

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
3  
4 TRANSCRIPT OF PROCEEDINGS  
5 Hearing  
6 July 22, 2005  
7 Jefferson City, Missouri  
8 Volume 3  
9  
10 In the Matter of the Empire )  
11 District Electric Company's )  
12 Application for Certificate of )  
13 Public Convenience and Necessity ) Case No. EO-2005-0263  
14 and Approval of an Experimental )  
15 Regulatory Plan Related to )  
16 Generation Plant )  
17  
18 RONALD D. PRIDGIN, Presiding,  
19 REGULATORY LAW JUDGE.  
20  
21 STEVE GAW,  
22 ROBERT M. CLAYTON,  
23 COMMISSIONERS.  
24  
25 REPORTED BY:  
26  
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1 P R O C E E D I N G S

2 JUDGE PRIDGIN: Good morning. We're back  
3 on the record. We're resuming the hearing in  
4 EO-2005-0263. Just to kind of get counsel back on track,  
5 we have Mr. Wood on the stand from Staff and, Mr. Wood,  
6 you're still under oath.

7 THE WITNESS: Thank you.

8 JUDGE PRIDGIN: We were in the middle of  
9 Commissioner Gaw's cross-examination, and I believe we  
10 were going through some color exhibits, and according to  
11 my note, we were up to Exhibit No. 8 for identification  
12 purposes, and I have that Exhibits 5, 6, 7 and 8 have not  
13 been offered yet.

14 Just some housekeeping, I believe after  
15 Mr. Wood is finished I'll call Ms. Mantle. I understand  
16 she is unavailable this afternoon. So unless I hear  
17 otherwise, I'll plan for her to be the next witness.

18 I'm not sure how the schedule is going to  
19 run today. I'll alert the parties that the Commission  
20 does have an agenda set for this afternoon, so depending  
21 on the length of the hearing, we may need to adjourn for  
22 that agenda.

23 Does counsel have anything else for me  
24 before we resume Mr. Wood's cross-examination?

25 Okay. Hearing nothing. Mr. Wood, again

1     you're still under oath, and Commissioner Gaw, if you're  
2     prepared.

3     WARREN WOOD testified as follows:

4     QUESTIONS BY COMMISSIONER GAW:

5             Q.       Thank you.   Good morning, Mr. Wood.

6             A.       Good morning.

7             Q.       I'm not exactly sure where we left off  
8     yesterday, but I know we were talking about Exhibit 8, and  
9     we were discussing the portion in there that refers to 70  
10    percent capacity factor on coal units and your opinion as  
11    to what that illustrates on shortage on baseload, I  
12    believe; is that correct?

13            A.       Do we need to address this on camera?  When  
14    we closed yesterday, we were highly confidential.

15                    COMMISSIONER GAW:  We were, weren't we?  I  
16    think probably if that's what everyone is comfortable  
17    with, to do the same thing we talked about yesterday where  
18    Public Counsel gets to go through it.

19                    MR. MILLS:  We'll be happy to do that.

20                    JUDGE PRIDGIN:  If you give me a moment,  
21    I'll make sure we're not recording.

22                    (REPORTER'S NOTE, at this point an  
23    in-camera session was held, which is contained in  
24    Volume 4, pages 167 through 223 of the transcript.)  
25

1 JUDGE PRIDGIN: We are no longer in-camera  
2 we're back in public session. If anybody needs in-camera  
3 remarks, please let me know.

4 (EXHIBIT NO. 10 WAS MARKED FOR  
5 IDENTIFICATION BY THE REPORTER.)

6 JUDGE PRIDGIN: Mr. Frey, when you're  
7 ready, if you'll examine Ms. Mantle. And, Ms. Mantle, let  
8 me have you come forward to be sworn.

9 (Witness sworn.)

10 JUDGE PRIDGIN: Thank you very much.

11 MR. FREY: Thank you, your Honor.

12 LENA M. MANTLE testified as follows:

13 DIRECT EXAMINATION BY MR. FREY:

14 Q. Would you please state your name for the  
15 record.

16 A. Lena -- Lena M. Mantle.

17 Q. And by whom are you employed and in what  
18 capacity?

19 A. I'm employed by the Public Service  
20 Commission. I'm the engineering supervisor in the energy  
21 department.

22 MR. FREY: Okay. I need to mark an  
23 exhibit, Judge. I believe it will be Exhibit No. 10.

24 JUDGE PRIDGIN: That's correct.

25 BY MR. FREY:

1           Q.       And are you familiar with this document,  
2   Ms. Mantle?

3           A.       Yes, I am.

4           Q.       Did you prepare it?

5           A.       Yes, I did.

6           Q.       And could you state very briefly what it  
7   contains?

8           A.       It contains a review of my work history  
9   here at the Commission and my educational background.  
10   Also contains a list of the testimony I filed here at the  
11   Commission.

12                   MR. FREY:   Okay.   Thank you.   With that,  
13   your Honor, I would offer Exhibit 10 into the record and  
14   tender the witness for questions.

15                   JUDGE PRIDGIN:   Mr. Frey, thank you.   Any  
16   objections to Exhibit No. 10?

17                   (No response.)

18                   JUDGE PRIDGIN:   Seeing none, Exhibit No. 10  
19   is admitted into evidence.

20                   (EXHIBIT NO. 10 WAS RECEIVED INTO  
21   EVIDENCE.)

22                   JUDGE PRIDGIN:   See if we have any  
23   questions from the Bench.   Commissioner Gaw?

24                   COMMISSIONER GAW:   Yes, I do.   Thank you.

25   QUESTIONS BY COMMISSIONER GAW:

1           Q.       Ms. Mantle, your involvement in this case  
2       primarily had to do with -- was it demand response?  
3           A.       And resource planning.  
4           Q.       And resource planning. In regard to the  
5       demand response portion of the stip, are you familiar with  
6       it?  
7           A.       It would be more than demand response.  
8       It's also energy efficiency programs and affordability  
9       programs.  
10          Q.       All right. Can you give me an idea about  
11       what the concept is in this stipulation on those three  
12       things?  
13          A.       When Empire first came to us to talk about  
14       regulatory plans, even before anything was filed, we did  
15       have them come in and give one of their semi-annual  
16       resource plan updates to us. And Empire in the past has  
17       had no demand side management programs or very limited.  
18                   In the last rate case, the Department of  
19       Natural Resources Energy Center had proposed a few small  
20       programs be funded by Empire. You've heard a little bit  
21       about them, Change a Light/Change the World program,  
22       funding for that, HVAC, Energy Star rebate program,  
23       commercial audit program. And so we had a discussion on  
24       those programs and where they were.  
25                   So that's pretty much the extent of their



1 demand side management program. They've had a little bit  
2 of low-income programs, but that has focused mainly on  
3 paying bills, not on any type of weatherization. There is  
4 a small weatherization program now because of what DNR  
5 asked for in the last rate case, too.

