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

**IN THE MATTER OF UNION ELECTRIC COMPANY D/B/A/
AMEREN UE FOR AUTHORITY TO FILE TARIFFS
INCREASING RATES FOR ELECTRIC SERVICE PROVIDED
TO CUSTOMERS IN THE COMPANY'S MISSOURI
SERVICE AREA**

CASE ER-2007-0002

DEPOSITION OF MICHAEL MOEHN

JANUARY 26, 2007

ORIGINAL

Staff Exhibit No. 260
Date 3-16-07 Case No. ER-2007-
Reporter XF 0002

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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Union Electric)
Company d/b/a Ameren UE for)
Authority to File Tariffs)
Increasing Rates for Electric) Case ER-2007-0002
Service Provided to Customers in)
the Company's Missouri Service Area)

DEPOSITION OF MICHAEL MOEHN
TAKEN BY STEVEN DOTTHEIM, ESQ.

ON BEHALF OF
THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION
JANUARY 26, 2007

REPORTED BY CINDY J. TAYLOR
REGISTERED PROFESSIONAL REPORTER
CERTIFIED SHORTHAND REPORTER
CERTIFIED COURT REPORTER

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric)
Company d/b/a Ameren UE for)
Authority to File Tariffs)
Increasing Rates for Electric) Case ER-2007-0002
Service Provided to Customers in)
the Company's Missouri Service Area)

DEPOSITION OF MICHAEL MOEHN, produced, sworn,
and examined on the 26th day of January, 2007, at the
offices of Ameren UE, 1901 Chouteau Avenue, in the
City of St. Louis, State of Missouri, before Cindy J.
Taylor, Registered Professional Reporter, Certified
Court Reporter within and for the State of Missouri,
in a certain cause now pending Before the Public
Service Commission of the State of Missouri, In the
Matter of Union Electric Company d/b/a Ameren UE for
Authority to File Tariffs Increasing Rates for
Electric Service Provided to Customers in the
Company's Missouri Service Area.

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1 A P P E A R A N C E S (continued)

2

COURT REPORTER:

3

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7

I N D E X

8

Examination by Mr. Dottheim Page 05

9

Examination by Mr. Mills Page 51

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Examination by Mr. Micheel Page 102

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C O N F I D E N T I A L

14

Confidential Starting: PAGE: 36 LINE: 25

15

Confidential Ending: PAGE: 38 LINE: 15

16

Confidential Starting: PAGE: 110 LINE: 09

17

18

* There are some parts of this transcript that
are marked as highly confidential. Attorneys have
agreed to look over the transcript to determine what
is highly confidential and what is not and make sure
all areas are designated.

21

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25

1 S T I P U L A T I O N

2 IT IS HEREBY STIPULATED AND AGREED by and
3 between counsel for the parties that this deposition
4 may be taken in shorthand by Cindy J. Taylor,
5 Certified Shorthand Reporter, Certified Court
6 Reporter, and afterwards transcribed into printing,
7 and signature by the witness is reserved.

8 MICHAEL MOEHN,
9 of lawful age, being first duly sworn to tell the
10 truth, the whole truth and nothing but the truth
11 deposes and says as follows:

12 EXAMINATION BY MR. DOTTHEIM:

13 Q. Mr. Moehn, would you please state your
14 full name for the record?

15 A. Michael Lawrence Moehn, M-O-E-H-N.

16 Q. And would you state the nature of your
17 employment?

18 A. I am a vice president of corporate
19 planning at Ameren Corporation.

20 Q. Mr. Moehn, have you ever been deposed
21 before?

22 A. I have not.

23 Q. Have you ever testified before?

24 A. I have not.

25 Q. Well, I'm going to ask you questions.

1 You've been just sworn in. I'll try to be clear in my
2 questions. If I'm not, please feel free to ask me to
3 repeat the question or to clarify the question, and I
4 will endeavor to do so. I'll try not to talk at the
5 same time you talk.

6 Is there any reason this morning why
7 you would not be able to provide true and accurate
8 information in response to questions?

9 A. No.

10 Q. Okay. Are you on any medication that
11 might hinder your ability to provide that true and
12 accurate information?

13 A. No.

14 Q. I expect we're going to go for several
15 hours this morning. As for myself, I don't plan to
16 have as many questions for you as I had earlier in the
17 week for Mr. Naslund and yesterday from Mr. Rainwater.
18 Of course, we have counsel for a number of other
19 parties that will have questions.

20 If, at any time, you would like to take
21 a break, please indicate so. You'll probably wear me
22 down and I'll probably ask for a break. Of course, we
23 have another deposition scheduled for today, so I
24 think we'll try to move along as quickly as possible.
25 We all want to get through this as expeditiously as we

1 can.

2 Do you have any questions for me at
3 this point?

4 A. I do not.

5 Q. Okay. Thank you.

6 Before we even start, I'd like to thank
7 you for your patience.

8 A. Sure.

9 Q. Mr. Moehn, did you receive a copy of
10 the notice of deposition that was specifically
11 relating to you?

12 A. I did.

13 Q. Okay. And did you have an opportunity
14 to review that document?

15 A. I did.

16 Q. Okay. Do you recall that there was an
17 attachment, an Exhibit A to it?

18 A. No, I do not recall that.

19 Q. Okay. Let me hand to you a copy of the
20 notice of deposition.

21 A. I'm sorry, this is the various
22 requests?

23 Q. Yes.

24 A. I do recall that.

25 Q. And in particular, I'd like to refer

1 you to what was denominated as Item No. 3 which
2 requested copies of all electronic or other
3 communications or correspondence, documents, reports,
4 prior commission rulings or cases, federal or state
5 judicial or agency decisions, board of director
6 minutes, data request responses, periodic monthly
7 reports, letters, calculations, plans, drawings and
8 other information upon which the deponent relied in
9 forming deponent opinions set out in his testimony in
10 the rate case. Do you recall that item?

11 A. I do.

12 Q. Do you have any materials with you this
13 morning that's responsive to that?

14 A. No. The only thing I brought with me
15 was my direct testimony.

16 Q. Okay. Do you consider that you don't
17 have any materials that fall within that category that
18 are responsive?

19 A. The only thing that I can think of
20 would be the Power Supply Agreement between EEI and
21 the sponsors. I did not bring a copy with me.

