

In the Matter of:

**THE OFFICE OF PUBLIC COUNSEL, et al.**

v.

**KCP&L GREATER MISSOURI OPERATIONS CO.**

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**EC-2019-0200 , VOL. II**

*August 08, 2019*

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

August 8, 2019

Jefferson City, Missouri

Volume 2

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The Office of the Public	)	
Counsel and the Midwest Energy	)	File No. EC-2019-0200
Consumers Group,	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	
KCP&L Greater Missouri	)	
Operations Company,	)	
	)	
Respondent.	)	

MORRIS L. WOODRUFF, Presiding  
CHIEF REGULATORY LAW JUDGE

MAIDA J. COLEMAN,  
DANIEL Y. HALL,  
COMMISSIONERS

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1 (August 8, 2019)

2 JUDGE WOODRUFF: It's nine o'clock so let's  
3 come to order, please. Welcome back for day two of  
4 Hearing EC-2019-0200. When we left off yesterday, we  
5 were about ready to bring Mr. Oligschlaeger to the  
6 stand.

7 (Witness sworn.)

8 JUDGE WOODRUFF: Thank you. You may inquire.  
9 MARK OLIGSCHLAEGER, being sworn, testified as follows:

10 DIRECT EXAMINATION BY MS. ASLIN:

11 Q. Could you please state and spell your name for  
12 the court reporter?

13 A. Sure. My name is Mark L. Oligschlaeger,  
14 M-a-r-k L. O-l-i-g-s-c-h-l-a-e-g-e-r.

15 Q. And how are you employed and in what capacity?

16 A. I am the manager of the auditing department  
17 for the Missouri Public Service Commission.

18 Q. And did you prepare cross-rebuttal testimony,  
19 I believe we are on Exhibit No. 17?

20 A. I did.

21 Q. And do you have any changes to make to that  
22 testimony?

23 A. I do not.

24 Q. Is that testimony true and correct to the best  
25 of your knowledge and belief?

1 A. It is.

2 Q. If I asked you the same questions today, would  
3 your answers be the same?

4 A. They would.

5 MS. ASLIN: Judge, I'd move for the admission  
6 of Exhibit 17 and tender the witness for cross.

7 JUDGE WOODRUFF: 17 has been offered. Any  
8 objection to its receipt? Hearing none, it will be  
9 received.

10 (STAFF EXHIBIT 17 WAS RECEIVED INTO EVIDENCE  
11 AND MADE A PART OF THIS RECORD.)

12 JUDGE WOODRUFF: And for cross-examination we  
13 begin with GMO.

14 MR. FISCHER: Thank you, Judge.

15 Morning, Mr. Oligschlaeger.

16 THE WITNESS: Good morning.

17 CROSS-EXAMINATION BY MR. FISCHER:

18 Q. As I understand your testimony, you've been  
19 employed here at the Commission since September 1981,  
20 which is I think about 38 years; is that right?

21 A. That's correct.

22 Q. During that time, you've been involved in a  
23 number of cases dealing with various requests for  
24 accounting authority orders; is that right?

25 A. Yes.

1 Q. I'd like to refer you to your Schedule  
2 MLO-CR-1 where you list the various cases and issues  
3 you've participated in over the years.

4 A. I'm there.

5 Q. I went through those. Would it surprise you  
6 if I told you that you've identified about two dozen  
7 cases that you've testified about AAOs, trackers or  
8 accounting deferrals of various sorts while you've been  
9 here at the staff?

10 A. That would seem about right.

11 Q. Do you think you have testified about AAO  
12 issues more often than any other staff witness during  
13 the time at the Commission -- your time at the  
14 Commission?

15 A. I haven't done an exhaustive analysis of that  
16 point. I don't think that's an unreasonable assumption.

17 Q. Would it be fair to say that you are the  
18 staff's primary expert on AAO cases today?

19 A. Yes -- well, primary, possibly. I've  
20 testified on a lot of cases and I think I have a good  
21 knowledge of the underlying subject matter.

22 Q. Probably nobody has had more experience in  
23 this area?

24 A. I would agree with that.

25 Q. It appears on page 1 of your schedule that you

1 participated in the 2019 Spire Missouri case that dealt  
2 with the deferral of the Commission annual PFC  
3 assessment. Do you recall that case?

4 A. I do.

5 Q. And I believe as the staff witness in that  
6 Spire case you recommended that the Commission deny  
7 Spire's request for an AAO because the annual PFC  
8 assessment was not considered an extraordinary expense;  
9 is that correct?

10 A. That's correct.

11 Q. And the Commission adopted your recommendation  
12 if I recall in that case?

13 A. They did.

14 Q. So they denied the AAO on the ground that it  
15 wasn't an extraordinary expense, correct?

16 A. Yes.

17 Q. Now, there was another Spire case, the 2017  
18 rate case that you participated in. I believe you  
19 testified as the staff witness in that Spire case and  
20 you recommended that the Commission deny Spire's request  
21 for a tracker for environmental costs; is that right?

22 A. That's correct.

23 Q. And again that was because environmental costs  
24 were not considered an extraordinary expense; is that  
25 right?

1 A. In our view it was not, yes.

2 Q. And the Commission adopted your recommendation  
3 and found that it was not appropriate to grant Spire the  
4 extraordinary remedy of a tracker in that case; is that  
5 right?

6 A. That's my recollection.

7 Q. And then on your schedule on page 1 it also  
8 indicates that you participated in the Missouri-American  
9 Water case which was WU-2017-0351 on the topic of an AAO  
10 for property taxes; is that right?

11 A. Yes.

12 Q. In that case the Commission denied  
13 Missouri-American's request for an AAO related to  
14 property taxes on the grounds that there is nothing  
15 unusual or extraordinary about paying property taxes to  
16 warrant an AAO; is that your memory?

17 A. Yes.

18 Q. And then you also mentioned that you  
19 participated in a KCPL rate case ER-2014-0370 on the  
20 topic of trackers; is that right?

21 A. Yes.

22 Q. And I believe as the staff witness in that  
23 2014 KCPL rate case you recommended that the Commission  
24 deny the company's request for an AAO related to  
25 transmission expenses, property taxes and the SIP

1 cybersecurity costs because those were not considered  
2 extraordinary expenses; is that right?

3 A. That's my recollection.

4 Q. And do you also recall that the Commission  
5 denied KCPL's request for those trackers on the grounds  
6 that they were not considered extraordinary?

7 A. I do.

8 Q. Now, the company had also filed a previous  
9 case, and I'm talking about KCPL, EU-2014-0077. Do you  
10 remember that?

11 A. I do.

12 Q. Now, that was an AAO case involving the  
13 request for an AAO for transmission expense trackers; is  
14 that right?

15 A. Yes.

16 Q. And I believe in that case the Commission  
17 again denied the company's request on the grounds that  
18 transmission expenses were not extraordinary, correct?

19 A. I believe so.

20 Q. According to Mr. Schallenberg's testimony from  
21 yesterday, I think he was the division director of the  
22 utility services division of the Commission staff from  
23 October 1997 until May 15, 2018 when he joined the  
24 public counsel's office. Would you have reported to Mr.  
25 Schallenberg or someone in his chain of command while

1 Mr. Schallenberg was the division director at the  
2 utility services division?

3 A. For part of that time, I was in the chain of  
4 command. For part of that time, I reported directly to  
5 Mr. Schallenberg. And from 2015 through Mr.  
6 Schallenberg's departure in 2018, I did not report  
7 directly or indirectly to Mr. Schallenberg.

8 Q. Okay. Let me ask you about a couple of cases.  
9 Is it correct to conclude that you would have reported  
10 to Mr. Schallenberg or someone in his chain of command  
11 during the 2017 Spire rate case?

12 A. I don't believe so.

13 Q. No. Okay. What about the 2014 KCPL and GMO  
14 rate cases?

15 A. I would have at that time.

16 Q. Okay. And those were the cases where the  
17 Commission denied the company's request for an AAO for  
18 transmission expense, property taxes and SIP  
19 cybersecurity expenses?

20 A. Yes.

21 Q. Now, did Mr. Schallenberg have the authority  
22 to review your testimony in that case during that  
23 period?

24 A. He would have.

25 Q. And do you believe he would have approved your

1 position and your testimony in that case where you  
2 testified about AAOs and trackers?

3 A. My presumption is my supervisors are aware in  
4 all instances of what I recommend and if they disagreed  
5 with it it would not go forward.

6 Q. Okay. In this case you're recommending that  
7 the Commission deny the public counsel and MECG's  
8 request for an AAO; is that correct?

9 A. Yes.

10 Q. And as I understand your testimony on pages 2  
11 and 3 of your cross-rebuttal, you testify that, and it's  
12 at lines 21 through 23, you testify that the retirement  
13 of the Sibley Units should not be considered to meet the  
14 Commission's current criteria and be classified as an  
15 extraordinary event. Is that your position?

16 A. Yes.

17 Q. And then you go on to state on the bottom of  
18 that page, page 2, as a result under the Commission's  
19 traditional criteria, the cost savings resulting from  
20 the Sibley Unit retirement should not be eligible for  
21 the deferral accounting treatment recommended by OPC and  
22 MECG in this proceeding; is that correct?

23 A. Yes.

24 Q. Mr. Oligschlaeger, your testimony in this case  
25 on that point appears to be very consistent with your

1 testimony in other cases we've just discussed where you  
2 testify that the PFC assessment, environmental costs,  
3 transmission costs, property taxes, SIP cybersecurity  
4 costs were not extraordinary under the Commission's  
5 traditional criteria for reviewing AAO requests. Would  
6 you agree?

7 A. That has been the criteria we have used  
8 consistently for many years.

9 Q. And you're certainly trying to be consistent  
10 with your past analysis of AAO requests in this case; is  
11 that right?

12 A. We're certainly trying to be.

13 Q. As I understand your testimony, you believe  
14 that the retirement of Sibley is not an extraordinary  
15 event, correct?

16 A. That's correct.

17 Q. Do you believe that the retirement of Sibley  
18 is not an extraordinary event in a similar manner that  
19 transmission expenses, property taxes, PFC assessments  
20 and cybersecurity costs are not considered extraordinary  
21 expenses?

22 A. Yes. On the basis that all of those costs  
23 arise from normal activities and processes engaged in by  
24 utility companies over time.

25 Q. On page 4 of your cross-rebuttal testimony at

1 line 13, you state any major utility is both constantly  
2 adding new plant items to its system and constantly  
3 retiring other plant items; is that correct?

4 A. That's correct.

5 Q. And then on line 15 you go on to state staff's  
6 position is the decisions to retire plant assets are  
7 inherently part of the routine and typical operations of  
8 a regulated utility and thus cannot be considered to be  
9 extraordinary, and then you have parentheses, unusual,  
10 unique or nonrecurring, parentheses closed, except in  
11 very rare circumstances; is that correct?

12 A. That's correct.

13 Q. And it's your assessment that the retirement  
14 of Sibley is part of the routine and typical operations  
15 of GMO; is that right?

16 A. Yes.

17 Q. It's not a rare circumstance that would  
18 justify treating it as an extraordinary event, wouldn't  
19 you agree?

20 A. Yes. GMO and presumably all electric  
21 utilities have an obligation to engage in planning for  
22 how best to meet their customer loads on a cost  
23 effective basis and that may involve addition of new  
24 units, retirement of existing units, rehab of existing  
25 units, letting units run longer than they're estimated,

1 life span. All of those things fall under that general  
2 function of a utility.

3 Q. Thank you for your explanation. Is it your  
4 understanding that GMO has added new plant and retired  
5 other generating plant assets on a rather routine basis?

6 A. Yes.

7 Q. Do you recall reading Mr. Ives' rebuttal  
8 testimony on page 11 where he's testified that over the  
9 five-year period from October 2013 through September  
10 2018, GMO retired \$90 million of generating plant?

11 A. I did read that.

12 Q. Do you have any reason to doubt that GMO might  
13 have routinely retired millions of dollars of generating  
14 plant assets over a five-year period?

15 A. That would not surprise me.

16 Q. Wouldn't you expect other electric companies  
17 like Ameren Missouri or Empire District Electric Company  
18 would also routinely retire generating plant assets over  
19 the course of several years?

20 A. I would expect that.

21 Q. Retirement of power plants are a part of the  
22 ongoing operations of an electric public utility; is  
23 that your opinion?

24 A. Addition and retirements both, yes.

25 Q. Is it your understanding that GMO and electric

1 public utilities of Missouri are expected to retire  
2 power plants, particularly coal-fired plants in the  
3 future?

4 A. I'll have to ask you to repeat that.

5 Q. Okay. Is it your understanding, let me ask  
6 you first, that GMO is expected to retire power plants  
7 in the future?

8 A. I believe there are plans for other  
9 retirements.

10 Q. Lake Road was one I mentioned. Are you  
11 familiar with that one?

12 A. Generally, yes.

13 Q. Are you familiar with other electric utilities  
14 in Missouri that have plans to retire power plants?

15 A. I know Ameren Missouri has plans to retire at  
16 the very least its Meramec units I think within three,  
17 four, five years, and I know Empire has actively  
18 considered retirement of its Asbury coal plant.

19 Q. I think I may have seen a notice that they had  
20 decided to do that. Do you recall that?

21 A. I've seen press releases which I think refer  
22 back to a recent IRP filing which they indicate an  
23 intention to retire Asbury in the near term.

24 Q. So is it correct that retirements of power  
25 plants are expected to be recurring events in the future

1 here in Missouri?

2 A. I would agree with that.

3 Q. Would you agree that there is really nothing  
4 unusual, infrequent or out of the ordinary course of  
5 business when a company retires a power plant absent  
6 some very rare circumstance?

7 A. That is my position.

8 Q. Would you agree that there's nothing  
9 extraordinary about retiring generation plant assets in  
10 the electric industry in Missouri?

11 A. I would agree.

12 Q. And that would be true for other electric  
13 companies across the country; wouldn't that be true,  
14 too?

15 A. Based on my knowledge of what's happening  
16 across the country and also Mr. Rogers' testimony, I  
17 would agree that's true.

18 Q. Mr. Oligschlaeger, are you aware of any  
19 Missouri Commission decision that found that the  
20 retirement of a power plant is an extraordinary event  
21 that justifies the establishment of an AAO?

22 A. No.

23 Q. And you've been here 38 years; is that right?

24 A. That's correct.

25 Q. Now, doing your research in this case, did you

1 come across any decision previously from the Missouri  
2 Commission that granted an AAO for retirement in its 106  
3 year history?

4 A. I can't say I have a thorough knowledge of  
5 everything going back that far. I am not aware of any  
6 such case.

7 Q. Are you aware of any federal or state public  
8 utility commission in another state that authorized an  
9 AAO for the retirement of a power plant?

10 A. I am not.

11 Q. Would you agree that as far as you know if the  
12 Commission grants OPC and MECG's request for an AAO in  
13 this case it would be the first time in Missouri  
14 regulatory history that such a request for an AAO for  
15 the retirement of power plant has been granted?

16 A. To my knowledge.

17 Q. And as far as you know, it would be the first  
18 time that such a request for an AAO for the retirement  
19 of a power plant has been granted by any public utility  
20 anywhere in the country as far as you know?

21 A. To my knowledge.

22 Q. Is it correct that if the PSC approved OPC and  
23 MECG's request for an accounting authority order in this  
24 case it would reduce the company's earnings by the  
25 amount of the deferral for each year of that deferral?

1           A.     That would be in this case how the deferral  
2 work amounts that would otherwise be generally charged  
3 to the profit and loss by the company would still be on  
4 the company's balance sheet as a regulatory liability.  
5 All other things being equal, that will reduce the  
6 company's earnings.

7           Q.     Did you read Mr. Ives' testimony where he  
8 estimated what I'll call the hit to GMO's earnings could  
9 be between \$90 and \$117 million if the PSC adopted the  
10 positions of OPC and MECG in this case?

11          A.     I did read it. I would caveat that that I  
12 don't believe at this point we have very solid numbers  
13 for what the fiscal impact would be. I think OPC and  
14 MECG clearly label that their estimates are preliminary.

15          Q.     And it could be bigger, right?

16          A.     It could be bigger. It could be smaller.

17          Q.     Do you have any reason, though, to doubt that  
18 there could be a negative impact on GMO's earnings at a  
19 fairly substantial level if the Commission decided to  
20 grant OPC or MECG's request in this case?

21          A.     That could be.

22          Q.     I'd like to now refer you to page 7 at line  
23 18. There you're asked the question does there need to  
24 be a deferral of Sibley Unit cost savings in place in  
25 order to allow other parties to potentially make this

1 offset argument in a future rate case. Do you see that  
2 question?

3 A. I do.

4 Q. You go on to answer the question by stating  
5 no, staff contends that the ability of other parties to  
6 propose a ratemaking offset of this nature in the next  
7 GMO rate case is not dependent upon creation of a Sibley  
8 Unit regulatory liability at this time; is that correct?

9 A. That's correct.

10 Q. Are you suggesting that it is unnecessary for  
11 the Commission to adopt an AAO in this case for the  
12 Office of Public Counsel or MECG to advocate for some  
13 type of ratemaking adjustment related to the Sibley  
14 retirement in the next GMO rate case?

15 A. Yes, but I'd like to explain that.

16 Q. Sure, go right ahead. Thank you.

17 A. To the extent that OPC's and MECG's primary  
18 concern is to argue against possible rate recovery of  
19 certain Sibley retirement associated costs in the future  
20 rate case, then certainly an argument against that could  
21 be the existence of savings that from prior years which  
22 flow to the company's bottom line. However, I don't  
23 think you need an accounting authority order to say  
24 Commission, don't do that because this happened. You  
25 can say savings occurred and therefore you should not do

1 what the company --

2 Q. And that's what you were --

3 A. That's what I was referring to.

4 Q. And that's what you were explaining in your  
5 testimony, correct?

6 A. That's correct. Now, to the extent it is  
7 MECG's and OPC's primary proposal to make sure the  
8 savings are there for the future rate case to be flowed  
9 back to customers, then a deferral would be necessary  
10 for that purpose.