6 Q. All right.

7 A. But as far as integrating any kind of  
8 demand side resources into their planning, they have done  
9 no such planning like that in the past.

10 Q. Okay. Does this stipulation provide for a  
11 change in that?

12 A. That is a major part of this plan. One of  
13 the things that's going to be coming up this fall is we  
14 switch from the waiver that we've had in the past on  
15 integrated resource planning. From semi-annual meetings,  
16 we go back to where the utilities begin filing resource  
17 plans again. But this fall UE will begin, and then every  
18 seven months a utility will come in and file with us.

19 But that would mean Empire would not file  
20 again until I believe 2008, and looking at their resource  
21 plan, we were very concerned about that.

22 Q. In what way?

23 A. Their forecast was not very detailed. They  
24 did it at a very aggregate level, forecasting at the  
25 system level. So they don't know who's driving their

1 growth. They don't know if it's the residential class, if  
2 it's the commercial class, if it's their industrial  
3 customers.

4 Q. Is that important to know?

5 A. Well, I believe it is.

6 Q. Why?

7 A. If you don't know if it's your residential  
8 class, they're often your most weather-sensitive  
9 customers, so you don't know what type of capacity you  
10 need. Are you going to need more peakers? If it's your  
11 industrial class that's causing your growth, they usually  
12 have high load factors and need more base unit types. If  
13 it's your commercial classes, they usually grow at a  
14 different rate pattern than your other type of customers.  
15 They'll grow real fast, and then office buildings sit  
16 vacant for a while and the economy catches up with them.

17 It's just good to know how your customers  
18 are growing so that you can match building and know how  
19 you're going to have to meet that need. And when they  
20 don't know which customer classes are growing and where  
21 the customers are growing -- I mean, in the past they have  
22 known the Branson area's growing. If they know that it's  
23 space heat that's growing, then they need to meet the  
24 winter peak more than the summer peak. So they -- to me,  
25 I believe it's very important for them to know what

1 customer classes are doing.

2 And since we've talked to them in May,  
3 we've talked to them -- I've talked to them subsequently,  
4 and they are starting to forecast by class and work more  
5 toward that.

6 And part of the stipulation says they're  
7 going to start working toward completing a class forecast  
8 and working on updating how they forecast and working  
9 towards looking into DSM and working with not only Staff  
10 and OPC but DNR and the other signatory parties that are  
11 interested in looking at DSM and how those resources could  
12 be worked into their future needs.

13 Q. Okay. So when the resource planning has  
14 been done, at least up until these conversations you had  
15 in May, you believe there was not sufficient detail done  
16 to adequately place inputs into calculations and  
17 determinations of what generation needs there might be  
18 going forward?

19 A. I believe the Black & Veatch study was a  
20 good study. Black & Veatch took what Empire gave them and  
21 did a good study. The Midas study, they were given loads,  
22 forecasted loads and put them under 8,760 hours of loads  
23 and forecasted out in the future.

24 Q. Okay.

25 A. Given the data that they had, I believe

1     that -- and at that point in time it was accurate.  Now,  
2     that's 2003.  That's two years ago, and there has been  
3     some things have changed, as Warren said.

4             Q.       Is this something that you should be doing  
5     in best practice on a more frequent basis than every two  
6     years?  I'm trying to understand whether this is a problem  
7     that just has existed, as you said, here of late or is it  
8     something that's been ongoing, if you know?

9             A.       A resource plan needs to constantly be  
10    updated, because there's things that are constantly  
11    changing.  And as the stipulation envisions, we have them  
12    making a filing, I believe it's in 2006, or that they will  
13    make their regularly scheduled resource plan filing as  
14    envisioned by Chapter 22.  All of it will be incorporated  
15    together.  It will build on each other.

16                    Even our rule has them file every three  
17    years and building on the last filing.  You should -- the  
18    utility should always be updating, looking at -- just like  
19    when they found this distressed unit, at that point they  
20    should go back and look at their resource plan and how  
21    does it fit into their resource plan.  They found this  
22    good deal.  Now how do they work it into their resource  
23    plan?

24             Q.       If you go to the store and find a bargain,  
25    do you buy it if you don't need it?  Is that what you're

1 saying?

2 A. My husband says no.

3 Q. Yes. All of us fall victim to that good  
4 deal mentality sometimes.

5 So you think going forward that the  
6 stipulation provides for a better resource planning  
7 mechanism than what has existed up to this point in time  
8 at least in the recent past; would that be fair?

9 A. That would be very fair.

10 Q. Okay. And you think it provides Staff and  
11 Public Counsel with additional information that is helpful  
12 to both Staff and Public Counsel?

13 A. And I think it provides Empire with our  
14 expertise, a way to get information from us and DNR Energy  
15 Center and the other signatory parties also.

16 Q. And as I understand it, you believe that it  
17 is likely to require Empire to produce more detailed data  
18 and information that will be helpful to them as well?

19 A. That is correct.

20 Q. Okay. Now, what does this -- there's some  
21 reference in here -- and I don't know if you dealt with  
22 this or not. There's some reference in here to a group  
23 and votes, and I need to understand that a little better.  
24 Is that something you worked on?

25 A. Yes. The CPC.

1           Q.       Yeah. What does that stand for? I know  
2   that DSM stands for demand side management.

3           A.       I'm going to turn to that section so that I  
4   get that correct, because in each one of these agreements  
5   we called it something else, so I want to get the right  
6   terminology.

7           Q.       That always makes it more entertaining for  
8   some of us.

9           A.       It stands for customer programs  
10   collaborative.

11          Q.       What is that?

12          A.       We did have it in the definitions section,  
13   too, I believe.

14          Q.       Just generally what is it supposed to be  
15   doing?

16          A.       It will be a group made up of the non-IOU  
17   signatory parties that will get together to provide  
18   direction -- and it will include Empire also -- to provide  
19   direction and advice regarding DSM programs to Empire, to  
20   help them develop and screen and implement and then look  
21   at the evaluations also of DSM programs.

22          Q.       Okay. So when do they start meeting?

23          A.       When -- if this Stip & Agreement is  
24   approved by the Commission.

25          Q.       Sometime --

1           A.       And it goes into effect.

2           Q.       -- soon after that?

3           A.       Soon after that.

4           Q.       And how many members will that be,

5 approximately?

6           A.       It will be Empire and Staff and OPC, and

7 then a representative from Stuart's group.

8           Q.       These -- each one provides one member each

9 entity?

10          A.       They will get one vote.

11          Q.       One vote?

12          A.       I would envision Staff may have two or

13 three representatives.

14          Q.       But just one vote?

15          A.       Just one vote.

16          Q.       And what happens, do they have -- are they

17 supposed to come up with ideas for programs?

18          A.       Yes.

19          Q.       On the demand side?

20          A.       Yes. DNR Energy Center has several

21 programs that they're interested in. We've worked

22 together with AmerenUE. We've worked together with KCPL.

23 It's the same group mostly that's worked together.

24          Q.       Are those groups formalized with those

25 other utilities likely that will be in this stipulation if

1     it's approved?