22 Q. Okay. There are no letters or other
23 written communications, e-mails, anything of that
24 nature that you relied upon?

25 A. No.

1 Q. Okay. And I assume -- you do have
2 listed in your -- in your direct testimony references
3 to a couple of, at least, Missouri Commission
4 decisions and some FERC dockets and I think FERC
5 decisions. Did you consider any of those reports and
6 orders or orders as being responsive to Item No. 3?

7 A. No, I didn't.

8 Q. Okay. And why didn't you consider them
9 to be responsive?

10 MR. CYNKAR: Steve, those are publicly
11 available things. Frankly, that's the substance of it
12 all.

13 MR. DOTTHEIM: Okay.

14 MR. CYNKAR: If you need copies of it,
15 I can certainly press the button and get them just as
16 easily.

17 MR. DOTTHEIM: Okay.

18 Q. (By Mr. Dottheim) Mr. Moehn, have you
19 received a copy of Mr. Naslund's transcript of his
20 deposition that occurred earlier this week.

21 A. I did not receive a copy of it.

22 Q. So as a consequence, you haven't
23 reviewed a copy of the transcript of his deposition
24 from earlier --

25 A. I have not.

1 Q. -- this week?

2 Have you had occasion to visit with Mr.
3 Naslund since he was deposed earlier this week?

4 A. I have not.

5 Q. Have you visited with counsel about Mr.
6 Naslund's deposition earlier this week?

7 A. We did talk.

8 Q. I'd like to refer you to your direct
9 testimony. I'd like to refer you to Page 2, Lines 1
10 to 3, where you state that your prior -- prior to your
11 employment at Ameren, you were employed at
12 PriceWaterhouse, LLP, as senior manager in the
13 company's audit and business advisory services
14 department, do you not?

15 A. Yes, I do.

16 Q. What was the nature of your work as
17 senior manager in the company's audit and business
18 advisory services department?

19 A. I supervised audit engagements.

20 Q. What type of audit engagements?

21 A. All types. Manufacturing companies,
22 health care companies, Ameren.

23 Q. I was going to ask you were any of the
24 engagements involving public utility companies?

25 A. They were.

1 Q. And you just indicated that at least in
2 one instance the company was Ameren?

3 A. It was.

4 Q. Okay. What was the nature of the work
5 that you were engaged in that involved Ameren?

6 A. I supervised the audit engagement for
7 Ameren.

8 Q. When you say the audit engagement, was
9 that the external audit of Ameren?

10 A. That's correct.

11 Q. Is PriceWaterhouse or now
12 PriceWaterhouseCoopers the external auditor for
13 Ameren?

14 A. They are.

15 Q. And what was your role in that external
16 audit?

17 A. I was senior manager. I was in charge
18 of supervising that audit.

19 Q. In your employ at PriceWaterhouse and
20 PriceWaterhouse Coopers, have you been involved in any
21 other engagements regarding Ameren?

22 A. There were, from time to time, special
23 projects that we would be involved in.

24 Q. Can you identify what those special
25 projects were?

1 A. I did some work with internal audit on
2 some engagements from time to time on various
3 compliance audits that they had going on.

4 Q. Do you recall the nature of those
5 compliance audits?

6 A. There were some around the systems, the
7 CSS system, we did some work around that.

8 Q. CSS, what does that stand for?

9 A. That is their billing system, customer
10 billing system.

11 Q. And what time frame are we talking
12 about when you made reference to, first, the
13 engagement or maybe it's engagements as external
14 auditor in your role or function as in charge of that,
15 as I understand it, external audit or audits?

16 A. I worked with when I was with
17 PriceWaterhouse, I worked with Ameren, I believe, from
18 1997 until around 2000. So about three years.

19 Q. When you left PriceWaterhouse, did you
20 go directly -- was your next employment directly with
21 Ameren?

22 A. It was.

23 Q. And what was the nature of your initial
24 employment with Ameren once you left PriceWaterhouse?

25 A. I was controller of Ameren Energy

1 Resources.

2 Q. And have you held any other job or job
3 titles in Ameren prior to your present position?

4 A. Turn to Page 1 of my testimony. I
5 layout the different positions.

6 Q. Okay. They're all covered in Page 1 of
7 your testimony?

8 A. Yes. Yeah, I think -- technically, I
9 guess, my title -- I was assistant controller of
10 Ameren when I joined here in 2000 and controller of
11 AER.

12 Q. I would like to return to just an
13 earlier topic. I asked you if you had visited with
14 Mr. Naslund about the deposition earlier this week
15 that he was involved in that occurred regarding him.

16 Have you visited with Mr. Rainwater
17 regarding a deposition that occurred yesterday
18 involving him?

19 A. I have not.

20 Q. Okay. Have you visited with counsel
21 regarding Mr. Rainwater's deposition that occurred
22 yesterday?

23 A. I have.

24 Q. Okay. Mr. Moehn, are you a member of
25 the board of directors of EE, Inc.?

1 A. I am not.

2 Q. By EE, Inc. I'm referring to Electric
3 Energy, Incorporated. You, of course, have testimony
4 that's been prefiled which covers in part Electric
5 Energy, Incorporated, does it not?

6 A. Yes.

7 Q. If I refer to it as EE, Inc., you, of
8 course, will know that I'm referring to Electric
9 Energy, Incorporated, will you not?

10 A. I am.

11 Q. Okay. Mr. Moehn, do you attend any of
12 the meetings of the board of directors of EE, Inc.?

13 A. I do not.

14 Q. Okay. Did you review the minutes of
15 the board of directors meetings of EE, Inc.?

16 A. I did not.

17 Q. Do you have any regular communications
18 with any of the directors of the board of directors of
19 EE, Inc. specifically regarding EE, Inc. events?

20 A. You mean board of directors of EEI?

21 Q. Yes.

22 A. Who are the board of directors of EEI?
23 Tell me who they are. The answer to the second part
24 of the question is I don't have any -- tell me who the
25 directors are first.

1 Q. Okay. If I asked you -- I think you
2 may be indicating -- if I asked you to list for me who
3 are the members -- who are the present members of the
4 board of directors of EE, Inc., could you name for me
5 any of the board of directors of EE, Inc.?

