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1 P R O C E E D I N G S
2 (EXHIBIT NO. 178 WAS MARKED FOR
3 IDENTIFICATION.)
4 JUDGE MILLS: Okay. Let's go back on the
5 record.
6 We're continuing with cross-examination of
7 Staff witness Bible by Union Electric Company.
8 Mr. Bible, you are still under oath.

9 Go ahead, Mr. Cynkar.
10 MR. CYNKAR: Thank you.
11 RONALD L. BIBLE, being previously sworn, testified as
12 follows:
13 CROSS-EXAMINATION (RESUMED) BY MR. CYNKAR:
14 Q. Good morning again, Mr. Bible.
15 A. Good morning.
16 Q. Mr. Bible, I have only one more question
17 area to talk to you about. If you could turn to your
18 Surrebuttal Testimony on pages 26 and 27, please.
19 Now, from page 10 -- sorry. From page 26,
20 line 10 through page 27, line 15, you discuss an
21 Illinois Commerce Commission proceeding involving
22 AmerenUE, and that was Docket No. 00-0802. And you
23 are using, as I understand it, the results of this
24 case in a neighboring jurisdiction to compare to the
25 results of your rate of return proposal. Correct?

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1 A. Yes.
2 Q. Okay. Now, in that Illinois Commerce
3 Commission case, the weighted cost of capital that
4 that decision awarded was 9.04 percent. Correct?
5 A. That's what was agreed to by the parties.
6 Q. Right. So that was a settlement. Correct?
7 A. Yes. It was ordered.
8 Q. But it was a settlement between the parties?
9 A. Yes.
10 Q. Okay. Now, do you know anything else about
11 what was agreed to in that settlement other than what

12 you reported here?

13 A. No. This is what I pulled out of that
14 report.

15 Q. Okay. Well, in the context of a settlement,
16 then, you don't know, for example, what other
17 tradeoffs there were in the negotiations between the
18 parties to reach that settlement, do you?

19 A. No.

20 Q. And do you know, if I understand it, that
21 the AmerenUE component that was the subject of this
22 case was a distribution company. Correct?

23 A. I don't recall.

24 Q. Okay. So in the context of that settlement,
25 you don't know what kind of revenue from that Ameren

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1 entity was at stake in that proceeding, do you, sir?

2 A. No.

3 Q. Okay. Now, I would like to turn your
4 attention to another Illinois case that was litigated.

5 MR. CYNKAR: I'm not going to be offering
6 this into evidence, your Honor.

7 JUDGE MILLS: Okay.

8 BY MR. CYNKAR:

9 Q. This case and the document I just handed to
10 you is Mid-American Energy. It was decided March 27th
11 of this year, 2002, and it's Case No. 01-0444. And if
12 you turn to page 17 in the decision, you see there
13 there is the chart setting out the overall cost of

14 capital that was being awarded in this case. Now, the
15 overall cost of capital that was awarded there in
16 Illinois was 9.14 percent. Correct?

17 A. Yes.

18 Q. Which is higher than the 904 that was
19 settled in the AmerenUE case. Correct?

20 A. Yes.

21 Q. In addition, the ROE that was allowed there
22 was 11.36 percent. Correct?

23 A. That's correct.

24 Q. Now, also if you turn to the first page of
25 the order, and in the second paragraph it has the

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1 acronym of MEC for Mid-American Energy Company. And
2 the second sentence says, "MEC owns and operates
3 electric distribution systems in Illinois."

4 So would it be fair to say that MEC was a
5 distribution company?

6 A. Well, it would be fair to say that MEC owns
7 and operates electric distribution systems in
8 Illinois. I don't know what MEC does overall.

9 Q. But in terms of this case, its Illinois
10 activities were the subject of the jurisdiction of the
11 Illinois Commerce Commission. Correct?

12 A. Yes.

13 Q. Okay. So for purposes of this case, it is a
14 distribution entity that we're talking about.
15 Correct? Is that fair to say?

16 A. Based on this.

17 Q. Okay. And do you know whether a
18 distribution services company is more or less risky
19 than a fully integrated utility?

20 A. I think that's a general argument that's
21 made. I think there is a general argument that's made
22 that gas companies are more risky than electric
23 companies and electric companies are more risky than
24 whatever.

25 In specific instances, I don't think you can

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1 take that generalization because I think you can --
2 you can show and make the argument that a specific
3 distribution company may be more or less risky than a
4 generation -- I mean, you can make those general
5 statements, but you can't apply it specifically to
6 every situation.

7 Q. So as you sit here, then, is it your
8 testimony that we can't know just on what we have
9 whether this Mid-American is more or less risky than
10 an integrated utility?

11 A. I can't know. No, I couldn't make that
12 judgment based on what I know about this.

13 Q. Okay. Let me show you another document.

14 MR. CYNKAR: And, again, I'm not going to be
15 offering this into evidence, your Honor.

16 BY MR. CYNKAR:

17 Q. And I have tabbed for ease of reference the
18 page I would like to refer you to, sir.

19 If you would turn to that, and this is
20 the -- this is the Direct Testimony of Michael
21 McNally, who is a financial analyst for the Illinois
22 Commerce Commission. He is a Staff member of the
23 Illinois Commerce Commission, very much like you are a
24 Staff member of the Public Service Commission of
25 Missouri.

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1 MR. WILLIAMS: Pardon me.

2 MR. CYNKAR: I'm sorry?

3 MR. WILLIAMS: May I have a copy of what
4 you're showing the witness?

5 MR. CYNKAR: I'm sorry. I apologize.

6 MR. WILLIAMS: I expect the Commissioners
7 might want to see it also.

8 MR. CYNKAR: I did. I'm not introducing
9 this into evidence. We've been using only three
10 copies for exhibits used for impeachment.

11 I can provide copies if anybody wants more
12 of them.

13 JUDGE MILLS: It depends on where you're
14 going with this. If you're going to be doing
15 extensive reading from it, then it certainly would be
16 helpful for all of the Commissioners to have it.

17 MR. CYNKAR: I'm actually only going to be
18 referring to one page of it, your Honor.

19 BY MR. CYNKAR:

20 Q. So if you turn to that tabbed page of
21 Mr. McNally's testimony, it is schedule 4.9. And in

22 his DCF analysis in comparable companies, he used
23 Ameren Corporation as one of his comparable companies.
24 Do you see that there on that page?
25 A. Yes.

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1 Q. Okay. And his DCF calculation, he, a Staff
2 member of the Illinois Commerce Commission, for Ameren
3 Corporation was a DCF of 11.48. Correct?
4 A. Correct.
5 Q. And that is considerably higher than your
6 proposal in this case. Correct?
7 A. Well, I'm not setting rates for Ameren. I'm
8 setting rates for AmerenUE.
9 Q. All right.
10 A. Okay.
11 MR. CYNKAR: That's all I have.
12 JUDGE MILLS: Thank you.
13 THE WITNESS: I notice Laclède is down here
14 at 9.56, too.
15 JUDGE MILLS: That concludes the first round
16 of cross-examination. We will go to cross -- to
17 questions from the Bench, followed by a further round
18 of cross-examination, followed by redirect
19 examination.
20 Commissioner Murray?
21 COMMISSIONER MURRAY: I have no questions.
22 Thank you.
23 JUDGE MILLS: Commissioner Lumpe?

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24 COMMISSIONER LUMPE: I have no questions.
25 JUDGE MILLS: Commissioner Forbis?
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1 COMMISSIONER FORBIS: Why change that?
2 JUDGE MILLS: Redirect, Mr. Williams?
3 MR. WILLIAMS: Thank you, Judge.
4 REDIRECT EXAMINATION BY MR. WILLIAMS:
5 Q. Good morning, Mr. Bible.
6 A. Good morning.
7 Q. Do you recall that in your deposition you
8 were extensively questioned by the attorney
9 representing Union Electric Company on the sources
10 that you relied on in developing the Staff's
11 recommended rate of return in this case?
12 A. Yes, I do.
13 Q. What sources did you rely on?
14 A. The sources that I rely on are typically
15 sources that are relied on by financial analysts and
16 the information is publicly available and published
17 sources including Standard & Poors, Value Line,
18 Moody's, various other sources that, again, are
19 typically relied upon by financial analysts as well as
20 investors.
21 Q. Did you have any expectation of the rate of
22 return the Staff would recommend for Union Electric
23 Company in this case before you performed your
24 analysis?
25 A. No, none.

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1 Q. During your April 16, 2002 deposition, you
2 were asked the following question and provided the
3 following response: Question: "So how would you say
4 that someone should evaluate your judgment? If the
5 question is, 'Is Ron Bible right or wrong in making
6 that judgment, how would a neutral third party?'"

7 You responded, "That's a good question. I
8 think in a broader context of whether or not my
9 recommendations are reasonable, in a broader context
10 of not just return on equity but rate of return as far
11 as what my recommendation is because that's what goes
12 against revenue, and I think in a broader context of
13 where my recommendation falls in comparison to
14 weighted returns on equity and rates of returns that
15 other Commissions are authorizing. That's how I think
16 my judgment should be evaluated.

17 Have you done any such evaluations?

18 A. Yes, I have. In addition to what has been
19 discussed yesterday as far as Regulatory Research
20 Associates, I made comparisons from some information
21 in Public Utility's fortnightly. The Company's
22 counsel this morning talked about the Illinois case.
23 There are also other cases that I compared my outputs
24 to, and, basically, were very favorable, I mean, very
25 comparable.

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1 And I think that in looking at my judgment,
2 I don't typically make those kind of comparisons doing
3 an analysis to come up with what a company's cost of
4 capital is. That's why we use the models and that's
5 what the models are for. But when I'm accused of
6 producing an output that will result in a lower
7 revenue for a company, then I will make those
8 comparisons to see if, in fact, it does.

9 But it's not the objective of doing those
10 comparisons to set return on equity or rate of return
11 for the company. Again, we use the models and the
12 generally accepted procedures for doing that.

13 Q. Were there any specific decisions that you
14 reviewed?

15 A. Yes, I did. I'll look them up here.

16 The Public Utility fortnightly information I
17 was able to find on web sites for six of the decisions
18 in the actual regulatory jurisdictions' web sites the
19 information on capital structure and weighted cost of
20 equity. The six observations, the weighted cost of
21 equity is 5.02, and that compares to my 5.56. So
22 making that comparison, my weighted cost of equity
23 would produce more equity than those decisions would.

24 And, again, I was doing this as a comparison
25 to what revenue it would produce. You don't look at

1 this to actually set the return on equity or rate of
2 return, only to make the comparison.

3 In addition to the Illinois case which we
4 talked about, there was a Kansas Corporation
5 Commission docket No. 01-WSRE-436-RTS for Western
6 Resources. And the weighted cost of equity in that
7 case that was authorized was 4.86, and that compares
8 to my 5.56.

9 In addition to the 285 Regulatory Research
10 Associates observations, I also looked at specifically
11 the first five decisions that have been authorized the
12 first quarter of this year. That's in my schedule 2.
13 If you look at those first five, and you look at the
14 average, the weighted cost of equity for the first
15 five decisions published in Regulatory Research
16 Associates this year was a weighted cost of equity of
17 5.02 compared to my 5.56. And then I also looked at
18 grossing those up for taxes to come up with the
19 overall rate of return. My rate of return 11.77
20 compares to the average rate of return for those five
21 decisions of 11.64.

22 Q. You said schedule 2. Is that to your
23 Surrebuttal Testimony?

24 A. That's to my Surrebuttal Testimony, yes.

25 And, again, all I'm looking at there is in

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1 response to any accusation that my recommendations
2 would produce less revenue. I don't do this analysis
3 and wouldn't recommend doing this analysis to actually

4 come up with a company-specific cost of capital.

5 That's what the models are for.

6 Q. Does your ability to perform an objective
7 market-based capital analysis depend on the regulatory
8 decisions of other jurisdiction?

9 A. No, not at all. Certainly, you look at
10 those, but to do an objective analysis, you need to
11 avoid factoring in anything that might bias your
12 analysis.

13 Q. Mr. Cynkar showed you a copy of an order
14 from Illinois regarding Mid-American Energy Company in
15 Case No. 01-0444, and he directed your attention, in
16 particular, to page 17, in that table. He asked about
17 a couple of numbers that appear on that table.