2             A.       We do have what's called the CPAG with  
3     KCPL. That group has not formally met because you have  
4     not -- that Stip & Agreement has not been approved. But  
5     we have several collaboratives with AmerenUE because of  
6     the complaint case agreement, and so there's several  
7     collaboratives there that work together.

8             Q.       Have those -- has the Ameren collaborative  
9     on demand side planning been a value?

10            A.       There are different collaboratives with  
11    AmerenUE. There's one on low-income weatherization. That  
12    one, I believe, was a value. It met early and made some  
13    decisions, and I don't believe it meets anymore. The time  
14    of use one is a value, and it meets every once in a while.  
15    I'm not sure how that program is going on. I'm not on  
16    that collaborative.

17                    The energy efficiency -- residential/  
18    commercial energy efficiency collaborative still meets on  
19    a regular basis. I'm a part of that. We've got several  
20    programs going on there. There was a demand response  
21    collaborative. I don't believe anything's really come out  
22    of that group.

23            Q.       Okay. Is this collaborative in this case  
24    designed to cover all of those kind of issues that would  
25    have come up in the various collaboratives you described



1     came out of the Ameren case?

2             A.     Yes, this collaborative's designed to cover  
3     all of those.

4             Q.     All right. And you said -- I believe you  
5     mentioned DNR is a member; is that correct?

6             A.     I believe they have signed this, so they  
7     will be a member, yes.

8             Q.     Is it possible for anyone else to be a  
9     member that is not a signatory to the stip, under the way  
10    the terms that are in the stip?

11            A.     No.

12            Q.     Do we have any low-income representatives  
13    included on the signature of the stip?

14            A.     DNR does oversee some low-income programs,  
15    administer some low-income programs across the state.

16            Q.     On weatherization?

17            A.     On weatherization, yes.

18            Q.     Are you going to be -- is this  
19    collaborative, this group going to be dealing with things  
20    other than weatherization that relate to low-income  
21    ratepayers? Is that part of its goal?

22            A.     No.

23            Q.     Okay. All right. Now, if the group comes  
24    up with something, for example, if it comes up with some  
25    idea that it supports, some particular plan, what happens?

1 First do they vote on approving -- submitting it to  
2 someone?

3 A. All those details have not really been  
4 worked out. I envision that it would, yes. I mean, we  
5 would generally -- the way I believe we envision it is we  
6 would all agree on a program.

7 Q. Okay. And then how would it get  
8 implemented?

9 A. Well --

10 Q. It's not clear yet?

11 A. Most likely a tariff would need to be  
12 filed.

13 Q. Okay.

14 A. Because we -- if any consideration is  
15 offered a customer under our rules, a tariff would need to  
16 be filed with the Commission, so in that -- at that point  
17 you would see these DSM programs.

18 Q. Would they likely have to be implemented in  
19 concert with a rate case or not?

20 A. No. They do not need to be offered in  
21 concert with a rate case.

22 Q. But there are no specific demand side  
23 programs that the stipulation provides for, just the  
24 collaborative group set up to develop some plans or some  
25 ideas?

1           A.       There were no programs that were developed.  
2   They have not been put through any kind of Midas runs to  
3   see what kind of impact they might have on Empire's loads,  
4   and that would be part of the screening that would need to  
5   take place before anything could be implemented.  That's  
6   one of the Staff's priorities in any kind of DSM program  
7   is that we have to see how it impacts a utility's loads  
8   and its system before it can be implemented.

9           Q.       Okay.  Was there any study done by the  
10   Staff or anyone else that you're aware of that would give  
11   any idea about the potential for reduction in the need for  
12   additional generation capacity if demand side programs  
13   were implemented --

14          A.       No.

15          Q.       -- on the Empire system?

16          A.       No.  And that's one of the reasons we don't  
17   have any kind of numbers for how much should be spent on  
18   DSM in this Stip & Agreement.

19          Q.       Okay.  When will there be some sort of  
20   report back to the Commission from this group?

21          A.       We don't have any kind of date for that.  
22   Hopefully that's part of their first IRP filing and we'll  
23   have something.

24          Q.       Now, on page 27 of the stip, there is a --  
25   there's a reference there on sub 1, under customer

1 programs objectives development. Do you see that?

2 A. Yes.

3 Q. Separate objectives may be developed for  
4 affordability programs, and then comma. Do you see that  
5 as something that must include weatherization or something  
6 dealing with efficiency that an affordability program in  
7 that sense cannot refer to some sort of a program that  
8 just deals with assisting low-income ratepayers with their  
9 payments or their rates?

10 A. Affordability programs, there's tests set  
11 up for energy efficiency programs and demand response  
12 programs, such as the total resource cost test and  
13 ratepayer impact test, that a lot of times affordability  
14 programs will not meet. They don't -- total resource  
15 costs has a rate impact test don't take into account stuff  
16 like helping the ratepayers with arrearages and other  
17 benefits that affordability programs can help, safety  
18 issues, and so affordability programs often have other  
19 types of objectives.

20 Q. Right. So you're -- and I think you're  
21 reconfirming what you told me earlier, that when we're  
22 talking about affordability programs, we're really talking  
23 about something that's still dealing with efficiency,  
24 weatherization, not something that's purely about --  
25 talking about reduction of rates or assistance for

1 individuals paying their bills?

2 A. Right. But it can still help the  
3 ratepayers as a whole, energy efficiency, yes.

4 Q. And the impact can be that, or it can be  
5 targeted -- weatherization programs could be targeted to  
6 low-income --

7 A. That's correct.

8 Q. -- individuals?

9 A. That's correct.

10 Q. Okay. Now, in Appendix G, there are  
11 some -- there are some targets listed in there, and I  
12 realize this comes from DNR, but can you give me an  
13 understanding of how these targets in Appendix G relate to  
14 what the goals are -- of the CPC will be?

15 A. There were a lot of discussions in our  
16 settlement agreement, our talks about how to -- trying to  
17 get some goals for the CPC, and we could not come up with  
18 any.

19 Q. Specific programs, you mean?

20 A. Agreements, not necessarily specific  
21 programs, but what kind of goal. You know, there was some  
22 thought that we needed to have some kind of goals. We  
23 could not come to an agreement.

24 Q. Not even in regard to how much of a  
25 reduction in capacity might be achieved?

1           A.       No, we couldn't come to an agreement. So  
2       these are a type of goal that could be reached, and this  
3       is the best agreement that we could come to that we could  
4       put this as an attachment to the agreement, that these are  
5       possible goals of the CPC.

6           Q.       They're possible goals?

7           A.       This is our best agreement that we could  
8       come to. Staff is open to putting some goals, having  
9       goals, but not all parties can agree to these goals.