11 Q. Is it your understanding that FERC and the PFC  
12 regulations adopting the USOA have a record retentions  
13 requirement?

14 A. I'm generally aware of that.

15 Q. And is it your understanding that the company  
16 will maintain the same accounts and books and records  
17 whether or not an AAO is granted in this case?

18 A. I don't think granting an AAO affects the  
19 question of your retention of your accounting records.

20 Q. Is it correct though that if the Commission  
21 adopts the AAO being suggested by the public counsel and  
22 MECG there will be a negative impact on or at least a  
23 reduction in GMO's earnings during the deferral period?

24 A. Certainly all other things being equal, yes.

25 Q. And that would be true even if no ratemaking

1 adjustment is ever proposed or adopted by the Commission  
2 in the next rate case; is that right?

3 A. Yes, I believe so.

4 Q. Now, Mr. Oligschlaeger, is it correct that  
5 staff monitors the various surveillance reports  
6 submitted by the public utilities like GMO in Missouri?

7 A. Yes.

8 Q. If there appears to be an overearnings that  
9 are likely to be sustained on a going forward basis,  
10 will the staff consider filing an overearnings complaint  
11 to address the public utility's rates?

12 A. Obviously we would analyze the situation  
13 whether the overearnings was material and based upon  
14 more or less ongoing phenomena. In that case, yes, that  
15 would be a consideration.

16 Q. And based on your experience here at the  
17 Commission, is it correct that an overearnings complaint  
18 case might take as long as or perhaps even longer than a  
19 traditional eleven-month rate case?

20 A. I would expect it would take longer, perhaps  
21 considerably longer.

22 Q. I believe you mentioned that you participated  
23 in the Union Electric overearnings complaint case  
24 EC-2001-1 a few years ago?

25 A. I did.

1 Q. Did that overearnings case take more than a  
2 year to complete?

3 A. I don't remember the specifics. I think it  
4 took well over a year.

5 Q. Okay. Now, staff has not filed an earnings  
6 complaint case against GMO at this time, have they?

7 A. They have not.

8 Q. But staff will continue to monitor the  
9 earnings level of GMO in the future; is that correct?

10 A. Yes.

11 Q. And that would be true even though GMO has  
12 elected to utilize the plant in service accounting under  
13 the recent what's commonly referred to as the PISA  
14 legislation; is that right?

15 A. Yes, we would still be interested in your  
16 earnings levels.

17 Q. Is it your understanding that under the PISA  
18 legislation there is a three-year rate moratorium for  
19 any corporation that's -- I mean a rate freeze for any  
20 corporation that has elected to use the PFC accounting  
21 -- the PISA accounting, I'm sorry?

22 A. That's my interpretation of the law.

23 Q. So it's your understanding that rates will be  
24 held constant for a three-year period starting with a  
25 date new base rates were established in the company's

1 last rate case?

2 A. That's correct.

3 Q. I'd like to show you just for purposes of the  
4 record the order approving the tariffs from the  
5 company's last rate case, and would you confirm to me  
6 that the effective date of those rates were December 6,  
7 2018?

8 A. That is what this order states.

9 Q. So is it correct that there will be a  
10 three-year rate freeze that would end for GMO on  
11 December 6, 2021; is that your understanding?

12 A. That's how I understand it, yes.

13 Q. Is it your understanding that there's nothing  
14 in that PISA legislation that would prohibit staff or  
15 some other party for that matter from continuing to  
16 monitor GMO's earnings level during the period?

17 A. There's nothing in the law that pertains to  
18 that, no.

19 Q. And there's nothing in the law that would  
20 prohibit the filing of an overearnings complaint before  
21 the end of the rate freeze, correct?

22 A. Not in the law, no.

23 Q. If it appeared that there were earnings levels  
24 that were going to be excessive after the rate freeze  
25 ended?

1 A. Yes, that's correct.

2 Q. To your knowledge, is there any factual basis  
3 for filing an overearnings complaint against GMO at this  
4 time?

5 A. From what we have seen, not at this time.

6 MR. FISCHER: That's all I have, Judge. Thank  
7 you.

8 JUDGE WOODRUFF: All right. Thank you. We'll  
9 move on to MECG.

10 MR. WOODSMALL: Thank you. Good morning, sir.

11 THE WITNESS: Good morning.

12 CROSS-EXAMINATION BY MR. WOODSMALL:

13 Q. Let's start with some easy questions.  
14 Yesterday Mr. Meyer made the statement, and I just want  
15 to ask you if you agree with this, ratemaking is  
16 designed to create a relationship of cost revenues and  
17 investment the parties believe will be in existence for  
18 the first year that rates are in effect. Do you agree  
19 with that?

20 A. Generally, yes.

21 Q. And you don't question Mr. Meyer's statement  
22 in his direct testimony that GMO hasn't retired a power  
23 plant in 32 years, do you?

24 A. I have no information to the contrary.

25 Q. Okay. So you don't question that; is that

1 correct?

2 A. I do not.

3 Q. Okay. And so when you were asked to the best  
4 of your knowledge has the Commission ever granted an AAO  
5 to capture savings for the retirement of a power plant,  
6 for 32 years no one has had the opportunity to present  
7 that; is that correct?

8 A. For GMO specifically. There are other  
9 Missouri utilities, yes.

10 Q. You said that utilities have an ongoing  
11 obligation regarding addition and retirements to  
12 electric plants; is that correct?

13 A. They have an ongoing obligation to serve their  
14 customers' loads on a cost effective basis which may  
15 involve the addition or retirement of power plants.

16 Q. But your testimony is that they add and retire  
17 things from plant on an ongoing basis; is that correct?

18 A. That is correct.

19 Q. Okay. And you believe that that's true even  
20 though they haven't retired a power plant in over 32  
21 years; is that correct?

22 A. Well, I mean, yes, I mean, the reference in my  
23 testimony was more general in terms of plant retirements  
24 as an entire category including generation,  
25 transmission, distribution in general. It's constant.

1 Some plant assets retire more frequently than others  
2 because for a variety of reasons but I was looking at it  
3 as a category of a company activity which is retirement  
4 of plant.

5 Q. So you look at all utility plant, computers,  
6 desks, everything together when you said that the  
7 company is retiring assets on an ongoing basis?

8 A. That's correct.

9 Q. Okay. And you look at it -- Would you look at  
10 it the same way that the company is adding plant on an  
11 ongoing basis be it power plants, poles, computers,  
12 desks?

13 A. Yes.

14 Q. Okay. And just to clarify that, though,  
15 despite that ongoing addition of power plants, the  
16 Commission found that the addition of Iatan 2 for GMO  
17 was extraordinary and allowed them to continue  
18 construction accounting; is that correct?

19 A. They did.

20 Q. So under your theory since additions are  
21 occurring all the time the Commission shouldn't have  
22 given them construction accounting in that case because  
23 it's not extraordinary?

24 MR. FISCHER: Objection. Calls for invasion  
25 of the province of the Commission what they decide and

1 why.

2 MR. WOODSMALL: I'm asking in his opinion.

3 JUDGE WOODRUFF: I'll overrule the objection.

4 You can answer.

5 THE WITNESS: Staff has been in favor of some  
6 applications for construction accounting, has opposed  
7 others. The Commission sometimes agrees with us and  
8 sometimes disagrees.

9 BY MR. WOODSMALL:

10 Q. So despite the fact that a utility is adding  
11 plant on an ongoing basis, staff has been in favor of  
12 granting construction accounting in previous cases?

13 A. In some circumstances, yes.

14 Q. Now, you were asked questions about your  
15 previous work experience and your testimony says that  
16 you've been manager of auditing department since April  
17 of 2011; is that correct?

18 A. That's correct.

19 Q. Were you manager of the auditing department  
20 sometime before that?

21 A. Yes. If you go back a few years from 1989 to  
22 1993, I was also manager of what at that time was known  
23 as the accounting department.

24 Q. And you were demoted in '93; is that correct?

25 A. I'll accept that characterization.

1 Q. Do you recall testifying in Case No.  
2 EU-2015-0094?

3 A. I do.

4 Q. And that was a case in which staff sought to  
5 defer certain savings that KCP&L was experiencing -- let  
6 me try that again. That was a case in which staff  
7 sought to defer certain savings that KCP&L was  
8 experiencing; is that correct?

9 A. Yes.

10 Q. And those savings were associated with the  
11 discontinuance of certain DED nuclear fees; is that  
12 correct?

13 A. That's correct.

14 Q. And nuclear fees are an operating and  
15 maintenance cost?

16 A. I believe so.

17 Q. You were asked some questions by Mr. Fischer  
18 and you used the caveat all other things being equal  
19 that the deferral sought by MECG and OPC would reduce  
20 the company's earnings; is that correct?

21 A. Compared to the situation which they did not  
22 have the deferral in place, yes.

23 Q. Would you agree all other things being equal  
24 that the retirement of Sibley would cause the company's  
25 earnings to go up?

1 A. I would expect that to occur.

2 Q. Okay. The retirement of Sibley all other  
3 things being equal would cause earnings to go up greater  
4 than those that were authorized by the Commission  
5 December 6, 2018?

6 A. Can you repeat that?

7 Q. The Commission approved rates on December 6,  
8 2018 for GMO; is that correct?

9 A. Right.

10 Q. And there was a level of earnings built into  
11 those rates; is that correct?

12 A. That's correct.

13 Q. Okay. And the retirement that's not reflected  
14 in rates will cause earnings to go up above the level  
15 that are reflected in those rates with all other things  
16 being equal?

17 A. With that caveat, yes.

18 Q. You were asked questions about the ability of  
19 parties to file an earnings complaint. When was the  
20 last time staff filed an electric earnings complaint?

21 A. Off the top of my head, I think it would be  
22 the Ameren Missouri proceeding earlier referenced by Mr.  
23 Fischer.

24 Q. Approximately 20 years?

25 A. Little less but yes.

1 Q. And you were asked questions, Mr. Fischer was  
2 asking questions saying that parties are free to file  
3 while -- let me back up. Parties are free to file an  
4 earnings complaint even though it might not take effect  
5 because of the moratorium in the PISA legislation; do  
6 you recall that?

7 A. I recall those questions.

8 Q. And you agree that the parties are free to  
9 file even though the rates may not be able to be changed  
10 for another two and a half years; is that correct?

11 A. I agree with that.

12 Q. Okay. Would you agree that under the FAC  
13 legislation that GMO is going to have to file a case in  
14 two and a half years anyway?

15 A. Well, they certainly don't have to. If they  
16 wish to keep the FAC, they would need to and I expect  
17 they would do so.

18 Q. So filing an earnings complaint would be  
19 largely pointless because they're going to have to file  
20 a case anyway to keep their FAC?

21 A. That's one consideration we would look into if  
22 otherwise it appeared that an overearnings situation  
23 existed. In other words, the time --

24 Q. It would be largely pointless because they're  
25 going to have to file a case anyway?

1           A.    I don't know that that would ultimately lead  
2 to us saying no, we can't file a complaint.  It's just  
3 something we would take into account.

4           Q.    The importance of filing a complaint is  
5 somewhat mooted by the fact that they're going to have  
6 to file their case anyway?

7           A.    If there's a relatively short period of time  
8 between the expiration of the rate freeze and the  
9 expected filing of their next case, that could well  
10 impact any decision to move in the interim to reduce  
11 their rates.

12          Q.    You were asked a number of questions about  
13 previous AAOs in which you testified.  Do you recall  
14 those?

15          A.    I do.

16          Q.    And Mr. Fischer took you through a number of  
17 cases and led the audience to believe that the  
18 Commission agrees with you on AAO cases?

19          A.    They don't always agree with me or staff.

20          Q.    You're not infallible when it comes to your  
21 opinion on AAOs; is that correct?

22          A.    Apparently in the Commission's view I am not.

23          Q.    And in fact, in the GMO 90 case, EO-90-258 in  
24 which GMO sought an AAO for the deferral of renovation  
25 costs for Sibley, you, staff, but you specifically

1 opposed that AAO; is that correct?

2 A. Yes, and that was Case EU -- I'm not sure. It  
3 was a 91 --

4 Q. 91. I'm sorry.

5 A. -- 358 case. I filed testimony in that case  
6 opposing the company's application for deferral.

7 Q. And the Commission rejected your position and  
8 gave the AAO; is that correct?

9 A. They did.

10 Q. Okay. And more recently in Ameren's  
11 electrification case ET-2018-0132 you filed testimony  
12 opposing the AAO; is that correct?

13 A. Technically it wasn't an AAO. It was a  
14 deferral request and staff opposed that.

15 Q. The Commission disagreed with you there; is  
16 that correct?

17 A. In that case they did.

18 Q. And they granted the AAO?

19 A. Well, they granted authority to defer the  
20 costs.

21 Q. Okay. Do you know who Cary Featherstone is?

22 A. I do.

23 Q. Can you tell me who he is?

24 A. He is currently an Auditor V with the Kansas  
25 City office of the auditing department for the Missouri

1 Public Service Commission staff.

2 Q. Did you consult with -- He's been at the  
3 Commission 35 years, 40 years; is that correct?

4 A. Close to 40 at this point.

5 Q. Did you consult with him at all in preparing  
6 or taking your position in this case?

7 A. I did not.

8 Q. Okay. There are other senior auditors at the  
9 Commission, John Cassidy, he's been here 30 some odd  
10 years; is that correct?

11 A. That's correct.

12 Q. And did you consult with him at all?

13 A. And perhaps I should be more clear. I  
14 certainly discussed the case and staff's position with  
15 members of the auditing department. Did I -- Did we get  
16 together as a group and decide hey, this is the position  
17 we should take, we did not. That was my decision or my  
18 input to actually my supervisor as to the position we  
19 should take.

20 Q. Did Mr. Featherstone agree with your position?

21 A. I don't know.

22 Q. Okay. So while you may have discussed it with  
23 him, you don't know what his position was on GMO's  
24 request -- or MCEG's request in this case?

25 A. No senior auditor expressed disagreement to

1 me. They didn't necessarily express agreement either.

2 Q. Mr. Featherstone in the last rate case sent  
3 you an e-mail before the case started; is that correct?

4 A. You probably need to be more specific but  
5 wouldn't surprise me if he did.

6 Q. Mr. Schallenberg attaches to his surrebuttal  
7 testimony Schedule RES-S-1 pages 1 and 2 an e-mail that  
8 was sent to you by Mr. Featherstone. Do you recall that  
9 e-mail?

10 A. Again, I do not.

11 Q. Well, I have a copy of it. Let me give you a  
12 copy of it. Do you recall that?

13 A. Now that I look at it, yes, I do.

14 Q. Okay. And the date on that e-mail is August  
15 17, 2017?

16 A. It is.

17 Q. And the e-mail discusses a meeting that  
18 occurred between Mr. Klote for GMO and the Kansas City  
19 audit staff regarding GMO's upcoming rate case; is that  
20 correct?

21 A. That's correct.

22 Q. Part of that e-mail indicates that GMO is  
23 planning to retire Sibley but that it would occur after  
24 the proposed June 30, 2018 true-up date; do you recall  
25 that?

1 A. This is what that conveys.

2 Q. And so throughout that rate case, staff knew  
3 that GMO was planning on retiring Sibley immediately  
4 after the true-up date; would you agree?

5 A. I'm not sure I characterize it that way. I  
6 think GMO gave indications that they expected that  
7 retirement to occur prior to the end of 2018. I guess  
8 that does occur -- that date is a short time after  
9 true-up.

10 Q. Rates went into effect December 6, 2018, I  
11 think you said earlier; is that correct?

12 A. Right.

13 Q. So it was immediately after or it was  
14 scheduled to be immediately after rates went into  
15 effect; is that correct?

16 A. Roughly the same period of time in which rates  
17 would take effect.

18 Q. Okay. You're the manager of the auditing  
19 department, right?

20 A. Yes.

21 Q. So if you knew that Sibley was going to be  
22 retired shortly after rates went into effect, why didn't  
23 you take some action to exclude it from rates?

24 A. Well, other parties, certainly OPC, perhaps  
25 MECG, did take the position that they should be excluded

1 in rates -- from rates in that rate case. My  
2 recollection is because GMO had not formally committed  
3 to a retirement date and indicated that the retirement  
4 was still somewhat contingent we believed that it was  
5 not the type of event to reflect in rates in that case  
6 and there would also be matching issues going beyond the  
7 end of the true-up cutoff even if my first point wasn't  
8 there.

9 Q. Dealing with the matching issues, what you're  
10 attempting to say, and tell me if I'm right, is that the  
11 Commission -- is that the true-up date should not be  
12 violated; that you should match revenues, costs and  
13 investment as of that consistent date?

14 A. Generally. I mean, parties do have the  
15 ability to bring forward so-called isolated adjustments  
16 to go beyond those cutoff dates and include items in  
17 rates and present those to the Commission. Given the  
18 circumstances in the last case, we did not feel this was  
19 an appropriate isolated adjustment.

20 Q. Okay. So you believe you had the ability to  
21 propose an isolated adjustment for Sibley retirement but  
22 staff just didn't do it?

23 A. Yes, I think we had that ability.

24 Q. Okay. Let's talk some more about the last  
25 case and try and clear up some misunderstanding that I

1 believe occurred yesterday. Yesterday Commissioner  
2 Kenney made a comment, and I wanted to clear up a  
3 misunderstanding, in his comment Commissioner Kenney  
4 complimented KCPL and GMO for immediately returning all  
5 the benefits associated with the Tax Cuts and Jobs Act.  
6 Do you recall him making that statement?