18 A. Yes.

19 Q. Did the Commission also order a weighted
20 cost of common equity in that case?

21 A. Yes.

22 Q. And what was that number?

23 A. 586.

24 Q. When you say 586, is that 5.86?

25 A. 5.86, and it compares to my 5.56.

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1 Q. Mr. Cynkar also provided you a copy of some
2 Direct Testimony from what purports to be a member of
3 the staff of the Illinois Commerce Commission. Do you
4 recall that?

5 A. Yes.

6 Q. And he directed your attention to a schedule
7 that's schedule 4.9 in that?

8 A. Yes.

9 Q. Do you know if this testimony was relied
10 upon by the Illinois Commerce Commission in its
11 decision?

12 A. No, I don't know that.

13 Q. The case was settled, was it not?

14 A. I don't know. Was that --

15 Q. Perhaps it wasn't.

16 A. I don't know on this case. I haven't
17 studied this case.

18 Q. So you don't know if --

19 A. I don't know whether it was settled or
20 actually --

21 Q. And you don't know if the Illinois
22 Commission even relied on this testimony?

23 A. No, I don't.

24 Q. And does this information have any bearing
25 on what AmerenUE's rates should be set in this case?

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1 A. No. Not if you look at it objectively, no.

2 Q. Yesterday you were asked a number of
3 questions pertaining to your comparison of cost of
4 equity between companies. Why did you make that
5 comparison again?

6 A. Basically, I made the comparison because of
7 the accusation that my output or my results would
8 produce less revenue than what other jurisdictions

9 would provide. And it was only in response to that.
10 I don't do that to actually determine what the cost of
11 capital is for the company.

12 Q. Why did you choose to focus on weighted cost
13 of equity?

14 A. Well, if you're going to look at a decision
15 as far as what revenue it produces, return on equity
16 itself doesn't get applied directly to anything to
17 produce revenue. It first gets weighted by equity as
18 a percentage of the capital structure, just like debt
19 gets weighted by debt as a percentage of the capital
20 structure and preferred gets weighted by preferred as
21 a percentage of the capital structure. After those
22 are all weighted, those are added up and that derives
23 your rate of return and your overall cost of capital.

24 Q. Is there a relationship between rates of
25 return and equity structure --

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1 A. Yes.

2 Q. -- or capital structure, I should say?

3 A. Yes. Capital structure, basically, as I
4 mentioned yesterday, it's generally held true that a
5 company with more equity in its capital structure will
6 be less risky and investors will perceive them as
7 being less risky, and, therefore, they will expect
8 less of a return for assuming less risk. And the
9 converse is also true.

10 Now, does that work in every specific

11 situation every time? Not necessarily. But it's
12 generally held true, and it does generally on the
13 average work out that way.

14 Q. And does a larger sample size give you a
15 better result in a smaller one?

16 A. Most definitely. In every instance a larger
17 sample size will give you a better result.

18 Q. And whenever you did your comparison with
19 the 285 companies from Regulatory Research Associates,
20 did you choose a subset of all of the information they
21 provided, or did you utilize all of it, or --

22 A. I utilized all of it, unlike what Mr. Cynkar
23 presented yesterday. He just carved out Ms. McShane's
24 Regulatory Research Associates study group of
25 companies. There's approximately 72 companies in

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1 there. He carved out the top 22. He wanted to show
2 the top 22 with regards to equity and their capital
3 structure and returns on equity that were authorized
4 and, you know, make that comparison. I wouldn't
5 recommend comparing and insinuating that Ameren should
6 be in the top and their rates set at the very highest.

7 MR. WILLIAMS: No further questions.

8 JUDGE MILLS: Thank you.

9 Mr. Bible, before you step down, Mr. Cynkar,
10 did you have prepared --

11 MR. CYNKAR: Yes, your Honor.

12 JUDGE MILLS: -- a copy of the chart that
13 you used yesterday?

14 MR. CYNKAR: Yes. In fact, I promised you
15 when I sat down I would move all of this stuff in
16 evidence, and I forgot it. I apologize.

17 We have made a copy this. It's already been
18 marked as Exhibit 178. And I didn't ask you any
19 questions about it, Mr. Bible, but there it is so you
20 can have a copy, and a copy for the Commissioners.

21 And I think that leaves outstanding exhibits
22 that have been marked but not moved into evidence as
23 175, -76, -77 and -78, and I will -- I would now move
24 those into evidence, your Honor.

25 JUDGE MILLS: Are there any objections to

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1 the admission of Exhibits 175, 176, 177, or 178?

2 MR. WILLIAMS: No objection.

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

5 (EXHIBIT NOS. 175, 176, 177, AND 178 WERE
6 RECEIVED INTO EVIDENCE.)

7 MR. CYNKAR: Thank you, your Honor.

8 JUDGE MILLS: Mr. Bible, now you may step
9 down.

10 Thank you.

11 THE WITNESS: All right. Thank you.

12 JUDGE MILLS: Mr. Williams, are you handling
13 Mr. Bax?

14 MR. WILLIAMS: No, I am not.

15 JUDGE MILLS: Why don't we go off the record

16 briefly while we get ready to switch over to Staff
17 witness Bax?

18 We're off the record.

19 (A RECESS WAS TAKEN; EXHIBIT NO. 179 WAS
20 MARKED FOR IDENTIFICATION.)

21 (Witness sworn.)

22 JUDGE MILLS: Let's go back on the record.

23 Mr. Frey, we've called Mr. Bax forward. You
24 may begin your direct examination.

25 MR. FREY: Thank you, your Honor.

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1 ALAN J. BAX testified as follows:

2 DIRECT EXAMINATION BY MR. FREY:

3 Q. Please state your name for the record.

4 A. Alan J. Bax.

5 Q. And, Mr. Bax, by whom are you employed and
6 in what capacity?

7 A. I'm employed by the Missouri Public Service
8 Commission as a Utility Engineering Specialist III in
9 the Energy Department.

10 Q. And did you prepare and cause to be filed in
11 this proceeding what has been marked for purposes of
12 identification as Exhibits 12, NP and P, and 13, both
13 NP and P, Alan Bax Direct, March 2002, and Surrebuttal
14 respectively?

15 A. Yes.

16 Q. And did you also prepare what I have marked
17 as Exhibit 179, which contains some corrections or
18 additions to your March testimony?

19 A. Yes.

20 Q. Are there any other changes to that
21 testimony --

22 A. No.

23 Q. -- or to your Surrebuttal?

24 A. No.

25 Q. And if I asked you the same questions today

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1 as are in that testimony, including the changes
2 contained in Exhibit 179, would your answers be the
3 same today?

4 A. Yes.

5 Q. And are those answers true and accurate to
6 the best of your knowledge, information, and belief?

7 A. Yes.

8 MR. FREY: With that, your Honor, I would
9 offer Exhibits 12NP and P, 13NP and P, and 179 into
10 evidence, and I would tender the witness for
11 cross-examination.

12 MR. WOLSKI: Excuse me, your Honor. Since
13 I've just received the correction sheet that's marked
14 as 179, I would like to reserve any objections to that
15 until I have had a chance to review it.

16 JUDGE MILLS: Okay. How long do you believe
17 that will take?

18 MR. WOLSKI: Once the cross-examination is
19 done, probably a few minutes.

20 JUDGE MILLS: Okay. Do you have any

21 objections to the earlier exhibits, 12NP, 12P, 13NP or
22 13P?

23 MR. WOLSKI: No.

24 JUDGE MILLS: Okay. I'll admit 12NP, 12P,
25 13NP, and 13P, and reserve ruling on 179 until a few

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1 minutes after the conclusion of cross-examination of
2 this witness.

3 (EXHIBIT NOS. 12NP, 12P, 13NP, AND 13P WERE
4 RECEIVED INTO EVIDENCE.)

5 MR. FREY: Thank you, your Honor.

6 JUDGE MILLS: Thank you.

7 Cross-examination. First, Office of the
8 Public Counsel?

9 MR. COFFMAN: No questions.

10 JUDGE MILLS: Attorney General's Office?

11 MR. COFFMAN: They informed me that they had
12 no questions.

13 JUDGE MILLS: Okay. Missouri Industrial
14 Energy Consumers?

15 (No response.)

16 JUDGE MILLS: Missouri Energy Group?

17 (No response.)

18 JUDGE MILLS: Missouri Retailers
19 Association?

20 MR. OVERFELT: No questions.

21 JUDGE MILLS: Doe Run Company?

22 MR. FULTON: No questions.

23 JUDGE MILLS: LaCade Gas Company?

24 (No response.)

25 JUDGE MILLS: Kansas City Power & Light

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1 Company?

2 (No response.)

3 JUDGE MILLS: Union Electric?

4 MR. WOLSKI: We have some questions.

5 JUDGE MILLS: Thank you.

6 CROSS-EXAMINATION BY MR. WOLSKI:

7 Q. Good morning, Mr. Bax.

8 A. Good morning, Mr. Wolski.

9 MR. WOLSKI: Your Honor, may it please the
10 Commission, Victor Wolski from Cooper & Kirk,
11 representing AmerenUE today.

12 To make things move a little smoother here,
13 I would like to move that we introduce into the record
14 Exhibit 14 and Exhibit 15 which have been previously
15 marked. Exhibit 14 would be the deposition transcript
16 from Mr. Bax's depositions of November 28th, 2001 and
17 April 24th, 2002, and Exhibit 15 would be the errata
18 sheet for the April 24th, 2002 deposition.

19 As my colleague, Mr. Cynkar, said yesterday,
20 this would -- introducing the deposition transcripts
21 would allow us to save time and not have to replot
22 ground that's already been covered in a lot of these
23 questions.

24 JUDGE MILLS: Okay. Are there any
25 objections to the admission of exhibits -- the

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1 admission of Exhibit 14 or Exhibit 15?

2 MR. FREY: Your Honor --

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

5 (EXHIBIT NOS. 14 AND 15 WERE RECEIVED INTO
6 EVIDENCE.)

7 JUDGE MILLS: I'm sorry. Mr. Frey?

8 MR. FREY: We have no objections.

9 I believe there was an errata sheet
10 associated as well with the first deposition.

11 MR. WOLSKI: There was, and I believe that
12 that's actually included in the Exhibit 14.

13 MR. FREY: Okay.

14 MR. WOLSKI: If that's not the case, I
15 will -- we will move for that errata sheet, obviously,
16 to be included as well.

17 JUDGE MILLS: I believe that is the case. I
18 think for most of the depositions that are in bound
19 volumes, there is the errata sheet to the earlier
20 deposition found with them, and the errata sheet for
21 the second deposition was marked separately.

22 MR. FREY: Thank you.

23 JUDGE MILLS: And I believe that's the case
24 for Mr. Bax.

25 BY MR. WOLSKI:

1 Q. Mr. Bax, one of the topics you've covered in
2 your testimony was the -- the demand allocator for
3 Union Electric; is that correct?

4 A. Yes.

5 Q. Would that be the demand allocation factor?

6 A. The demand allocation factor.

7 Q. The demand allocation factor is calculated
8 by looking at the relative percentage of demand in the
9 peak hour of a particular month or a particular time
10 period for a company; is that correct?

11 A. Yes.

12 Q. And so coincident peak -- when we're talking
13 about the demand allocator, coincident peak means the
14 peak demand hour of a particular month or more than
15 one particular month if you're talking more than one
16 CP. Correct?

17 A. Coincident peak is the peak in a particular
18 jurisdiction in this testimony that occurred at the
19 time coincident with the Ameren peak.

20 Q. Okay. And in order to determine the demand
21 allocator then, you have to decide how many coincident
22 peaks over a year you're going to look at in order to
23 get the average to break down the percentage of the
24 costs that are going to be allocated to -- or the
25 percentage of the assets allocated to UE as opposed --

1 in the Missouri retail jurisdiction as opposed to
2 those that are going to be allocated to the wholesale
3 or Illinois jurisdiction. Correct?

4 A. Yes.

5 Q. And in this particular case, the approach
6 you used to determine the number of coincident peaks
7 to look at was the same approach you used in the
8 Empire District Electric case? I believe it was
9 ER-2000-299 in which you worked with Dr. Eve Lissik;
10 is that correct?