10          Q.       I see. Okay. Well, I don't want to get  
11       into your settlement discussions.

12          A.       And I can't get into them, other than we  
13       couldn't agree.

14                   COMMISSIONER GAW: That's all I have.  
15       Thank you.

16                   JUDGE PRIDGIN: Commissioner Gaw, thank  
17       you. Commissioner Clayton?

18                   COMMISSIONER CLAYTON: No questions.

19                   JUDGE PRIDGIN: All right. Let me see if  
20       we have any cross-examination. Mr. Mills?

21       CROSS-EXAMINATION BY MR. MILLS:

22          Q.       Just very briefly. And I think with regard  
23       to affordability programs and the CPC, and I'm not sure if  
24       I didn't hear the question right, but is there anything in  
25       the stipulation that prevents the CPC from developing a

1 purely affordability program, such as an arrearage  
2 forgiveness program, that doesn't really have anything to  
3 do with energy efficiency?

4 A. Other than demand side management typically  
5 doesn't include those types of programs. There's nothing  
6 in the Stipulation & Agreement that prohibits that.

7 MR. MILLS: Thank you. That's all I have.

8 JUDGE PRIDGIN: Mr. Mills, thank you. Any  
9 further cross?

10 Mr. Cooper?

11 MR. COOPER: Just one thing, your Honor.

12 CROSS-EXAMINATION BY MR. COOPER:

13 Q. Ms. Mantle, you were talking about  
14 Appendix G a few minutes ago, and just to be clear,  
15 Appendix G represents DNR's view exclusively of potential  
16 targets, correct?

17 A. That is correct.

18 MR. PRIDGIN: Mr. Cooper, thank you. Any  
19 further cross?

20 Mr. Frey, redirect?

21 MR. FREY: No, your Honor. That's  
22 something I was going to attempt to clarify, and  
23 Mr. Cooper handled it. Thank you.

24 JUDGE PRIDGIN: Thank you. Anything else  
25 from the Bench?

1                   COMMISSIONER GAW:  Maybe a question of  
2  Mr. Cooper.

3                   Are these targets that are laid out by DNR  
4  considered to be too low by the company, too high or -- if  
5  you're not agreeing with them, or is that too simple?

6                   MR. COOPER:  I think that's probably too  
7  simple, and I don't think -- again, without getting too  
8  deeply into settlement discussions, I don't think you  
9  should have the impression that the company was a sole  
10 objector or that the failure of the company to agree to  
11 those goals was all that was involved.

12                  COMMISSIONER GAW:  I wasn't going to ask  
13 you until you raised the question for clarification.  I  
14 was going to leave it alone, but since you raised it, I'm  
15 asking.

16                  MR. COOPER:  I think it more reflects, from  
17 the company's perspective, the fact that there's a lot of  
18 unknowns in this area, and I don't think we can place  
19 where those goals and targets should be, what a realistic  
20 level is.  They might be too high, they might be too low,  
21 but I think there's a lack of information and background  
22 and some other things to make that assessment at this  
23 point.

24                  COMMISSIONER GAW:  The company is committed  
25 in the agreement to work toward coming up with a demand



1 side management program, as I understand it in the stip.  
2 Would that be correct?

3 MR. COOPER: The company certainly  
4 committed to be a part of the collaborative process and  
5 that's one of the goals of the collaborative process, yes.

6 COMMISSIONER GAW: So it is a goal of the  
7 company to try to come up with some demand side programs?

8 MR. COOPER: Certainly, within the  
9 parameters that are set forth in the agreement.

10 COMMISSIONER GAW: Okay. I'll leave it  
11 alone. Thank you, Mr. Cooper.

12 I am done, too, Ms. Mantle. Thank you.  
13 Other than that, we can let her go so she can tend to her  
14 business.

15 JUDGE PRIDGIN: Thank you, Ms. Mantle. You  
16 may be excused.

17 (Witness excused.)

18 JUDGE PRIDGIN: I think the next witness  
19 the Commission would like to call is Ryan Kind from the  
20 Office of the Public Counsel. Mr. Kind, if you would come  
21 forward and be sworn, please.

22 COMMISSIONER GAW: I might ask, Judge,  
23 while he's doing that whether DNR wanted to have anything  
24 to say about the portion that we were just talking about  
25 on programs and --

1 MS. VALENTINE: No, I don't think so.

2 COMMISSIONER GAW: Okay. I won't request

3 anything.

4 (Witness sworn.)

5 JUDGE PRIDGIN: Thank you very much. If

6 you'll have a seat.

7 RYAN KIND testified as follows:

8 DIRECT EXAMINATION BY MR. MILLS:

9 Q. Could you state your name for the record,

10 please.

11 A. Ryan Kind.

12 Q. And by whom are you employed and in what

13 capacity?

14 A. I am employed by the Missouri Office of the

15 Public Counsel as the chief energy economist.

16 MR. MILLS: And, Judge Pridgin, rather than

17 take him through a lengthy recitation of his experience

18 and employment and education, I'd ask the Commission to

19 take official notice of the first two pages of the

20 rebuttal testimony of Ryan Kind in Case No. EA-2005-0188

21 where those qualifications are set forth.

22 JUDGE PRIDGIN: The Commission will take

23 administrative notice of that.

24 MR. MILLS: Thank you. I have no further

25 questions on direct. I will tender Mr. Kind for questions

1 from the Bench.

2 JUDGE PRIDGIN: Mr. Mills, thank you. Let

3 me see what questions we have from the Bench.

4 Commissioner Gaw?

5 QUESTIONS BY COMMISSIONER GAW:

6 Q. Mr. Kind, I am -- I'm going to ask that you

7 attempt, to the extent that you can, to shed some light

8 from your perspective on the issues that I was generally

9 discussing with Warren Wood, and then if I have some more

10 specific questions, I'll get into those. But my

11 understanding is that you have a perspective that might be

12 helpful, and I'd like to hear that.

13 A. Certainly. Well, you discussed quite a few

14 issues with Mr. Wood.

15 Q. I did indeed, and I can try to go back

16 through that if you'd rather.

17 A. Well, no. I'll just start off with some of

18 the ones where I feel like our office might have a

19 slightly different view or a little bit different

20 emphasis.

21 Q. That's really what I'm looking for. Since

22 I don't know what that is, it would probably be more

23 helpful for you to do that, rather than me try to elicit

24 it out of questioning.

25 A. I guess first of all, I'd start off with

1 saying that Mr. Wood's -- his analysis and his review of  
2 the overall resource situation for Empire and the sense  
3 that they are relying too heavily on gas-fired generation  
4 and currently plan to continue doing so in the future is a  
5 concern that is definitely shared by the Office of Public  
6 Counsel. Furthermore, that is a concern that we've had  
7 for quite some time now.

8 I have been involved in the resource  
9 planning process with Empire for at least ten years, I  
10 think, and over the years there just has been an ongoing  
11 concern with their reliance on gas-fired generation and  
12 the ongoing trend of adding additional gas generation  
13 units but not adding some additional baseload either at  
14 the same time or in place of those additional gas units  
15 that have been added.