7 A. I think so.

8 Q. Okay. When it comes to the Tax Cuts and Jobs  
9 Act, are you familiar with the term stub period  
10 benefits?

11 A. I am.

12 Q. Okay. And what are stub period benefits?

13 A. They're the period of time between -- in the  
14 context of the Tax Cuts and Jobs Act between the time  
15 the law went into effect and the time rate action is  
16 taken to reflect those, the impact of the tax law.

17 Q. So for KCP&L and GMO, the stub period was  
18 January 1, 2018 through the date rates went into effect  
19 December 6, 2018; is that correct?

20 A. Yes.

21 Q. And did KCP&L and GMO propose to return those  
22 stub period benefits in total to ratepayers?

23 A. I don't have a specific recollection. I think  
24 in general -- I thought there was some kind of treatment  
25 of the stub period ultimately in the stipulation and

1 agreement.

2 Q. And I have Mr. Klote's testimony so we can  
3 take the time for you to look at it, but would you agree  
4 that what KCP&L and GMO actually sought to do was take  
5 the stub period benefits and use them to make up for  
6 what they claim were past losses and only then give any  
7 leftovers to the ratepayers?

8 A. I vaguely recall that as being the filed  
9 position, yes.

10 Q. Staff didn't take a position on stub period  
11 benefits in that case; is that correct?

12 A. I don't recall.

13 Q. You don't recall or?

14 A. I don't know what position staff took. In  
15 some cases we advocated in favor of stub period  
16 recognition. In other cases we did not. To be honest,  
17 at this time I don't remember specifically for KCPL and  
18 GMO what it is we recommended.

19 Q. So you don't recall that staff made no effort  
20 in the last case to return stub period tax benefits to  
21 ratepayers; that it just went along with GMO?

22 A. I really don't recall.

23 Q. Okay. Would it surprise you if staff just  
24 went along and allowed GMO to use those as they thought  
25 fit?

1           A.    I think I would have probably been involved in  
2 the discussions leading up to whatever the position was  
3 so no, it would not surprise me.

4           Q.    Okay.  Let's look at another aspect of that  
5 last rate case.  Would you agree that return on equity  
6 is a major issue in rate cases?

7           A.    It usually is.

8           Q.    Okay.  And would you accept that in the last  
9 case KCP&L and GMO sought a return on equity of 9.85  
10 percent?

11          A.    I think that's accurate.

12          Q.    Okay.  And do you recall what return on equity  
13 staff recommended?

14          A.    Again, I'm not certain, but I think it might  
15 have been the same value 9.85 percent.

16          Q.    Staff recommended the same return on equity on  
17 a major issue that the company asked for in that case;  
18 is that correct?

19          A.    That's how I remember it.

20          Q.    Okay.  Let's look at another case.  Do you  
21 recall approximately two years ago Great Plains  
22 proposing to merge with Westar Energy?

23          A.    I do.

24          Q.    And do you recall that Great Plains had to  
25 take two shots in order to consummate that merger; is

1 that correct?

2 A. They had to file two different applications  
3 with the Commission.

4 Q. With the Missouri Commission?

5 A. I thought they did.

6 Q. Do you believe that they filed an application  
7 for the first one with the Missouri Commission?

8 A. Again, my memory is hazy. I know there was  
9 considerable controversy about -- Okay. I'm recalling  
10 now. I believe that KCPL GMO, GPE initially took the  
11 position that they did not have to seek authority  
12 specifically from the Commission.

13 Q. Okay. Would you agree only later, after MECG  
14 filed the complaint, the Commission said yes, we have  
15 jurisdiction over this and KCP&L had to file an  
16 application; is that correct?

17 A. I don't remember the specifics that led up to  
18 that, but yes, ultimately the Commission indicated a  
19 filing should be made.

20 Q. Okay. Would you agree that in the first  
21 iteration Great Plains was attempting to acquire Westar  
22 in a transaction that would result in a large  
23 acquisition premium?

24 A. That is my recollection.

25 Q. Okay. Do you recall in that first iteration

1 with the acquisition premium do you think staff  
2 conducted a thorough review of the benefits and  
3 detriments of that merger?

4 MR. FISCHER: Judge, I'm going to raise a  
5 relevance objection. I think we've strayed quite far  
6 from the issues of whether the AAO request is an  
7 extraordinary request which is the issue in this case.

8 MR. WOODSMALL: Your Honor, repeatedly  
9 yesterday and this morning GMO has touted staff's  
10 objective analysis in this case as indication that  
11 MECG's complaint or petition isn't appropriate. They've  
12 talked about staff being objective. I should be allowed  
13 to present evidence to show that this staff when it  
14 comes to GMO and KCP&L matters, as was just shown with  
15 stub period tax benefits, return on equity, their  
16 position in this case, they're no longer objective.  
17 They are agreeing across the line on major issues with  
18 KCP&L and GMO and I should be able to show their lack of  
19 objectivity on this issue.

20 JUDGE WOODRUFF: I'll allow you to proceed.

21 MR. WOODSMALL: Thank you.

22 JUDGE WOODRUFF: The objection is overruled.

23 BY MR. WOODSMALL:

24 Q. Do you believe that staff conducted a thorough  
25 review of the benefits and detriments associated with

1 that first merger?

2 A. I can tell you that there were certain aspects  
3 of the benefits and detriments the auditing department  
4 was asked to look at. I believe we did. I don't  
5 necessarily at this point have first-hand knowledge of  
6 what other departments might have done. I would expect  
7 that they would try to do a thorough and detailed  
8 review.

9 Q. Okay. And ultimately even before a case was  
10 filed staff executed a stipulation with Great Plains  
11 that it asserted made the merger not detrimental to the  
12 public interest; is that correct?

13 A. Again, I don't remember the timing. I do  
14 remember, yes, we filed a stipulation and agreement.

15 Q. In staff's opinion, you were able to fix the  
16 detrimental nature of that merger through some  
17 conditions; is that correct?

18 A. Yes, and that's not untypical for those types  
19 of transactions.

20 Q. Okay. Do you recall that the Kansas  
21 Commission also had to look at that transaction?

22 A. I do.

23 Q. Okay. And the Kansas Commission rejected that  
24 acquisition and didn't even try to put conditions on it,  
25 just said it is so detrimental it's broke?

1           A.    That is -- I remember that being the KCC's  
2 initial findings on that transaction.

3           Q.    So the KCC said we can't fix this with  
4 conditions, but the Missouri staff said we can; is that  
5 correct?

6           A.    Yes.

7           Q.    Great Plains took a second crack at the merger  
8 and engaged in what was a merger of equals where there  
9 was no acquisition premium?

10          A.    That's what I recall.

11          Q.    And would you agree that staff simply agreed  
12 to abide by its previous settlement with Great Plains  
13 the one from the first iteration?

14               MR. FISCHER:  Objection, Your Honor.  I think  
15 that calls for facts not in evidence and it  
16 mischaracterizes the facts as I understood them.

17               MR. WOODSMALL:  The facts aren't in evidence.  
18 That's why I'm asking the question.

19               JUDGE WOODRUFF:  Objection is overruled.  You  
20 can go ahead and answer.

21               THE WITNESS:  Can you repeat that, please?

22 BY MR. WOODSMALL:

23          Q.    Would you agree that staff simply agreed to  
24 abide by its previous settlement from the first  
25 iteration when the second case was filed?

1 A. I actually do not recall that.

2 Q. Okay. I'm going to hand you a data request.

3 MR. WOODSMALL: I'd like to mark this, Your  
4 Honor.

5 JUDGE WOODRUFF: This will be No. 18.

6 BY MR. WOODSMALL:

7 Q. And I'll represent to you that this is a data  
8 request as you can see at the top from Case No.  
9 EM-2018-0012. Do you see that?

10 A. I do.

11 Q. And in it I ask for -- I ask of KCP&L and GMO,  
12 you see that at the top, the number of data requests  
13 issued by the Kansas Commission and the Missouri  
14 Commission staff in various cases. Do you see that?

15 A. I do.

16 Q. Okay. And you can see there that the Kansas  
17 staff in two cases related to the acquisition of Westar  
18 asks a total of 645 data requests. Do you see 470 plus  
19 175?

20 A. I do.

21 Q. In contrast across five different cases the  
22 Missouri staff only asked 62 data requests; is that  
23 correct?

24 A. That's what this says.

25 MR. WOODSMALL: Your Honor, I'd move for the

1 admission of Exhibit 18.

2 MR. FISCHER: Judge, I'll object on the  
3 grounds of relevance.

4 JUDGE WOODRUFF: Mr. Woodsmall, what is the  
5 relevance?

6 MR. WOODSMALL: The relevance again is staff's  
7 objectivity when it comes to KCP&L and GMO matters.  
8 When you're looking at a major acquisition, an objective  
9 staff like the Kansas staff issued 645 data requests.  
10 The Missouri staff issued less than one-tenth that  
11 number. So the relevance is the objectivity of staff  
12 and the thoroughness with which they critique GMO  
13 requests.

14 JUDGE WOODRUFF: Well, I'm not sure this  
15 actually proves anything.

16 MR. WOODSMALL: It goes to the weight. It  
17 goes to objectivity.

18 JUDGE WOODRUFF: I will receive the document.  
19 That objection is overruled.

20 (MECG'S EXHIBIT 18 WAS RECEIVED INTO EVIDENCE  
21 AND MADE A PART OF THIS RECORD.)

22 BY MR. WOODSMALL:

23 Q. Do you recall how many data requests you  
24 issued in the current case?

25 A. I believe there were several.

1 Q. Several. How would you define several?

2 A. I don't have a specific.

3 Q. More or less than 50?

4 A. It would be less than 50 certainly.

5 Q. More or less than 25? Any idea?

6 A. I think so. In single digits. Again, I don't  
7 remember specifically.

8 Q. In single digits. Would you accept subject to  
9 check that staff issued four data requests in this case?

10 A. I have no reason to dispute that.

11 Q. Would you agree that one of those data  
12 requests was simply to get the data request responses  
13 that other parties asked for?

14 A. Yes, I remember that.

15 Q. Okay. Last thing I want to do is do you  
16 recall MEEG asking staff a number of data requests in  
17 this case?

18 A. I do.

19 Q. Okay. And you answered -- Those were directed  
20 to you and you answered those; is that correct?

21 A. I did.

22 MR. WOODSMALL: I'd like to mark another  
23 exhibit, Your Honor.

24 JUDGE WOODRUFF: This would be 19.

25 BY MR. WOODSMALL:

1 Q. Now, I'll represent -- First off, have I  
2 handed you what has been marked as Exhibit 19?

3 A. You have.

4 Q. And have you had an opportunity to flip  
5 through those four pages? I'll ask you specific  
6 questions. I just want you -- Are these responses that  
7 you made to MECG data requests?

8 A. They are.

9 Q. Okay. And these were prepared by you. It  
10 says requested from Mark Oligschlaeger. These are  
11 prepared by you?

12 A. Yes.

13 Q. Okay. Let's just go through them one at a  
14 time to see what they show. The first one, page 1, I  
15 ask whether staff believes that a company's earnings is  
16 an appropriate consideration for the determination of  
17 whether a deferral is appropriate. Do you see that?

18 A. I do.

19 Q. And in response subpart A you say no, it's not  
20 relevant and appropriate consideration; is that correct?

21 A. It is not an appropriate consideration for  
22 whether to grant or deny a deferral.

23 Q. You learned that from your position in the 91  
24 GMO case, the renovation of Sibley, where you attempted  
25 to look at earnings, isn't it?

1           A.    We said the Commission should take into  
2 account the company's current earnings level and the  
3 Commission did not accept that recommendation.

4           Q.    So staff's position then was look at earnings  
5 and the Commission said no, correct?

6           A.    I would accept that, yes.

7           Q.    Would you agree that since that time the  
8 Commission has held to that position not to look at  
9 earnings in a deferral case?

10          A.    I would agree.

11          Q.    Okay.  Let's move on to the second page which  
12 is Data Request No. 36.  Do you have that?

13          A.    I do.

14          Q.    And in this one I ask you whether you believe  
15 it is appropriate, not exact words but you can fix it,  
16 whether you believe it's appropriate that -- subpart B I  
17 ask whether you believe it is appropriate to defer  
18 savings if an event is extraordinary; is that correct?

19          A.    You did.

20          Q.    Okay.  And you said that the deferral of  
21 savings for an extraordinary event is appropriate.  Do  
22 you agree?

23          A.    I caveated that with depending on the  
24 circumstances, but yes, I agree.

25          Q.    So the deferral of savings under certain

1 circumstances is appropriate?

2 A. And we have made recommendations in the past  
3 consistent with that.

4 Q. Including the DOE testimony that -- clear that  
5 up -- the staff petitioned for an AAO where you sought  
6 deferral of savings associated with the discontinuance  
7 of the DOE nuclear fees; is that correct?

8 A. That would be one example.

9 Q. Have you done it in other cases?

10 A. I think in the context of the Tax Cuts and  
11 Jobs Act we also took a position in some cases that --

12 Q. Do you believe that in regard to the Tax Cuts  
13 and Jobs Act that staff has sought to defer the savings  
14 from the Tax Cuts and Jobs Act?

15 A. I certainly recollect probably the most recent  
16 case for Summit Natural Gas in which we recommended a  
17 deferral of what would be called stub period benefits.  
18 Again, it depends on the case -- it depended on a  
19 case-by-case basis and analysis, but yes.

20 Q. Okay. In regards to Empire though for the Tax  
21 Cuts and Jobs Act stub period benefits it was staff's  
22 position that the company should get to keep those; is  
23 that correct?

24 A. That no deferral for stub period benefits  
25 should be ordered, that was our position which the

1 Commission did not accept.

2 Q. So another example --

3 A. For the electric fees I should say.

4 Q. So another example where you took a position  
5 on a deferral and the Commission rejected your position;  
6 is that correct?

7 A. Yes.

8 Q. Page 3, which is Data Request No. 35, there's  
9 a lot of subparts here, but ultimately, and I'll let you  
10 read it, it's subpart C, your response is -- I don't  
11 know if it's subpart C. Anyway, you can read through  
12 it, but it is your position that the Commission has not  
13 limited AAOs solely to the recovery of costs or savings  
14 associated with unanticipated events?

15 A. Yes. The Commission has never said whether an  
16 event is anticipated or unanticipated is a direct  
17 criteria. That may play into the criteria it does use  
18 in terms of infrequent, unusual, unique, and so on.  
19 This unanticipated or anticipated is not a criteria.

20 Q. In fact, the Commission has granted AAOs for  
21 the deferral of costs for events that were anticipated  
22 several times?

23 A. I would agree with that.

24 Q. Okay. Y2K costs, the addition of Iatan 2, the  
25 renovation of Sibley, gas pipeline safety, a number of

1 events were anticipated but the Commission allowed for  
2 the deferral of costs; is that correct?

3 A. That's how I would characterize it, yes.

4 Q. And finally, the fourth page, Data Request No.  
5 37, and this goes to something that I asked you earlier  
6 and I just believe that this clarifies it, your position  
7 in this case is not based in any way on distinguishing  
8 between life span assets like a power plant and mass  
9 property; you lump all electric plant together when you  
10 make the determination that the retirement of Sibley is  
11 not extraordinary; is that correct?

12 A. Life span accounting or life span depreciation  
13 I think is more a depreciation term than an accounting  
14 term. In general, the USOA prescribes what we think of  
15 as mass asset accounting for retirements of electric  
16 utility plant.

17 Q. But what this says, you see the one word, you  
18 don't distinguish in any way between electric plant when  
19 you say that the utility retires electric plant on a  
20 routine basis?

21 A. No, I do not.

22 MR. WOODSMALL: I have no further questions,  
23 Your Honor. Thank you. I'd move for the admission of  
24 Exhibit 19. I believe I've already moved for the  
25 admission of Exhibit 18.

1 JUDGE WOODRUFF: 18 is already in. 19, any  
2 objections? Hearing none, it will be received.

3 (MECG'S EXHIBIT 19 WAS RECEIVED INTO EVIDENCE  
4 AND MADE A PART OF THIS RECORD.)

5 JUDGE WOODRUFF: Move to public counsel.

6 MR. HALL: Good morning, Mr. Oligschlaeger.

7 THE WITNESS: Good morning.

8 MR. HALL: How are you feeling?

9 THE WITNESS: I'm doing okay.

10 MR. HALL: You've been up here for about two  
11 hours. Do you need a break at this time?

12 THE WITNESS: Actually I think it's closer to  
13 an hour. I'm all right.

14 MR. HALL: Oh, I guess my time is off.

15 JUDGE WOODRUFF: It is ten o'clock.

16 THE WITNESS: It feels like two hours.

17 CROSS-EXAMINATION BY MR. HALL:

18 Q. Okay. Let's begin. So when you've judged  
19 deferral accounting requests, you've looked at  
20 materiality, extraordinariness, as well as whether or  
21 not the event was unique or unusual, correct?

22 A. That generally describes it, yes.

23 Q. So let's talk about extraordinary for a  
24 second. Is an ice storm in January extraordinary?

25 A. It might be.

1 Q. It might be?

2 A. I think in looking at ice storms, in fact,  
3 other natural disasters, the key factors we look at is  
4 the impact on the utility's ability to provide electric  
5 power to its customers if they're prolonged outages  
6 affecting many customers for which the restoration and  
7 remediation costs would be probably material we would  
8 consider that type of event extraordinary. There may be  
9 garden variety ice storms, if there are such a thing,  
10 which don't cause a lot of damage and would not be  
11 considered extraordinary.

12 Q. Am I correct in paraphrasing your position  
13 then that when you analyze -- if a utility requested  
14 deferral accounting with regard to ice storm damages,  
15 you would not review that request under the lens of are  
16 ice storms extraordinary. Rather you would look at are  
17 the particular facts and circumstances surrounding this  
18 ice storm make the event -- does that make the event  
19 extraordinary?