6 A. I could probably name a few.

7 Q. Okay. Would you do so?

8 A. Chuck Naslund.

9 Q. Okay.

10 A. Alan Kelley, David Whiteley. That is
11 -- I believe that's who I know of anyway.

12 Q. Are each of those individuals also in
13 the employ of Ameren Corporation or an affiliate of
14 Ameren Corporation?

15 A. They are.

16 Q. Okay. Do you know how many directors
17 there are on the board of directors of EE, Inc.?

18 A. I do not.

19 Q. Do you know what other entities are
20 represented on the board of directors of EE, Inc.?

21 A. Kentucky Utilities.

22 Q. Any other entities?

23 A. Illinois Power, CIPS and Union
24 Electric.

25 Q. And Illinois Power and CIPS are

1 affiliates of Ameren Corporation?

2 A. Correct.

3 Q. As is Union Electric?

4 A. Correct.

5 Q. Do you know whether EE, Inc. has any
6 independent directors on the board of directors --
7 well, let me ask you that question.

8 A. I do not know.

9 Q. Mr. Moehn, I'm going to hand you a
10 document which is the 2005 annual report of Electric
11 Energy, Inc., and I'd like to ask you to take a look
12 at that document.

13 A. Okay.

14 Q. Mr. Moehn, you've had an opportunity to
15 look at the document that I've handed to you, the 2005
16 annual report of Electric Energy, Inc.?

17 A. I have.

18 Q. Have you ever seen that document
19 before?

20 A. No, I have not.

21 Q. I'd like to refer you to Page 29.

22 A. Okay.

23 Q. And I'd like to refer you to,
24 approximately, the top half of that page. The names
25 in particular where the heading at the top of the page

1 it states Electric Energy, Inc. directors. If you
2 would just review that, please.

3 A. Okay.

4 Q. You've identified a number of those
5 individuals just a short while ago, Mr. Kelley, Mr.
6 Naslund, and Mr. Whiteley, did you not?

7 A. I did.

8 Q. Do you recall the names of any of the
9 other individuals who are indicated as being directors
10 of EE, Inc.?

11 A. The Ameren representatives Dan Cole and
12 Tom Voss.

13 Q. Okay. Do you know whether any of the
14 individuals who are shown as being directors of the
15 EE, Inc. board of directors specifically represent
16 Ameren UE on the EE, Inc. board of directors?

17 A. I'm sorry. Could you repeat the
18 question?

19 MR. DOTTHEIM: Could you read back the
20 question?

21 (The last question was read by the
22 court reporter.)

23 MR. CYNKAR: If I could interject here.
24 Could you be clear about what you -- you've been using
25 this word represent. I'm not sure what you mean,

1 exactly. Obviously, Mr. Moehn isn't a lawyer. In
2 terms of whatever significance, if you could unpack
3 that for us a little bit.

4 Q. (By Mr. Dottheim) Yes. Mr. Moehn, I
5 think you have testimony on -- that covers the
6 ownership interest of EE, Inc., do you not?

7 A. Yes.

8 Q. And you identify a number of identities
9 that have ownership shares of EE, Inc., do you not?

10 A. Correct.

11 Q. Can you tell me what those companies
12 are, their ownership shares?

13 A. UE I believe is 40 percent. Illinois
14 Power is 20 percent, CIPS is 20 percent and Kentucky
15 Utilities is 20 percent.

16 Q. And when I say represent, I meant if --
17 if you know whether any of these individuals in
18 serving on the board of directors specifically are
19 charged with representing the 40 percent ownership
20 share of Union Electric Company in matters such as --
21 in voting matters or just matters in general for
22 discussion?

23 MR. CYNKAR: I'm going to interpose an
24 objection to that. I think that's calling for a legal
25 conclusion.

1 As you know, a point of dispute is what
2 are the responsibilities of board of directors
3 members. And so Mr. Moehn isn't competent. Professor
4 Downs will be here this afternoon on some of those
5 issues, but I must object.

6 A. I think that's right. I would be
7 speculating.

8 Q. (By Mr. Dottheim) Do you know who any
9 of these individuals -- which entities -- you've
10 identified various entities that have ownership
11 shares, do you know whether any of these individuals
12 represent any of those entities on the board of
13 directors?

14 MR. CYNKAR: Same objection.

15 Q. (By Mr. Dottheim) Answer to the best of
16 your ability.

17 A. My sense would be these two individuals
18 that have LG&E by their name would represent LG&E, buy
19 beyond that I would be speculating.

20 Q. Do you have conversations on a regular
21 basis with any of these individuals who are shown as
22 being directors of Electric Energy, Inc. as Electric
23 Energy, Inc.?

24 A. Not regarding Electric Energy, Inc.

25 Q. Mr. Moehn, can you identify how it was

1 determined that -- that you would submit testimony on
2 Electric Energy, Inc. in the pending electric rate
3 increase case of Ameren UE?

4 A. Because of my position as vice
5 president of corporate planning and responsibility for
6 the resource plan, I assume that's why they made the
7 decision.

8 Q. Do you have any prior experience or
9 knowledge of EE, Inc. that you are relying upon in
10 providing the testimony that you have filed to date?

11 A. Can you explain to me what you mean by
12 prior knowledge?

13 Q. Well, do you have any -- do you have
14 any -- prior to your filing of your direct testimony,
15 what were your day-to-day dealings with the matters
16 relating to EE, Inc.?

17 A. No daily dealings at EE, Inc.

18 Q. Could you indicate what you did to
19 prepare your testimony that you filed on EE, Inc.?
20 And I'm not asking you to engage in revealing any
21 discussions you had with counsel. I'm asking did you
22 read certain documents.

23 Did you, for example, consult with
24 certain individuals? And again, I'm not asking for
25 communications with your counsel -- or with multiple

1 counsel. Was it suggested to you and who might have
2 suggested it to you? Again, I'm not looking for
3 advice of counsel as to how you might go about once
4 you were assigned to submit testimony on EE, Inc., how
5 you would prepare yourself to right that testimony.