16 One of the questions that you addressed to  
17 Mr. Wood, I believe, was why does the Staff support the  
18 addition or just the inclusion of the V84 in this  
19 agreement, and I think that that's where I'd like to talk  
20 a little bit about how we, Public Counsel, I think,  
21 appears to have maybe a little bit different  
22 interpretation of the Stipulation & Agreement and the  
23 rights that it gives the signatories to challenge the  
24 prudence of the V84 addition in the future.

25 Q. Okay. What is that perspective?

1           A.       Well, I think I want to start off with just  
2   generally saying, obviously, as has been mentioned here,  
3   when parties enter into stipulations and agreements, you  
4   know, they may -- there generally are compromises that are  
5   made in order to reach an agreement.

6                   We felt like this particular agreement was  
7   important because it will lead to a much higher likelihood  
8   that the company will be adding at least  
9   100 megawatts of baseload capacity from the Iatan 2 unit  
10   to their generation portfolio. As part of compromises  
11   that are made in order to come to an agreement, we did not  
12   feel like we made any compromise in the area of our  
13   ability to challenge in the future the prudence of adding  
14   the V84 instead of some other coal-fired generation  
15   resource. And the way --

16          Q.       Can you point to that?

17          A.       Yes, I can.

18          Q.       How that's justified in the stip --

19          A.       Yes.

20          Q.       -- your position?

21          A.       If we go to page 5 of the Stipulation &  
22   Agreement, an area that's been discussed before, obviously  
23   there's the statement in the first paragraph of Section 7  
24   on page 5 that, in about the middle of the paragraph, the  
25   signatory parties agree they will not take the position

1 the investments identified in paragraph 3C1 should be  
2 excluded from Empire's rate base on the grounds that they  
3 were not necessary at the time of this agreement or Empire  
4 should have used alternative technologies.

5 I think it's very important to notice that  
6 the sentence that follows has very strong and I believe  
7 clear language where it says, notwithstanding this  
8 preceding sentence, the sentence that I just read --  
9 notwithstanding the preceding sentence, Empire expressly  
10 acknowledges that, and then its acknowledgement in Item 3  
11 down there is the acknowledgement that Public Counsel  
12 believes clearly gives us the right to challenge whether  
13 or not in general Empire should have been adding more  
14 coal-fired resources at an earlier date instead of  
15 gas-fired resources.

16 And I guess we basically interpret that  
17 statement as that, you know, given our ongoing view that  
18 they should have added more coal or taken steps to acquire  
19 more coal-fired resources by this time, and if they had  
20 done so there would -- the need to have additional  
21 gas-fired capacity or at least this much gas-fired  
22 capacity as we're getting, approximately 150 megawatts  
23 from the V84, would not have been necessary.

24 And we frankly could not have -- I don't  
25 believe that -- you know, you look at stipulations and

1 agreements in their entirety, but it would have been very,  
2 very difficult for us to sign an agreement that did not  
3 have that language here that I've referenced, the  
4 notwithstanding sentence, and Item No. 3.

5 Q. Okay. So your position is that you believe  
6 that in a rate case, a subsequent rate case, you have the  
7 ability to challenge. Do you think you have the ability  
8 to challenge the V84 unit itself being placed in rate  
9 base?

10 A. Yes, we do. We think we can do that by,  
11 for instance, doing an alternative fuel run which would --  
12 you know, first saying that this should have been their  
13 portfolio of resources that they had at this particular  
14 point in time, and then we would have the revenue  
15 requirement implications of a portfolio of resources that  
16 differs from the actual portfolio.

17 You would have more coal generation in rate  
18 base, less gas-fired resources in rate base, and at the  
19 same time you would have a fuel run that indicated the  
20 fuel costs associated with that alternative portfolio of  
21 resources as well as some additional off-system sales  
22 revenues that would help to offset the cost of that  
23 base -- those additional baseload resources.

24 Q. Now, just to -- I want to see if I'm -- if  
25 I can explore that just a little bit more. Is the V84

1 unit mentioned in the stip?

2 A. Yes, it is.

3 Q. Do you know where it's mentioned?

4 A. Well, I think it's this reference under 7

5 to the investments identified in paragraph 3C1. It is, I

6 believe, one of the investments that's mentioned there,

7 and that list of investments begins at the middle of page

8 3, and the third item in that list is the 155 megawatts of

9 gas-fired generation from the V84.

10 Q. Wouldn't it have been plainer just to have

11 excluded that from the list under C1 if it was subject to

12 challenge in the next rate case?

13 A. I think it -- it might have been a little

14 bit clearer. It still seems pretty clear to Public

15 Counsel, but it might have been a little bit clearer,

16 although I can't say that we would have been here today

17 presenting you with an agreement.

18 Q. So I guess what my question is -- I don't

19 know that you can answer it -- is whether or not everyone

20 is in agreement on what the agreement means in regard to

21 the V84?

22 A. Yeah. I certainly wouldn't be the one to

23 be able to answer that.

24 Q. Is that unit mentioned anywhere else in the

25 stip?



1           A.       It's in the definitions section also, at  
2   the top of page 3, and then it's also included in the  
3   appendix that lists the infrastructure investments, and  
4   that's -- I probably should say the appendix I'm referring  
5   to is confidential. It's Appendix A.

6           Q.       Okay. I understand your position.

7           A.       Okay.

8           Q.       Is there anything else in regard to what  
9   Mr. Wood testified about that you'd like to address?

10          A.       No. You know, I definitely share his view  
11   regarding the importance of the current RFP for new  
12   baseload capacity, and certainly would be very  
13   disappointed if it turns out there's some attractive  
14   offers out there and for some reason the company is -- you  
15   know, believes they're unwilling or unable to take  
16   advantage of them.

17          Q.       How much of the -- of the need for the  
18   amortization plan that's in this stipulation is because of  
19   the Iatan investment? All of it, most of it? Give me an  
20   idea.

21          A.       Well, I think you can look at Appendix A.  
22   You get an idea there of the size of the investments.  
23   That doesn't show the cash flows needed in any given year  
24   to support those investments, and it's actually -- it is  
25   the -- for instance, you'll see there, you know, a figure

1 under 2010 for Iatan 2. They are cash flows associated  
2 with that, that, you know, begin long before 2010. And  
3 it's the aggregate amount of the cash flows in each year  
4 that's associated with each of these investments that will  
5 be driving the need for amortizations potentially.

6 I also would say that if you get too much  
7 more into the amortization issues, we probably should get  
8 Mr. Trippensee on the stand.

9 Q. Okay. So what I'm looking for really is  
10 from an impact standpoint, is the V84 a part of the reason  
11 for the need for the amortization provision?

12 A. Well, I mean, if that were the only  
13 resource that this company was adding at this time?

14 Q. Yes.

15 A. I don't know that there would be any -- any  
16 need for any, you know, extraordinary ratemaking treatment  
17 like amortizations.