11 A. Yes.

12 Q. Okay. And in your testimony filed in this
13 case, your Direct Testimony, that is, you don't
14 discuss any coincident peak methodology other than
15 12 CP, do you?

16 A. No, I don't.

17 Q. Okay. And you originally filed testimony
18 back in July of 2001 which mentioned one other
19 methodology in it. It was the one CP methodology
20 which you've associated in that testimony with a
21 distinctive peak during a particular month. Do you
22 remember that?

23 A. Yes.

24 Q. I think you might also have identified that
25 as a situation when you had, I think, a needle peak or

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1 a distinctive peak would be the circumstances in which
2 one CP might be appropriate? Do you recall that?

3 A. Yes.

4 Q. Okay. Now, do you have a copy of the Empire
5 District Electric Company testimony that you worked on
6 with Dr. Lissik?

7 A. I'm not sure. I'll have to check.

8 MR. WOLSKI: Actually, if I can approach the
9 witness?

10 JUDGE MILLS: Yes, go ahead.

11 BY MR. WOLSKI:

12 Q. Does this -- this is a copy of the document
13 that you identified in response to a document
14 production request. Does that look like the Empire
15 District Electric Company testimony that you worked
16 on?

17 A. Yes.

18 Q. Okay. Now, this particular testimony, if
19 you could turn to page 4, lines 7 and 8, could you
20 read what the first sentence on line, 7, page 4 of
21 Dr. Lissik's testimony from the Empire District
22 Electric case, ER-2001-299, says? That would be
23 lines 7 and 8, page 4. I'm sorry.

24 A. "FERC has historically advocated utilizing
25 either a one CP or a 12 CP methodology."

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1 Q. Well, I understand that this was
2 Dr. Lissik's testimony and that she filed it, I
3 believe she says, in place of you because you were on
4 military leave at the time.

5 When you had worked on this particular

6 testimony, did you believe that this is the case, that
7 FERC historically advocated one CP or 12 CP? Was that
8 your belief?

9 A. Yes.

10 Q. Okay. And do you still believe that to be
11 the case?

12 A. I have subsequently -- I have subsequently
13 looked. FERC does not -- has historically utilized
14 12 CP in most cases, but judges on a case-by-case
15 basis.

16 Q. And the time you determined the demand
17 allocator for Union Electric, you did not -- you were
18 not familiar with any tests that would be used to
19 determine whether a company fell between one CP and
20 12 CP, were you?

21 A. If you were referring to -- if you were
22 referring to FERC tests, no.

23 Q. Okay. When you learned how to do demand
24 jurisdictional allocators under the tutelage of
25 Dr. Lissik, did you -- were you -- were you made aware

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1 of any tests to determine whether a company would be
2 anything other than a one CP or a 12 CP for purposes
3 of the demand allocator?

4 A. Not for purposes of the testimony, no.

5 Q. Okay. For any other purposes were you made
6 aware of that?

7 A. No.

8 Q. Okay. So that when you first looked at
9 whether Union Electric Company would be considered a
10 12 CP company, the only -- it was essentially a binary
11 function. You were considering either it's a one CP
12 or a 12 CP. Correct?

13 A. I was -- I was judging -- I intended -- I
14 intended to advocate the use of the 12 CP, and that
15 was my focus.

16 Q. And had you determined the 12 CP was not
17 appropriate, what would have been the alternative?

18 A. I would have had to have made other
19 calculations at that point.

20 Q. And these are calculations that you were not
21 instructed by Dr. Lissik or anyone as to how you would
22 do them, how you would determine whether a company
23 would be four CP or six CP or eight CP, or anything
24 that falls between one and 12?

25 A. Correct.

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1 Q. Okay. But you were aware, of course, that a
2 company could be something between one CP and 12 CP.
3 There are ten numbers in between, and you were aware
4 that it is possible for a company to be four or five
5 or six CP, some other -- six CP. Right?

6 A. Yes.

7 Q. This fact, didn't your original testimony
8 that was prefiled in this case in July of last year
9 contain a schedule -- I think it was schedule 5 of
10 that testimony -- that did exactly that, that listed

11 what UE's demand allocator would be if it was a one CP
12 company, a two CP company, a three CP company, going
13 all of the way down the methodology to 12 CP?

14 A. Yes.

15 Q. And the Empire District Electric case which
16 is the means by which you learned how to do the
17 jurisdiction allocator, in that case a similar
18 schedule was attached, wasn't it, to the testimony I
19 handed you?

20 A. Yes.

21 Q. Now, this schedule, I believe it's --

22 JUDGE MILLS: Counselor, if you're going to
23 be referring to that again, I think we need copies for
24 the Bench. It's going to be very difficult for us to
25 follow along. We had the same problem with Mr. Cynkar

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1 when he was using other documents to impeach a
2 witness.

3 If you're going to have him read one
4 sentence, then I'm not sure we really need to see it,
5 but if you're going to refer to it more than once,
6 we're going to need copies up here to see it.

7 MR. WOLSKI: Okay. I'll have somebody make
8 copies.

9 MR. MOLTENI: Commissioner, if I may, for
10 the briefing process, even if he's going to be
11 referring to one sentence, I think the parties are
12 going to need copies of the documents that he's

13 referring to.

14 JUDGE MILLS: Well, this -- you're probably
15 right. I mean, I think the parties, as well as the
16 Bench, should get copies of this stuff that you're
17 referring to, particularly if you're reading portions
18 of it into the record.

19 MR. WOLSKI: If I were -- if we were to
20 confine ourselves just to identifying certain numbers
21 that are in this, would that be sufficient, or --

22 JUDGE MILLS: Well, I mean, it is your case
23 to present. If you're making it difficult for us to
24 follow along what you're doing, then I'm not sure
25 that's a wise thing for you to do.

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1 MR. MOLTENI: Judge Mills, I would object to
2 that also, because he may be referring to certain
3 numbers of it, but if we don't have the document, and,
4 for example, the document might say, All of the
5 numbers in this are wrong, in a footnote, how can we
6 brief this?

7 JUDGE MILLS: I tend to agreement. I think
8 we do need to get copies.

9 MR. WOLSKI: Okay. I'll have copies made.

10 BY MR. WOLSKI:

11 Q. The -- it's true, is it not, we have
12 established that that schedule that runs through
13 the -- the jurisdictional allocation number for one CP
14 through 12 CP methodologies was included in the Empire
15 District case, and it was included in your original

16 prefiled testimony here, but you omitted it from the
17 testimony you filed in March for this case. Correct?

18 A. Yes.

19 Q. And that was after you had discussed with
20 Lena Mantle whether you should drop the exhibit from
21 the testimony?

22 A. Yes.

23 Q. And was there any particular reason why that
24 exhibit was omitted from the testimony when it
25 appeared in your previous testimony and in the Empire

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1 District case?

2 A. We were advocating the use of a 12 CP. I
3 had -- I had reason to believe that AmerenUE was also
4 going to sponsor a 12 CP. I didn't feel it was
5 necessary.

6 Q. But did you believe that to be the case when
7 you filed your original prefiled testimony last July?

8 A. No.

9 Q. And was there something that occurred
10 between the filing of your July testimony and your
11 filing of the March testimony that led you to believe
12 that UE would be filing as a 12 CP?

13 A. Yes. I -- I had -- in looking at -- in
14 looking at Staff data requests, I had made that
15 inference.

16 Q. Are there any -- are there any particular
17 data requests you can reference that would identify

18 the company intended to be a 12 CP company or -- 12 CP
19 company for planning purposes?

20 A. I was making a reference to Staff Data
21 Requests 4143. And in the interim, then, I was making
22 an inference to the response received to, as I recall,
23 Staff Data Request 4142.

24 Q. In response to those data requests, did the
25 Company state that it was using 12 CP for planning

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1 purposes?

2 A. It was not stated, no --

3 Q. Okay.

4 A. -- explicitly.

5 Q. And in including the schedule in your
6 original testimony, I imagine that you thought that it
7 had some relevance or some persuasive value in
8 determining whether the Company would be a 12 CP
9 company or some other CP company?

10 A. No.

11 Q. Why was it originally included in the
12 initial prefilled testimony?

13 A. Simply as -- simply as a comparison.

14 Q. And you thought there was no need to make
15 the comparison when you filed your subsequent
16 testimony?

17 A. No.

18 Q. When you made the 12 CP determination, were
19 you aware of any tests at all or any method at all
20 that you would use to determine that AmerenUE would be

21 something in between a one CP and a 12 CP.

22 A. Well, if you're referring to the FERC tests,
23 no.

24 Q. Were there any other tests that you were
25 aware of? If you had to -- at the time you made the

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1 12 CP determination, if you were looking for a
2 rationale to classify UE as a three CP or a four CP,
3 did you find one?

4 A. That wasn't -- that wasn't part of the
5 analysis.

6 Q. The analyses you did included a graph, I
7 believe, of the ratios of each peak to the highest
8 peak of the year. Correct?

9 A. Yes.

10 Q. And in your testimony that would have been
11 schedule 3, I believe. Correct?

12 A. I have a graphic representation of
13 schedule 3.

14 Q. And based in part on this graphic
15 representation, you decided that UE should be
16 classified as a 12 CP company?

17 A. Yes.

18 Q. And the reason you gave, I believe, was that
19 there was a relatively high winter peak relative to
20 the summer peak; is that correct?

21 A. Yes. The...

22 Q. And this was -- and this is what you

23 explained as a comparison with the Empire District
24 case, when you -- you looked at this chart, you looked
25 at the Empire District, and you thought that the data

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1 was similar or comparable. Correct?

2 A. I didn't -- no, I didn't particularly -- I
3 didn't particularly check -- compare this graph with
4 Empire District.

5 Q. But the only other time when you looked at
6 one of these graphs to try to determine whether a
7 company was 12 CP or not would have been the Empire
8 District case at the time that you filed your
9 testimony. Correct?

10 A. Subsequent to that, I filed testimony in the
11 Missouri Public Service case.

12 Q. Okay. Did you -- you didn't look at any --
13 this graph on schedule 3, it's entitled "Load
14 Analysis." You didn't look at any load analysis
15 graphs of four CP companies to see what they would
16 look like, did you?

17 A. No.

18 Q. So you wouldn't know what a load analysis
19 graph of a four CP company looked like, would you?

20 A. Well, I didn't perform that analysis.

21 Q. You wouldn't -- so then you wouldn't know
22 how high the curves at the two ends that represent the
23 winter months would be on a four CP company's load
24 analysis chart, would you?

25 A. No.

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1 Q. And the load analysis chart represents the
2 ratio, as we said, of each -- the peak of each
3 month -- the peak demand hour of each month to the
4 peak demand hour for the entire year. Correct?

5 A. For the calendar year or the test year in
6 question, yes.

7 Q. For a twelve-month per-- well, I guess you
8 could make this as long as you wanted, but this is
9 annual, so it's for a twelve-month period. Correct?

10 A. Yes.

11 Q. And when you did your analysis in this case,
12 did you have any -- did you determine any range in
13 which the ratio of the winter -- the summer peak would
14 fall in order for the Company to be a four CP?

15 A. No.

16 Q. So that if the winter peak were 95 percent
17 of the summer peak, you would conclude, I believe,
18 wouldn't you, that it was a 12 CP company?

19 A. Yes.

20 Q. But if it were 75 percent of the summer
21 peak, if the winter peak was 75 percent of the summer
22 peak, what classification would that fall under? Do
23 you have any range for anything other than 12 CP?

24 A. This is only -- this is only one of several
25 items that one has to consider in making the CP

1 determination. You would not make -- you would not
2 make -- focus in on this one particular area in order
3 to make that determination.

4 Q. Well, in your Direct Testimony, what are the
5 other -- what were the other important areas other
6 than this that you looked at?

7 A. I had -- I had looked at the combination of
8 the analysis made on schedules 2, 3, and 4.

9 Q. Now, schedule 2 gives the -- just gives the
10 numbers that were then divided into the summer peak --
11 or the peak for each year to give you the result on
12 schedule 3. Correct?

13 A. Yes.

14 Q. So if you look at schedule 2, what you see
15 is a range of numbers in which you can analyze how
16 close the winter peak is to the summer peak? Correct?

17 A. Yes.

18 Q. Is there any other way that you would look
19 at the data in schedule 2 to determine if a company
20 was 12 CP or something else?