6 And let me ask you, did you write the
7 direct testimony that was filed under your name?

8 A. Yes. And I consulted with counsel on
9 it as well.

10 Q. Okay. Did anyone other than counsel
11 provide you assistance as far as actually writing it?

12 A. No, they did not. As far as documents
13 go, I did review the Power Supply Agreement, again,
14 between EEI and the sponsoring companies.

15 Specifically, I think it's Mod 12, the
16 contract entered into in 1987.

17 Q. Did you review -- do you know how many
18 -- you said mod, does mod -- is that an abbreviation
19 for something?

20 A. I believe modification.

21 Q. Do you know how many modifications
22 there ultimately were?

23 A. I do not. I know there were several.

24 Q. Did you review the articles of
25 incorporation of EE, Inc.?

1 A. I did not.

2 Q. Did you review the bylaws of EE, Inc.?

3 A. I did not.

4 Q. Do you know whether in the approximate
5 50-year history of EE, Inc., there have been multiple
6 iterations of the articles of incorporation?

7 A. I was not aware of that.

8 Q. And I'm not saying that there have
9 been. I'm asking -- I'm sorry if that's what I
10 implied. I didn't mean to imply that.

11 I'm asking whether you know if there
12 are multiple iterations.

13 A. I do not.

14 Q. Again, I don't mean --

15 A. I do not.

16 Q. And do you know whether there are
17 multiple iterations of the bylaws of EE, Inc. in its
18 approximate 50-year history?

19 A. I do not.

20 Q. I'm sorry. You've indicated that you
21 read Mod 12. What else did you do?

22 A. I had discussions with counsel.

23 Q. You have referred in your testimony to
24 a couple of commission cases on Page 11, Lines 12 to
25 14. Did you read those two commission cases?

1 A. I had discussion with counsel about
2 those two cases.

3 Q. Did you actually read those two
4 commission cases?

5 A. I did not.

6 Q. Okay. On Page 12 on Line 2, you have a
7 footnote and you have a statement that EE, Inc. became
8 an except wholesale generator, or EWG, in 2000 upon
9 FERC approval of its EWG application.

10 And then at the bottom of the page, you
11 have a citation to what I believe is a FERC order. Is
12 that a citation to a FERC order; do you know?

13 A. I'm sorry, which lines are you --

14 Q. Okay. I'm sorry. I'm referring to
15 Line 2 at the top of the page, Lines 1 and 2, the
16 footnote,

17 A. Uh-huh.

18 Q. At the end of sentence that ends on
19 Line 2, and then the footnote at the bottom of the
20 page.

21 A. Yes.

22 Q. Did you read the -- is that a reference
23 citation to a FERC order that appears at the bottom of
24 the page?

25 A. Yes.

1 Q. Okay. And did you read that FERC
2 order?

3 A. I had discussions with counsel about
4 it.

5 Q. And my question is did you read the
6 FERC order?

7 A. I did not.

8 Q. Okay. I'd like to ask you to turn to
9 Page 13. You have a number of footnotes that appear
10 at the bottom of the page. And the footnotes refer to
11 source documents.

12 Footnote No. 3 refers to rebuttal
13 testimony.

14 Footnote No. 4 refers to a report, an
15 order of the Missouri Commission on rehearing and also
16 to cross surrebuttal testimony of a staff witness.

17 And Footnote No. 5 appears to refer to
18 a FERC order.

19 Did you read any of those source
20 documents that are shown in footnotes on the bottom of
21 Page 1?

22 A. I did not read any of them in their
23 entirety. I discussed them with counsel and read
24 pieces of them.

25 Q. Okay. Now, in each instance did you

1 read part of the documents that are referred to or are
2 there some that you did not read at all?

3 A. I honestly don't recall.

4 Q. Okay. Let's turn to Page 14. Again,
5 I'd like to return you to the footnotes.

6 Footnote No. 6 appears to refer to a
7 FERC docket, in particular to -- well, it appears to
8 -- it refers to a FERC docket. It doesn't contain any
9 more specific citations and Footnote No. 7 refers to a
10 Missouri Public Service Commission case.

11 In Footnote No. 6, have you read any
12 source documents that have been filed or any orders of
13 the FERC that have been issued in that FERC document
14 that is shown in Footnote 6, EC, and I believe it's
15 04-81. It looks like EC 01, but I think it may be EC
16 04-81-000.

17 A. I did not read any of them in their
18 entirety.

19 Q. Okay. You have read some --

20 A. Yes.

21 Q. -- documents and/or orders in part?

22 A. Yes. In my discussions with counsel,
23 yes.

24 Q. And Footnote No. 7, have you read any
25 documents or orders in the Missouri Public Service

1 Commission case that's referred to?

2 A. Again, not in its entirety.

3 Q. Mr. Moehn, you know what a FERC form 1
4 is?

5 A. I do.

6 Q. Okay. Have you reviewed any Electric
7 Energy, Inc. FERC form 1s.

8 A. I have not.

9 Q. I'd like to refer you again to the
10 document I handed you earlier, the 2005 annual report
11 for Electric Energy, Inc. I'd like to direct you to
12 Pages 13 and 14. I'd like to direct you in particular
13 to the section that's denominated small D paren
14 operating revenues, and I'd like to ask you to read
15 that section.

16 A. Okay.

17 Q. Mr. Moehn, is the information that's
18 contained in that section that I just asked you to
19 read on Pages 13 and 14 correct to the best of
20 knowledge and belief?

21 MR. CYNKAR: I must object on two
22 grounds. One is there is no foundation that Mr. Moehn
23 knows the facts behind this material, Steve, as you
24 brought out. He doesn't work for this company and
25 this is a report from another company. So he would

1 have no way -- and you certainly haven't laid a
2 foundation that he would not know the facts there.

3 And also insofar as there are any legal
4 observations in here, as I've said earlier, he's not
5 competent to testify to legal issues.

6 MR. DOTTHEIM: If Mr. Moehn does not
7 know the facts that are contained in these paragraphs,
8 he certainly can state that. In fact, that's in
9 essence, I believe what I'm asking him.