20 A. Yes, I would go to say is the damage from the  
21 event extraordinary and material.

22 Q. So you're reviewing these requests on a  
23 case-by-case basis?

24 A. Yes.

25 Q. So not to put words in your mouth, GMO's

1 counsel, Mr. Fischer, asked you about whether or not  
2 retirements are extraordinary and your response was no?

3 A. Well, I would say they're not inherently  
4 extraordinary.

5 Q. But a retirement could be extraordinary?

6 A. That's what my testimony states.

7 Q. So then when this Commission judges  
8 extraordinariness, it should look at a retirement on a  
9 case-by-case basis?

10 A. Well, they should look at it what makes this  
11 particular event extraordinary, yes.

12 Q. I want to ask you a couple questions about  
13 some of your previous positions you've taken in favor of  
14 deferral accounting. Would having that testimony in  
15 front of you assist you in that?

16 A. Why don't you try and we'll see.

17 Q. Do you remember, I'll refer to it as a case  
18 involving Missouri Gas Energy, when they came in for a  
19 deferral accounting request because they were  
20 experiencing an increase in property taxes in the state  
21 of Kansas?

22 A. I recall that.

23 Q. And do you remember what your position in that  
24 case was?

25 A. Staff's position it was because of the highly

1 unusual circumstances involving the property tax issues  
2 in Kansas deferral was appropriate.

3 Q. But as has already been addressed by GMO's  
4 counsel Mr. Fischer, property taxes are an ongoing and  
5 recurring expense, correct?

6 A I think all costs which may be claimed to be  
7 extraordinary are typical and ordinary costs of a  
8 utility. There may be specific circumstances which make  
9 their incurrence extraordinary.

10 Q. In your view, the property taxes in question  
11 in that case in GR-2009-0355, those were extraordinary  
12 in your view because of the abrupt change in the  
13 financial state of the company, correct?

14 A. In the property tax case for MGE? Is that  
15 what you're referring to?

16 Q. Yes, that's what I'm referring to.

17 A. No, I think there were a number of tangled  
18 legal issues as I recall involving the ability of Kansas  
19 taxing authorities to actually collect, assess and  
20 collect moneys from MGE and other gas utilities and  
21 because of the uncertainty over whether those ultimately  
22 would have to be paid by the company we believed that  
23 the company's request to defer the current financial  
24 impacts of those uncertain taxes did deserve deferral  
25 treatment.

1 MR. HALL: Your Honor, may I approach?

2 JUDGE WOODRUFF: You may.

3 BY MR. HALL:

4 Q. For the record, I've just handed you a copy of  
5 your testimony from this docket we're speaking from.  
6 This is your rebuttal testimony. Would you be so kind  
7 as to turn to page 6. On lines 25 and 26, I read that  
8 an answer that you gave is the initial imposition of  
9 this tax by the state of Kansas is an event that is  
10 unusual in nature and abnormal?

11 A. That's what it states.

12 Q. Thank you. So again I ask you, MGE was not  
13 experiencing this tax and then suddenly there was a  
14 change, and am I right to characterize your testimony as  
15 then seeing that change as extraordinary?

16 A. No. What we found as extraordinary in this  
17 circumstance, and this wasn't the first case this was  
18 dealt with, was the fact that state of Kansas was  
19 attempting to impose essentially a new property tax on  
20 natural gas utilities which was being challenged in  
21 court and it was the uncertainty over whether the tax  
22 would ultimately be allowed that in our view made that  
23 extraordinary.

24 Q. But again, you described this as an initial  
25 imposition of this property tax, correct?

1           A.    That's what it says, but the context is that  
2    initial imposition was opposed was challenged in court.

3           Q.    Are you familiar with your -- Actually there's  
4    been much discussion today already regarding your  
5    position in EU-2015-0094.  This is the case involving  
6    KCPL's payments to the Department of Energy for nuclear  
7    spent and storage fees and then staff's petition to have  
8    those costs be subject to deferral accounting due to  
9    those costs not being paid any more.  Are you familiar  
10   with that case?

11          A.    I am.

12          Q.    I believe --

13               MR. HALL:  Actually, Your Honor, may I simply  
14   approach again?

15               JUDGE WOODRUFF:  Sure.

16   BY MR. HALL:

17          Q.    For the record I've handed you a copy of your  
18   direct testimony in that filing.  Would you please turn  
19   to page 8.  On page 8, lines 6 through 10 you asked  
20   yourself the question was the court order to set the  
21   spent nuclear fuel and high level waste to zero an  
22   extraordinary event.  Am I reading it correctly when  
23   your answer was yes.  Staff considers the abrupt  
24   termination of these payments after KCPL incurred these  
25   costs for close to 30 years to be unusual, unique and

1 non-recurring, and hence extraordinary?

2 A. You read that accurately.

3 Q. Is it fair to say that after a base load  
4 generating unit is retired there is an abrupt  
5 termination of several different payments that a utility  
6 would normally be incurring?

7 A. That is true, yes.

8 Q. Is it fair then to say that GMO has had an  
9 abrupt termination of several payments related to the  
10 Sibley Units?

11 A. Yes, I would say the distinction is and if you  
12 continue with that answer that you quoted the first  
13 couple of sentences from I list the specific reasons why  
14 we considered the termination of the DOE fees to be  
15 extraordinary. I don't believe they are applicable to  
16 the Sibley retirement.

17 Q. Actually let's keep going down. On lines 13  
18 through 16, am I reading it correctly when you said that  
19 if the amounts recovered in rates by KCPL related to the  
20 DOE funding can no longer be dedicated to that purpose,  
21 it makes more sense to use that current over-recovery of  
22 this item for some alternative purpose to KCPL's  
23 customers rather than simply allow KCPL to book  
24 increased earning as a result?

25 A. That's what it says and I was referring --

1 again the context of that, and I think I go into this,  
2 was per law KCPL and other utilities were required to  
3 pay into a fund that was not being used ultimately for  
4 its intended purpose and a court ultimately put a stop  
5 to that. We believe that in entirety was an  
6 extraordinary event.

7 Q. If you would turn to page 9. You gave -- You  
8 explained the benefits of ordering a deferral accounting  
9 upon KCPL in this case and you said that that -- I  
10 believe you said that that benefit would allow  
11 consideration by the Commission for a number of  
12 alternatives for handling this cost reduction in the  
13 next rate case. Am I reading that correctly?

14 A. That's correct.

15 Q. Next I want you to consider -- Please refer to  
16 page 10, lines 24 through 26. It has been asked by  
17 several parties, including GMO's counsel, whether or not  
18 any overpayment related to the Sibley Units can be  
19 addressed in a future proceeding. Am I correct in  
20 understanding that your position in this case when you  
21 had asked to address overpayments related to Department  
22 of Energy fees was to say that if the Commission, quote,  
23 did not order the deferral at this time the Commission's  
24 power to direct any specific ratemaking treatment for a  
25 significant portion of the current and ongoing

1 over-recovery in rates by KCPL of the DOE funding will  
2 be permanently lost?

3 A. That is what it states.

4 Q. At that time you said that if deferral  
5 accounting doesn't occur then, that information will be  
6 permanently lost for the future?

7 A. In that specific context, yes.

8 Q. Mr. Oligschlaeger, do you remember the  
9 deposition that I had of you in this proceeding?

10 A. I do.

11 Q. And I offered you the hypothetical of a  
12 utility sponsoring legislation that would reduce its  
13 cost savings. Do you remember that hypothetical?

14 A. I do.

15 Q. At the time you said that that type -- if a  
16 utility is successful in offering and passing  
17 legislation that reduces cost savings that it could be  
18 extraordinary?

19 A. The impact of laws, and for that matter new  
20 rules perhaps issued by the Commission on utility costs,  
21 revenues, investments, I think are at least potentially  
22 extraordinary and subject and the impacts could be  
23 subject to deferral.

24 Q. Regardless of whether the subject utility was  
25 an orchestrating party?

1           A.    I think that would not be -- That may be a  
2 consideration but regardless I would agree with that.

3           Q.    Is it fair to say then that if a utility is  
4 controlled over the event in question the event can  
5 nonetheless still be considered extraordinary?

6           A.    I would agree it can be, yes.

7           Q.    Just to clear things up, I started this  
8 question with ice storms. Are you familiar with Ameren  
9 Missouri's request for deferral accounting because of  
10 damages they received from an ice storm to the Noranda  
11 facility?

12          A.    I'm familiar with that case. I don't think it  
13 dealt with damages from the ice storm per se. It dealt  
14 with alleged foregone revenues caused by the ice storm  
15 event and its impact on Noranda.

16          Q.    Foregone revenues. Those are revenues that  
17 but for the ice storm Ameren Missouri would have been  
18 receiving?

19          A.    Yes.

20          Q.    So revenues can be accounted for in deferral  
21 accounting requests?

22          A.    I think it's been our position that in most  
23 cases they should not be but the Commission accepted the  
24 company's deferral request in that case.

25          Q.    Thank you. Mr. Woodsmall referred you to

1 Ameren's charge ahead application ET-2018-0132?

2 A. Yes.

3 Q. Are you familiar with the order in that case?

4 A. I have read it.

5 Q. So you read the sentence that the Commission  
6 said, quote, the Commission has approved deferral  
7 accounting on many occasions without a finding of an  
8 extraordinary event. Do you remember that passage?

9 A. I recall it.

10 Q. Did you consider this case when developing  
11 your testimony?

12 A. Not more than other cases. Staff's position  
13 is they should use the extraordinary criteria though we  
14 recognize they may not necessarily be bound to that.

15 MR. HALL: Your Honor, may I approach again?

16 JUDGE WOODRUFF: You may.

17 BY MR. HALL:

18 Q. Mr. Oligschlaeger, please turn to page 37. On  
19 lines 8 through 16 I asked you the same questions I had  
20 just asked previously whether you considered the Ameren  
21 charge ahead electrification docket. Your answer on  
22 lines 15 through 16 was I did not specifically take this  
23 case into account. Am I reading this deposition  
24 correctly?

25 A. You read it correctly.

1 Q. That was your answer in the deposition -- That  
2 was your answer in your deposition?

3 A. Yes.

4 Q. Were you -- Did I ask you if you had any  
5 corrections to prior answers at the end of our  
6 deposition?

7 A. I don't consider I stated anything today  
8 that's contradictory to that.

9 Q. With all due respect, that doesn't answer my  
10 question.

11 A. Okay. No, I did not make any. Please repeat  
12 your question.

13 Q. Were you asked whether you had any corrections  
14 to prior answers in this deposition?

15 A. By you in the deposition?

16 Q. Yes.

17 A. Yes, you asked that.

18 Q. Were you given an opportunity to correct any  
19 answers that you had in this deposition if you felt the  
20 need to do so?

21 A. I did.

22 Q. Thank you. Now, Mr. Oligschlaeger, it has  
23 been established that you've worked here at this  
24 Commission longer than most, especially with regards to  
25 deferral accounting requests. Have applicants for

1 deferral accounting been required in other cases to  
2 positively define and identify every single cent that  
3 they want to defer at the period where they're applying  
4 for deferral accounting?

5 A. No. I think in most cases we would be  
6 interested in at least a good approximation of what the  
7 impacts would be so we can look at the materiality  
8 aspect.

9 Q. Finally, you've been -- Mr. Woodsmall asked  
10 you about plant in service accounting and an earnings --  
11 and an over-earnings complaint. Let me -- let's clear  
12 something up. If a party initiates an over-earnings  
13 complaint and succeeds, base rates are changed for the  
14 utility, correct?

15 A. Presumably, yes.

16 Q. Assuming base rates are frozen, what relief  
17 can be garnered from a successful over-earnings  
18 complaint?

19 A. I think there was a witness in this case that,  
20 maybe Dr. Marke, at least posed the possibility of  
21 deferrals being ordered in lieu of an immediate rate  
22 reduction. Again, I don't particularly have a position  
23 at this time over whether that would be feasible and  
24 appropriate.

25 Q. Let me follow up then just to be clear. I'll

1 ask you, do you see deferral accounting as a possible  
2 end result anyway of a successful earnings complaint  
3 given that base rates -- assuming base rates are frozen?

4 A. That's certainly something I think that should  
5 be considered.

6 MR. HALL: Thank you. I have no further  
7 questions at this time.

8 JUDGE WOODRUFF: We'll call for questions from  
9 the bench. Commissioner Coleman?

10 COMMISSIONER COLEMAN: No questions.

11 JUDGE WOODRUFF: I do have some questions and  
12 some of these have been sent to me from off of ether.

13 QUESTIONS BY JUDGE WOODRUFF:

14 Q. Would you consider building generation units  
15 or retrofitting generation units as extraordinary events  
16 in general?

17 A. Not inherently. In specific circumstances  
18 they could be.

19 Q. And this is a question about the AAO cases  
20 related to the construction AAO and the retrofit AAOs.  
21 Now, we talked a little bit earlier about the retrofit  
22 AAO which was in '90 or '91, I believe?

23 A. 1991.

24 Q. You indicated that, and I'm talking about the  
25 ones for Sibley, and you indicated staff opposed that

1 AAO request?

2 A. We did.

3 Q. All right. What about the AAO when Sibley was  
4 constructed? I assume that would be before your time,  
5 right?

6 A. I'm not aware there was an AAO when Sibley was  
7 constructed, but maybe I'm confused. The units were  
8 constructed back in the 1960s and number one I wouldn't  
9 have any knowledge particularly what happened then, but  
10 I think AAOs are a concept that really came into vogue  
11 probably late 1980s or early 1990s.

12 Q. Okay. Then are you aware of any other utility  
13 plant retired 20 years before its expiration of its  
14 useful life? I'm talking about generating plant.

15 A. I'm not specifically aware of that, no.

16 Q. For 10 years?

17 A. Again, I haven't tried to make an analysis or  
18 research that particular question. I don't know.

19 Q. Do you know the approximate undepreciated rate  
20 base associated with the Sibley facility?

21 A. According to the staff's true-up accounting  
22 schedules in the most recent GMO rate case, I think the  
23 unrecovered balance was approximately 300 million. I  
24 think the testimony of the other parties in this case  
25 indicate disagreement over whether those are valid

1 numbers or not.

2 Q. Just in general how will GMO go about  
3 recovering that undepreciated rate base or will they be  
4 allowed to? How will that work?

5 A. As I understand, under mass asset accounting  
6 what will happen if there is a sizable shortfall in  
7 recovery of a particular asset then after retirement  
8 takes place that unrecovered reserve so to speak is  
9 gradually consumed by application of depreciation rates  
10 from other accounts. By the way, the opposite occurs if  
11 an asset retires that out lives its expected life then  
12 there are consequences to the reserve in the opposite  
13 direction.

14 Q. Would there need to be adjustments to the  
15 reserve in the future rate case --

16 A. I think to accomplish what I would call the  
17 gradual recovery of the unrecovered balance you don't  
18 particularly need adjustments to do that. If you oppose  
19 such treatment, I think you would need to propose  
20 adjustments. Now, if a company wanted, say, faster  
21 recovery of the unrecovered amounts, then they would  
22 presumably have to seek special -- well, the approval of  
23 the Commission to do so. That may involve a deferral  
24 accounting mechanism.

25 Q. Is it a possibility that some other party

1 would propose an adjustment the other direction to  
2 prevent recovery of that?

3 A. Certainly all parties are free to take that  
4 position and it would not surprise me if that were some  
5 parties' positions. Staff's position, we don't have a  
6 position on that at this point.

7 Q. It's not been presented at this point?

8 A. That's correct.

9 Q. Are you aware of any other example when a  
10 utility -- or large generation facility almost  
11 immediately after conclusion of a rate case?

12 A. None immediately come to mind.

13 Q. If the amounts that public counsel and MECG  
14 are requesting be recorded as regulatory liability  
15 excluding the amount of depreciation regulatory  
16 liability already agreed -- recorded as agreed to in the  
17 rate case stip and agreement, does that meet the 5  
18 percent extraordinary standard of the general  
19 instruction No. 7?

20 A. Okay. I made a statement in my testimony  
21 regarding the unrecovered balance for Sibley and said I  
22 don't think there's any dispute that amount will be  
23 material. However, that is more an issue for the next  
24 rate case as opposed to the immediate issue now. In  
25 terms of the amounts that OPC and MECG are proposing be

1 deferred, and I think I said this earlier, I don't know  
2 that there are good estimates at this time of what the  
3 magnitude of those deferrals would be and I think there  
4 needs to be a process in case the Commission is  
5 interested in knowing that. I don't think we can tell  
6 you that at this point. I did my own rough materiality  
7 calculations and I will tell you I would expect the  
8 savings from the Sibley retirement to exceed the 5  
9 percent standard as I calculate it, but I cannot say  
10 that with any definitiveness.

11 Q. I understand. I just want to talk a little  
12 bit about the way the Commission has treated AAO  
13 requests over the years.

14 A. Okay.

15 Q. Do you perceive that there's been a change in  
16 Commission treatment of AAOs in the last few years? I'm  
17 talking about the Commission, not staff's views.

18 A. Well, first I'll address it over the longer  
19 period which is I think the Commission, and again I said  
20 these really started to crop up in the late eighties and  
21 early nineties, I think initially the Commission took a  
22 more liberal approach to granting deferral requests than  
23 certainly staff thought appropriate at the time. I  
24 think with more cases, more experience, more precedent,  
25 I don't think the Commission -- I think the Commission

1 has dialed back perhaps its enthusiasm for AAOs to some  
2 degree, if that's an appropriate way of putting it.

3 Q. Okay. Was there a particular time when you  
4 noticed a change?

5 A. Certainly I'd say generally within the time  
6 frame in which I have been manager of auditing, that  
7 goes back to 2011, I think the Commission has perhaps  
8 taken a more skeptical approach to accounting authority  
9 order requests than they may have done in prior years.  
10 That's my belief. I mean, obviously that's a subjective  
11 judgment.