21 A. What you're -- you want that curve to be
22 relatively -- a relatively flat curve.

23 Q. So it really goes back, then, to schedule 3?

24 A. Yes.

25 Q. Okay. Now, schedule 4, if we could turn to

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1 that, I suppose, on your -- your Direct Testimony,
2 what schedule 4 shows, if I understand it correctly,
3 is just the ratio each month of the retail load for
4 Missouri compared to Ameren overall. It's essentially
5 a jurisdictional allocator that goes month by month.
6 Correct?

7 A. It's a compar-- it's a comparison to
8 Missouri retail to AmerenUE's peak load.

9 Q. And what in schedule 4 would you be looking
10 for to determine if a company was 12 CP or something
11 else?

12 A. You can look at schedule 4 to see that the
13 factor is only -- has little variation so that you can
14 plan for reserve margins.

15 Q. Now, couldn't it be the case if a company
16 had one of the needle peaks or the distinctive peaks
17 that you talked about, let's say, in a particular
18 month in the summer. It is the peak load. The demand
19 is twice what it would be for any other month. Isn't
20 it possible that that company would still have the
21 same ratio -- ratios between each of the
22 jurisdictions, even though it was a -- it had a single
23 peak for demand purposes?

24 A. I suppose that's possible.

25 Q. Is there any reason you would think that

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1 would not be the case?

2 A. No.

3 Q. So that looking at this table on schedule 4,
4 the ratios that are expressed here really couldn't
5 tell you whether a company should be one CP or 12 CP
6 because the ratios could be relatively close or within
7 a narrow range even if you've got a single peak,
8 needle peak, one CP-type company, wouldn't it?

9 A. Perhaps.

10 Q. So, really, then, it gets us back to
11 schedule 3 which is a plotting of the data that was in
12 schedule 2.

13 Have you looked at any data for any
14 companies that are considered four CP in the state of
15 Missouri?

16 A. No.

17 Q. So you wouldn't know how the data that's
18 expressed in schedule 2 or schedule 3 would look if
19 you had a four CP company, would you?

20 A. Not in reference to your question about --
21 as far as Missouri companies.

22 Q. Have you looked at any company's data that
23 would be a four CP expressed as it is in schedule 2 or
24 schedule 3 anywhere in the country?

25 A. I have subsequently looked at some four CP

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1 companies, what has -- what FERC adopted as a four CP.

2 Q. Okay. We'll get to FERC in a moment.

3 I guess you did look at one four CP company
4 because isn't Ameren a four CP company for Illinois?

5 A. Per the Company response to a Staff data
6 request, yes.

7 Q. Now, when we were meeting over at your
8 offices, taking your depositions earlier, I believe
9 you weren't able at that time to identify any four CP
10 companies in the state of Missouri. Have you been
11 able to identify any since?

12 A. None that I have testified.

13 Q. Okay. Now, if you wanted to determine
14 whether a company fell somewhere between the two
15 extremes of one CP and 12 CP, wouldn't you want to
16 look at the data for those other CP-type companies, a
17 four CP company, a three CP company, just so you can
18 judge, so it's not all or nothing? It's not 12 CP or
19 not one CP.

20 A. Subsequent to the Direct Testimony, I have
21 looked at that information.

22 Q. And you've looked at -- let's see. And
23 you've looked at -- but you haven't identified any in
24 Missouri, have you, that are four CP, for instance --

25 A. No, I --

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1 Q. -- or three CP?

2 A. I have not.

3 Q. Did you know that Kansas City Power & Light,
4 who is a party here, I believe, has been a four CP
5 company at least since 1983?

6 A. I have -- I have not testified to a Kansas
7 City Power & Light case, so no.

8 Q. So you wouldn't know how the winter peak
9 ratio as a percentage of the -- the winter peak as a
10 percentage of the peak for the year, what that would
11 look like for Kansas City Power & Light, which this
12 Commission has as a four CP company compared to what
13 it looks like for UE?

14 A. No. The -- and I might say that the profile
15 of Kansas City Power & Light has changed.

16 Q. Do you know if it's -- but you didn't even
17 determine if it was a --

18 A. I haven't looked at it.

19 Q. Okay. Now, you based -- in doing your
20 analysis of the jurisdictional allocator for UE in
21 this case, you approached this the way that you
22 approached it in the Empire District case. Correct?

23 A. To some degree, as it was approached.

24 Q. Well, had you received any information on
25 how one makes these commensurate peak methodology

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1 determinations subsequent to the Empire District case
2 when you made the determination that UE was a 12 CP?

3 A. The determination of a 12 CP was based on --
4 based on my analysis and -- which included Company
5 responses to Staff data requests.

6 Q. And how did you know -- the only way -- I'm
7 sorry.

8 The only way that you knew how to do this
9 analysis was based on your experience in the Empire

10 District case. Correct?

11 A. And upon doing the Missouri Public Service
12 case.

13 Q. But you did that subsequent to your
14 determination that UE was a 12 PC -- CP company.
15 Correct?

16 A. I have done -- I did that prior to the
17 Direct Testimony of March 1.

18 Q. And in doing the -- the -- was it -- what
19 was the subsequent case you mentioned? Missouri
20 Public --

21 A. Missouri Public Service.

22 Q. Missouri Public Service.

23 In doing that -- in doing that analysis, did
24 you learn any additional techniques in determining
25 what methodology to apply for a jurisdictional

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1 allocator?

2 A. I don't have that testimony in front of me,
3 so I don't recall.

4 Q. Well, you didn't consult in treatises or
5 journals or anything that would explain, Here is how
6 you determine whether a company is 12 CP, four CP,
7 et cetera, prior to filing the Direct Testimony here
8 in March, did you?

9 A. I had -- if you're referring to FERC
10 treatises, no.

11 Q. Any sort of treatises.

12 A. I had -- I had seen a NARUC manual.

13 Q. And did the NARUC manual explain how you
14 would decide whether a company fell between one CP and
15 12 CP?

16 A. It was judged on a case-by-case basis.

17 Q. If you're going to judge something like that
18 on a case-by-case basis, don't you have to have some
19 sort of a methodology or some sort of a means of
20 analyzing it?

21 A. Yes.

22 Q. And did you acquire this means by glancing
23 at the NARUC manual?

24 A. I had -- in part, I had seen -- I had
25 written previous testimonies.

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1 Q. Can you turn to the Empire District Electric
2 Company testimony?

3 Now, when you first made the 12 CP
4 determination for Ameren, your only previous
5 experience with this had been your work in the Empire
6 District Electric company case. Correct?

7 A. Yes.

8 Q. And if we could turn to schedule --
9 schedule 2 of this, this is a representation of the
10 load analysis for Empire District. Correct?

11 A. Yes.

12 Q. And for this particular case you went back
13 four years, four years of data. Correct?

14 A. Yes.

15 Q. And -- and may I have my copy back of that
16 for a moment?

17 Now, you went back four years to do the
18 Empire District determination. Is there any reason
19 why four was selected?

20 A. I don't recall.

21 Q. And you learned how to do this through the
22 tutelage or mentoring of Dr. Lissik; is that correct?

23 A. In part, yes.

24 Q. What else did you rely on to determine how
25 one would do the jurisdictional allocator?

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1 A. Past work done in the -- in Commission
2 cases.

3 Q. And do you recall how many years back one
4 would typically go in order to make this load analysis
5 for a CP determination?

6 A. You make a determination on a case-by-case
7 basis to get sufficient data.

8 Q. Do you know why four years was sufficient
9 data in the Empire District case?

10 A. The four years in that -- four years in that
11 case was sufficient to indicate the appropriate use of
12 a 12 CP.

13 Q. Okay. I apologize for the confusion here.
14 The copy we had, unfortunately, the schedule 1 was
15 pulled, which I'm going to refer to. I'm waiting for
16 copies. But I will give you another copy of this that
17 is missing Schedule 1.

18 But for purposes now, could you turn to
19 schedule 2 of the Empire District testimony?

20 A. (Complied.)

21 Q. Now, this is the load analysis graph that we
22 were talking about that expresses each month as a
23 percentage -- each month's peak as a percentage of
24 the -- of the peak for the year. Correct?

25 A. Yes.

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1 Q. And for the year 2000, where was the winter
2 peak as a percentage of the peak for the year?

3 And, again, that's in the Empire District
4 testimony.

5 I'm sorry. You may answer.

6 A. I apologize. I'll have to ask you to repeat
7 the question.

8 Q. Certainly. On schedule 2 to the Empire
9 District testimony, there is an indication of a load
10 analysis which is the ratio of the peak hour for each
11 month to the peak for the entire year. And I was
12 asking what -- what percentage was the -- based on
13 this chart, what percentage was the winter peak for
14 the year 2000 relative to the peak overall?

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

16 Q. The schedule 2 charts out lines for each
17 year, 1997, 1998, 1999, 2000. The points of each are
18 the -- well, if you look at the line that has the
19 diamond on it, the black line that represents the

20 ratio of peak demand each month to the annual peak
21 demand for the year 2000, the winter peak for this
22 particular year appears to be in December and the
23 point appears to fall between .9 and one; is that
24 correct?

25 A. Yes.

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1 Q. So that would indicate that the winter peak
2 for EDE for the year 2000 was about -- was 95 percent
3 the size of the summer peak. Correct?

4 A. Approximately.

5 Q. Okay. I'll write that down so we don't
6 forget that. About 95 percent.

7 In fact, if you were to turn to schedule 1,
8 the previous page of that testimony and the one that I
9 handed out due to a scrivener's error to everyone
10 else, and if you look at December, which is 941,
11 and August, which was 993, if you divided that out,
12 I think you would find that it comes out to
13 94.8 percent. And I would offer that if we had a
14 calculator, we could probably demonstrate that pretty
15 easily.

16 It's about 95 percent, looking at the
17 number. Right?

18 A. (No response.)

19 Q. In 1999 on schedule 2 that has a square box
20 on the line. And that peak for the winter month
21 appears to fall in January, if I'm not mistaken, and
22 that looks like it's about halfway between the .8 and

23 .9 lines on the chart. Correct?

24 A. Yes.

25 Q. So that's about -- that means that the

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1 winter peak for EDE in 1999 was about 85 percent of
2 the peak for the year. Correct? It's actually
3 84.9 percent if you do the math.

4 A. I'll take your word for it.

5 Q. Certainly, it falls about midway between the
6 .8 and .9. Correct?

7 A. Yes.

8 Q. So for 1999, 85 percent.

9 Now, for 1998, that's the white line on
10 these copies. It looks to me like the winter peak is
11 December of that year, isn't it?

12 A. Yes.

13 Q. And that's more than three-quarters of the
14 way up to the .9 from the .8. Correct?

15 A. Yes.

16 Q. In fact, if you were to do the calculation
17 for that, you would find that it's about 88.3 percent
18 of the summer peak.

19 The 1997 for EDE -- this is hard to see on
20 these copies because of the color not copying very
21 well, but if you look just at the chart, it appears to
22 be January. And January appears to -- it looks like
23 it goes up pretty high, between .9 and 1.0?

24 A. Yes.

25 Q. If you were to look at schedule 1, January
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1 is 841 megawatts and July was 876, and if you were to
2 calculate that out, I think you would find it's about
3 96 percent. Does that seem -- seem correct?

4 A. Approximately.

5 Q. Okay. So these were the winter peaks as a
6 percentage of the peak for the year in the Empire
7 District case in which you determined that the Company
8 was a 12 CP company because it had a relatively high
9 winter peak compared to summer peak. Correct?

10 A. Yes.

11 Q. Now, would you happen to know what the --
12 what the same numbers would show if we went through
13 them for AmerenUE in this particular case?

14 Well, do you have your work papers, by the
15 way, for this? I think it is -- if you were to turn
16 to the work papers that you provided, schedule 2, --
17 do you have those with you?

18 A. No, I don't.

19 Q. Let me approach. This is a printout of
20 the -- of the information that you produced as to the
21 work papers. Does that say the winter peak for Union
22 Electric as a percentage of the peak for the year?