10 A. They appear to be consistent with the
11 PSAs that I have reviewed.

12 Q. (By Mr. Dottheim) Okay. And when you
13 say the PSA, what do you mean by PSAs?

14 A. Power Supply Agreements between EE,
15 Inc. and the sponsoring companies.

16 Q. Now, you just said that they appear to
17 be -- the information contained in that section
18 appears to be consistent with the PSAs that you
19 reviewed. Maybe I misunderstood you. I thought you
20 indicated that you had only reviewed one PSA, Mod 12.

21 A. I reviewed Mod 12. That's the number
22 that I can remember. I did look at other
23 modifications. You asked me if there were other
24 modifications. I answered there were other
25 modifications. I really don't recall what the numbers

1 were.

2 Q. Mr. Moehn, I'd like to direct you to
3 your testimony again to Page 10. I'd like to direct
4 you to Lines 13 and 14 where you state under the terms
5 of the agreement Ameren UE paid EE, Inc. a price equal
6 to EE, Inc.'S cost of producing the power plus 10
7 percent.

8 I'd also like to direct you to Page 15,
9 Lines 7 to 9. Where you state, As I noted, Ameren
10 UE's most recent Power Supply Agreement with EE, Inc.
11 was originally executed in 1987 and contained a cost
12 plus 10 percent rate for the power being delivered.

13 Is that statement of yours on Pages 10
14 and 15 accurate?

15 A. Yes. In reviewing Mod 12 there is
16 certainly a lot of components that go into it, but
17 that is, in essence, correct.

18 Q. Okay. Well, let me refer you to the
19 annual report that I handed to you and to Page 13.

20 I'd like to refer you to the fourth
21 paragraph from the bottom of the page where it states,
22 Under the Power Supply Agreement in Mod 16, the
23 sponsoring companies and the DOE are required to make
24 monthly payments for power which will enable the
25 company to recover all of Joppa's cost of service

1 which includes operating expenses, taxes and interest,
2 plus generate a prescribed rate of term on equity
3 capital a 15 percent net of federal income tax.

4 How are your statements on Pages 10 and
5 15 consistent with that sentence in the EE, Inc. 2005
6 annual report?

7 A. In reading Mod 12, there are several
8 components to the PSA which allow to recover the cost
9 in exchange for power. I believe that they did have a
10 return on equity as well that's factored in that.
11 They also had, basically, this cost plus 10 percent
12 for the fuel and purchase power.

13 Q. So your reference to cost plus 10
14 percent refers to fuel and purchase power?

15 A. It does.

16 Q. Your testimony is not that precise.
17 There is no reference to fuel and purchase power, is
18 there?

19 A. That's correct.

20 Q. Mr. Moehn, I'm going to hand to you a
21 packet of materials. It's a data request response --
22 a data request from the Office of Attorney General
23 Data Request AG/UTI-0625. And it's indicated that the
24 data request response was prepared by you and the
25 staff obtained the data request response by its own

1 Data Request 468.

2 I'll ask you if you could take me to --
3 if it's contained therein in that packet of materials,
4 if you could take me to that section that you're
5 referring to in your testimony on Pages 10 and 15 in
6 Mod 12?

7 A. Mod 12 is attached. I got you. I'm
8 sorry. You would like me to --

9 Q. Yes. Could you refer me to it
10 specifically?

11 A. Specifically, to the reference in my
12 testimony?

13 Q. Yes.

14 A. On Page 12.

15 Q. Where?

16 A. I'm sorry. Section 302, 2 ii under
17 demand charge.

18 Q. The reference within the 2005 annual
19 report of EE, Inc. on Page 13 that I referred you to
20 in that fourth paragraph from the bottom is accurate;
21 is it not?

22 A. I believe it's accurate.

23 Q. That is also contained in Mod 12, is it
24 not?

25 A. I believe it is.

1 Q. Can you find its location?

2 A. Page 11 under D.

3 Q. Is there another reference on 13, under
4 Section 304, annual adjustment of charges, A?

5 A. Yes, there is.

6 Q. Mr. Moehn, the data request response
7 that I just handed to you indicates that the data
8 request response was prepared by you; is that correct?

9 A. That's correct.

10 Q. Okay. You prepared a number of data
11 request responses relating to the EE, Inc. subject
12 matters; is that correct?

13 A. That's correct.

14 Q. Did you consult with anyone in
15 preparing the responses to data request that relate to
16 EE, Inc.?

17 MR. DOTTHEIM: Did someone just join
18 us? Hello.

19 Q. (By Mr. Dottheim) I'm sorry. Go ahead.

20 A. I consulted with counsel and certain
21 people within corporate planning. They helped me
22 gather whatever information we provided.

23 Q. One moment, please. Mr. Moehn, I'm
24 going to hand to you another document. It's a
25 response to another data request. This time it's a

1 response to a data request of the Office of Public
2 Council, OPC data request 2005 which the staff
3 obtained through its data request to Ameren UE, Staff
4 Data Request 499.

5 And the Office of Public Counsel's data
6 request 2005 asked, Please provide access to the
7 Electric Energy, Inc. board of director's meeting
8 minutes, board of director committee meeting minutes,
9 and all related reports for the period covering
10 January 1, 2003 through June 30, 2006.

11 Please, provide notice to OPC on a
12 going-forward basis as new information beyond June 30,
13 2006 becomes available.

14 The response states, See attached
15 minutes relating or pertaining to a power contract
16 between EE, Inc. and Ameren UE or to EE, Inc.'s
17 decision not to contract with Ameren UE post 2005.
18 Did I read that accurately?

19 A. You did.

20 Q. And you're shown as having prepared the
21 response, are you not?

22 A. I am.

23 Q. Okay. Did you work with anyone in
24 preparing this response for me?

25 A. Counsel prepared this response for me.

1 Q. I'd like to ask you if there is -- or
2 an individual referred to in here Mr. Robert L.
3 Powers. Can you identify who Mr. Powers is?

