTO EVIDENCE.)

4 JUDGE DIPPELL: And I'm going to skip any

5 cross-examination and go straight to the Commissioner's

6 questions, and then you'll -- if you have any

7 cross-examination, you can add that at that point.

8 Commissioner Clayton.

9 COMMISSIONER CLAYTON: Thank you, Judge.

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. Ms. Kremer, thank you for being patient

12 here today, sticking around. I know the hour's late, so

13 I'll be brief.

14 You filed testimony relating to customer

15 service performance; is that correct?

16 A. That's correct.

17 Q. Okay. And you found some deficiencies in

18 customer performance associated with this company; is that

19 correct?

20 A. Yes, sir.

21 Q. Could you just briefly summarize those

22 deficiencies?

23 A. Primarily in the area of call center

24 performance. Back in GM-2000-312, when Atmos purchased

25 the Associated Natural Gas properties, we as a condition

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1 to that merger set out some customer service measures for
2 their call center with respect to abandoned call rate and
3 average speed of answer, and we've been monitoring the
4 company. The company has been providing us quarterly
5 reports, like many utilities do.

6 And in 2004 and 2005 we noted some
7 deviation from those metrics where the company was not
8 quite meeting what they had indicated that they would. So
9 we've been trying to send some inquiries to Atmos. Over
10 the course of the last couple of years, performance would
11 improve and then dip down again, and we just felt that it
12 was incumbent upon us to go ahead and file testimony in
13 this case, indicate this to the Commission.

14 We've asked for monthly reporting from
15 Atmos instead of quarterly, with will give us an
16 opportunity to monitor a little more carefully. We've
17 asked them to formalize a disaster recovery plan because
18 they've indicated that that's part of the reason that
19 their performance declined. Metairie, Louisiana was hit by
20 Hurricanes Katrina and Rita. They also indicated that the
21 higher natural gas prices had increased call volumes
22 coming into the center, and so they couldn't meet those
23 metrics.

24 We think the monthly reporting will help,
25 them formalizing their disaster recovery plan, and then we

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1 have a commitment from Atmos that they fully expect to be
2 in compliance with the metrics in 2006. We've seen an
3 increase in staffing to their call center, which is a good
4 indication to us.

5 So I think we're on -- I think we're on
6 track, but we just wanted to send -- really I guess to put
7 the Commission on notice that we've been concerned and
8 also with the company.

9 Q. Now, when you found those performance
10 metrics, did you do any study of the consumer complaints
11 that have come through the consumer services department?

12 A. Yes, sir, we did.

13 Q. Is that where -- now, is that in addition,
14 complaints or problems in addition to what you've already
15 testified about or are they one and the same?

16 A. Let me recall what we actually did here.
17 We did a couple of things because we had gotten an order
18 from the Commission probably a couple of months ago that
19 identified three questions that the Commission wanted us
20 to ask, and part of those questions I think included
21 looking back at customer complaints for a period of
22 approximately two and a half years, which we did.

23 We also, when we filed our direct
24 testimony, we did look through customer complaints, I
25 think it was 2005 going forward, just to see were any

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1 customers complaining about call center performance.

2 And what we did was actually read through
3 all of the documentation on each of those complaints. And
4 we did find a few, and then we also sat in and listened to
5 the local public hearings in Kirksville and in Sikeston,
6 and we heard some remarks on call center performance.

7 So I hope that answers your question, but
8 yes, we know that some customers have expressed concern
9 about getting through to the call center.

10 Q. Did you find any other problems or patterns
11 aside from people just upset with the price of gas?

12 A. Well, yes, we did. I think there -- there
13 were several concerns identified with customers not
14 seeming to understand how the company's budget bill
15 program worked. And so in rebuttal testimony we kind of
16 presented that information, and Atmos has committed again
17 on that, we actually have a Nonunanimous Stipulation &
18 Agreement with Atmos, and we've asked them to do some
19 things with respect to budget bill education of their
20 customers, also better training for their call center reps
21 to understand how Missouri's budget bill program works,
22 and they've again committed to doing these things.