23 And for -- the first year of your analysis
24 was 2001. In 2001, the winter peak was which month?
25 Does it appear to be January? Is that --

1 A. It appears to be January, yes.

2 Q. And what is January's ratio to the peak for
3 the year?

4 A. Approximately 74.5.

5 Q. Okay. We'll go back to the previous year,
6 the year 2000. The peak in that year, the winter peak
7 appeared to be December. And what was the ratio of
8 the December peak to the peak for the year?

9 A. In the year 2000?

10 Q. Yes.

11 A. It appears the winter month of December,
12 77.9.

13 Q. Okay. And for 1999, the winter peak
14 appeared to be January. Correct?

15 A. Yes.

16 Q. And according to your calculation, it was
17 73.4 percent of the peak for the year?

18 A. Yes.

19 Q. And if we go back to the previous year,
20 1998, the -- and this, by the way, corresponds with
21 the points that are plotted in the schedule 2 -- I'm
22 sorry -- schedule 3 of the Direct Testimony of
23 Mr. Bax.

24 For 1997 the percentage appears to have
25 been -- January was the winter peak. Correct?

1 A. 1997, yes.

2 Q. I'm sorry. I skipped one. We're still in
3 1998. I apologize.

4 1998 -- I wasn't trying to trip you up --
5 it's December. Correct?

6 A. Yes.

7 Q. And the December percentage of the annual
8 peak is 73.2 percent?

9 A. Yes.

10 Q. So if you were to analyze this just as you
11 did for the Empire District case and go back and look
12 at four years of data, there seems to be a fairly
13 significant gap between the ratios of winter to peak
14 for EDA -- EDE as compared to the winter to peak
15 ratios for Ameren, isn't there?

16 A. Yes.

17 Q. Now, to be fair, you did go back two further
18 years for Ameren than you did for Empire District, and
19 we'll put those down just for the sake of
20 completeness. And that does pop us above 80 percent
21 because you have in 1997 for Ameren the winter peak
22 was January, and that was about 81.4 percent.
23 Correct?

24 A. Yes.

25 Q. And for '96, the winter peak was February,

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1 and that was about 80.5 percent.

2 Now, both of those numbers are still
3 three-and-a-half to four-and-a-half percentage points
4 below the lowest of the ratios for the EDE company.
5 Correct?

6 A. Yes.

7 Q. And you wouldn't happen to know what range
8 of ratios of winter peak to summer peak -- or winter
9 peak to annual peak a four CP company would happen to
10 have, would you?

11 A. Well, the FERC tests in adopting their -- in
12 adoption of a CP methodology, the test takes into
13 account -- if you're going -- if you're going to -- if
14 you're going to sponsor a four CP, they compare --
15 they compare that average of the four CP to the annual
16 peak, and that's compared to the ratio of the
17 remaining -- remaining months in the year, in that
18 case eight months, to the ratio of the annual peak,
19 and those ratios are compared.

20 Q. But that's a different methodology than the
21 methodology you employed in the EDE case or in this
22 case. Correct? That's different than taking a ratio
23 of the winter peak to the peak for the year?

24 A. You're singling out a month, yes.

25 Q. Well, you mentioned the FERC tests. Now,

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1 when you made the decision that UE was a 12 CP
2 company, at that time you hadn't consulted any FERC
3 cases to determine what FERC's methodology was, did
4 you?

5 A. Not at the time of the testimony, no.

6 Q. And subsequently to your Direct Testimony,
7 you do have some knowledge of the FERC tests. I
8 believe you said in your Surrebuttal Testimony it was
9 based on the excerpt from a book by Mr. Small that was
10 attached to Mr. Kovach's Rebuttal Testimony; is that
11 correct?

12 A. Yes.

13 Q. Okay. If we can look at your Surrebuttal
14 Testimony for a moment, page 7 -- do you happen to
15 have a copy, by the way, of Mr. Kovach's testimony
16 with you?

17 A. Yes.

18 Q. Okay. Actually, you might want to pull that
19 out as well, because I'm going to refer to the item
20 that you referenced in your testimony.

21 In your Surrebuttal, I guess it's actually
22 the beginning of page -- the end of page 6, you begin
23 to discuss the FERC tests. Correct?

24 A. Yes.

25 Q. And the first test you discuss is the

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1 differences of two ratios which I won't read, but it's
2 test No. 1 that you've identified as being from the
3 Small book that was excerpted in Mr. Kovach's
4 testimony. Correct?

5 A. Yes.

6 Q. And you have listed there on page 7, line 6

7 the range of the percentages in these cases that were
8 reported in that book in which FERC adopts the 12 CP
9 methodology, and on line 7 you have the range of
10 percentages for the cases in which FERC adopts the
11 four CP methodology. Correct?

12 A. These percentages represent -- are a result
13 of the particular calculation in cases in which FERC
14 ultimately adopted a particular methodology.

15 Q. And did you read those cases before you did
16 the Surrebuttal?

17 A. Yes.

18 Q. Was there -- and was there any error in the
19 compilation in the Small book that was schedule 3-2 to
20 Mr. Kovach's testimony concerning those ranges?

21 A. Any errors?

22 Q. Yes. That you're aware of.

23 A. Not that I'm aware of.

24 Q. Okay. If we could turn to Mr. Kovach's
25 schedule 3-2, and go to schedule 3-2(e) that's where

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1 that first test that you discuss is explained. That's
2 a 3-2(e). Is that correct?

3 A. Yes.

4 Q. And the discussion carries over to the next
5 page 3-2(f). Correct?

6 A. Yes.

7 Q. Now item 5 -- and this discussion is a list
8 of six FERC opinions that are digested here.

9 Item 5 is the Commonwealth Edison case. Do

10 you see that?

11 A. Yes.

12 Q. And Commonwealth Edison was given a four CP
13 determination; is that correct?

14 A. Yes.

15 Q. And the percentage differences that are
16 listed are 16.4 to 24.9 percent; is that correct?

17 A. Yes.

18 Q. So that actually the range for this test
19 wouldn't be the 26 percent to 31 percent that you
20 identified in your Surrebuttal Testimony. Isn't it
21 really 16.4 percent to 31 percent?

22 A. The 16.4 in the Commonwealth Edison case
23 represented a -- did not represent the test year in
24 that case.

25 Q. Do you know why it was reported here?

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1 A. It was -- it was -- apparently, 16.4 was one
2 of the -- one of the years annualized in that case,
3 but it was not the test year.

4 Q. In the load analysis factor that you did for
5 this case, did you look at years other than the test
6 year?

7 A. Yes.

8 Q. And in this opinion that you read, the FERC
9 Commonwealth Edison Company case, did they look at
10 years other than the test year?

11 A. It was -- it was part -- it was obviously

12 part of one of the party's analyses.

13 Q. And did that case men-- that written opinion
14 mention that the 16.4 percent figure didn't matter?

15 A. It was -- it was a result of -- it was the
16 result of an apparent calculation for one year
17 apparently.

18 Q. And did the -- did the FERC indicate that
19 the 16.4 had no bearing on their decision?

20 A. I don't know.

21 Q. So it is conceivable that in the
22 Commonwealth Edison case, this ratio -- percentage
23 ratio was as low as 16.4 percent, yet, obviously, the
24 Company was determined to be four CP. Correct?

25 A. Ultimately, it was four CP.

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1 Q. And do you recall, did FERC say in that
2 case that the reason it was four CP was because of the
3 24.9 percent number based on the test year, or did
4 they say it was looking at other data?

5 A. It looks at -- it looks at a series of
6 computations and factors, not -- not to the exclusion
7 of any one.

8 Q. Okay. So that based on the -- based on this
9 representation in the Small book and based on what was
10 reported in the Commonwealth Edison Company case, FERC
11 could make the determination under test 1 that a
12 company fell in four CP if this percentage was as low
13 as 16.4 percent?

14 A. The 16.4 rep-- represents the -- is the

15 result of a calculation that was a part of that case.

16 Q. And if you looked at a four CP range that
17 went from 16.4 to 31 percent, UE's result under this
18 test no. 1 that you calculated, 21.48 percent, would
19 fall in between that range, wouldn't it? 21.48 is
20 between 16.4 and 31?

21 A. Yes.

22 Q. Now, test 2, similarly, you have --

23 JUDGE MILLS: Mr. Wolski, before you move on
24 to test 2, I think we're going to take a short recess.

25 We'll be off the record until 10:15.

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1 (A RECESS WAS TAKEN.)

2 JUDGE MILLS: Okay. Let's go back on the
3 record.

4 MR. WOLSKI: Thank you.

5 BY MR. WOLSKI:

6 Q. Mr. Bax, if you could look again to page 7
7 of your Surrebuttal Testimony, you discuss the second
8 test for the FERC demand allocator, the second test
9 for deciding the peaking methodology, and this is
10 identified as the ratio of the lowest monthly peak to
11 the annual peak. Correct?

12 A. Yes.

13 Q. And your testimony is that 55 to 60 percent
14 is the range in the cases in which FERC adopted a
15 four CP methodology. Correct?

16 A. The resultant of the calculation in cases

17 which FERC adopted four CP.

18 Q. Thank you.

19 And looking again to schedule 3-2 to

20 Mr. Kovach's testimony, which was the excerpt from the

21 Small book. That's capital S, Small. It's probably

22 not that small.

23 The second test begins in the middle of

24 schedule 3-2(f). Correct?

25 A. Yes.

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1 Q. And it carries on, I guess, through the
2 beginning of schedule 3-2(H). Correct?

3 A. Yes.

4 Q. And, again, we have the Commonwealth Edison
5 Company case that's Item No. 8 on that list of cases
6 which appears on schedule 3-2(G).

7 The Commonwealth Edison Company, according
8 to this, was four CP. Correct?

9 A. Yes.

10 Q. And the range of percentages that are
11 indicated is 64.6 percent to 67.8 percent. Correct?

12 A. Yes.

13 Q. So that's actually higher than the range
14 that you reported in your testimony on page 7 which
15 was 55 to 60 percent, isn't it?

16 A. Yes.

17 Q. So that the cases in which FERC adopted a
18 four CP methodology actually range then from
19 55 percent to 60 -- either 64.6 or 67.8 percent,

20 whichever -- whichever of these points of that
21 Commonwealth Edison range you would want to consider.
22 Correct?

23 A. It appears that the calculation in that
24 particular case was 64 to 67.

25 Q. Okay. And for UE under test 2, you

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1 calculated 63.9 percent, didn't you?

2 A. Yes.

3 Q. So 63.9 percent would fall between the range
4 of 55 percent and either 64.6 or 67.8 percent when you
5 take Commonwealth Edison Company into account.
6 Correct?

7 A. Yes.

8 Q. Okay. Now, the third test that FERC uses --
9 on page 7 of your Surrebuttal you state that the
10 percentage of 78 percent to 80 percent is reflected in
11 the cases in which FERC adopted a four CP methodology.
12 It's line 16 of your Surrebuttal, page 7.

13 A. Yes.

14 Q. And this -- this test begins on page -- on
15 schedule 3-2(h) of Mr. Kovach's testimony. Correct?

16 A. Yes.

17 Q. And goes through the next page 3-2(i).

18 Item 5 of this list is a Louisiana Power &
19 Light Company case which was a four CP determination.
20 Correct?

21 A. Yes.

22 Q. And the percentage number for that was
23 81.2 percent?

24 A. Apparently.

25 Q. Okay. So that then the range of percentages

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1 for the four CP methodology in the FERC cases actually
2 would go from 78 to 81.2 percent, and not 80 percent
3 as you indicated in your testimony. Correct?

4 A. According to that one case, yes.

5 Q. And the UE number that you calculated under
6 test 3 was 80.39 percent. Correct?

7 A. Yes.

8 Q. Which does fall between 78 and 81.2 percent,
9 doesn't it?

10 A. Yes.

11 Q. So that under all three of these tests, the
12 percentage numbers that you calculated for UE would
13 fall within a range of percentages in which FERC
14 adopted a four CP methodology?

15 A. In cases in which the resultant of those
16 specific cases.

17 Q. Okay. Now, on page 5 of your Surrebuttal
18 Testimony, on line 10 -- actually, lines -- the
19 sentence from line 10 through 12 you cite Mr. Kovach's
20 Rebuttal Testimony. Could you read that line for me?

21 A. "The Company's current rate design with the
22 Federal Energy Regulatory Commission, FERC, is based
23 on the 12 CP methodology as noted by Mr. Kovach in his
24 Rebuttal Testimony, Page 72, lines 15 to 18."