12 Q. That's what I asked you for. One final  
13 question from me and that is there was talk about who  
14 supervises you and who you report to. Who do you report  
15 to at this point?

16 A. At this time it's Natelle Dietrich.

17 Q. That's been since?

18 A. September 2015.

19 JUDGE WOODRUFF: That's all the questions I  
20 have. Is there any recross based on those questions or  
21 questions from the bench?

22 MR. WOODSMALL: I have a couple.

23 JUDGE WOODRUFF: Let's go in order.

24 MR. HALL: Your Honor, I don't mean to  
25 interrupt but was Commissioner Coleman invited to ask

1 questions of the witness?

2 COMMISSIONER COLEMAN: Yes, I was.

3 MR. HALL: My apologies. I missed that.

4 JUDGE WOODRUFF: Mr. Fischer.

5 MR. FISCHER: Thank you, Judge. I just had a  
6 couple of follow ups.

7 RECROSS-EXAMINATION BY MR. FISCHER:

8 Q. There was a question there about whether  
9 there's been a change of PSC treatment of AAOs in the  
10 history or in the recent history. Do you recall that?

11 A. I do.

12 Q. Would you agree that the five commissioners  
13 that are here today have been pretty darn consistent in  
14 their denial of AAOs if they weren't extraordinary  
15 events?

16 A. That has been their finding in a number of  
17 cases. I think it was earlier brought up about Ameren's  
18 charge ahead where they approved deferral accounting.

19 Q. That was a particular policy that everyone  
20 thought should go forward, correct?

21 A. I believe the Commission thought it was, yes.

22 Q. And the courts have generally approved,  
23 haven't they, AAO treatment of the Commission on using  
24 the extraordinary standard? At least they did in one  
25 KCPL where we appealed?

1           A.    I think in general the courts have supported  
2 the Commission's stance on these issues.

3           Q.    You were also asked a question about examples  
4 of plants that had retired before the expiration of  
5 their depreciable life. Do you recall that?

6           A.    I do.

7           Q.    Would you expect the company witness John  
8 Spanos to be pretty familiar with that issue?

9           A.    He would be more familiar than I, yes, I would  
10 assume.

11          Q.    And you were also asked I think some questions  
12 about ratemaking treatment and options for recovery of  
13 unrecovered balances in a future rate case. Do you  
14 recall that?

15          A.    That's correct.

16          Q.    Do you think Mr. Ives would be a good person  
17 to ask questions to about that kind of an issue to?

18          A.    Yes.

19               MR. FISCHER: That's all I have, Judge.

20               JUDGE WOODRUFF:   MECG.

21               MR. WOODSMALL: Thank you, Your Honor.

22 RE-CROSS-EXAMINATION BY MR. WOODSMALL:

23          Q.    You were asked some questions about whether  
24 the Commission's position on AAOs has changed over time.  
25 Do you recall that?

1 A. I do.

2 Q. Would you agree that the utility's approach to  
3 AAOs has changed over recent years in that they are  
4 seeking more and more to try to get AAOs for ordinary  
5 costs?

6 A. We certainly staff took that view in several  
7 recent AAO applications.

8 Q. So when Laclede sought an AAO for regulatory  
9 assessment, when Missouri-American sought an AAO for  
10 property taxes, when KCP&L sought an AAO for  
11 transmission costs, property taxes and cybersecurity,  
12 what we've seen is utilities continue to push the  
13 envelope to try to get more things deferred. Would you  
14 agree with that?

15 A. I think that's been the long-term trend, yes.

16 MR. WOODSMALL: Okay. Thank you. No further  
17 questions.

18 JUDGE WOODRUFF: Public counsel.

19 MR. HALL: Public counsel has no questions in  
20 response.

21 JUDGE WOODRUFF: Redirect?

22 REDIRECT EXAMINATION BY MS. ASLIN:

23 Q. Mr. Oligschlaeger, under what circumstances  
24 generally would staff support a construction AAO?

25 A. I think in the past we have taken the position

1 if the company can demonstrate a material financial  
2 detriment associated with a prolonged period of  
3 regulatory lag between when an asset goes into service  
4 and when it is able to be included in rates that we have  
5 generally been supportive of construction accounting.

6 Q. And though we are not supporting an AAO for  
7 retirement of a generating unit in this case, can you  
8 contemplate circumstances and what would those be under  
9 which staff would support an AAO for retirement of a  
10 generating unit?

11 A. As I stated I believe in my testimony to the  
12 extent the retirement was associated with an event that  
13 was extraordinary, maybe a natural disaster or an  
14 explosion or something that caused a retirement  
15 decision, then it is possible that the retirement  
16 impacts should be considered for deferral treatment.

17 Q. What was staff's position on the retirement of  
18 Sibley in GMO's most recent rate case?

19 A. I don't know that we specifically took a  
20 position -- Well, I think you're referring probably to  
21 the position by OPC and perhaps other parties to  
22 recognize the retirement and rates set in that case. We  
23 did not -- We opposed that recommendation.

24 Q. What is staff's process when evaluating  
25 whether or not to account for items outside of the test

1 year in a rate case?

2 A. Isolated adjustments. Among other things we  
3 would look at obviously the materiality of the event,  
4 what caused the event, was it an event imposed on the  
5 utility by an outside perhaps governmental entity.  
6 Postage increases are a classic example of that, that  
7 type of thing, but use of isolated adjustments to set  
8 rates should be very rare and only used in limited  
9 circumstances.

10 Q. Mr. Woodsmall asked a series of questions  
11 about times when staff has agreed with KCPL GMO in  
12 positions they have taken. Can you think of some times  
13 in the recent past in which staff has taken positions  
14 that were not in agreement with GMO?

15 A. In any rate case you would usually expect  
16 there would be any number of issues in which we would  
17 take a position different from both the company and in  
18 some cases other parties. I mean, the deferral requests  
19 that were referenced earlier in past KCPL and GMO rate  
20 cases would be a good example of that.

21 Q. Mr. Woodsmall also asked you about the number  
22 of DRs that either the Kansas staff or the Missouri  
23 staff had issued in some merger cases. Do you know is  
24 the merger standard in Kansas the same as would be  
25 evaluated here in Missouri?

1           A.    My recollection it is not.  I think Missouri  
2   is a no detriment state.  I recall that Kansas may be a  
3   benefit state that the proponents to the acquisition  
4   must demonstrate benefits to customers from the  
5   transaction.

6           Q.    Do you anticipate that staff might have  
7   submitted more data requests if we were evaluating a  
8   different standard?

9           A.    We may have.  Certainly I think in some  
10  respects that requires a more searching analysis of the  
11  application under the KCC standard.

12          Q.    Moving on to some questions that you were  
13  asked by Mr. Hall.  What is staff's general policy  
14  regarding deferral accounting trackers in relation to  
15  new legislation being imposed or no longer being imposed  
16  on a company?

17          A.    Again because those are financial impacts  
18  essentially perhaps imposed on a utility for which they  
19  have no -- I guess they can certainly appeal or object  
20  to it, but presumably ultimately they have to incur the  
21  costs to comply with the legislation that that should at  
22  least be considered for eligibility for deferral  
23  treatment.

24          Q.    And one of the cases where you previously  
25  testified that Mr. Hall discussed with you was the case

1 relating to DOE fees KCPL incurred. Do you recall that?

2 A. Yes.

3 Q. In stating that -- Actually what is the  
4 difference with that case in regards to not being able  
5 to address those amounts in a future rate case versus  
6 the situation we are dealing with in this case?

7 A. I think the difference is that in case of the  
8 DOE fees if a deferral was not granted the amounts  
9 incurred prior to a test year in a future case would be  
10 lost forever in terms of the possibility of flowing them  
11 back to customers. So we were the proponents of  
12 deferral accounting in this case -- in that case. In  
13 this particular case, I think the distinction, and  
14 perhaps it's a subtle one, is that the company is not  
15 proposing any special accounting treatment deferral or  
16 otherwise for Sibley retirement impacts. Parties will  
17 have the ability to express their opinions on what that  
18 ratemaking should be in the future case and as I  
19 indicated in my testimony the parties will have the  
20 ability to bring forward evidence as to savings in order  
21 to potentially argue for or against various courses of  
22 actions.

23 If I understand the company's testimony, not  
24 the company's, MECG's and OPC's testimony in this case,  
25 I'm not entirely clear but I think a major thrust is

1 they believe a deferral should be granted for  
2 essentially defensive purposes in which company may  
3 argue for something. If they argue for that, then we  
4 need to propose this and have this. I mean, and of  
5 course under that kind of standard they need to meet the  
6 traditional -- under that situation they need to meet  
7 the traditional standards of extraordinary.

8 If the company were proposing special  
9 accounting deferral treatment, then at that point I  
10 think there is a stronger argument of whether fairness  
11 and equity would suggest that savings estimates should  
12 be directly brought into the deferral request as well.

13 Q. One final question. In this case we are  
14 looking at an AAO so we're evaluating the retirement of  
15 Sibley with an extraordinary standard. If we were  
16 evaluating the same information in an over-earnings  
17 complaint, what would staff be evaluating?

18 A. Can you repeat that, please?

19 Q. So in this case with the retirement of Sibley  
20 we are looking at whether this was an extraordinary  
21 event. If we were dealing with the same situation in an  
22 over-earnings complaint, what would staff be evaluating  
23 in making its --

24 A. Well, in an over-earnings complaint, you would  
25 be looking at the company's overall earnings levels as

1 to whether they were excessive, and obviously in this  
2 particular case the Sibley retirement, the impacts on  
3 the company may play into that but we would look at all  
4 relevant factors in that context.

5 MS. ASLIN: Thank you. No further questions.

6 JUDGE WOODRUFF: Then you can step down.

7 (Witness excused.)

8 JUDGE WOODRUFF: Time for a break. It's now  
9 10:36. Let's plan on coming back at 10:55.

10 (Off the record.)

11 JUDGE WOODRUFF: It's 10:55. We're back from  
12 our break. I believe we're ready for Mr. Rogers from  
13 GMO.

14 MR. ZOBRIST: That's correct, Your Honor.

15 JUDGE WOODRUFF: Please raise your right hand.

16 (Witness sworn.)

17 JUDGE WOODRUFF: Thank you. You may inquire.

18 MR. ZOBRIST: Thank you, Judge.

19 CHRIS ROGERS, being sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. ZOBRIST:

21 Q. Please state your name.

22 A. Christopher Rogers.

23 Q. And by whom are you employed?

24 A. Power Engineers, Incorporated of Overland  
25 Park.

1 Q. What's your position there, sir?

2 A. I'm a corporate markets analyst.

3 Q. Did you prepare rebuttal testimony in this  
4 case, Mr. Rogers?

5 A. Yes, I did.

6 Q. And do you have any corrections to the  
7 testimony that's been marked as Exhibit 20?

8 A. No, I do not.

9 Q. And if you were to be asked the questions that  
10 are stated there, would your answers be as set forth in  
11 Exhibit 20?

12 A. Yes.

13 Q. Were your answers given under oath?

14 A. Yes.

15 MR. ZOBRIST: Judge, at this point I have no  
16 further questions and offer Exhibit 20 into evidence.

17 JUDGE WOODRUFF: Exhibit 20 has been offered.  
18 Any objections to its receipt? Hearing none, it will be  
19 received.

20 (GMO'S EXHIBIT 20 WAS RECEIVED INTO EVIDENCE  
21 AND MADE A PART OF THIS RECORD.)

22 MR. ZOBRIST: I tender Mr. Rogers for  
23 cross-examination.

24 JUDGE WOODRUFF: Cross-examination we'll begin  
25 with staff.

1 MS. MERS: Good morning, Mr. Rogers.

2 THE WITNESS: Good morning.

3 CROSS-EXAMINATION BY MS. MERS:

4 Q. There's been some discussion regarding past  
5 retirements of generating plant. Do you believe that  
6 change in economic conditions can change a company's  
7 ordinary course of business?

8 A. Yes.

9 Q. And do you believe that current economic  
10 conditions make plant retirements a more ordinary part  
11 of a utility's business?

12 A. Yes.

13 MS. MERS: Thank you. I have nothing further.

14 JUDGE WOODRUFF: Then for MECG.

15 MR. WOODSMALL: Very briefly, Your Honor.  
16 Good morning.

17 THE WITNESS: Good morning.

18 CROSS-EXAMINATION BY MR. WOODSMALL:

19 Q. Just so it's clear from your experience,  
20 you've never worked for an electric utility, have you?

21 A. As a direct employee, no.

22 Q. Okay. Do you recall MECG asking you some data  
23 requests in this case?

24 A. I recall there were, yes.

25 Q. And you answered those data requests; is that

1 correct?

2 A. Yes.

3 Q. And one of those data requests asked you to  
4 detail all education and training that you have in  
5 interpreting instruction No. 7 of the FERC Uniform  
6 System of Accounts. Do you recall that question?

7 A. Yes.

8 Q. And you said at that time that you had no  
9 education and training regarding the USOA?

10 A. That is correct.

11 MR. WOODSMALL: No further questions. Thank  
12 you.

13 JUDGE WOODRUFF: Public counsel.

14 MR. HALL: Unless there are future questions  
15 from the Commission, I see no reason to question this  
16 witness.

17 JUDGE WOODRUFF: I have no questions from the  
18 bench. So there's no recross. Any redirect?

19 MR. ZOBRIST: I guess I don't have any  
20 redirect. Excuse me just a minute. I'm sorry. Let me  
21 ask just one thing.

22 REDIRECT EXAMINATION BY MR. ZOBRIST:

23 Q. Staff did ask you about changes in economic  
24 conditions and you responded that they would relate to  
25 the retirement of a plant like Sibley. Do you recall

1 that, sir?

2 A. Yes.

3 Q. What are the economic trends that supported  
4 your answer in response to the question that staff  
5 counsel asked you?

6 A. Well, it goes to regulations that are  
7 implementing renewable options, renewable generating  
8 options that are continually decreasing in cost that are  
9 now more competitive and in some cases less expensive  
10 than coal-fired power. Also continually low gas prices,  
11 some would say historically low gas prices this summer  
12 that make gas more competitive balanced against the  
13 requirement for more retrofits, more cleanup, more  
14 environmental requirements that drive up the cost of  
15 coal plants, balanced with the intermittency of  
16 renewables and this is happening across the country but  
17 particularly in SPP that make operational difficulties  
18 for coal plants. So what's happening there is a -- it's  
19 all pressuring the economics for coal plants and that's  
20 continuing to change.

21 Q. Would those economic trends also affect the  
22 projected useful life and the depreciation studies that  
23 have been made on those plants prior to the effect of  
24 those economic trends?

25 A. Well, I really can't speak to depreciation

1 studies. You need to ask that of Witness Spanos, but  
2 those are studies for accounting and economic purposes.  
3 Those figures are also used as I understand in IRPs and  
4 so they're projections in the future, and IRPs by their  
5 nature are plans, nothing more, and the circumstances  
6 change the minute the IRP is issued. And so as I  
7 referenced it is the case now that natural gas prices  
8 have dropped and stayed low, the reverse could have  
9 occurred which would have been a completely different  
10 set of circumstances but these things change on a  
11 day-to-day basis going forward.

12 To say something for accounting purposes or  
13 depreciation accounting purposes would be in operation  
14 for another 20 years does not reflect the operating  
15 realities day to day of an electric utility.

16 MR. ZOBRIST: Nothing further, Judge. Thank  
17 you.

18 JUDGE WOODRUFF: All right. Then Mr. Rogers,  
19 you can step down.

20 (Witness excused.)

21 JUDGE WOODRUFF: Next name on the list is  
22 Mr. Spanos.

23 MR. HACK: GMO would call Mr. Spanos.

24 (Witness sworn.)

25 JUDGE WOODRUFF: You may inquire.

1 MR. HACK: Thank you, Judge.

2 JOHN SPANOS, being sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. HACK:

4 Q. Please state your name for the record and  
5 spell your last name.

6 A. John J. Spanos, S-p-a-n-o-s.

7 Q. And whom do you work for, Mr. Spanos?

8 A. I work for Gannett Fleming Valuation and Rate  
9 Consultants, LLC.

10 Q. In what capacity?

11 A. I'm the president.

12 Q. Mr. Spanos, did you cause to be prepared  
13 certain rebuttal testimony in this proceeding that has  
14 been identified or marked for identification as Exhibit  
15 21?

16 A. Yes, I did.

17 Q. And that consists generally of seven pages of  
18 testimony; is that correct?

19 A. There is seven pages of testimony, an appendix  
20 and then attachment.

21 Q. Do you have any changes or corrections to that  
22 testimony at this time?

23 A. I do have one change on page 4, line 2. The  
24 dates there should be 2021 and 2022.

25 Q. Thank you. If I were to ask you the questions

1 posed in Exhibit 21 today, would your answers here today  
2 be substantially the same?

3 A. They would.

4 Q. And are those answers true and correct to the  
5 best of your knowledge and belief?

6 A. Yes, they are.

7 MR. HACK: I would offer Exhibit 21 and tender  
8 Mr. Spanos for cross.

9 JUDGE WOODRUFF: 21 has been offered. Any  
10 objections to its receipt? Hearing none, it will be  
11 received.

12 (GMO'S EXHIBIT 21 WAS RECEIVED INTO EVIDENCE  
13 AND MADE A PART OF THIS RECORD.)

14 JUDGE WOODRUFF: For cross-examination  
15 beginning with staff.

16 MS. MERS: Good morning, Mr. Spanos.

17 THE WITNESS: Morning.

18 CROSS-EXAMINATION BY MS. MERS:

19 Q. I will ask you the question that was deferred  
20 to you. How would current economic conditions impact  
21 the depreciation studies that were performed in the  
22 past?