23 Q. Okay. Also filed in this case there was a
24 J.D. Power survey. Did you have a chance to review that?
25 I thought I filed it.

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1 A. Commissioner Clayton, I'm not sure if I
2 looked at that or not in this case, I have seen those
3 surveys. I'm just not sure if I've looked at that. That
4 was filed in this case, the Atmos case?

5 Q. I thought I had filed it. I wanted to get
6 it -- I wanted to get it in the record, because I didn't
7 want to surprise anyone. basically it just had a
8 general -- it had a generating of natural gas companies on
9 customer service or at least on customer opinions.

10 A. Okay.

11 Q. And Atmos rated underneath the average, and
12 I wanted, I guess, your -- and since you didn't look at
13 it, you can't do this, but I wanted your opinion on what
14 something like that would mean in customer service
15 performance analysis.

16 A. And forgive me. I vaguely remember seeing,
17 but I'm not sure if that's something that I got from Atmos
18 in the context of a data request response. I may have
19 that in my -- may I have just a moment and let me look
20 through?

21 Q. If you don't have it, don't worry about it.
22 I've got one more witness I've got to talk to.

23 A. Okay. All right. I didn't find it in my
24 data requests.

25 Q. Didn't find it?

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1 A. Didn't find it, but that seems --

2 Q. I filed it in advance. Plenty of notice
3 for parties to see it. Anyway, the gist of the filing, it
4 was something that I received in the mail and it was from
5 J.D. Power. It had the rankings of certain companies, and
6 it broke them into regions, and the southern region, for
7 some reason Atmos was included in that region, and then it
8 had rankings of out of 900 or 1,000 points, and it started
9 off at the top, so and so had 900. It worked down for an
10 average of around 600 points or something, and then Atmos
11 was a few slots underneath that.

12 I didn't know if you had any experience
13 with surveys of that type, whether there was any --
14 whether there was any guidance or information we could
15 take from it to improve customer service or whether those
16 things are simply not helpful.

17 A. Well, I know a little bit about J.D. Power
18 surveys. It's my understanding -- and Pat can correct me
19 if I'm wrong on this -- that companies usually pay to
20 participate in those surveys. Typically, though, from a
21 staff's perspective, there can be value in those types of
22 surveys, but a lot of times encourage the companies to
23 perform their own surveys of their own customers and try
24 to determine some level of satisfaction with that.

25 We know that Atmos has done customer

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1 surveys in the past. I don't know if they're currently
2 doing that or not. But I know that in 2001, I believe in
3 2000 they were doing customer surveys.

4 Q. Well, Ms. Kremer, are you -- will your
5 involvement with customer service performance end with
6 Atmos at the conclusion of this case?

7 A. Do you mean just that --

8 Q. Is there any monitoring going forward?
9 Will you be working with the company to ensure --

10 A. Yes.

11 Q. -- that they follow through with their
12 commitments?

13 A. Yes, sir. In fact, right now the last -- I
14 guess the last six years or so, we've had quarterly
15 reporting from Atmos. So we've been able to monitor them
16 I would say fairly carefully. And attached somewhere --
17 well, let's see if that was in my direct testimony. I
18 believe it was. You will see some mention of a number of
19 inquiries going back and forth to them over the course of
20 a couple of years asking them, you know, what are the
21 reasons for the decline in performance, what are you doing
22 about it, their responses about increased staffing and so
23 on.

24 And the monthly reporting will just let us
25 do that a little more carefully. It will give us a

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1 quicker response time. When we see a decline in
2 performance, we can send some inquiries at a quicker rate
3 than they we currently can quarterly.

4 So absolutely, we'll be monitoring them.
5 We also plan to verify that the things that they've
6 committed to do in the Stipulation & Agreement they do.
7 In probably three to six months we'll be asking them. If
8 we haven't received their disaster recovery plan, we'd
9 like to get a copy of that. We'd like to know what
10 improvements they're making to their call center, you
11 know, getting back to the disaster recovery plan, the call
12 scripting, you know, what are customer reps instructed to
13 tell customers when there's a period of heavy call volume.