25 Q. Now, could you turn to Page 72, lines 15 to
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1 18 of Mr. Kovach's Rebuttal Testimony?

2 A. (Complied.)

3 Q. And could you please read for us the
4 sentence that you were citing in your Surrebuttal?

5 A. "Demand-related transmission costs were
6 allocated to customer classes on a 12 CP basis as that
7 was the methodology that applied to the combined
8 demands of Ameren and all of the other utilities
9 participating in the Alliance Regional Transmission
10 Operator, ARTO, filing at the FERC."

11 Q. Now, that doesn't indicate that the Company
12 is a 12 CP company. Isn't this just a reference to
13 the combined demands of Ameren and the other utilities
14 in the ARTO?

15 A. It says, Demand-related transmission costs
16 were allocated on a 12 CP basis.

17 Q. But those were the ones that were based
18 on -- the 12 CP basis was based not on UE, but it was
19 based on the combination of UE and every other utility
20 that was in the ARTO. Correct? At least that's what
21 Mr. Kovach's testimony stated. Correct?

22 A. I guess you could interpret it that way.

23 Q. Is there anything in that statement of
24 Mr. Kovach that would indicate that the 12 CP
25 determination was based just on AmerenUE and not on

1 the combined demands of all of the ART0 participants?

2 A. It says that, The demand-related
3 transmission costs applied to the demands of the --
4 combined demands of Ameren and all of the other
5 utilities.

6 Q. But it doesn't say it was based solely on
7 Ameren's demand, does it?

8 A. Not based solely on Ameren's demand.

9 Q. And would you happen to know what the
10 current status is of the ART0?

11 A. The current status of the ART0 is -- I
12 believe, is that the -- it's been rejected.

13 Q. So the ART0 was effectively dismantled?

14 A. That the -- it was not approved, no.

15 Q. And when did that take place? Do you
16 recall?

17 A. No.

18 Q. Do you know if it was prior to the
19 Surrebuttal Testimony that you filed?

20 A. No, I don't.

21 Q. But as of now, there is no -- if a 12 CP
22 determination was based on the ART0, and the ART0 no
23 longer exists, what does that mean about the 12 CP
24 determination that was based on the combined utilities
25 in the ART0? Does it still exist?

1 A. The ART0 doesn't exist, but -- perhaps, but
2 it doesn't mean that the 12 CP determination was not
3 in there.

4 Q. Does the combination of utilities that was
5 in the ART0 still exist somewhere?

6 A. I don't know.

7 Q. Now, you -- I take it you review the
8 responses to the data requests that you submit to the
9 Company; is that correct?

10 A. Yes.

11 Q. And do you have any of those responses with
12 you?

13 A. I have some of them, I believe.

14 Q. Have you seen the supplemental response to
15 Data Request No. 2937?

16 A. 2937?

17 Q. Yes.

18 Actually, I've got a copy -- an extra copy I
19 can show you. Maybe you might recognize it.

20 Does this -- does that look familiar?

21 A. No.

22 Q. Okay. And could you read what the data
23 request -- how the data request was posed that this is
24 in response to?

25 A. "What jurisdictional allocation methodology

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1 is used in the determination of the FERC pro forma

2 open access tariff rates for AmerenUE?"

3 Q. Okay. And the response from Mr. Kovach,
4 what was the response on the sheet, the one? The
5 supplemental response that I handed you. I'm sorry.

6 A. "See the testimony of Craig E. Deters
7 attached, pages 6 to 7 for reference to four CP for
8 UE/CIPS load profile."

9 Q. So attached to this response was a copy
10 of prepared Direct Testimony of a witness for the
11 Staff of the FERC, a Mr. Deters, that was dated
12 December 18th, 1996.

13 If you turn to page 6, which was referenced
14 in the cover sheet from Mr. Kovach --

15 A. I'm sorry?

16 Q. Page 6 of the testimony of Deters that was
17 attached to the data request response.

18 A. Page 6?

19 Q. Yes. The sentence on lines 22 to 23 --
20 could you -- actually, lines 22 to 24, could you read
21 that?

22 A. "The profiles suggest a four-month summer
23 peaking season, June through September."

24 Q. Okay. And do you want to take a moment to
25 read the -- the sentences in the paragraph above that

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1 to satisfy yourself that what they are talking about
2 is the combined load of UE and CIPS?

3 A. Well, I don't know when this document was

4 submitted.

5 MR. FREY: Your Honor, I'd like to object to
6 the reference to this document. There is no date on
7 it, and I don't believe we've seen this before.

8 JUDGE MILLS: I thought that was a rather
9 weak foundation when the question was, Are you
10 familiar with this document? And he said, No. So I
11 will sustain that objection.

12 MR. WOLSKI: Okay. Could I move for
13 introduction the Supplemental Response No. 2937 that I
14 handed out and mark it as exhibit number whatever we
15 happen to be on, and --

16 JUDGE MILLS: Let's -- let's take that in
17 two steps. We'll go ahead and mark it. I believe we
18 are up to --

19 MR. WOLSKI: 180.

20 JUDGE MILLS: -- 180. Once we've gotten it
21 marked, then you can offer it.

22 MR. WOLSKI: Okay. Now, I would like to
23 offer into evidence the marked Exhibit 180 which was
24 signed by Mr. Richard Kovach and was submitted in
25 response to a data request in this case.

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1 And I'm not sure if you need the date that
2 it was submitted. I can verify that, but I do know
3 that it was submitted prior to the filing of Mr. Bax's
4 Surrebuttal Testimony.

5 JUDGE MILLS: Mr. Frey?

6 MR. FREY: I would like to object to the

7 admission of this document at this time until we've
8 had a chance to look at the document and review its
9 contents.

10 JUDGE MILLS: Sustained.

11 You need to provide a copy to the court
12 reporter to have it marked.

13 (EXHIBIT NO. 180 WAS MARKED FOR
14 IDENTIFICATION.)

15 MR. WOLSKI: Now, your Honor, am I allowed
16 to reference this document prior to it being admitted
17 as an exhibit?

18 JUDGE MILLS: Well, it depends on how you're
19 going to reference it. If you're going to try and ask
20 questions of this witness about a document that he
21 says doesn't look familiar and which he's never seen
22 before, I think you're likely to receive some
23 objections, and I'm likely to sustain them. But you
24 can certainly go ahead, if you want to.

25 MR. WOLSKI: Okay. Let me just ask him one

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1 follow-up.

2 BY MR. WOLSKI:

3 Q. You're certain that you have not seen that
4 response?

5 A. I'm certain.

6 Q. Okay. Now, your calculations in your
7 Surrebuttal -- your Surrebuttal Testimony, your demand
8 allocation factor that you calculated was based on the

9 twelve months ending September 30th, 2001; is that
10 correct?

11 A. Yes.

12 Q. And your energy allocation factor was
13 calculated based on a different twelve-month period;
14 is that correct?

15 A. Yes.

16 Q. And the energy allocation factor was based
17 on the twelve months ended June 30th, 2001. Correct?

18 A. Yes.

19 Q. And do you happen to know if that factor is
20 being used and is being applied to data that only
21 comes from the twelve months ending June 30th, 2001?

22 A. Would you restate that?

23 Q. Rephrase the question.

24 Okay. Would you happen to know if this
25 energy calculation factor that you calculated based on

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1 data for the twelve months ended June 30th, 2001 is
2 being applied by other Staff members to data from a
3 period other than June 30th, 2001 and the twelve
4 months prior?

5 A. I provided the -- I provided my energy
6 allocation factors to Staff witness Steve Rackers.

7 Q. But did your twelve-month allocation -- the
8 twelve months you used for the energy allocation
9 factor stop at June 30th, 2001 because you believed
10 that it was going to be applied to data that ended
11 June 30th, 2001?

12 A. No. It was -- it was adjusted for weather.

13 Q. And would that number be different if you
14 calculated it for a twelve-month period ending
15 September 30th, 2001?

16 A. Given that there is only a three-month
17 difference, the adjustments that are applied, there
18 would be a -- there would be a different weather
19 adjustment for the twelve months ending September,
20 but, theoretically, they should be very similar.

21 Q. And was there a reason why your demand
22 allocation factor was calculated on the twelve-month
23 period ended September 30th, 2001 rather than ending
24 with the test year of June 30th, 2001?

25 A. To capture the growth -- to capture company

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1 growth there in the update period.

2 Q. And I take it that that would -- that growth
3 wouldn't be relevant to the energy allocation factor?

4 A. Not with -- not with a weather adjustment.

5 Q. Although the number would be different --
6 well, I'll withdraw that.

7 Now, on page 10 of your Surrebuttal
8 Testimony, your answer that appears on lines 1 through
9 6 deals with the loss of load probability.

10 Are you familiar with what loss of load
11 probability represents?

12 A. With its definition, yes, I am.

13 Q. And you reference here a loss of load

14 probability of less than 0.1 days per year.

15 Now, do you recall, was -- the Data Request
16 No. 2938 that is referenced, was that -- was the data
17 expressed in terms of days per year, or was it
18 expressed in full day per number of years, such as one
19 day per ten years?

20 A. I had asked for what is the liability
21 requirement for capacity planning.

22 Q. And was the response .1 -- less than .1 days
23 per year?

24 A. Well, one day in ten years; .1 day per year.

25 Q. But one day in ten years, for purposes of

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1 LOLP, isn't that the equivalent of, say, when you hear
2 about ten-year floods or hundred-year floods, doesn't
3 that mean the worst case scenario, the highest case
4 peak you would get in ten years, the highest demand
5 you would have in ten years? That would be what the
6 one day in ten means? It means that on -- the
7 probability is that a demand that high would only
8 occur once every ten years; is that correct?

9 A. No. We're talking -- no.

10 Q. What does it mean?

11 A. We're talking about the loss of load
12 probability. We're -- it's referencing -- it's
13 referencing generating plants.

14 Q. But the one day in ten years, does that
15 represent an actual day?

16 A. It's a probability.

17 Q. And it's a probability expressing what, that
18 on a -- it's not likely that more often than once --
19 one day in ten years you would have this sort of a
20 demand? Is that the sort of need for generation? Is
21 that what it represents?

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

23 Q. Okay. Well, the -- the loss of load
24 probability is used to plan a reserve margin, isn't
25 it?

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1 A. Yes.

2 Q. And this planning is -- the reserve margin
3 planning is based on a worst case scenario or best
4 case scenario, however you want to look at it, of an
5 event that is on probability to occur only once -- one
6 day every ten years. Correct?

7 A. Yes.

8 Q. And do you know or would you happen to know
9 if the highest capacity demand day for UE in the last
10 ten years has been any -- has it occurred in any month
11 other than the summer months?

12 A. No.

13 Q. So this -- the .1 days per year, the one day
14 per ten years, really has no reference to something
15 that occurs every single day, does it? Is it a
16 number --

17 A. It's not going to occur every single day,
18 no.

19 Q. It's a number that's not derived on data
20 based on every single day of the year. It's based on
21 this highest day. Correct?

22 A. It's a -- it's done for planning -- capacity
23 planning purposes, reserve margins.

24 Q. Is there a difference between reserve margin
25 and resource planning or capacity planning?

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1 A. That's part of it.

2 Q. The reserve margin is something that's just
3 added, sort of the residual that's added to the end
4 once you do the resource planning and decide what your
5 load needs would be; is that correct?

6 A. That's part of the equation here, if you
7 will.

8 Q. Now, have you consulted with any other Staff
9 witnesses concerning the loss of load probability?

10 A. Yes. Staff witness Lena Mantle.

11 Q. And do you happen to know whether any other
12 Staff witnesses have provided testimony in this case
13 concerning the loss of load probability?

14 A. No.

15 Q. So you're not familiar with what Dr. Proctor
16 has said about loss of load probability?

17 A. No.

18 Q. I have a question about the adjustments you
19 did to the demand factor calculation. It's
20 schedule -- the demand allocation factors are based on
21 schedule 2 of your Surrebuttal.

22 I guess the first question I have is,
23 where -- in schedule 2 of your Surrebuttal, there is a
24 demand allocation factors table, and the third column
25 of data is Missouri wholesale coincident peak data.