4 A. Identify his title here?

5 Q. Yes. Or can -- yes, can you identify
6 who Mr. Powers is? Do you know who Mr. Powers is?

7 A. I do know Mr. Powers.

8 Q. Okay. And who is he?

9 A. I know him in his capacity of vice
10 president of technical services for the generation
11 group.

12 Q. Do you know him in his capacity as
13 being associated with EE, Inc. or relating to his work
14 with EE, Inc.?

15 A. I'm aware that he is president of EE,
16 Inc.

17 Q. Have you interfaced with him in his
18 work as president of EE, Inc.?

19 A. I have not.

20 Q. I'd like to refer you in particular to
21 what is marked as Page 24 --

22 A. I would like to correct myself in that
23 last statement. Now, that I think of it, I have
24 talked with Bob Powers related to some environmental
25 projects that EEI had consulted with corporate

1 planning, and we had discussions with him about that.

2 Q. Okay. Anything else that you recall?

3 A. Those environmental projects would deal
4 with SO2 credits at EEI.

5 MR. DOTTHEIM: And I should say -- make
6 note that this data request response is marked as
7 highly confidential. And as a consequence we probably
8 -- I don't know that we've -- I've gotten into
9 anything, and I don't know that I will, but I guess we
10 should put this under seal, this part, until the
11 company has had a chance to review it and decide.

12 MR. CYNKAR: Well, you know what you're
13 going to ask and so if you don't think that you're
14 going to ask anything that reveals that, but --

15 MR. DOTTHEIM: I don't really think so,
16 no.

17 MR. CYNKAR: I would say let's not
18 worry about it.

19 Q. (By Mr. Dottheim) Mr. Moehn, I would
20 like to refer you in particular to what's marked as
21 Page 2.3. And it's marked at the bottom of the
22 left-hand corner -- excuse me, the right-hand corner.
23 And I'd like to direct you to the third to last
24 paragraph. I'd like to direct you in particular --
25 really that paragraph in its entirety. I was going to

1 read that paragraph. I don't know that there's truly
2 anything sensitive in it.

3 MR. CYNKAR: Go ahead.

4 Q. (By Mr. Dottheim) The paragraph states
5 Mr. Powers brought up for discussion the matter of a
6 Power Supply Agreement beginning in 2006. Mr. Powers
7 recommended that a team be formed and a member of each
8 sponsor to appoint a representative from their company
9 to the team.

10 Mr. Powers reported he would provide a
11 draft of a proposed Power Supply Agreement to the
12 sponsors by the third week of February. Mr. Moehn,
13 have I read that correctly?

14 A. You have.

15 Q. And I was reading from the first page
16 of these meeting minutes indicate that these are the
17 meeting minutes from the January 28th, 2005 board of
18 directors meeting; is that correct?

19 A. Correct.

20 Q. Do you know whether a team was ever
21 formed?

22 A. I'm not aware.

23 Q. Okay. And as a consequence you're not
24 aware as to whether there were representatives from
25 each sponsor on the team?

1 A. I'm not.

2 Q. Okay. And you're not aware whether a
3 draft of a proposed Power Supply Agreement was
4 provided to sponsors by the third week of February
5 2005?

6 A. No, I'm not.

7 Q. Okay. I'd like to next direct you to
8 the meeting minutes for December 22, 2005. And I'd
9 like to refer you to the last page which is marked 1.3
10 down in the bottom right-hand corner. I'd like to
11 refer you to the fourth paragraph from the bottom of
12 the page. I'm going to read a sentence that I
13 possibly should be treated as highly confidential. I
14 don't know, Bob, you want to -- the second sentence.

15 MR. CYNKAR: Can we go off the record
16 for one second here?

17 MR. DOTTHEIM: Yes, please.

18 (An off the record discussion was held
19 at this time.)

20 MR. DOTTHEIM: This next part is
21 potentially highly confidential, so we'll treat it as
22 such unless and until the company indicates otherwise.

23 (This portion of the transcript has
24 been designated as highly confidential.)

25 Q. (By Mr. Dottheim) Mr. Moehn, the second

1 sentence in the fourth paragraph on the bottom of the
2 page states, Mr. Powers reported he received a letter
3 indicating Kentucky Utilities Company did not wish to
4 participate in the Power Sales Agreement effective
5 January 1, 2006.

6 Mr. Moehn, are you aware of the
7 Kentucky Utilities Company letter that is referred to
8 in that paragraph?

9 A. I am not.

10 Q. Are you aware of the position of
11 Kentucky Utilities respecting the Power Sales
12 Agreement or a Power Sales Agreement effective January
13 1, 2006?

14 A. Yes, I am.

15 Q. Can you relate what you aware of?

16 A. I believe in a conversation that I had
17 with an individual here that Kentucky Utilities took a
18 different position from the other sponsoring
19 utilities.

20 Q. And what position did Kentucky
21 Utilities take?

22 A. I believe they took a position that
23 they did not want to extend the PSA market base rates
24 and the conversation that I had with this individual,
25 they said it was done in an attempt to -- they felt

1 where they knew the other sponsoring companies were
2 voting and that they could do this to basically put a
3 show on in front of their regulators.

4 Q. And who is this individual that you had
5 this conversation with?

6 A. Andy Serri.

7 Q. And could you identify who Mr. Andy
8 Serri is?

9 A. He's president of Ameren Energy
10 Marketing Company.

11 Q. And could you identify when you had
12 this conversation or is it more than one conversation?

13 A. It was one conversation. I honestly
14 don't recall when it -- some time in 2006. That's
15 all.

16 (This ends the highly confidential
17 portion of the transcript.)

18 Q. (By Mr. Dottheim) And Mr. Moehn, pardon
19 me, I may have already asked this of you. If I have,
20 I apologize. Do you routinely see the meeting minutes
21 of the board of directors of EE, Inc.?

22 A. I do not routinely see the board
23 minutes.

24 Q. Could you indicate the frequency with
25 which you do see the minutes of the board of directors

1 of Electric Energy, Inc.?

2 A. The only time I've seen the board
3 minutes of EE, Inc. is when counsel prepared this data
4 request for me.

5 Q. I'd like to refer you again to your
6 testimony. I'd like to refer you again to your
7 testimony to Page 15, Lines 17 to 18 wherein
8 particular you state, In 1987 the Power Supply
9 Agreements typically being used throughout the country
10 and approved by FERC or cost plus contracts.

11 What is the basis of your statement on
12 Line 17 to 18?

13 A. That there were not wholesale power
14 markets in existence at that point in time. And
15 through conversations with counsel and through
16 conversations with our trading and marketing
17 organizations.