14 Q. So the answer to the question is no, your
15 involvement will not end, you'll have ongoing --

16 A. You're right.

17 Q. -- ongoing discussions and oversight for
18 the future?

19 A. Yes, sir, you're right.

20 COMMISSIONER CLAYTON: Judge, I don't have
21 any other questions. Ms. Kremer, thank you very much for
22 being here tonight.

23 THE WITNESS: You're welcome.

24 JUDGE DIPPELL: Thank you. Would there be
25 any questions for Ms. Kremer from Atmos?

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1 MR. FISCHER: Just a couple.

2 CROSS-EXAMINATION BY MR. FISCHER:

3 Q. Ms. Kremer, the company has accepted your
4 recommendations in this case; is that right?

5 A. That's correct.

6 Q. And those are embodied in the Partial
7 Nonunanimous Stipulation & Agreement that we filed earlier
8 in the case?

9 A. That's correct.

10 Q. Okay. Let's see. I think Public Counsel,
11 Staff and the company are all parties to that. Is that
12 your understanding?

13 A. Yes, sir.

14 Q. And in the response that you filed related
15 to customer complaints at the Public Service Commission,
16 if I look at service quality, it looks like you had no
17 service quality complaints in 2006 and four in 2005 --
18 this would be on page 1 of your Staff response -- and
19 eight in 2004?

20 A. That's correct.

21 Q. Okay. Does it surprise you that a company
22 that suffered through a couple hurricanes would have more
23 call volume than others?

24 A. It doesn't surprise me, Mr. Fischer.

25 Again, I make the point, as I attempted to do in direct,

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1 that it wasn't just -- I think we were noticing a decline
2 in performance even prior to the hurricanes. So the
3 company indicated the higher natural gas prices as being
4 one reason for that. The addition of Mississippi Valley
5 Gas into the system increased the call volume.

6 So certainly those hurricanes, we can
7 understand that, and the higher natural gas prices, but
8 we -- what we're saying now, barring any unforeseen
9 natural disasters, performance should improve on a
10 going-forward basis.

11 Q. And Atmos is committed to that?

12 A. That's right.

13 MR. FISCHER: Thank you very much.

14 JUDGE DIPPELL: Thank you. Is there
15 anything from Office of Public Counsel?

16 MR. POSTON: No, thank you.

17 JUDGE DIPPELL: Staff?

18 MR. REED: No.

19 JUDGE DIPPELL: Thank you, Ms. Kremer. And
20 I believe Commissioner Clayton had some questions on the
21 same topic for Ms. Childers.

22 COMMISSIONER CLAYTON: Could I just ask her
23 from back there? Is that all right? I think she's sworn
24 in.

25 JUDGE DIPPELL: That's fine.

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1 COMMISSIONER CLAYTON: Don't you have a mic
2 back there. There's no need to come up. Mr. Fischer, you
3 don't want to have too good of cross on this subject, all
4 right? You're doing an awfully good job there.

5 PATRICIA J. CHILDERS testified as follows:

6 QUESTIONS BY COMMISSIONER CLAYTON:

7 Q. Ms. Childers, I think you were the first
8 witness I talked to at the beginning of this case, and
9 presumably you're going to be the last, I think, also,
10 mercifully so.

11 A. Yes, sir.

12 Q. You've seen the filings that I had made in
13 this case relating to customer service?

14 A. Yes, sir, I have.

15 Q. And you've also been to Hannibal and you
16 saw where no one -- one person showed up to testify?

17 A. Yes. I was at all those local meetings.

18 Q. Knocked the wind out of my big customer
19 service stuff because no one showed up in Hannibal, right?

20 A. That's correct.

21 Q. But I did file some things that suggested
22 that there were problems in customer service. I've also
23 heard suggestions that there are problems because of calls
24 going to a call center versus a local number being
25 available, and I know that there are economics of -- that

1 just don't make it feasible to have a local number.

2 What I wanted to ask you is, is Atmos
3 willing to take steps to try to cure whatever deficiencies
4 that may be out there even if they may not be so great
5 to -- that have been suggested by others?