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1 Do you know where that data came from that
2 was placed on this table?

3 A. It came -- it came from Company responses to
4 Staff data requests.

5 Q. Would that include the response to Request
6 No. 2906, would you happen to know?

7 A. In part, yes.

8 Q. Now, if you were using data that was already
9 adjusted once for the loss factor, was already grossed
10 up once for system losses, you wouldn't adjust it
11 again a second time for losses, would you? If the
12 table was to be expressed in its ultimate format as it
13 is here, which I assume is numbers that include the
14 losses, you wouldn't adjust for losses a number that
15 had already been adjusted for losses? That wouldn't
16 make any sense. Right?

17 A. Well, you're -- you're assuming -- I don't
18 know what your assumptions are, but if you -- you
19 wouldn't have multiple -- you wouldn't apply multiple
20 losses, no.

21 Q. Okay. Let me -- if I may approach you.

22 Does this document look familiar, other than
23 the scrawl that's been added to it? I mean, do you

24 recall receiving that revised and updated response to
25 a data request?

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1 MR. FREY: Could counsel for the other
2 parties see the DR response?

3 MR. WOLSKI: Sure. I was waiting to see if
4 he recognized it.

5 JUDGE MILLS: At a minimum, if you hand a
6 document to the witness, you need to hand it to the
7 witness's lawyer.

8 Thank you.

9 MR. WOLSKI: I'm sorry.

10 THE WITNESS: I'm not sure if I recognize
11 this document in total.

12 BY MR. WOLSKI:

13 Q. Okay. Do you have a copy of -- would you
14 happen to have a copy of this with you?

15 A. If -- if you give me a moment.

16 Q. Okay.

17 A. It appears the copy I received has only the
18 first page.

19 Q. Has only the first page with no attachments
20 to it, no schedules?

21 A. With one -- with one attachment.

22 Q. Okay. So you did receive the first -- the
23 first page attached to that, then, didn't you?

24 A. Yes.

25 Q. If you could look at the attachment, would

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1 this be -- would this document be the source for the
2 wholesale numbers that are located in schedule 2?

3 A. I --

4 MR. MOLTENI: Your Honor, I'm not clear.

5 When you say "this document" --

6 MR. WOLSKI: Thank you. I'll clarify.

7 What I handed out, the page that says, Union
8 Electric Company Net Native Kilowatt Load, is the page
9 that --

10 MR. MOLTENI: Thank you.

11 MR. WOLSKI: -- is the page the witness is
12 familiar with and has in his possession.

13 BY MR. WOLSKI:

14 Q. Would that wholesale column for Missouri
15 Union Electric Company be the source of the Missouri
16 wholesale numbers? Do you know?

17 A. I had -- this was one source of them.

18 Q. Well --

19 A. I had other sources.

20 Q. Could I ask you to look at the January 2001
21 wholesale number for Missouri. It's the first line
22 reading across, the fourth column of data.

23 That's about -- it's about 105, I believe,
24 is that correct, 104.992?

25 A. 105, yes.

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1 Q. And the corresponding number for January in
2 the demand allocation factors table for schedule 2
3 appears to be 109.

4 Is there -- is there any explanation for why
5 the numbers would vary other than perhaps that they
6 were adjusted a second time for losses?

7 A. I had other -- I had other sources and --

8 Q. What other things would you consult to
9 determine what the native load was other than the
10 Company's documents?

11 A. Well, I had -- I adjusted -- from the --
12 from the Direct Testimony filed March 1, I adjusted
13 these numbers for the -- for the loss of Ameren -- for
14 the transfer of the original wholesale customer, the
15 City of Rolla, and also the loss of Union Electric's
16 customer in Illinois, Laclède Steel.

17 Q. But that wouldn't make the wholesale
18 kilowatt hour number go up, would it?

19 A. No.

20 Q. Now, when Rolla was subtracted from this, do
21 you know if the hours for Rolla were adjusted upwards
22 for energy losses or not?

23 A. Do I -- please repeat that.

24 Q. Yes. When you made the adjustment to the
25 wholesale numbers for the loss of Rolla as a

1 customer --

2 A. Yes.

3 Q. -- would you happen to know if the hours --
4 the Rolla hours were expressed in an apples-to-apples
5 comparison with the expression of the rest of the
6 wholesale numbers? In other words, if you have
7 wholesale numbers that have already been -- taken into
8 account losses, would you take into account losses for
9 the Rolla number when you removed it?

10 A. Yes.

11 Q. Okay. And that would be the appropriate way
12 to do it, that if you were subtracting an
13 unadjusted -- a number that's not been adjusted for
14 losses, you would have to either adjust it for losses
15 or use another set of data that was also not adjusted
16 for losses? Either both have to be adjusted or both
17 don't have to be adjusted, but you can't mix and
18 match?

19 A. Yes, I would say that would be proper.

20 Q. Now, for the energy allocator, you made a
21 number of adjustments, but you mention that you didn't
22 make an adjustment for Laclede Steel like you did in
23 the demand allocator.

24 A. Right.

25 Q. Now, Laclede Steel is no longer a customer

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1 in Illinois. The demand is much reduced; is that
2 correct?

3 A. That's my understanding.

4 Q. So that if Laclede Steel is still
5 included -- if Laclede Steel hours are still included
6 among the Illinois hours, that would skew somewhat the
7 percentages a bit towards Illinois and lower the
8 percentage for Missouri, wouldn't it, for the Missouri
9 retail? Is that correct?

10 A. On page 12 I have said that the energy
11 associated with Laclede Steel was included in the
12 Staff's fuel run, and, thus, it remains in my
13 determination of the energy allocation factors.

14 Q. Well, should it still be included in the
15 fuel run? Isn't this the sort of adjustment that is
16 typically made by the Staff when you know that a
17 certain customer has reduced demand? You can make an
18 adjustment, can't you?

19 A. Yes.

20 Q. In fact, you made the adjustment for the
21 demand allocator, didn't you, for the loss of Laclede
22 Steel?

23 A. Yes.

24 Q. So Laclede Steel should have been removed
25 from the fuel production -- the fuel calculation,

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1 should n't it?

2 A. I would agree with that, yes.

3 Q. But the only reason you didn't remove it
4 from your energy calculator allocation, even though
5 you removed it from the demand allocator calculation,

6 is because it was still kept in with the fuel
7 calculation. Correct?

8 A. Yes.

9 Q. And by keeping Laclede Steel in the mix,
10 that necessarily means that the Illinois percentage is
11 going to be higher, and, as a consequence, the
12 Missouri retail percentage is going to be lower.
13 Correct?

14 A. Most likely, yes.

15 MR. WOLSKI: I think I have no further
16 questions. Thank you.

17 JUDGE MILLS: Okay. Because there was so
18 much cross-examination concerning the Direct Testimony
19 of Eve Lissik in the Empire District Electric Company
20 case, I'm going to have that one marked as an exhibit.
21 If you could -- do you have a copy that has -- that
22 has schedule 1 in the proper place --

23 MR. WOLSKI: Yes.

24 JUDGE MILLS: -- that you can have marked?

25 MR. WOLSKI: This one is a copy. It's

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1 actually -- well, no.

2 It's this one, I think. This one has the
3 entire --

4 JUDGE MILLS: Okay. We all have it. It's
5 separately bound. If you could give that to the court
6 reporter, we'll have that one marked and admitted.

7 MR. WOLSKI: I'll certainly do so.

8 Here you go.

9 And will that be Exhibit 181?
10 JUDGE MILLS: That will be 181.
11 (EXHIBIT NO. 181 WAS MARKED FOR
12 IDENTIFICATION.)
13 JUDGE MILLS: Are there any objections to
14 the admission of that testimony?
15 (No response.)
16 JUDGE MILLS: Hearing none, it will be
17 admitted.
18 (EXHIBIT NO. 181 WAS RECEIVED INTO
19 EVIDENCE.)
20 JUDGE MILLS: We'll go now to questions from
21 the Bench.
22 Chair Simmons?
23 COMMISSIONER SIMMONS: I don't have any.
24 JUDGE MILLS: Commissioner Murray?
25 COMMISSIONER MURRAY: I don't either.

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1 JUDGE MILLS: Commissioner Lumpe?
2 QUESTIONS BY COMMISSIONER LUMPE:
3 Q. Just briefly, Mr. Bax, looking on page 5 of
4 your Surrebuttal Testimony --
5 A. Yes.
6 Q. -- and I note there that you have an answer
7 on line 6, As noted by Company witness Gary Weiss,
8 "The Company has in the past used the 12 CP method";
9 is that correct?
10 A. Yes.

11 Q. And on line 10 you say, the FERC is based --
12 the Company's current design is with FERC is based on
13 the 12 CP method; is that correct?

14 A. Yes.

15 Q. And in Illinois, the Company argued in
16 support of a 12 CP method; is that correct?

17 A. Yes.

18 Q. And you were not aware of their change until
19 they filed their Surrebuttal Testimony. And is that
20 why you used the 12 CP method based on those other
21 entities using the 12 CP method and not knowing about
22 this until May; is that correct?

23 A. I was not aware of them going to file an
24 adoption of the four coincident peak methodology until
25 their rebuttal filing.

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1 COMMISSIONER LUMPE: Okay. Thank you.

2 That's all I have.

3 JUDGE MILLS: Commissioner Gaw?

4 COMMISSIONER GAW: No questions.

5 Thank you, Judge.

6 JUDGE MILLS: Commissioner Forbis?

7 COMMISSIONER FORBIS: No questions.

8 JUDGE MILLS: Is there any further
9 cross-examination based on those questions from the
10 Bench?

11 MR. WOLSKI: Actually, I guess, it's just
12 two questions.

13 FURTHER CROSS-EXAMINATION BY MR. WOLSKI:

14 Q. Do you recall when the Company argued before
15 the Illinois Public Service Commission that it should
16 be a 12 CP company, what year that was?

17 A. In the Comp-- in the Company's response to
18 Staff's Date Request 2936 as depicted on page 5, and I
19 attached the -- I attached the appropriate page from
20 that response indicating that it was -- that an order
21 issued in 1985.

22 Q. Do you believe that the operations of the
23 Company are -- have not changed to any significant
24 extent since 1985?

25 A. I believe that -- certainly that the

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1 generation mix has not changed. What we're -- what
2 we're trying to allocate has changed significantly
3 since 1985.

4 Q. And when was the UE/CIPS merger? Do you
5 recall?

6 A. Not exactly, 1996, -7.

7 Q. It was since 1985?

8 A. Yes, since 1985.

9 Q. And do you think that no conditions would
10 have changed that go into a determination of a CP
11 methodology since 1985? Obviously, when you did your
12 review, you didn't go back 17 years, did you?

13 A. On page -- on page 9, line 12, I -- the
14 majority of the Company's plant costs are associated
15 with base load units, and these base loads and the

16 dollars associated with these base load units, the
17 generation mix, has not markedly changed since 1985.

18 Q. Okay. Is there anything else that would be
19 taken into consideration to decide coincident peak
20 methodology that might have changed since 1985?

21 A. In the -- you would see a change in -- in
22 loads.

23 Q. And that could affect the calculations and
24 the determination of whether you were doing 12 CP or
25 some other CP?

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1 A. In my view, one should look at what we're
2 trying to allocate, and we're trying to allocate the
3 generation and transmission assets, and that has not
4 changed since 1985 markedly.

5 Q. But it has changed some though?

6 A. Well, certainly there has been additions to
7 the transmission system.

8 Q. And in the case that you cited in here, the
9 Illinois Public Service Commission ended up
10 determining that UE was a four CP company. Correct?

11 A. Yes.

12 Q. And is there a possibility that if one
13 jurisdiction bases the allocator on one methodology,
14 say, a four CP methodology, and another jurisdiction
15 for that same company calculates it as a 12 CP
16 methodology, that when you add the percentages up,
17 they may not add up to 100 percent?

18 A. The percentages will add up to 100 percent

19 and -- in the specific analysis.

20 Q. Within each respective jurisdiction,
21 correct.

22 But if you had -- if you had one
23 jurisdiction that was calculating the jurisdictional
24 allocator based on one method and another jurisdiction
25 that was calculating the jurisdictional allocator

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1 based on another method, if you took the percentage
2 allocated to the company inside the one state and the
3 percent allocated to the company inside the other
4 state, there is a chance that those won't add up to
5 100 percent. Correct?