18 And then I guess the other perspective  
19 would be just that without the V84, I guess just my gut  
20 feeling is there would still be a need to have the  
21 amortization mechanism available, although I don't know  
22 that anybody has really ever done any what-if analysis of  
23 doing the financial modeling and saying, you know, here's  
24 what the cash flow needs are associated with these  
25 investments absent the V84, here's the expected outcomes

1 in terms of financial ratios year by year, and here's the  
2 need to fill the gap to come up with to make those  
3 financial ratios a certain acceptable level to keep the  
4 company at investment grade.

5 Q. Okay. So in moving -- if I understood you  
6 correctly earlier, the driving reason for Public Counsel  
7 to see this stipulation through to an end result was  
8 because of the Iatan portion?

9 A. That's definitely the driving reason,  
10 and --

11 Q. Were there other positive things from  
12 Public Counsel's standpoint about trying to get -- to get  
13 this plan in the stip done --

14 A. Yes, there are.

15 Q. -- that were important to Public Counsel?

16 A. There are other positive things, and I  
17 think the -- some of the subjects that Ms. Mantle was just  
18 discussing in terms of the resource plan development and  
19 the customer program collaborative, those were things that  
20 were very important to Public Counsel, and from -- I  
21 believe that they really were important to all the  
22 signatories, possibly for different reasons, but very  
23 important to all the signatories, including us.

24 Q. Were the resource planning provisions here  
25 something that would not have occurred otherwise?

1           A.       I believe that's true. The only other way  
2   to have made something like that happen might have been  
3   through the filing of a complaint case.

4           Q.       All right. Refresh my memory again. When  
5   do the resource planning rules go back into effect on  
6   Empire?

7           A.       Well, Ms. Mantle mentioned 2008. I don't  
8   have that -- I don't have any reason to doubt that that's  
9   the date, but I don't really have that independently.

10          Q.       All right. Now, can you answer the  
11   question for me or would it be Mr. Trippensee in regard to  
12   the impact of these amortization changes on the customers?

13          A.       In terms of on the rates they pay, is that  
14   your question?

15          Q.       Yes.

16          A.       Mr. Trippensee would be the best person  
17   from Public Counsel to address that issue.

18          Q.       Okay. Anything else you'd like to add on  
19   the testimony in relation to the testimony that Warren  
20   Wood gave?

21          A.       No, there's not.

22                    COMMISSIONER GAW: All right. That's all I  
23   have of this witness, I think, Judge.

24                    JUDGE PRIDGIN: Commissioner Gaw, thank  
25   you. Commissioner Clayton? Thank you.

1                   Any cross-examination? Mr. Frey?

2                   MR. FREY: Judge, I don't have any

3 cross-examination for this witness, but a point of

4 clarification perhaps. In response to Commissioner Gaw's

5 question about whether or not the other parties agree with

6 Mr. Kind's analysis of that -- of those particular

7 provisions on page 5 of the stip, I think Mr. Kind may

8 have indicated that perhaps Staff has a different view of

9 that. And I would just like to say that I don't believe

10 Staff does have a different view of those particular

11 provisions that he was discussing. I think we agree with

12 Mr. Kind.

13                   JUDGE PRIDGIN: Mr. Frey, thank you. Any

14 cross-examination?

15                   COMMISSIONER GAW: Can I -- so I don't see

16 this issue or someone else doesn't see this issue down the

17 road somewhere, can I have some clarification from the

18 other parties as to what their understanding is about this

19 V84 issue on whether it is or is not being pre-approved in

20 this stip?

21                   Having seen other stipulations that have come back

22 into this place where everyone said they were agreeing but

23 after the fact appeared not to, it would be nice to have

24 that clear now, if it can be made clear.

25                   MR. COOPER: All eyes I suppose are on

1 Empire with that question.

2 COMMISSIONER GAW: Most important.

3 MR. COOPER: Even though addressed to all

4 parties. I think the company certainly agrees that some

5 challenge to the V84 has been preserved by the parties,

6 and specifically in regard to I guess Item No. 3 that was

7 referenced by Mr. Kind. And I think at the same time the

8 company believes that some portion of this decision, at

9 least as of the time it was made, perhaps not, hasn't been

10 pre-approved, but there have been some elements that the

11 parties have agreed not to challenge.

12 And I think the distinction there is

13 whether you're looking at it in -- whether you're looking

14 at the facts as they existed in July of 2004 when the

15 company decided to go forward with the V84 or whether

16 you're looking at a broader time horizon, as I believe Mr.

17 Kind is indicating here in terms of the Public Counsel's

18 position.

19 So I think in my mind there is agreement as

20 to the fact that not everything is being approved in

21 regard -- or agreed to in regard to the V84, and that

22 Public Counsel in particular, Staff I suppose as well, has

23 preserved some arguments that they would make in regard to

24 that V84.

25 How exactly as a practical matter that

1 plays out and those arguments are made within a rate case  
2 where they would really come to the rubber would meet the  
3 road, I don't know that the parties could sit here and  
4 come to a real finite agreement, but certainly from the  
5 concepts, the company acknowledges that an argument has  
6 been preserved in regard to the V84.

7 COMMISSIONER GAW: Okay. Anyone else want  
8 to --

9 MR. MILLS: If I may, just to sort of point  
10 out where I think that we do agree with Empire, and I  
11 don't -- it's really a question of nuances. I think the  
12 argument that we have preserved is not so much that in  
13 July of 2004 that was a really bad choice, the V84. The  
14 argument we're trying to preserve is that Empire should  
15 never have been where they were in July of 2004 where the  
16 V84 was their choice. They should have had much more coal  
17 at that point where they should have been further along in  
18 negotiations towards a coal plant.

19 So we're not saying that specifically given  
20 the circumstances where they were when they made the  
21 decision to go forward with the V84 that that was a bad  
22 decision at that point. We're preserving a much bigger  
23 issue, which is how -- that they had gotten themselves to  
24 a point where that was the right decision. And it's a  
25 somewhat nuanced argument, but there is a difference

1     there.

2                     So in a sense -- well, in a very real sense  
3     I agree with Mr. Cooper that there is some of the prudence  
4     of the V84 decision that is preserved, and there is some  
5     challenge to the V84 decision that is preserved.

6                     COMMISSIONER GAW: I'm real clear on this.

7                     MR. COOPER: Let me try to add this, which  
8     usually leads us down a path of an extra couple of hours,  
9     I suppose.

10                    COMMISSIONER GAW: Maybe I should leave the  
11     room.

12                    MR. COOPER: But one of your questions,  
13     Commissioner Gaw, went to, wouldn't it have been easier  
14     just to not mention the V48. And from the company's  
15     perspective, the company certainly didn't believe that  
16     that was a good answer, and I think the reason for that  
17     has to do with one of the purposes from the company's  
18     perspective of the whole Stipulation & Agreement, which is  
19     to get to a point where the company at least has an  
20     opportunity to maintain its investment grade rating.