6 A. Yes. For example, reporting the metrics
7 monthly and notifying the Staff when we have higher call
8 volumes, staffing levels. Ms. Kremer has never been shy
9 about calling the company when she's seen the metrics
10 decline, and we welcome her inquiries and will continue to
11 try to improve our customer service, yes.

12 Q. What is your response to that survey that
13 was filed? Have you ever seen that before?

14 A. I have. We -- I'm hooking at the -- I
15 don't know that the page is numbered, but where we appear
16 low in the customer satisfaction study on the south
17 region, we compare favorably when you look at us in
18 comparison to the other Missouri LDCs.

19 Q. I think all Missouri LDCs were below the
20 average, I think.

21 A. Yes, I'm familiar with it.

22 Q. Do you believe that suggests a problem or
23 do you believe that you-all just should have saved your
24 money and not gotten in the survey?

25 A. I think these results can always be

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1 beneficial. You can certainly see where the trends are,
2 and I think what we can do is we can inquire about some of
3 the other companies that seem to perform better than us.
4 So we like to participate in these surveys. It's
5 sometimes very telling.

6 Q. Well, the only thing I will say is that the
7 problems that I've heard both in this case and in a prior
8 life and before the case seem to be problems with lack of
9 communication being made between the call center employees
10 and the people who call in or perhaps a lack of
11 understanding or unwillingness to understand the problem.
12 Utility bills always seem to hit home very close for
13 certain folks.

14 Some of the problems that I've seen should
15 have been handled and perhaps they could have just been
16 handled better and they never would have gone beyond where
17 they were. I'm sympathetic to the concerns in Metairie.
18 My roommate in college is from Metairie and lived in
19 Houston for six months after the hurricane. So I'm well
20 aware of the problems that they had down there.

21 A. We can always do a better job, and
22 certainly we can provide the customer more information and
23 committed to do so on our budget billing process, and we
24 can do better scripting for our call center reps as well.

25 COMMISSIONER CLAYTON: I appreciate that,

1 and I appreciate your comments here this evening. And
2 mercifully, I have no other questions.

3 THE WITNESS: Thank you.

4 JUDGE DIPPELL: Would there be anything
5 from Staff on this topic for Ms. Childers?

6 MR. REED: No.

7 JUDGE DIPPELL: Office of Public Counsel?

8 MR. POSTON: No.

9 JUDGE DIPPELL: Atmos, any redirect?

10 MR. FISCHER: No, thank you.

11 JUDGE DIPPELL: All right. Commissioner
12 Clayton, I believe, indicated he didn't have any other
13 questions on the other topics. So let me just run through
14 a couple things and make sure what we have and haven't
15 covered. I can't recall if myself or Commissioner Appling
16 asked questions of Ms. Meisenheimer on rate of return or
17 return on equity and if I gave adequate opportunity for
18 recross-examination and redirect. Does anybody know that
19 they have anything that I missed on that?

20 MR. DORITY: No, Judge.

21 JUDGE DIPPELL: Okay. I will assume that I
22 just didn't check it off my list.

23 We did not actually get Ms. Childers on the
24 stand with regard to the PGA consolidation. Was there any
25 cross-examination for her on that topic? I attempted to

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1 ask her some questions, I think, out of turn. Okay.

2 There's no cross-examination on that topic.

3 The same with Ms. Meisenheimer. Well, I
4 think she was cross-examined on that. Was there adequate
5 opportunity on district consolidation for recross and
6 redirect? Did that get covered?

7 MR. DORITY: Yes, Judge, from our
8 standpoint.

9 JUDGE DIPPELL: Okay.

10 MR. POSTON: We're okay.

11 JUDGE DIPPELL: Just wanted to make sure.
12 It got a little confusing. I wanted to make sure.

13 Okay. So I have that we covered, then, all
14 of the topics and recovered all of the topics. Is there
15 any issue or any witness that anyone feels that they
16 failed to get an adequate opportunity to question?

17 (No response.)