18 Q. Okay. And when you say conversations
19 with your trading and marketing organizations, can you
20 be more specific either by -- are those affiliates or
21 subsidiaries of Ameren?

22 A. That is correct, they are.

23 Q. Okay. Could you identify them by name
24 or could you identify the individuals that you had
25 those conversations with?

1 A. I sure can. Andy Serri again, Ameren
2 Energy Marketing Company and Shawn Schukar, Ameren
3 Energy.

4 Q. Okay.

5 A. And then also my audit involvement with
6 other utilities. I was involved with Dayton Power and
7 Light when I was with PriceWaterhouse, and they had
8 several cost based contracts in place.

9 Q. And your experience --

10 A. I'm sorry. And one other, I believe
11 Ameren UE also has another cost based contract with
12 Arkansas Power and Light.

13 Q. Your reference to Dayton Power and
14 Light. What are -- or is the date of the contract
15 that you're referring to? I mean, here what -- I'm
16 look for what year we're talking about specifically
17 with the EE, Inc. 1987. What is the time frame that
18 you're referring to with Dayton Power and Light?

19 A. What I can recall is that these were
20 contracts '80s and '90s.

21 Q. Can you be more specific about the
22 '80s?

23 A. I'm sorry, I can't.

24 Q. Late '80s?

25 A. I really can't.

1 Q. And you can't be more specific about
2 the '90s?

3 A. I cannot.

4 Q. I'd like to refer you back again to the
5 EE, Inc. 2005 annual report which I could also refer
6 you back to the data request response to public
7 counsel -- excuse me -- to AGO 0225 where you provided
8 the Power Supply Agreement and you went through some
9 sections in Article 3, but it is, I think, frankly,
10 summarized in the 2005 annual report in that the
11 paragraph I referred you to previously -- I'm going to
12 refer you to it now -- Page 13, third paragraph in
13 that section D operating revenues and that is
14 contracts, Power Supply Agreements that recover all of
15 the stations, cost of service which includes operating
16 expenses taxes and interest plus generate a prescribed
17 rate of return on equity capital of 15 percent net of
18 federal income tax. Is that the type of contract that
19 you're testifying was typically being used throughout
20 the country and approved by the FERC as cost plus
21 contracts in 1987?

22 A. the general terms appear the same. The
23 concepts appear the same.

24 Q. Including the prescribed rate of return
25 being 15 percent rate of return on equity capital and

1 that of federal income tax?

2 A. I can't speak to the actual percentage.

3 Q. But you are speaking to the other
4 components that were covering all cost of service
5 including operating expenses, taxes and interest?

6 A. I am.

7 Q. But again not to the 15 percent rate of
8 return on equity capital net of federal income tax?

9 A. That's right. The sense is that would
10 vary depending on the period of time that you were
11 entering into the agreement.

12 Q. Mr. Moehn is there -- or was there a
13 group of senior managers at Ameren referred to as the
14 senior team at the highest level that meets on a
15 regular basis to discuss -- discusses matters such as
16 the developments at EE, Inc., if you know?

17 A. That discusses --

18 Q. Developments at EE, Inc., for example?

19 A. I'm aware of a senior team, I don't
20 know if they discussed the developments of EEI.

21 Q. And, again, you haven't reviewed the
22 commissions orders or Union Electric Company's
23 applications in Case No.s 12,046 and 12,463?

24 A. Again, not in their entirety.

25 Q. Well, I think you previously indicated

1 that you -- maybe I'm mistaken that you hadn't
2 reviewed them at all?

3 A. Can we go back to the actual reference?

4 Q. Yes, sir.

5 A. I thought I discussed some things with
6 counsel. I want to make sure I'm speaking about the
7 right ones.

8 Q. Yes. Page 11, Lines 12 through 13.

9 A. I apologize. You're correct. I said
10 did I not review those.

11 Q. So you don't know whether the words
12 below the line appear in those orders?

13 A. I do not.

14 Q. You don't know whether the words above
15 the line appear in the order?

16 A. Other than just through discussions
17 with counsel.

18 Q. But, again, you yourself have not
19 reviewed those orders?

20 A. That is correct.

21 Q. You don't know whether the word rate
22 base appear in those orders?

23 A. Other than if counsel told me there
24 were.

25 Q. And in that instance then -- and I

1 don't mean to be implying anything, you would be
2 taking that on faith, correct, so to speak?

3 A. From my counsel.

4 Q. Yes. I'm not going to ask you what
5 your counsel told you. I'm not going to hand you the
6 orders and ask you to read them while we wait.

7 A. Thank you.

8 MR. CYNKAR: On behalf of everyone, I
9 thank you.

10 Q. (By Mr. Dottheim) Mr. Moehn, the term
11 below the line, what does that mean to you?

12 A. From an accounting perspective and my
13 background, something that's not in rate base that
14 shareholders have risk for.

15 Q. The term below the line, is that
16 something that has meaning in the public utility
17 context as opposed to the non public utility context?

18 A. Yes, it does.

19 Q. Does below the line have meaning in the
20 non public utility context?

21 A. Not that I'm aware of.

22 Q. How did you become aware of the meaning
23 of below the line in the public utility context?

24 A. Through my work at PriceWaterhouse.

25 Q. Is interest expense above or below the

1 line?

2 A. Again, I think it would depend on the
3 actual situation.

4 Q. I think someone left us. Did somebody
5 join us. Excuse me, I'm sorry?

6 A. In talking in context of a rate base
7 item I think that would be above the line.

8 Q. Is Union Electric Company's return on
9 investment above or below the line?

10 A. I'm sorry?

11 Q. Is Union Electric's return on
12 investment above or below the line?

13 A. Union Electric's return on investment?

14 Q. Yes. That doesn't --

15 A. Can you explain that?

16 Q. Well, just that question alone, you
17 would need further explanation?

18 A. Yes. Return on --

19 Q. Return on equity. Return on rate base
20 if I said return on rate base.

21 A. That implies to me above the line.

22 Q. All right. How were the payments that
23 Ameren made to EE, Inc. under the Power Supply
24 Agreement that is no longer in effect recorded on
25 Ameren UE's books?