21                    A portion of that is unfortunately  
22     perception driven, and the company was afraid that,  
23     depending on how that V84 were addressed or not addressed,  
24     it would signal some things to the investment community  
25     that might not be out there, and that would potentially



1 thwart the overall objective of this process, which was to  
2 keep the company in a position to maintain its investment  
3 grade rating.

4 So in a very general fashion, that's why it  
5 was important to the company for that V84 investment to be  
6 described in this agreement and to be included to some  
7 extent in this section.

8 COMMISSIONER GAW: And I sort of understand  
9 that all. I just -- I just see this coming down the road  
10 where we're going to have this argument about what the  
11 stip meant. I'm -- I guess my question is, how would you  
12 make the argument about whether or not this V84 should --  
13 was a prudent investment without getting into this  
14 question of what the stip meant?

15 Or maybe I should ask Public Counsel, are  
16 you talking about the possibility of making some other  
17 suggestion of an adjustment that leaves the V84 in the  
18 rate base and undisturbed?

19 MR. MILLS: I think what we're talking  
20 about is the possibility of -- as Mr. Kind suggested, of  
21 almost -- well, hypothetical is too strong of a word, but  
22 a significantly adjusted fleet of generating units to do a  
23 fuel run on in the next rate case or subsequent rate  
24 cases. So it wouldn't necessarily look very much at all  
25 like the -- like the current fleet, including the V84.

1 COMMISSIONER GAW: I see. Staff, anything?

2 MR. FREY: Again, we would agree with that,

3 your Honor. There might be an adjustment to the fuel run,

4 for example.

5 COMMISSIONER GAW: All right. Stu? I

6 apologize for the informality.

7 MR. CONRAD: That's okay. But remembering

8 the comment about my shoes, that I was --

9 COMMISSIONER GAW: Yes, I do.

10 MR. CONRAD: Okay. I would kind of

11 analogize it this way: Somebody is in a hole. There is a

12 ladder in the hole. We're not saying that it is

13 inappropriate for them to climb out of the hole using that

14 ladder. The larger question that I think is reserved is

15 how did you get in the hole in the first place?

16 COMMISSIONER GAW: I'm just -- I'm just

17 wanting to make sure there's not a shovel in that hole,

18 too. All right. I'll be done with Mr. Kind, and I'll

19 struggle with this other thing.

20 BY COMMISSIONER GAW:

21 Q. Except I might ask Mr. Kind if it were not

22 true that at least at some point in time there was a case

23 in front of this Commission whether it was a good idea or

24 bad idea -- evidently the Commission didn't think it was a

25 good idea at the time -- that would have -- where a

1 complaint was filed dealing with Empire on bringing in  
2 additional baseload on a plant back in 1994 or '95? I  
3 think was it Alstrom (ph. sp.) or something?

4 A. Oh, I recall that case. I was around for  
5 that. I don't recall the characteristics of their plant.  
6 It was a co-gen plant, I think.

7 Q. I don't know. I don't know much about it.  
8 Just there were arguments made at that time about the need  
9 for baseload on Empire, it appears. Whether or not that  
10 was an appropriate thing to add would be another question.  
11 So this has been -- this discussion has been going on for  
12 a while?

13 A. Definitely goes on every six months when we  
14 have our IRP meetings at least, yes.

15 COMMISSIONER GAW: All right. Thank you.

16 THE WITNESS: Thank you.

17 JUDGE PRIDGIN: Commissioner Gaw, thank  
18 you.

19 Mr. Kind, thank you. You may be excused.

20 (Witness excused.)

21 COMMISSIONER GAW: Real quick if I could  
22 have Mr. Trippensee, I just want to ask him a couple  
23 questions, a few questions.

24 JUDGE PRIDGIN: Mr. Trippensee, if you'll  
25 come forward and be sworn, please.

1 (Witness sworn.)

2 JUDGE PRIDGIN: Thank you very much, sir.

3 If you would have a seat. Mr. Mills, when you're ready.

4 MR. MILLS: Thank you. Judge Pridgin, I'd

5 like to do the same kind of thing with Mr. Trippensee and

6 ask that the Commission take official notice of the

7 qualifications of Mr. Trippensee contained in the first

8 two pages of his direct testimony in Case EO-2005-329 and

9 Schedule RWT-1 to that testimony, rather than going

10 through his qualifications on the record here.

11 MR. CONRAD: No objection.

12 JUDGE PRIDGIN: The Commission will take

13 administrative notice of that.

14 MR. MILLS: Thank you. Has the witness

15 been sworn?

16 JUDGE PRIDGIN: Yes.

17 MR. MILLS: Okay.

18 RUSSELL TRIPPENSEE testified as follows:

19 DIRECT EXAMINATION BY MR. MILLS:

20 Q. Could you state your name for the record,

21 please.

22 A. Russell W. Trippensee.

23 Q. And by whom are you employed and in what

24 capacity?

25 A. The Missouri Office of the Public Counsel,

1 chief utility accountant.

2 MR. MILLS: Thank you. With that I'll

3 tender the witness for cross-examination -- I'm sorry --

4 for questions from the Bench.

5 JUDGE PRIDGIN: Mr. Mills, thank you.

6 Commissioner?

7 QUESTIONS BY COMMISSIONER GAW:

8 Q. Mr. Trippensee, you worked on the

9 amortization portion, along with other things I'm

10 assuming, but you worked on that portion of this

11 agreement, did you not?

12 A. Yes, Commissioner, I did.

13 Q. Can you tell me in your role as a

14 representative of Public Counsel, how this amortization

15 provision works in your client's, your Public Counsel's

16 client's interests?

17 A. It works in the customers' interest by

18 recognizing the customer's providing cash flow to the --

19 via the rates, and the provision of that cash flow will in

20 the future be recorded as an amortization and accumulated,

21 and that accumulated amount will be used to reduce rate

22 base in future rate proceedings before this Commission. I

23 would contrast that with providing cash flow through a

24 higher rate of return, which is about the only other

25 option the Commission has.

1                   Those monies provided through a rate of  
2   return would flow through to the stockholders return on  
3   equity through the income statement in the current period.  
4   They would receive the cash flow, obviously, just like  
5   they receive the balance of their equity as cash flow.  
6   But they would take those funds, reinvest in the company,  
7   and then those investments that they do on a going-forward  
8   basis would be added to rate base.

9                   So you'd have the ratepayer paying a cash  
10  flow in the past, a return of -- or for just a higher  
11  equity, then you'd also have the ratepayer paying a higher  
12  rate base in the future. It's a very dramatic difference  
13  in the effect on ratepayers.

14                Q.     All right. So the advantages to ratepayers  
15  are, they are -- the company hopefully as a result of this  
16  will not suffer downgrades in their investment rating?

17                A.     That is correct.

18                Q.     That's one thing.

19                A.     And downgrades have the potential for  
20  higher debt cost on the issues that occur subsequent to  
21  that downgrade.