18 JUDGE DIPPELL: Seeing none, then let's
19 move to the exhibits that we haven't yet introduced.
20 Atmos?

21 MR. DORITY: Your Honor, we would
22 understand that the testimony of Atmos witness Gary Smith,
23 which comprise Exhibits 2, 3 and 4, have been offered and
24 received. The testimony of Patricia Childers, being
25 Exhibits 5NP, 5HC, 6 and 7 have been offered and received.

1 JUDGE DIPPELL: Yes.

2 MR. DORITY: The direct testimony of Robert
3 Kerley, Exhibits 9NP and 9HC, offered and received. The
4 direct testimony of Michael Ellis, Exhibit No. 10, was
5 offered and received. The direct testimony of James
6 Cagle, Exhibits 11NP and HC, was offered and received.
7 And the direct and surrebuttal testimony of Donald Murry,
8 Exhibits 14 and 15, were offered and received.

9 At this time Atmos would offer the direct
10 testimony of John Paris, Exhibit No. 1; the direct
11 testimony of Laurie Sherwood, Exhibit No. 8; the direct
12 testimony of Thomas H. Petersen, Exhibit No. 12; the
13 direct testimony of Daniel Meziere, Exhibit No. 13; the
14 direct testimony of Donald Roff, Exhibit No. 16; the
15 direct testimony of Ronald Edelstein, Exhibit No. 17; and
16 the direct testimony of Rebecca Buchanan, Exhibit No. 18.
17 And it's my understanding that Exhibit No. 19, the LIHEAP
18 schedule that Mr. Smith offered -- I'm sorry -- sponsored
19 has been offered and received. I believe that's all of
20 the exhibits that I'm showing for Atmos.

21 JUDGE DIPPELL: That is the same that I
22 have. Would there be any objection to those exhibits that
23 have just been offered?

24 MR REED: No objection.

25 JUDGE DIPPELL: No objection.

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1 MR. POSTON: No objection.

2 JUDGE DIPPELL: Seeing none, then I will
3 receive those exhibits into evidence.

4 (EXHIBIT NOS. 1, 8, 12, 13, 16, 17 AND 18
5 WERE WAS RECEIVED INTO EVIDENCE.)

6 JUDGE DIPPELL: Then Staff, do you have
7 additional -- I have that your exhibits 100 through 125
8 have been admitted, and that we still have not admitted
9 126 and 127HC, which are the testimony of Dan Beck, 127,
10 which is also Dan Beck, 129 through 136, which are -- is
11 it Began, Began, Gray, Hagemeyer, Hanneken, Lock, Meyer,
12 Warren and Wells. Are you offering those at this time?

13 MR. REED: I would, Judge, move for
14 admission of all those exhibits you just mentioned.

15 JUDGE DIPPELL: Would there be any
16 objection be Exhibits 126 through 136?

17 MR. POSTON: I didn't hear you mention --
18 did you mention 128, Daniel Beck?

19 JUDGE DIPPELL: Yes.

20 MR. POSTON: Okay. No objections.

21 JUDGE DIPPELL: Seeing no objections, I
22 will receive those into evidence.

23 (EXHIBIT NOS. 126 THROUGH 136 WERE RECEIVED
24 INTO EVIDENCE.)

25 JUDGE DIPPELL: And we also -- I believe we

1 got all of Office of Public Counsel's exhibits in, with
2 the exception that when Ms. Meisenheimer was testifying
3 and she had the work papers of Staff, I would like to mark
4 those as -- give them an exhibit number so that because
5 they were referred to, I don't necessarily -- I'm not
6 asking you to offer them. Just I would like, though, to
7 get copies of them and mark them as an exhibit number just
8 so that the record is complete.

9 MS. MEISENHEIMER: I have it. I can run
10 copies now if that would be convenient.

11 JUDGE DIPPELL: You can provide them later.
12 What I will do is reserve an exhibit No. 143. That wasn't
13 offered, but I'm just -- I'll let you-all decide what to
14 do about that.