23 A. Well, many of the decisions on probable  
24 retirement dates, interim survivor curves, net salvage  
25 percents are all affected by the expectations and plans

1 not only of the company but all the driving forces of  
2 making those decisions and the economics particularly of  
3 coal plants would create the estimated date of  
4 retirement to be different than it currently has been  
5 and that gets reviewed on a regular basis during the  
6 course of depreciation studies. So for example, in the  
7 case of Sibley in that particular coal plant that  
8 facility has economic reasons for why a change to the  
9 estimated retirement date is important.

10 MS. MERS: Thank you. I have nothing further.

11 JUDGE WOODRUFF: For MEGG.

12 MR. WOODSMALL: Good morning, sir.

13 THE WITNESS: Good morning.

14 CROSS-EXAMINATION BY MR. WOODSMALL:

15 Q. You've testified -- or scratch that. You've  
16 done work for KCP&L and its sister company Greater  
17 Missouri Operations several times; is that correct?

18 A. That is correct.

19 Q. You have an ongoing relationship with that  
20 company; is that correct?

21 A. I get asked to conduct depreciation studies  
22 and other services for the company when they request my  
23 services. It's not a contract that's ever going on  
24 forever.

25 Q. It's case by case?

1 A. That's correct.

2 Q. How much are you paid an hour currently?

3 A. Currently --

4 Q. For this work?

5 A. -- my hourly rate for this particular  
6 assignment was I think I believe \$275 an hour.

7 MR. WOODSMALL: No further questions. Thank  
8 you.

9 JUDGE WOODRUFF: Public counsel.

10 MR. HALL: Absent any questions from the  
11 Commission, public counsel has no cross of this witness.

12 JUDGE WOODRUFF: I have no questions from the  
13 bench. So no recross. Any redirect?

14 MR. HACK: Yes, just one, maybe two.

15 REDIRECT EXAMINATION BY MR. HACK:

16 Q. Staff counsel asked you, Mr. Spanos, about how  
17 economic conditions can affect the change in estimated  
18 retirement dates?

19 A. Yes.

20 Q. Do you recall that? There have been questions  
21 through the course of this proceeding if you recall  
22 about Sibley being retired approximately 20 years  
23 earlier than its estimated retirement date. Do you  
24 recall those questions?

25 A. I have heard that over the last two days, yes.

1 Q. Mr. Spanos, you've testified and worked for in  
2 utility proceedings across the country, have you not?

3 A. That is correct.

4 Q. And in your experience under current economic  
5 market conditions, is it uncommon for a coal-fired  
6 generating plant to retire with 10, 15, 20 years  
7 remaining or more on its estimated depreciable life?

8 A. First let me explain the concept and that is a  
9 probable retirement date is a planned date of retirement  
10 from the initial date of investment. In this particular  
11 case, for Sibley 3 the estimate was 70 years, 71 years  
12 from the original estimate and that is at the long and  
13 beyond the upper end of what is expected. So even given  
14 those circumstances, we are at a long period of time.  
15 Then when I look at the fact that in general the  
16 industry itself and particularly the last five to ten  
17 years, coal-fired plants have been retiring around age  
18 50 or slightly less than that. So the expectation that  
19 the 20-year comparison that we have in this case was  
20 comparing an estimate to what's going on in the  
21 industry. 50 years is well within the range of what's  
22 going on in the industry today particularly with this  
23 size unit and particularly with the case that there are  
24 two other units that have been retired. So when you  
25 look at all of what's going on at Sibley, the 20-year

1 number that is being expressed is not necessarily an  
2 accurate portrayal of what's going on within the  
3 industry. I'll also add that there are other units  
4 across the country that have been retired 20 years prior  
5 than their estimated retirement date. So I think we're  
6 looking at a very comparable scenario to what's going on  
7 within the industry.

8 MR. HACK: Thank you, Mr. Spanos. That's all  
9 I have.

10 JUDGE WOODRUFF: Mr. Spanos, you can step  
11 down.

12 THE WITNESS: Thank you.  
13 (Witness excused.)

14 JUDGE WOODRUFF: Next name on the list is Ron  
15 Klote.

16 MR. HACK: GMO would call Mr. Klote.

17 JUDGE WOODRUFF: Klote. Okay. We actually  
18 had conversations about how to pronounce your name. So  
19 now we know.

20 (Witness sworn.)

21 JUDGE WOODRUFF: Thank you. You may inquire.

22 RONALD KLOTE, being sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. HACK:

24 Q. Please state your name for the record and  
25 spell your last name.

1 A. It's Ronald A. Klote, K-l-o-t-e.

2 Q. And by whom are you employed and in what  
3 capacity?

4 A. Employed by Kansas City Power & Light and I am  
5 the Director of Regulatory Affairs.

6 Q. Mr. Klote, have you caused to be prepared  
7 certain rebuttal testimony that was just marked for  
8 identification purposes as Exhibit No. 22?

9 A. Yes.

10 Q. Do you have any corrections or changes to make  
11 to that testimony at this time?

12 A. Yes, I do. Just slightly. On page 23, line  
13 13, the dates there say 2020 and 2021. They should move  
14 to 2021 and 2022.

15 Q. And let's let people make those. Any further  
16 changes?

17 A. Just one more. On the next page, page 24,  
18 line 2, the first word says quality. It should say  
19 qualify.

20 Q. Mr. Klote, if I were to pose the questions  
21 contained in Exhibit No. 22 to you today, subject to the  
22 corrections you just made, would your answers be  
23 substantially the same?

24 A. Yes, they would.

25 Q. And are those answers true and correct to the

1 best of your information, knowledge and belief?

2 A. Yes, they are.

3 MR. HACK: With that, I would offer Exhibit 22  
4 and tender Mr. Klote for cross-examination.

5 JUDGE WOODRUFF: 22 has been offered. Any  
6 objections to its receipt? Hearing none, it will be  
7 received.

8 (GMO'S EXHIBIT 22 WAS RECEIVED INTO EVIDENCE  
9 AND MADE A PART OF THIS RECORD.)

10 JUDGE WOODRUFF: For cross-examination  
11 beginning with staff.

12 MS. MERS: Good morning, Mr. Klote.

13 THE WITNESS: Good morning.

14 CROSS-EXAMINATION BY MS. MERS:

15 Q. GPE retired the Montrose units around the same  
16 time as it did Sibley, correct?

17 A. That's true.

18 Q. And GPE plans to retire Lake Road at the end  
19 of this year, correct?

20 A. That's correct.

21 Q. Under OPC and MECG's argument, there would  
22 also be levels of cost currently in rates for those  
23 units, correct?

24 A. Yeah. The true-up period in the KCPL and GMO  
25 case was through June 30 of 2018.

1 Q. And Montrose and Lake Road are generating  
2 plants being retired much like Sibley, correct?

3 A. Yes.

4 Q. GPE announced the retirement of Lake Road and  
5 Montrose like Sibley, correct?

6 A. Yes.

7 Q. Were you here yesterday to hear Mr. Meyer's  
8 testimony that in his view all retirement of generating  
9 plant would be extraordinary?

10 A. Yes, I heard that.

11 Q. Has OPC or MECG requested an AAO for Montrose  
12 or Lake Road?

13 A. Not to my knowledge.

14 Q. In your view, is there any difference in the  
15 circumstances surrounding those retirements versus  
16 Sibley?

17 A. No, they're all three of those are what you  
18 would call generating plant retirements.

19 Q. In testimony MECG and OPC make note of some  
20 accounting entries that you guys booked on your SEC  
21 filing. Are you familiar with that testimony?

22 A. Whose testimony?

23 Q. I believe it was in Greg Meyer's testimony.

24 A. Can you ask that first question again?

25 Q. There was discussion about GMO's future plans

1 based on an SEC filing that you guys made. Do you  
2 recall?

3 A. There was some testimony in Mr. Schallenberg's  
4 testimony regarding a regulatory asset that was booked  
5 for SEC purposes.

6 Q. My apologies to Mr. Schallenberg and  
7 Mr. Meyers for confusing you both. Would you say that  
8 the SEC filing results from the difference between  
9 financial and regulatory accounting?

10 A. Yes, the difference between GAAP accounting  
11 and Uniform System of Accounts.

12 Q. Could you briefly explain why GAAP accounting  
13 would require you to make that filing?

14 A. Sure. In the GAAP requirement, there's an  
15 assessment that needed to be made however regarding the  
16 abandonment criteria. And since there was a change in  
17 depreciation life for the Sibley 3 plant, there was a  
18 requirement that was made that once the announcement was  
19 made in June of 2017 if the abandonment criteria was  
20 met, then it was reclassified to plant to be retired and  
21 then once the plant was retired, then it was recorded  
22 into a GAAP regulatory asset.

23 Q. The USOA and Missouri's regulatory accounting  
24 would not require that treatment, correct?

25 A. That's correct. The USOA followed normal

1 retirement accounting which is to book both the original  
2 cost to the plant and the reserve.

3 Q. And were you here for OPC witness Dr. Marke's  
4 testimony yesterday?

5 A. Yes, I was.

6 Q. To summarize, his testimony seemed to imply  
7 that retirements in general weren't extraordinary but  
8 Sibley's retirement was because of concerns about  
9 prudence, would you agree?

10 MR. HACK: Objection, misstatement of  
11 evidence.

12 JUDGE WOODRUFF: Either rephrase or if you can  
13 explain more specifically what your concern is.

14 MR. HACK: Dr. Marke was clear that this was  
15 not a prudence hearing; this was not an issue of  
16 prudence at this time. He expressed he had his personal  
17 reservations as to prudence concerns but that was not  
18 the topic of his testimony or his views in this docket.

19 MS. MERS: I believe if we wanted to look at  
20 the transcript there was much discussion from Dr. Marke  
21 about in his view he believed the decision making was a  
22 bad decision and that made the Sibley retirement  
23 extraordinary. He did make it clear this wasn't a  
24 prudence determination but that their fears were driven  
25 by the belief that the Sibley retirement was possibly

1 imprudent and not a good decision.

2 JUDGE WOODRUFF: With that clarification, I'll  
3 go ahead and allow you to answer the question if you  
4 can.

5 THE WITNESS: I think there was a concern that  
6 OPC brought up that area but, you know, and you can  
7 visit with Mr. Ives about this because the IRP process  
8 is the evaluation of, you know, our generation fleet and  
9 how we can efficiently use that. I'm not closely  
10 involved in that. That is the reason that we go through  
11 that on an annual basis.

12 BY MS. MERS:

13 Q. And under your knowledge of accounting in rate  
14 case procedures, is an AAO the proper method for a party  
15 to challenge prudence if they think the decision was  
16 bad?

17 A. Repeat that question.

18 Q. Would a rate case be a more appropriate avenue  
19 to discuss views of prudence or the decisions behind  
20 retiring Sibley?

21 A. A rate case you can consider all relevant  
22 factors.

23 MS. MERS: Thank you. I have nothing further.

24 JUDGE WOODRUFF: MEGG.

25 MR. WOODSMALL: Very briefly. Good morning,

1 sir.

2 THE WITNESS: Good morning.

3 MR. WOODSMALL: I have an exhibit to mark.

4 CROSS-EXAMINATION BY MR. WOODSMALL:

5 Q. Do you recall MECG asking GMO some data  
6 requests in this case?

7 A. Yes, I do.

8 Q. And you answered some of those data requests;  
9 is that correct?

10 A. Yes, I did.

11 Q. And you have in front of you what has been  
12 marked as Exhibit 23?

13 A. Yes.

14 Q. And those are a couple of the data requests  
15 that you responded to; is that correct?

16 A. I only read the first one, yes.

17 Q. And those data requests ask for citations to  
18 the Uniform System of Accounts or Commission orders for  
19 the notion that an event should be -- or an event cannot  
20 be extraordinary if it is, quote, anticipated and  
21 communicated well in advance; is that what those ask  
22 for?

23 A. Yes, it does.

24 Q. In both situations, you said you didn't have  
25 any citations, it was just your, quote, opinion; is that

1 correct?

2 A. That's correct.

3 MR. WOODSMALL: Your Honor, I'd move for the  
4 admission of Exhibit 23.

5 JUDGE WOODRUFF: 23 has been offered. Any  
6 objections to its receipt? Hearing none, it will be  
7 received.

8 (GMO'S EXHIBIT 23 WAS RECEIVED INTO EVIDENCE  
9 AND MADE A PART OF THIS RECORD.)

10 MR. WOODSMALL: No further questions. Thank  
11 you.

12 JUDGE WOODRUFF: Public counsel.

13 MR. HALL: Again, absent any questions from  
14 the Commission, I see no worth in questioning this  
15 witness at this time.

16 JUDGE WOODRUFF: Commissioner Hall.

17 COMMISSIONER HALL: I have no questions.  
18 Thank you.

19 JUDGE WOODRUFF: I have no questions. So  
20 there's no need for recross. Any redirect?

21 MR. HACK: Just a few.

22 REDIRECT EXAMINATION BY MR. HACK:

23 Q. Staff counsel, Mr. Klote, asked you about the  
24 retirements of Montrose. When did those units retire?

25 A. I believe they retired at the end of December.

1 Q. Those are KCP&L?

2 A. December of 2018. I'm sorry.

3 Q. Thank you. Those were units, operating units  
4 of KCP&L, correct?

5 A. That's correct.

6 Q. Those units were operating during the true-up  
7 period in that rate case, correct?

8 A. Yes, that's my understanding.

9 Q. And the true-up period ended June 30, 2018?

10 A. That's correct.

11 Q. So the retirement of the Montrose station  
12 would you agree is similar to the retirement of the  
13 Sibley station in terms of its general proximity to the  
14 effective date of rates in those rate cases?

15 A. Yes, they are within a month and a half apart.

16 Q. And then Lake Road Unit 4/6 was also discussed  
17 by staff counsel. Do you recall that?

18 A. Yes.

19 Q. And Lake Road is currently -- Lake Road Unit  
20 4/6 was operating during the test year in GMO's most  
21 recent rate case, correct?

22 A. Yes, it was.

23 Q. And GMO's current plan is to retire Lake Road  
24 yet this year; is that correct?

25 A. Yes, it is.

1 Q. That unit has not yet been retired, though,  
2 correct?

3 A. It has not.

4 Q. Staff counsel also asked you about some of Mr.  
5 Schallenberg's testimony related to a regulatory asset  
6 that he had discussed in I believe both his direct  
7 testimony and his surrebuttal testimony. Do you recall  
8 those questions?

9 A. Yes.

10 Q. Just to be clear, that regulatory asset was  
11 made for Generally Accepted Accounting Principle reasons  
12 under SEC requirements?

13 A. Yes. It's not an SEC requirement. We report  
14 our financial statements to the SEC. The GAAP  
15 financials are reported to them.

16 Q. Thanks for correcting my mistake. And to go  
17 one step further, there is no such regulatory asset on  
18 GMO's FERC books which are kept under the standards of  
19 the Uniform System of Accounts?

20 A. That's correct. We follow the normal  
21 retirement accounting for those units.

22 Q. And GMO's FERC Form 1 has been subject to  
23 audit by its external auditors, correct?

24 A. Yes. There's an annual audit that takes place  
25 on a FERC Form 1 financials.

1 Q. Those auditors would I be correct in stating  
2 have found no material improprieties and found the FERC  
3 Form 1 to be in conformance with the requirements of the  
4 Uniform System of Accounts?

5 A. Yeah, that's correct and they provide an audit  
6 opinion that's included in the Form 1.

7 MR. HACK: I have no further questions for  
8 Mr. Klote.

9 JUDGE WOODRUFF: Mr. Klote, you can step down.  
10 (Witness excused.)

11 JUDGE WOODRUFF: Next witness then is Mr.  
12 Ives.

13 MR. HACK: Are we on 24? 23?

14 JUDGE WOODRUFF: 24.

15 (Witness sworn.)

16 JUDGE WOODRUFF: You may inquire.

17 MR. HACK: Thank you.

18 DARRIN IVES, being sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. HACK:

20 Q. State your name for the record, please, and  
21 spell your last name?

22 A. My name is Darrin R. Ives, I-v-e-s.

23 Q. And by whom are you employed, Mr. Ives, and in  
24 what capacity?

25 A. I'm employed by Kansas City Power & Light.

1 I'm the Vice President of Regulatory Affairs covering  
2 all of the Evergy operating utilities.

3 Q. Mr. Ives, did you cause to be prepared and  
4 filed in this docket certain rebuttal testimony which  
5 has been labeled as corrected and which has also been  
6 identified as Exhibit No. 24 in this proceeding?

7 A. Yes, I did.

8 Q. If I were to pose the questions contained in  
9 Exhibit 24 to you today, would your answers be  
10 substantially the same?

11 A. Yes, they would.

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

14 A. Yes, they are.

15 MR. HACK: With that I would offer Exhibit No.  
16 24 and tender Mr. Ives for cross-examination.

17 JUDGE WOODRUFF: Exhibit 24 has been offered.  
18 Any objections to its receipt? Hearing none, it will be  
19 received.

20 (GMO'S EXHIBIT 24 WAS RECEIVED INTO EVIDENCE  
21 AND MADE A PART OF THIS RECORD.)

22 JUDGE WOODRUFF: Then for cross-examination  
23 beginning with staff.

24 MS. MERS: Good morning, Mr. Ives.

25 THE WITNESS: Good morning.

1 CROSS-EXAMINATION BY MS. MERS:

2 Q. There's been discussion in this case about the  
3 forced outage that occurred at Sibley. Would it be fair  
4 to say that the forced outage had an impact on retiring  
5 the plant in September instead of December but not the  
6 predetermined decision to retire the plant completely?