22                Q.     Okay. And that causes rates to be higher  
23  if all other things were equal?

24                A.     All other things, ultimately higher because  
25  those costs will be built into the AF -- allowance for

1 funds used during construction rate that's applied to the  
2 construction projects, capitalized, and then the  
3 ratepayers will have a higher rate base on which they have  
4 to pay a return of over some period of time and a return  
5 on during the same period.

6 Q. All right. And then subsequent rate cases,  
7 the rate base will have been reduced because of a faster  
8 amortization?

9 A. Under the Stipulation & Agreement before  
10 the Commission, yes. The amortization effectively  
11 represents a return of existing investment, plants in  
12 service, and part of the -- I think it's Appendix D that  
13 illustrates there's a line for additional taxes. It's  
14 Public Counsel's hope that there will be adequate  
15 accelerated tax depreciation that we can compare this  
16 amortization to and eliminate the tax gross-up effect.  
17 Whether it's eliminated in total or not will not be known  
18 until that comes before this Commission.

19 Q. What would that do? What does that do for  
20 your ratepayers?

21 A. If you eliminate the tax gross-up effect,  
22 it simply means the ratepayer doesn't pay 62 cents on a  
23 dollar -- in addition to the dollar and have that 62 cents  
24 flowed to the federal Internal Revenue Service, our  
25 friends in Washington.

1           Q.       Are you saying that the federal government  
2   is helping to pay for this plan?

3           A.       Oh, no.  What we're hoping to do here  
4   through the amortization is keep the ratepayers from  
5   paying the federal government.  If you did a rate of  
6   return to get a dollar of cash flow, you'd have to pay  
7   Uncle Sam  
8   62 cents.

9           Q.       In essence, you're hoping to get some tax  
10   savings in addition to the fact that ratepayers will not  
11   be paying for this rate base as -- some of this rate base  
12   as long?

13          A.       Well, I don't know that I would say tax  
14   savings.  It's more tax avoidance.

15          Q.       Okay.  You'd rather characterize it like  
16   that.  You're the one that's got the accounting degree.

17          A.       And the reason being is, if we do the  
18   amortization, hopefully there will be no tax.  If you  
19   would do, like, a rate of return, there would definitely  
20   be a tax.

21          Q.       Okay.  So this plan is more tax efficient  
22   and beneficial for your ratepayers than raising the rate  
23   of return?

24          A.       That is the hope.  That is still -- there  
25   is some question of how the IRS will treat the



1     amortization and a question of how much accelerated  
2     depreciation will be created with these investments.

3             Q.       Regardless, there's still the other benefit  
4     that you mentioned earlier, right?

5             A.       The rate -- of the accumulated amortization  
6     reducing rate base, all things else being equal.

7             Q.       Okay. Now, the disadvantage to the  
8     ratepayer, at least in the short run, is that it may see  
9     some higher rates than they might have otherwise seen  
10    at -- in the next rate case because of quicker  
11    amortization in that rate case?

12            A.       There is the potential for that, but I  
13    would point out that the stipulation does contain that  
14    secondary test that was discussed yesterday of the  
15    ratepayers better off using the amortization than a higher  
16    cost of debt. With that caveat, yes.

17            Q.       All right. And in essence, then, if you  
18    had some -- there may be some -- if a ratepayer was not on  
19    the system after -- after some of the payback begins, for  
20    lack of a better wording, there may -- that would be --  
21    there might be some issue of some class of ratepayers that  
22    might be adversely impacted, would it not?

23            A.       Well, first I guess there has to be a rate  
24    case before an amortization occurs.

25            Q.       Yes.

1           A.       And the amortization, there will be no  
2   accumulation with that first rate case, so you would only  
3   have a lag in receiving a benefit from the time the next  
4   rate case occurs until the subsequent rate case to that.

5           Q.       Okay,

6           A.       After that subsequent rate case, ratepayers  
7   would be receiving the benefit of the amortization,  
8   accumulated amortization, and a new customer coming on the  
9   system would be receiving that benefit even though they  
10   hadn't contributed.

11          Q.       The only ones that wouldn't be receiving  
12   the benefit would be ones that went off the system at that  
13   point?

14          A.       That would be correct. To identify  
15   ratepayers specific --

16          Q.       It's impossible?

17          A.       Impossible.

18          Q.       Right?

19          A.       Right.

20          Q.       Okay. So at this point, when you put all  
21   of that together, in looking at the fact that you -- that  
22   this program is here, and I realize you signed off on the  
23   stipulation, but when you put all of that together, the  
24   bottom line is Public Counsel believes that that is --  
25   this agreement with regard to the amortization provision

1 is in the best interests of your ratepayers?

2 A. Yes, we do.

3 COMMISSIONER GAW: That's all I have.

4 JUDGE PRIDGIN: Commissioner, thank you.

5 Let me see if we have any cross-examination from any

6 parties?

7 (No response.)

8 JUDGE PRIDGIN: Seeing none. Mr. Mills,

9 any redirect?

10 MR. MILLS: No, thank you.

11 COMMISSIONER GAW: Mr. Trippensee, thank

12 you.

13 THE WITNESS: Thank you.

14 JUDGE PRIDGIN: You may be excused.

15 (Witness excused.)

16 COMMISSIONER GAW: I'm done. Thank you.

17 Thank you all for your patience.

18 JUDGE PRIDGIN: I don't believe we'll have

19 any more evidence. In lieu of any kind of Briefs or

20 anything, especially since this is a stipulation, I would

21 like to see some Proposed Findings of Fact and Conclusions

22 of Law. And, Mr. Cooper, I'll -- I don't want to order

23 something that's impossible for you to follow, but if you

24 have your transcript by Wednesday, how quickly can you get

25 proposed findings and conclusions in?

1                   MR. COOPER: I don't know. I have -- my  
2   personal issue is that I'm back here currently for a  
3   hearing Thursday and Friday next week.

4                   JUDGE PRIDGIN: All right.

5                   MR. COOPER: So it probably becomes  
6   difficult for me to provide you with Proposed Findings of  
7   Fact and Conclusions of Law before the 1st. Now, I hate  
8   to do that because that starts to put it off a while.

9                   JUDGE PRIDGIN: Let me hold off ordering  
10   that for now and then give the parties a chance to talk  
11   and see if they can come up with something. I mean,  
12   that's something I would like to have to try to speed up a  
13   potential order to get before the Commission.

14                  MR. COOPER: Let me ask this, I guess, and  
15   perhaps we can just discuss it after we go off the record  
16   with your Honor.

17                  JUDGE PRIDGIN: Okay.

18                  MR. COOPER: If we could -- if we could  
19   discuss this with you for a few minutes after we go off  
20   the record.

21                  JUDGE PRIDGIN: Sure. Anything else we  
22   need to say before we go off the record?

23                  (No response.)

24                  JUDGE PRIDGIN: All right. Hearing  
25   nothing, that will conclude this hearing in

1 Case EO-2005-0263.

2 Thank you very much. We're off the record.

3 WHEREUPON, the hearing of this case was

4 concluded.

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