15 MR. POSTON: Your Honor, I'll go ahead and
16 offer that exhibit.

17 JUDGE DIPPELL: Okay. I'm going to -- I'm
18 going to have you -- I'm going to allow you to take a
19 chance to review it when we actually get the copies and
20 make any objections later on that. So I will note that
21 it's been offered, and I will set a time for objections to
22 that and also to the large study that was Exhibit 139.

23 MR. DORITY: Your Honor, what was the
24 exhibit on the work papers?

25 JUDGE DIPPELL: The work papers I'm going

1 to mark as Exhibit No. 143.

2 MR. DORITY: Thank you.

3 MR. REED: And, Judge, I think there's
4 another exhibit we may want to put into that category.
5 Yesterday I think Commissioner Clayton had asked some
6 questions of Ms. Ross about information from other states,
7 which we have available now, and so I would need an
8 exhibit number for that and would move for admission of
9 the exhibit. I can distribute that to the parties, and
10 then if an objection is --

11 JUDGE DIPPELL: Let's do that. I'll mark
12 that as Exhibit No. 144.

13 MR. REED: How many copies do I need for
14 the Bench?

15 JUDGE DIPPELL: You need six for the Bench
16 and one for the court reporter. And I'll just call that
17 the response of Ms. Ross to questions from the Bench.

18 (EXHIBIT NO. 144 WAS MARKED FOR
19 IDENTIFICATION BY THE REPORTER.)

20 JUDGE DIPPELL: I will set a time for
21 responses to all of those exhibits.

22 JUDGE REED: And, Judge, I think there's
23 additional information coming that will be part of Exhibit
24 No. 144, which we'll distribute as soon as we can.

25 JUDGE DIPPELL: Okay. So this is Part 1 of

1 144. Part 2, still to come.

2 Okay. The other exhibits that haven't been
3 entered into the record, I actually excused Mr. Fulton
4 with Noranda before he had an opportunity to offer his
5 exhibits.

6 MR. FISCHER: Judge, on behalf of my friend
7 Mr. Fulton, I would move for the admission of his exhibit.

8 JUDGE DIPPELL: Would there be any
9 objection to Exhibits 400, 401 and 40?

10 (No response.)

11 JUDGE DIPPELL: Seeing none, I'll receive
12 those into the evidence.

13 (EXHIBIT NOS. 400, 401 AND 402 WERE
14 RECEIVED INTO EVIDENCE.)

15 JUDGE DIPPELL: All right. The other thing
16 that we -- that I want to get cleared up on the record is
17 I have reserved dates for a true-up hearing, but it's my
18 understanding that the parties do not believe that a
19 true-up is necessary in this case; is that correct?

20 MR. FISCHER: Yes.

21 JUDGE DIPPELL: Okay.

22 MR. REED: That's right.

23 JUDGE DIPPELL: That's what Mr. Berlin told
24 me the other day. All right, then. I will cancel that
25 reserved hearing dates for the first week in January, I

1 believe. We'll also need to set a briefing schedule, but
2 I'm not going to do that here tonight. It will probably
3 be just a standard one-round briefs.

4 MR. POSTON: Judge, I believe you'd ordered
5 a 30-page limit. Is that still in play?

6 JUDGE DIPPELL: I did order a 30-page page
7 limit. If anyone believes that they need more than 30
8 pages, they're welcome to ask permission to file a larger
9 Brief. I assure you that I will be fairly lenient in
10 those requests.

11 MR. FISCHER: Judge, I had on my calendar
12 that that date had already been set. I might be wrong
13 about that. January 12th, does that --

14 JUDGE DIPPELL: For the Briefs?

15 MR. FISCHER: For the Briefs, yeah.

16 JUDGE DIPPELL: Excellent. Then I won't
17 have to do that. I'm just making sure I got everything.
18 That is everything on my list that I believe we still
19 needed to accomplish. Does anyone have anything further
20 this evening?

21 (No response.)

22 JUDGE DIPPELL: Seeing nothing further, I
23 believe that conclude the hearing and we are adjourned.
24 Thank you.

25 WHEREUPON, the hearing of this case was

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1 concluded.

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