6 A. That is correct, yes.

7 MR. WOLSKI: Thanks.

8 Nothing more.

9 JUDGE MILLS: Thank you.

10 Redirect?

11 MR. FREY: Thank you, your Honor.

12 REDIRECT EXAMINATION BY MR. FREY:

13 Q. Mr. Bax, just a few questions. First of
14 all, what you might call a housekeeping detail.

15 You provided some answers to a question --
16 or a series of questions that Mr. -- from Mr. Wolski
17 in your deposition -- your second deposition in April,
18 which I believe has been marked as Exhibit 15. And
19 they are approximately on page 19; is that correct?

20 A. Yes.

21 Q. There was a series of questions that I
22 believe you wanted to clarify two or three of your
23 answers to.
24 Could you make those clarifications right
25 now?

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1 A. On page 19, the question that begins at
2 line 10, as well as the question that begins at
3 line 20, upon further reflection, I -- Mr. Wolski was
4 talking in a -- I believe he was referring to a
5 theoretical sense here, and -- and I would like
6 to change the answers to his questions should have been
7 yes. And I have subsequently made those adjustments
8 in the -- in my Surrebuttal Testimony.

9 Q. Okay. Can you point out the lines, then, on
10 the pages that we're referring to?

11 A. Line -- line 14 on page 19 in response to
12 the question that begins on line 10.

13 Q. Okay.

14 A. And line 19, the answer for the question
15 that begins on line 15.

16 Q. Okay. As I understand you, the answers to
17 those questions should be yes; simply yes?

18 A. Yes.

19 Q. Are there any other questions there that you
20 wish to change -- change the answer to?

21 A. Yes. On page 20, on -- the answer given on
22 line 5 to the question that begins on line 1, the
23 answer should be yes.

24 Q. Okay. Thank you.
25 Turning now to some of the questions that
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1 Mr. Wolski asked you, first of all, he asked you some
2 questions about the energy allocation factor. Do you
3 recall that?

4 A. Yes.

5 Q. I believe you indicated that you had not
6 included an adjustment for customer growth.

7 For purposes of clarifying on the record,
8 isn't it true that you do -- you did, in fact, include
9 customer growth adjustment factor-- adjustment factor --
10 adjustment, I should say, in your energy allocation
11 factor?

12 A. Yes, I did apply a customer growth
13 adjustment.

14 Q. Okay. Thank you.

15 And Mr. Wolski was asking you -- he asked
16 you some questions, I believe -- as soon as I find the
17 page, if you'll bear with me for a second -- with
18 regard -- on page 10 of your Surrebuttal Testimony,
19 with regard to this loss of load probability. Do you
20 recall that?

21 A. Yes.

22 Q. I would just like to ask you whether there
23 could be a time other than a peak summer day where UE
24 would not be able to meet its requirements?

25 A. Yes.

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1 Q. Can you give an example of such a time when
2 that might occur?

3 Let me rephrase that.

4 Can you give an example of what might cause
5 that, what might cause them to be unable to meet those
6 requirements?

7 A. Any -- any loss of a generating unit, a down
8 transmission line may cause them to not be able to
9 meet their requirements.

10 Q. Okay. Thank you.

11 Another question, another area, he talked a
12 little bit about customer annualization adjustments.
13 Have you ever -- have you made -- or I should say have
14 you calculated any customer annualization adjustments
15 for any cases, including this case?

16 A. Customer annualization adjustments? No.

17 Q. So you're not familiar with the Staff's
18 large customer annualization methods, are you?

19 A. No.

20 Q. With regard to the energy allocation factor,
21 is it possible that that factor could be higher --
22 that you've got to have a higher energy allocation
23 factor but fuel prices be lower, that you would have
24 that combination of a high energy allocation factor
25 and lower fuel costs?

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1 A. It is a variable. It is a variable factor,
2 yes.

3 Q. Okay. If you take Laclede Steel energy out
4 of the energy allocation factor, you indicated, I
5 believe, in your previous testimony that Missouri
6 retail allocation factor -- the Missouri retail
7 allocation factor would have increased; is that
8 correct?

9 A. Yes.

10 Q. If you remove Laclede Steel from loads used
11 to calculate fuel costs, would the fuel costs be
12 likely to go up or down?

13 A. The overall fuel costs would go down.

14 Q. Okay. So, in effect, the pie, then, would
15 be smaller; is that correct?

16 A. Yes.

17 Q. Thank you.

18 Mr. Wolski asked you a number of questions
19 about sort of the duel between the 12 CP and the
20 four CP methodology. Do you recall those questions?

21 A. Yes.

22 Q. In the course of -- setting aside for a
23 minute, now, this question of the 12 CP and four CP,
24 in the course of preparing your Surrebuttal Testimony,
25 did you review the testimony of UE witnesses, and I

1 guess I'm talking here about Mr. Kovach and Mr. Weiss?

2 A. Yes.

3 Q. And did they make some suggestions with
4 regard to -- again, I'm not talking about 12 CP versus
5 four CP here.

6 But did they make some suggestions or
7 criticisms or offer some adjustments to your
8 allocation factors?

9 A. Yes.

10 Q. And did you make some changes to those
11 allocation factors based on info -- information that
12 you received in the -- or that you read in the UE
13 Rebuttal Testimony?

14 A. Yes.

15 Q. So you're not -- well, let me ask you this:
16 Why did you make those changes, in a general way? I
17 don't mean specifically each change, why you made
18 them. But why, in general, did you make those
19 changes?

20 A. They seemed -- on reflecting on the
21 testimony, they seemed to be an appropriate adjustment
22 to make.

23 Q. Okay. And then did you also review the
24 testimony with re-- from the Company with regard to
25 the four CP versus 12 CP issue?

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1 A. Yes.

2 Q. And did you in that instance decide to move

3 to a four CP?

4 A. No.

5 Q. And why, then, didn't you change in that
6 case?

7 A. In --

8 Q. Why did you stay with your support of the
9 12 CP methodology?

10 A. In reviewing the testimony of the -- the
11 four CP methodology that was presented was based
12 solely upon the results of three FERC tests, which
13 I -- which I believe to be -- which I believe negates
14 part of the fac-- a portion of the factors that I
15 added to in my Surrebuttal that indeed these three
16 FERC tests are inconclusive, and, thus, other
17 information is necessary.

18 Q. Okay. And can you give some examples of the
19 other sorts of information that might be necessary
20 before the FERC or any other body can determine what
21 the appropriate methodology is?

22 A. Yes. You need to take into account what's
23 been termed operational realities, meaning what --
24 what are the facilities that you're trying -- that
25 you're attempting to allocate.

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1 Q. And if I might, who used that term? Where
2 did that term come from?

3 A. It came from excerpts of FERC cases.

4 Q. Okay. Continue with your answer. I just
5 wanted to make a point.

6 A. Yes. On page 9 I reference that it is
7 necessary to consider the full range of a company's
8 operating realities including and in addition to
9 system demand, scheduled maintenance, unscheduled
10 outages, diversity, reserve requirements, and
11 off-system sales commitments, as well as, in this
12 case, transfers between AmerenUE and its affiliate
13 Ameren Energy Marketing.

14 Q. So these are all elements that can have a
15 very substantial influence on the decision as to
16 whether a company should be a four CP or a 12 CP
17 company; is that correct?

18 A. Yes.

19 Q. I believe Mr. Wol ski asked you whether or
20 not the Illinois Commission decided that UE Illinois
21 was going to be a four CP; is that correct? Do you
22 recall that?

23 A. Yes.

24 Q. Do you remember whether or not the
25 Commission in that decision changed from a 12 CP to a

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1 four CP, or whether they were simply continuing with a
2 four CP methodology?

3 A. As I recall, in the case that was cited,
4 the four CP was adopted in Illinois in the most
5 recent rate case to this case. I believe that was
6 in 1982.

7 Q. 1982. And the Illinois case that we were

8 talking about was a 1985 case, was it not?

9 A. Yes, the Illinois Commerce Commission
10 adopted to maintain the four CP.

11 Q. Okay. Thank you, sir.

12 So it was a decision to continue with the
13 four CP in that case?

14 A. Yes.

15 MR. FREY: Thank you.

16 One moment, please.

17 Thank you. I have no further questions.

18 JUDGE MILLS: Thank you.

19 Mr. Bax, you may step down.

20 THE WITNESS: Thank you, Judge.

21 JUDGE MILLS: I was informed during the
22 last break off the record by counsel for AmerenUE and
23 counsel for the Staff that the parties have reached
24 an agreement in principle to settlement all of the
25 issues in this case that concern all of the parties.

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1 Given that state of affairs, I think it
2 would be inefficient to continue to take testimony
3 from witnesses. It's my understanding that the
4 parties are, even as we speak, diligently working to
5 finalize and reduce to writing the agreement in
6 principle and to obtain agreement from their clients
7 on that -- on that settlement.

8 I think in order to allow them to continue
9 that process and to continue to finalize the agreement
10 we will adjourn and allow that to go on for the rest

11 of today, and it's my understanding that the parties
12 anticipate having the agreement filed by the end of
13 the day Monday, so that I don't believe it makes sense
14 to continue this hearing on Monday.

15 However, on Tuesday morning, I want to go
16 back on the record to either pick up with witnesses
17 if for whatever reason the settlement has broken down
18 in the process of finalizing it, or to simply announce
19 on the record that a settlement has been filed and to
20 cancel the remainder of the cross-examination of the
21 witnesses.

22 Any questions?

23 (No response.)

24 JUDGE MILLS: Hearing none, we will be
25 adjourned until 8:30 on Tuesday morning.

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1 We're off the record.

2 WHEREUPON, the hearing of this case was
3 adjourned until 8:30 a.m., Tuesday, July 16, 2002.

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I N D E X

STAFF' S EVIDENCE:	
RONALD L. BIBLE:	
Cross-Examination by Mr. Cynkar	305
Redirect Examination by Mr. Williams	312
ALAN J. BAX:	
Direct Examination by Mr. Frey	322
Cross-Examination by Mr. Wol ski	325
Questions by Commissioner Lumpe	385
Further Cross-Examination by Mr. Wol ski	386
Redirect Examination by Mr. Frey	389

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1	E X H I B I T S I N D E X	
2	Marked	Received
3	Exhibit No. 12P	324
4	Direct Testimony of Alan J. Bax,	
	Proprietary, dated March 1, 2002	
5	Exhibit No. 12NP	324
6	Direct Testimony of Alan J. Bax,	
	Nonproprietary, dated March 1, 2002	
7	Exhibit No. 13P	324
8	Surrebuttal Testimony of Alan J. Bax,	
	Proprietary, dated June 24, 2002	
9	Exhibit No. 13NP	324
10	Surrebuttal Testimony of Alan J. Bax,	
	Nonproprietary, dated June 24, 2002	
11	Exhibit No. 14	326
12	Depositions of Alan Bax on	
	November 28th, 2001 and	
	April 24th, 2002	
13	Exhibit No. 15	326
14	Errata sheet for Alan Bax	
	deposition on April 24, 2002	
15	Exhibit No. 175	321
16	Complete Rate of Return Data for	
	Utilities Listed in Mr. Bible's	
17	Schedules 3-1 & 3-2	

	EC20021v4	
18	Exhibit No. 176	321
19	Article entitled, "Fitch Rates	
20	Ameren Notes 'A+' Outlook Neg	
	For Ameren & AmerenUE"	
21	Exhibit No. 177	321
22	Moody's Investors Service article	
23	entitled, "Moody's Assigns Negative	
24	Outlooks to AmerenUE and Ameren	
	Corporation	
25	Exhibit No. 178	305 321
	Graph	

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1	E X H I B I T S I N D E X	Continued	
2		Marked	Received
3	Exhibit No. 179	321	
4	Correction sheet, Alan Bax,		
	EC-2002-1, March 1, 2002		
5	Exhibit No. 180	370	
6	MPSC Staff Data request No. 2937		
7	and Supplemental Response No. 1		
	with attached testimony of		
	Craig E. Deters		
8	Exhibit No. 181	384	384
9	Direct Testimony of Eve A. Lissik,		
	Case No. ER-2001-299		
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EC20021v4

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