7 A. Yeah, I think -- I'm glad you asked that  
8 question because I think there was some confusion  
9 yesterday. It's true we had a forced outage. I believe  
10 it was on September 5. It was a result of a turbine  
11 vibration that the unit went off line. You know, from  
12 there consistent with our requirements on the 6th of  
13 September we made a filing in EFIS to make the staff and  
14 Commission aware that we had a forced outage. And we  
15 subsequently made a follow up filing I think on the 12th  
16 of September indicating the likely impact was in excess  
17 of \$200,000. We ultimately when we have a forced outage  
18 we always go through an assessment. It's a root cause  
19 analysis. It's an evaluation of what time and expense  
20 it would take to repair the unit. As we undertook that  
21 review, we also considered the fact that as you alluded  
22 to we had indicated for some period of time that we  
23 anticipated that Sibley would retire by the end of 2018  
24 so within a few months. Part of the evaluation we  
25 undertook was not only the cost to repair but whether or

1 not it made sense for customers for us to incur that  
2 cost to operate that unit for three more months and we  
3 also evaluated what other costs might be incurred like  
4 needing to move coal from the ground to the extent that  
5 we weren't able to operate the unit to the end of the  
6 year like we had anticipated.

7           When all that analysis was done and all the  
8 assessment was made, we made the decision I believe it  
9 was on November 13 to officially retire Sibley at that  
10 time rather than make repairs and move forward. So it  
11 was all related but we certainly had plans to retire  
12 Sibley by the end of 2018 long before we had what I  
13 would call an unplanned but not unusual forced outage.

14           Q. Do you recall on I believe it was November 20  
15 a meeting that GMO had with both the staff and the  
16 Office of Public Counsel to update parties on the status  
17 of your retirements?

18           A. Yeah, I believe that was the right date. It  
19 was in that range. I think we also had a meeting at the  
20 early part of November discussing the fact that we were  
21 working through that evaluation and had not yet come to  
22 a final decision but one likely outcome that we  
23 discussed in that November 1 meeting was that we may  
24 determine that it made sense to just retire Sibley  
25 rather than make the repairs from the forced outage.

1 MS. MERS: Thank you. I have no further  
2 questions.

3 JUDGE WOODRUFF: MEGG.

4 MR. WOODSMALL: Thank you, Your Honor. Good  
5 morning, sir.

6 THE WITNESS: Good morning.

7 CROSS-EXAMINATION BY MR. WOODSMALL:

8 Q. Following up on those questions, you said that  
9 Sibley had its forced outage on September 5; is that  
10 correct?

11 A. I think that was the date.

12 Q. So Sibley has not produced any energy for  
13 customers since September 5?

14 A. Yeah, that's the string of events. We had a  
15 forced outage and ultimately after the assessment we  
16 determined it was better for customers to not make the  
17 repairs and bring it back up until the end of the year.

18 Q. KCPL/GMO filed its surrebuttal in that case on  
19 September 4; is that correct?

20 A. I think that's what was indicated yesterday.

21 Q. You said you made a filing in EFIS to notify  
22 the staff and Commission about the outage at Sibley. Do  
23 you recall telling staff counsel that?

24 A. I do. It was on the 6th of September.

25 Q. And that filing in EFIS was not made in the

1 context of a rate case but was made in the context of a  
2 non case related EFIS filing; is that correct?

3 A. It's made under Commission requirements to  
4 inform them of forced outages such as the one that we  
5 incurred.

6 Q. Okay. So there was no filing in the context  
7 of a rate case to inform the parties and the Commission  
8 there that we've had an outage at Sibley, we're  
9 questioning whether we're going to open it back up?

10 A. Right. We would not do that in any  
11 circumstance for a forced outage incurred on our  
12 facilities.

13 Q. So unless the Commissioner knew to go out and  
14 go looking for this they had no way to know that Sibley  
15 had had this outage; is that correct?

16 A. I think that's true for any forced outage that  
17 our plans would fall into.

18 Q. So unless they went out and looked for this --  
19 When the Commission approved the stipulations in that  
20 case, unless the Commissioner went out and looked for  
21 this report, the Commission approved this thinking that  
22 Sibley was still operating; is that correct?

23 A. I don't know what the Commission believed. I  
24 would tell you my opinion is it doesn't make any  
25 difference because it didn't affect the historic test

1 year that the rates were built upon.

2 Q. Okay. So in your mind the Commission  
3 shouldn't make an isolated adjustment after a true-up  
4 date?

5 A. Yeah, I don't believe that there should have  
6 been an isolated adjustment for this after the true-up  
7 date, that's correct.

8 Q. Do you know if KCP&L or GMO has ever sought an  
9 isolated adjustment after the true-up date in other rate  
10 cases?

11 A. I'm aware of one that ultimately was denied by  
12 staff and parties in a prior proceeding.

13 Q. What was that?

14 A. I believe it was the additional transmission  
15 costs that were going to be incurred by our customers  
16 for Independence Power & Light being placed within our  
17 zone by SPP that was going to be occurring right at the  
18 time that rates took effect but was occurring after the  
19 true-up period in that particular case and there was no  
20 acceptance by parties to consider that in the true-up  
21 because it was outside the true-up period.

22 Q. And the Commission rejected that adjustment;  
23 is that correct?

24 A. Yeah, it was not included, that's for sure.

25 Q. Do you recall another isolated adjustment that

1 KCP&L attempted to make in that case, in the true-up?  
2 You don't recall an adjustment for the expiration of a  
3 couple wholesale contracts that the expiration occurred  
4 after the date rates would go into effect and the  
5 Commission made that isolated adjustment?

6 A. I recall vaguely, I don't remember if it was  
7 the same case or not, some reduction in some wholesale  
8 contracts and discussion that went on around the  
9 true-up, but I don't remember the specifics.

10 Q. So you recall the isolated adjustment that the  
11 Commission rejected but you don't recall when the  
12 Commission gave an isolated adjustment for an event that  
13 occurred after the operation of law date?

14 MR. HACK: Asked and answered.

15 JUDGE WOODRUFF: Overruled.

16 THE WITNESS: I think what I just said is I  
17 recall that there was an issue. I don't recall the  
18 exact timing of how that wholesale contract expired, but  
19 I recall the issue generally.

20 BY MR. WOODSMALL:

21 Q. Okay. The report and order will make that  
22 clear. You attached an exhibit or schedule, whatever  
23 you want to call it, to your testimony which is a number  
24 of power plants, GMO, KCP&L and Westar that have been  
25 retired; do you recall that?

1           A.    Are you talking about the attachments that  
2 were press releases that were attached to my testimony?

3           Q.    I hope this was on your testimony.  It was  
4 these pages with KCP&L and GMO and Westar power plants  
5 that have retired.

6           A.    I don't believe that was an attachment to my  
7 testimony.

8           Q.    Oh, okay, it was a work paper.  Then I'll  
9 ignore it.  I thought I had to clarify it.

10           MR. WOODSMALL:  Moving on, I'd like to mark an  
11 exhibit.

12           JUDGE WOODRUFF:  Sure.  And this will be No.  
13 25.

14 BY MR. WOODSMALL:

15           Q.    Do you recall me asking a number of data  
16 requests to GMO in this case?

17           A.    I do recall that.

18           Q.    And some of those data requests you were  
19 responsible for responding to; is that correct?

20           A.    That's correct.

21           Q.    And you have in front of you what has been  
22 marked as Exhibit 25?

23           A.    Mine is not marked but I assume that's 25 is  
24 our number.

25           Q.    Yes.  And there are four data requests there.

1 All four of those mention you. Those are data requests  
2 that you responded to; is that correct?

3 A. Yes.

4 Q. Let's go through those. The first one  
5 question No. 5-25 asks for any Commission cases in which  
6 you were aware that the Commission considered a  
7 utility's earnings in determining whether an event is  
8 extraordinary. There you said you haven't studied any  
9 Commission cases, you didn't provide any, it was just  
10 simply your, quote, general opinion; is that correct?

11 A. No, that's not what it says. It says I have  
12 not undertaken a study of all Commission AAO cases. I  
13 certainly have studied and I've testified in numerous  
14 AAO cases but it does say that it's also my general  
15 opinion that the net impact -- net income impact is  
16 typically considered by the Commission. That's what it  
17 says. I believe that.

18 Q. Under any event, you didn't provide any  
19 instances which you were aware of where the Commission  
20 considered a utility's earnings, did you?

21 A. I didn't provide a list of specific AAOs, but  
22 I've certainly been a part of several where the reason  
23 we brought AAOs was because of the net income impact and  
24 the need for deferral. So I necessarily believe they  
25 considered our position whether or not they accepted our

1 position.

2 Q. But that's your position. I'm asking for any  
3 cases in which you were aware of where the Commission  
4 said we're going to consider earnings. You didn't  
5 provide any, did you?

6 A. I did not provide any specific cases in  
7 response to this.

8 Q. Moving on to the next one, question No. 5-32.  
9 I was asked some questions about anticipated and  
10 communicated well in advance which is a standard that  
11 appears in your testimony and I asked whether the  
12 renewable energy standard costs were anticipated and  
13 communicated well in advance and you said that you would  
14 agree with the statement; is that correct?

15 A. I did say that. I had another set of answer  
16 to that, but that was the first line in my answer.

17 Q. It all goes into the same exhibit. Question  
18 No. 5-33. I asked whether the construction of Iatan 2  
19 for GMO was anticipated and communicated well in advance  
20 and you simply stated yes, Mr. Ives would agree with  
21 this statement; is that correct?

22 A. I did.

23 Q. Finally the fourth one asks for any references  
24 in which GMO had previously asserted that an appropriate  
25 standard is whether the event was, quote, anticipated

1 and communicated well in advance, end quote, and you  
2 said you hadn't done -- undertaken any research and  
3 couldn't provide any instances; is that correct?

4 A. That is the first part of my response, yes.

5 MR. WOODSMALL: Your Honor, I'd move for the  
6 admission of Exhibit 25.

7 JUDGE WOODRUFF: 25 has been offered. Any  
8 objections to its receipt? Hearing none, it will be  
9 received.

10 (MECG'S EXHIBIT 25 WAS RECEIVED INTO EVIDENCE  
11 AND MADE A PART OF THIS RECORD.)

12 MR. WOODSMALL: I have no further questions.  
13 Thank you.

14 JUDGE WOODRUFF: Public counsel.

15 MR. HALL: Mr. Ives, it's still morning. Good  
16 morning.

17 THE WITNESS: Good morning.

18 CROSS-EXAMINATION BY MR. HALL:

19 Q. In response to a question from staff counsel,  
20 you remarked that the forced outage that spurred the  
21 retirement of the Sibley Units wasn't unusual. Let me  
22 ask you, but the Sibley Units over the course of their  
23 life have experienced numerous forced outages, have they  
24 not?

25 A. Yes, unfortunately all of our units are

1 subject to breakdowns from time to time creating forced  
2 outages.

3 Q. Can I get a yes or no answer in response as to  
4 the Sibley Units?

5 A. Sorry, I thought I said yes, unfortunately all  
6 of our units are subject to that.

7 Q. But no other prior forced outage at the Sibley  
8 Units had spurred the owner of the Sibley Units to  
9 retire those units?

10 A. That was not what spurred us to retire the  
11 Sibley Units in this case.

12 Q. Mr. Ives, this is not your first time  
13 testifying about the Sibley Units, is it?

14 A. Probably not.

15 Q. You testified just last year in GMO's rate  
16 case, did you not?

17 A. I did testify in that case.

18 MR. HALL: Your Honor, may I approach?

19 JUDGE WOODRUFF: You may.

20 BY MR. HALL:

21 Q. For the record, Mr. Ives, I've just handed you  
22 copies of your rebuttal and surrebuttal testimony from  
23 GMO's last rate case. Do you recall your testimony?

24 A. I recall I filed testimony. It's been awhile  
25 since I gave it, but I generally do, yes.

1 Q. Would you please turn to page 2 of your  
2 rebuttal testimony. On lines 10 through 11, among many  
3 other points you address OPC's recommendation that the  
4 Sibley Units be excluded from GMO's class cost of  
5 service. You responded that, am I reading this  
6 correctly, by claiming that OPC's recommendation is,  
7 quote, based on assumptions that these plants will be  
8 retired by year end 2018. Did I read that correctly?

9 A. That's the first part of that answer, yes.

10 Q. You didn't use the word prediction. You did  
11 not use the word prediction, correct?

12 A. Prediction?

13 Q. Yes. The word prediction does not appear in  
14 this answer as I've just quoted to you?

15 A. It is not in that sentence.

16 Q. The word expectation is also not in that  
17 quoted provision?

18 A. That's right.

19 Q. To highlight, you used the word assumption?

20 A. That's what I used.

21 Q. When was this testimony filed?

22 A. Looks like July of 2018.

23 Q. Could you please turn to pages 14 and 15 of  
24 your surrebuttal testimony. I note on lines starting on  
25 page 14, lines 22, 23 and then going on to line 1 on

1 page 15, you again responded to OPC's recommendation to  
2 exclude Sibley from GMO's class cost of service. There  
3 you said, if I'm reading this correctly, OPC's proposed  
4 disallowance of costs related to these plant retirements  
5 which have not occurred and if they do would occur  
6 months after the end of the true-up period ordered by  
7 the Commission. Did I read that correctly?

8 A. The only difference is I think you said which  
9 have not occurred, and what my testimony said is which  
10 have not yet occurred.

11 Q. Pardon the omission. Which have not yet  
12 occurred. But you did use the phrase and if they do  
13 occur, correct?

14 A. Of course I did because they had not occurred  
15 yet.

16 Q. You didn't say and when they occur?

17 A. I did not because they had not occurred yet.

18 Q. When was this testimony filed?

19 A. September of 2018 before the retirement  
20 occurred.

21 Q. Mr. Ives, did you review Mr. Schallenberg's  
22 testimony in this docket?

23 A. I have reviewed it.

24 MR. HALL: Your Honor, may I approach?

25 JUDGE WOODRUFF: You may.

1 BY MR. HALL:

2 Q. For the record I have handed Mr. Ives a copy  
3 of e-mails that were attached to Mr. Schallenberg's  
4 surrebuttal testimony as part 4 of Schedule 1. Mr.  
5 Ives, do you recognize these communications?

6 A. I do.

7 Q. Actually at the outset help me out really  
8 quick, within GMO's personnel, how would I pronounce  
9 Mr. Duane Anstaett's last name?

10 A. Anstaett.

11 Q. Anstaett. Thank you. Would you please turn  
12 to page 3 of the document I've just handed you? As I  
13 asked, I'm wishing to turn to an e-mail sent by Duane  
14 Anstaett to several members of Evergy's regulatory team.  
15 Are you following along?

16 A. I'm following along. I wouldn't characterize  
17 it as being sent to several members of the regulatory  
18 team, but it is several members or several employees at  
19 our company, yes.

20 Q. You were included in this e-mail, were you  
21 not?

22 A. Yes, I was. I was very involved with this  
23 entire process.

24 Q. Am I reading correctly that this email was  
25 sent to you on October 2 of 2018?

1 A. Yes, it was.

2 Q. Could you please read the first paragraph of  
3 the e-mail we are looking at and starting right after  
4 the word good afternoon or the phrase good afternoon?

5 A. Yes. The sentence says this e-mail is to let  
6 the Everygy officer team know the direction being taken  
7 following a turbine trip due to vibration on Sibley Unit  
8 3. And then there's more discussion about what his  
9 thoughts and steps are.

10 Q. No, I would ask that you keep going. Read the  
11 full paragraph.

12 A. I thought you said read the highlight.

13 Q. No, read the paragraph that's provided.

14 A. Following a comprehensive evaluation of  
15 options we have determined the safest and most  
16 economical solution is to cease burning coal at the  
17 station and to move the remaining coal currently on the  
18 ground to Iatan. There's much more detail below and in  
19 the attached document.

20 Q. Would you please turn to the next page of the  
21 document provided?

22 A. Yes.

23 Q. I'm wanting to look at another e-mail sent out  
24 from Duane Anstaett also on October 2, 2018. Are you  
25 following along?

1           A.    I went the wrong way.  I was looking at the  
2 follow up e-mails from Mr. Anstaett's direct supervisor  
3 later on, but you went the other direction.

4           Q.    To be clear, we're both looking at page 4 of  
5 this document, correct?

6           A.    I am now.  I went to page 2.  I went the other  
7 direction.  I apologize.

8           Q.    Were you included in this e-mail that was sent  
9 out as well?

10          A.    Yes.

11          Q.    Could you read the first paragraph following  
12 the second bold sentence on this page, the one starting  
13 with the quote it is our intention?

14          A.    Yes.  It says it is our intention to cease  
15 burning coal and move to decommissioning activities.  
16 Upon receipt of this e-mail, Robert Hollinsworth will  
17 contact blah, blah, blah.  It's kind of specific  
18 employee stuff.  You want me to read that?

19          Q.    Yes.

20          A.    Okay.  Will email Robert Hollinsworth will  
21 contact Eric Peterson to notify SPP and will contact  
22 Randy Adams at Local 412.  I will forward this email to  
23 the rest of the Evergy officer team.

24          Q.    Since these e-mails were sent out on October  
25 2, 2018, they were sent out to Evergy's personnel before

1 the November 1, 2018 presentation referenced by staff  
2 counsel?

3 A. They were but they aren't the end of the story  
4 in this e-mail string.

5 Q. Just sticking to the question will suffice.

6 A. If you read the rest --

7 Q. Mr. Ives, my question was simply were these  
8 sent before the date of that presentation on November 1.

9 A. They were but that was not the final decision  
10 made by the Evergy leadership team.

11 Q. I believe you can answer on redirect. I  
12 simply asked when were those sent.

13 A. They were sent on the dates --

14 JUDGE WOODRUFF: There's no question pending  
15 at this point.

16 BY MR. HALL:

17 Q. Turning back to your rebuttal and surrebuttal  
18 testimony from GMO's last rate case, those were  
19 ultimately filed with the Commission on October 19,  
20 correct?

21 A. Can you state that again?

22 Q. Returning back to your rebuttal and  
23 surrebuttal testimony, I'm just trying to establish this  
24 testimony was ultimately filed within the Public Service  
25 Commission's EFIS -- was ultimately filed on October 19,

1 correct?

2 A. I don't think that's right.

3 Q. Could you turn to the front page of your  
4 testimony I've just handed you?

5 A. Sure.

6 Q. At the very top right of this page do you see  
7 a stamp?

8 A. I see the stamps the date they are processed  
9 which I think those are probably the dates that they're  
10 accepted into evidence, not the date that they're filed  
11 by me to a case or proceeding.

12 MR. HACK: Objection. At this point the  
13 affidavit was signed on September 4 which you can see  
14 very clearly by looking in the testimony itself. The  
15 time stamp by the PSC has to do exactly with what Mr.  
16 Ives said.

17 MR. HALL: The stamp says filed October 19.  
18 I'm asking him -- He may have used a different  
19 definition of filed which he can clarify.

20 JUDGE WOODRUFF: If your question is when this  
21 was filed, I think --

22 MR. HALL: Understanding that GMO --

23 JUDGE WOODRUFF: I'm going to overrule the  
24 objection. You can go ahead and ask your question and  
25 the witness can answer as he sees fit.

1 BY MR. HALL:

2 Q. Based on that stamp, do you understand that  
3 October 19 is when that testimony was filed by the court  
4 reporter?

5 A. I understand that that's the date that the  
6 court reporter filed this. That is not the date that I  
7 filed my testimony.

8 Q. And the filing on October 19 as indicated by  
9 the Commission was preceded by an on the record  
10 presentation by the parties on October 3, correct?

11 A. I'm not aware of the date. That seems  
12 reasonable to me.

13 Q. So you have no reason to doubt that October 3  
14 was when the parties supported the stipulations and  
15 agreements that settled GMO's last rate case?

16 A. I just indicated that seems reasonable to me.

17 Q. October 3 being one day after October 2?

18 A. That's how the dates work.

19 Q. At the on the record presentation given to  
20 this Commission, did you attempt to at any point update  
21 your rebuttal or surrebuttal testimony?

22 A. I did not. I had no need to.

23 Q. Given the knowledge and the e-mail sent to you  
24 on October 2, did you at any point attempt to update  
25 your testimony before the court reporter filed this

1 testimony before the Commission?

2 A. I did not. I had no need to and it goes to  
3 the remainder of the e-mail string that you would not  
4 let me read earlier.

5 Q. At any point did you attempt to update your  
6 rebuttal or surrebuttal testimony before the  
7 stipulations and agreement approving GMO's new rates  
8 were approved on October 31, 2018?

9 A. I had nothing to update that changed any of  
10 those stipulations or agreements.

11 Q. At any point did you ever attempt to update or  
12 otherwise correct your testimony before GMO's new rates  
13 became effective?

14 A. I had no reason to do that.

15 MR. HALL: I have no further questions.

16 JUDGE WOODRUFF: Call for questions from the  
17 bench. Commissioner Hall?

18 COMMISSIONER HALL: No questions. Thank you.

19 JUDGE WOODRUFF: Commissioner Coleman?

20 COMMISSIONER COLEMAN: No questions.

21 JUDGE WOODRUFF: I do have a couple questions.

22 QUESTIONS BY JUDGE WOODRUFF:

23 Q. It's about the forced outages notifications.

24 A. Yes.

25 Q. I believe there was testimony that GMO did

1 notify the staff, Commission staff of the forced outage.

2 Do you know when that was done?

3 A. I believe we made our first notification on  
4 the 6th of September and it was also accompanied with an  
5 EFIS filing at that time indicating that there was a  
6 forced outage. I think we made a follow up filing on  
7 the 12th of September giving an update on our  
8 expectation for the level of cost it would take to  
9 ultimately come out of that forced outage. We may have  
10 had some verbal discussions in between there that I  
11 don't have specifics on, but I know around November 1 we  
12 had a meeting with the Office of Public Counsel and  
13 members of the staff about the status of the forced  
14 outage and actions we were taking to evaluate that and  
15 what potential outcomes there were. And then I believe  
16 we had a follow up meeting later in November with OPC  
17 and staff where we talked about the ultimate resolution  
18 of the forced outage and the decision to retire.

19 Q. Now, the initial notice to staff, how was that  
20 accomplished? Is that just an e-mail?

21 A. I think it's an e-mail and then an EFIS filing  
22 on the 6th.

23 Q. When you say an EFIS filing, we're not talking  
24 about filing in a particular case; it's a non case  
25 notification?

1           A.    Yeah, it's a non case notification.  I don't  
2 remember the specifics, but we have some -- there's some  
3 specific rules when we have an outage that we're  
4 required to make filings and notifications on that and  
5 then we're required to update those notifications in  
6 terms of if the event is going to be longer than a  
7 certain number of days or be expected to cost more than  
8 a certain threshold of dollars to bring back into  
9 service.

10          Q.    And are those notifications public or are they  
11 confidential?

12          A.    I don't believe they're confidential.  I  
13 honestly don't know the extent of visibility of the EFIS  
14 to all parties, but I don't believe they're marked  
15 confidential by us.

16          Q.    Is there any reason why they would need to be  
17 confidential?  Is that something that would be sensitive  
18 information for GMO?

19          A.    No, I don't believe so.

20          Q.    Then my last question is simply a geography  
21 question.  Where is the Sibley Unit located in relation  
22 to Kansas City?

23          A.    Sibley.  It's in Sibley, Missouri.  I believe  
24 it's in Jackson County.  I don't know exactly how far  
25 out of Kansas City Sibley is.

1 Q. North, south?

2 A. It's been awhile since I've been there.

3 Q. Is it north or south of Kansas City? I'm just  
4 trying to get it in my head where it's located.

5 A. I'm having trouble picturing it on the map.  
6 I've driven to it a couple times over the course of my  
7 career, but I don't know that I could give you a good  
8 direction to it today.

9 MR. HACK: If I may, I know I'm not sworn, but  
10 it's on the Missouri River east of Kansas City.

11 JUDGE WOODRUFF: Okay. Thank you.

12 THE WITNESS: Thank you, Mr. Hack.

13 JUDGE WOODRUFF: Thank you. That's all the  
14 questions I have. Any recross based on the questions  
15 from the bench? I don't see any. Redirect.

16 MR. HACK: Yes, thank you.

17 REDIRECT EXAMINATION BY MR. HACK:

18 Q. Mr. Ives, turning to the e-mail string that  
19 you were engaged in conversation with OPC counsel. I  
20 don't have copies of this, but for clarity of the record  
21 I think I'd like to have it marked as an exhibit and we  
22 will provide copies.

23 JUDGE WOODRUFF: Okay. This will be No. 26.

24 MR. HACK: So Mr. Ives --

25 JUDGE WOODRUFF: Is this the e-mail chain?

1 MR. HACK: This is the e-mail chain and Mr.  
2 Ives was talking with Mr. Hall about some October 2,  
3 2018 e-mails.

4 BY MR. HACK:

5 Q. And Mr. Ives, let's talk about those two  
6 e-mails from Duane Anstaett on October 2. Who was  
7 Mr. Anstaett?

8 A. Mr. Anstaett at the time was a vice president  
9 over generation. So in our operating part of our  
10 organization.

11 Q. And going from page 3 of that e-mail string to  
12 page 2, there's an e-mail from Mr. Bryant dated October  
13 3. Do you see that at the bottom of page 2 of Exhibit  
14 26?

15 A. Yes, I do. That was one of the string of  
16 e-mails above this that I was trying to speak to  
17 earlier.

18 Q. Who is Mr. Bryant?

19 A. Mr. Bryant is our chief operating officer.  
20 He's the direct supervisor at that time of Mr. Anstaett.

21 Q. And without belaboring the record, would you  
22 characterize the communication from Mr. Bryant to  
23 Mr. Anstaett in that October 3 e-mail?

24 A. Generally Mr. Bryant was informing  
25 Mr. Anstaett and the team that he appreciated the work

1 done to date; that he was not in a position to move  
2 forward under that direction laid out by Mr. Anstaett  
3 because there needed to be more discussions at the CEO  
4 staff meeting and it needed to be discussed with the  
5 Everygy board before we had the authority to move forward  
6 with the plan of action recommended by Mr. Anstaett.

7 Q. Then moving to the e-mail that begins on the  
8 bottom of the first page of Exhibit 26, that is from Mr.  
9 Anstaett; is that correct?

10 A. Actually if you go to the first e-mail string,  
11 there was -- just to be fully described what was here,  
12 there was an e-mail from Mr. Bryant that was the latest  
13 one sent in this string recognizing the e-mail that you  
14 reference from Mr. Anstaett. Both of those are dated  
15 November 13. And Mr. Anstaett's e-mail on November 13  
16 indicated that they would move forward starting tomorrow  
17 which would have been the 14th based on the timing of  
18 that e-mail which was responsive to an e-mail from  
19 November 10 from Mr. Bryant that said with feedback from  
20 management in board meetings he would recommend moving  
21 forward with plans to cease burning coal at Sibley  
22 and directed Mr. Anstaett to let him know if he would  
23 have any concerns, or the other parties on that e-mail,  
24 any concerns with that action by the end of the day on  
25 Monday, November 12. The point I was trying to make in

1 the e-mail string that I was talking with Mr. Hall about  
2 was the e-mails he had me read were the initial e-mails  
3 from Mr. Anstaett but his supervisor and the executive  
4 leadership of the company had not yet agreed to that  
5 decision and there was more work and analysis to be done  
6 and that's why we ultimately retired on November 13.

7 Q. So the retirement date was November 13, 2018?

8 A. Yes, it was.

9 Q. Mr. Ives, in your experience, is it customary  
10 practice for the company to undertake an analysis of a  
11 turbine that has been subject to a forced outage before  
12 making a decision regarding further action?

13 A. It absolutely is. I've referred to it in  
14 earlier discussions; but when we have a forced outage,  
15 we always go through a process to evaluate root cause,  
16 always go through a process to evaluate cost and effort  
17 to bring a unit back on line, impact to customers of  
18 doing that and certainly did in regards to Sibley as  
19 well. It is what I would consider to be prudent utility  
20 management practice and what this Commission should  
21 expect us to do.

22 MR. HACK: Thank you. It's going to take me a  
23 minute. I need to go through. I need to find a piece  
24 of testimony. So I will be as fast as I can.

25 BY MR. HACK:

1 Q. Mr. Ives, OPC Counsel Hall asked you some  
2 questions about your rebuttal testimony in GMO's last  
3 rate case. This piece of testimony is identified as  
4 Exhibit 137 from that case. Do you see that?

5 A. Yes, I have it.

6 Q. And he pointed you to a paragraph on page 2,  
7 lines 10 through 13 in which you allege that OPC's  
8 proposals are based on an assumption regarding the  
9 retirement of these units, correct?

10 A. That's where he pointed me, yes.

11 Q. Do you recall also Mr. Marke's testimony from  
12 yesterday where he used the word gaming regarding GMO's  
13 activities in connection with the Sibley plant and its  
14 testimony in the 2018 rate case?

15 A. Yes, I recall that and a couple of things that  
16 Dr. Marke stated about my testimony.

17 Q. Now, is it your recollection that your  
18 testimony in specific regarding the retirement of  
19 Sibley, the planned retirement of Sibley, was that the  
20 plant's retirement was neither known nor measurable at  
21 the end of the true-up period?

22 A. Yeah, I've got a lot of testimony and Mr. Hall  
23 started at page 2 and I think the testimony in this  
24 rebuttal basically runs through page 8 where I spend a  
25 lot of time talking about these retirements and my

1 position on it, and generally I would characterize my  
2 testimony in here to say that we certainly had announced  
3 and had plans to retire these units in 2018. As I talk  
4 about on page 4, they were not retired at the time of  
5 true-up or at the time they were evaluated in the  
6 historic test year. They were not yet retired at the  
7 time my testimony was provided and that while we planned  
8 to retire them by 2018 there could be circumstances that  
9 were not presently foreseen that could alter our plans  
10 to retire those by the end of 2018. Those would be  
11 things like loss of other generating facilities between  
12 the time of this testimony and the time of ultimate  
13 retirement of those plants that might lead us to  
14 continue to operate those plants past the end of '18 for  
15 a period of time.

16           There's a lot of discussion in here.  
17 Certainly nothing in my testimony to address Dr. Marke's  
18 comments from yesterday intended to game the system or  
19 do anything else. My intent was to let people and this  
20 Commission know that at the time of the testimony and at  
21 the time of the true-up the plants were not retired and  
22 therefore could in no way be considered known or  
23 measurable.

24           Q. The planned retirement -- The plan to retire  
25 the Sibley Units, as well as the Montrose units and Lake

1 Road Unit 4/6, was announced well in advance of GMO's  
2 2018 and KCPL's 2018 rate case, correct?

3 A. Yeah, part of my testimony has releases in  
4 there and we've talked about them over the course of two  
5 days that we began discussing a number of these  
6 retirements in 2015 and again in 2017 it was a June  
7 announcement in 2017 where we also included Sibley 3 in  
8 that phase. That was a direct result of work on our  
9 2017 IRP. I think it's important for this Commission to  
10 hear that these retirements were all a part of an  
11 economic analysis that was undertaken consistent with  
12 our preparation of IRPs under this Commission's rules.  
13 It's all part of our planning. There was no -- There  
14 was no game being played, there was no hiding at the  
15 time of the case. We've talked about these for years.

16 And we also were very clear, including in my  
17 numerous pages of testimony, that we did not believe in  
18 any way should they be looked at at the time of the  
19 general rate case and that's ultimately what happened  
20 based on agreement by the parties in the stipulation.  
21 But it was all a result of our planning process and all  
22 part of our IRP planning and changes in economic  
23 conditions and factors affecting what was best for  
24 customers.

25 Our IRP in 2017 would show you that we

1 expected over that IRP planning horizon there to be a  
2 \$200 million benefit to customers on a net present value  
3 revenue requirement basis by retiring Sibley. That's  
4 our analysis, we still believe it, and that's why we  
5 retired them.

6 MR. HACK: Mr. Ives, that's all I have. Thank  
7 you very much.

8 JUDGE WOODRUFF: Did you wish to offer No. 26?

9 MR. HACK: Yes, I would. Thank you, Judge.  
10 We would move the admission of Exhibit 26.

11 JUDGE WOODRUFF: Exhibit 26 has been offered.  
12 Any objection to its receipt? Hearing none, it will be  
13 received.

14 (GMO'S EXHIBIT 26 WAS RECEIVED INTO EVIDENCE  
15 AND MADE A PART OF THIS RECORD.)

16 JUDGE WOODRUFF: And I believe that was the  
17 last witness.

18 (Witness excused.)

19 JUDGE WOODRUFF: Anything else need to be  
20 presented?

21 MR. WOODSMALL: Just for my records, you've  
22 accepted all exhibits; is that correct?

23 JUDGE WOODRUFF: Yes.

24 MR. HALL: I believe there was a phone listing  
25 Exhibit 10 that was marked. It was a phone listing. It

1 was marked for identification purposes but was not  
2 offered and isn't in the record. Is that still correct?

3 JUDGE WOODRUFF: I show it as being offered  
4 and received.

5 MR. FISCHER: I believe I did offer it  
6 ultimately.

7 MR. HACK: Judge, if I gave the court reporter  
8 Exhibit 26 and had it filed in the record, would that be  
9 sufficient for everybody?

10 JUDGE WOODRUFF: Yes, I think that's fine.  
11 Now, the schedule in this case included dates for filing  
12 of briefs of August 22 for the initial brief and  
13 September 3 for reply brief. That actually seems rather  
14 quick to me. I'll leave that up to you. If you want to  
15 change it, we can change it. Everybody still happy with  
16 that?

17 MR. HALL: We're open to changing it if that  
18 is amenable to the other parties.

19 MR. FISCHER: I'm sorry. What was the date  
20 again?

21 JUDGE WOODRUFF: August 22 for the initial  
22 brief and September 3 for reply brief. Do you want to  
23 move them back a week?

24 MR. WOODSMALL: A week would be cool.

25 MR. HALL: I must admit public counsel would

1 also appreciate another week.

2 JUDGE WOODRUFF: After September 3, I'm  
3 planning on being on vacation in Yellowstone. I  
4 wouldn't be reading them anyway.

5 MR. HACK: Good for you.

6 JUDGE WOODRUFF: So reply briefs then will be  
7 on August 29 and replies on September 10. One more  
8 question. Do we need to expedite transcripts? They  
9 would be due I believe without being expedited 10  
10 business days from today. We can expedite them if that  
11 would be helpful.

12 MR. HACK: We don't.

13 MR. HALL: If we could have them by the end of  
14 next week, that actually would be wonderful.

15 JUDGE WOODRUFF: That would be -- Let me get  
16 the date here.

17 MR. HALL: 16th.

18 JUDGE WOODRUFF: That would be the 16th,  
19 expedited by the 16th.

20 MR. HALL: And to clarify, Judge, did you say  
21 September 10 for reply brief?

22 JUDGE WOODRUFF: That would be right. That's  
23 one week after we originally planned. And then I'd ask  
24 the parties to in their briefs tell the Commission how  
25 they believe the Commission should handle the question

1 of establishing a baseline that we discussed at the  
2 beginning of the hearing, give me suggestions on how you  
3 think it should be handled.

4 Anything else need to be taken up while we're  
5 on the record? All right. Then we are adjourned.

6 (Off the record.)

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CERTIFICATE OF REPORTER

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*Beverly Jean Bentch*

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