1 A. The Power Supply Agreement which I
2 believe you're referring to in my sense is they were
3 exchanging megawatts for costs and would have been
4 maybe in fuel and purchase power.

5 Q. Do you know were the payments recorded
6 above or below the line on Ameren UE's books?

7 A. The original investment in EII I know
8 was recorded below the line. Again, if you're
9 referring to the Power Supply Agreement and the
10 megawatts that UE receives in exchange for making
11 payments I'm assuming those would be recorded above
12 the line.

13 Q. One moment, please. I'd like to return
14 to an area that we talked about just a short while ago
15 about the Power Supply Agreements that you indicated,
16 I believe, in the testimony that were typical in 1987
17 and you made reference to Dayton Power and Light.
18 Were those Power Supply Agreements with affiliated or
19 unaffiliated suppliers?

20 A. I believe they were with affiliated
21 suppliers. They had a lot of joint ownership of
22 plants with other utilities.

23 Q. Have you actually reviewed such
24 agreements or are you aware that they exist or
25 believe that they exist because you're aware of them

1 anecdotaly?

2 A. What is typical in audits or work
3 papers that support the audit, they were in -- you
4 know, they call them permanent files.

5 Q. Have you reviewed any Ameren UE
6 resource plans that were filed prior to the most
7 recent December 2005 Chapter 22 filing of Ameren UE?

8 A. Reviewed any resource -- no, I have
9 not.

10 Q. Okay. So you haven't reviewed the 1995
11 or 1997 resource plan filings of Ameren UE?

12 A. I have not.

13 Q. You've indicated that you're aware of,
14 if I understand correctly, more than just the
15 Modification 12 of the Power Supply Agreement. Are
16 you aware of Modification 17, which I believe is the
17 last modification?

18 A. The number doesn't stick out to me, but
19 I did review subsequent modification.

20 Q. Was there a modification of the Power
21 Supply Agreement which extended the agreement for one
22 year for the Department of Energy?

23 A. A specific modification?

24 Q. Yes.

25 A. I'm not aware of that provision.

1 Q. Okay.

2 MR. DOTTHEIM: Well, as I said, I would
3 probably ask for a break first. I may be done. If
4 I'm not done, I have very little. I'd like to --

5 THE WITNESS: A break would be nice.

6 MR. DOTTHEIM: -- if no one has an
7 objection --

8 MR. CYNKAR: That would be fine. We're
9 off the record.

10 (An off the record discussion was held
11 at this time.)

12 Q. (By Mr. Dottheim) Mr. Moehn, earlier
13 when I asked you about Power Supply Agreements typical
14 to the now no longer in affect Power Supply Agreement
15 between EE, Inc. and the sponsoring companies, you
16 made a reference to, I believe, to the power supply
17 between Ameren UE and Arkansas Power and Light?

18 A. Correct.

19 Q. Arkansas Power and Light is an
20 unaffiliated company, is it not of Ameren UE?

21 A. That is correct. It came about as a
22 result of the acquisition of that territory.

23 Q. Does that contract provide for a term
24 of 15 percent of equity as of the Power Supply
25 Agreement between EE, Inc. and the sponsoring

1 companies did?

2 A. It does not have 15 percent in there,
3 no.

4 Q. That was an after tax return on equity,
5 correct?

6 A. Correct.

7 Q. Mr. Moehn, when you used the term rate
8 base, what do you mean by rate base?

9 A. Something that is done for the benefit
10 of repairs and that is governed by the Missouri Public
11 Commission.

12 Q. Have you indicated that an item not in
13 rate base should be treated below the line? Have you
14 indicated that or is that an Ameren UE position?

15 A. I'm sorry, can you repeat that?

16 Q. Yes. That an item not in rate base
17 should be treated below the line?

18 A. Yes.

19 Q. Okay. And what is the basis for that
20 position? What is -- can you cite me to a treatise or
21 --

22 A. Some text shareholders are bearing the
23 risk at the end of the day for that investment.

24 Q. And, again, you're providing a
25 rational. Can you provide me some --

1 A. Some text?

2 Q. Yeah, some source that provides the
3 basis for that rationale, again, a treatise or a
4 scholarly text?

5 MR. CYNKAR: To the extent this calls
6 for a legal conclusion or legal source, I object to
7 Mr. Moehn is not a lawyer.

8 A. I'd be speculating.

9 Q. (By Mr. Dottheim) Okay. Mr. Moehn,
10 could you identify Mr. James M. Helm, H-E-L-M?

11 A. He's affiliated with EEI.

12 Q. And could you indicate -- do you know
13 how he's affiliated with EEI?

14 A. He works there.

15 Q. Can you provide me a job title?

16 A. I'm sorry, I don't know what his job
17 title is. Although I thought it indicated on one of
18 these things. Secretary treasurer.

19 Q. And what did you refer to?

20 A. The annual report that you provided me.

21 Q. Mr. Moehn, does EE, Inc. have any
22 affiliates or subsidiaries?

23 A. They do.

24 Q. Can you name those affiliates or
25 subsidiaries?

1 A. The one that I am familiar with is
2 MEPI, Midwest Electric Power.

3 Q. Are there any others?

4 A. Not that I'm aware of. I don't know.

5 MR. DOTTHEIM: Thank you, Mr. Moehn. I
6 greatly appreciate your patience.

7 MR. CYNKAR: Who is next? I think
8 we've been proceeding with Lewis.

9 MR. MILLS: I'm happy to go next.

10 MR. DOTTHEIM: Okay. Go for it.

11 EXAMINATION BY MR. MILLS:

12 Q. Good morning, Mr. Moehn.

13 A. Good morning, Lewis, how are you.

14 Q. Fine thanks.

15 Can we forego the sorts of questions
16 that Mr. Dottheim asked at the beginning about are you
17 able to answer fully and are you taking medication,
18 that sort of stuff?

19 A. Yes.

20 Q. Let me jump right into it.

21 In your testimony you gave a little bit
22 of your background. I want to explore a couple of
23 things there.

24 At Line 21 you mention that you've been
25 with Ameren since 2000 first as the assistant

1 controller. Can I get you to describe for me what
2 your duties were as assistant controller?

3 A. My responsibilities when I joined here
4 in 2000 while my title was assistant controller, I was
5 primarily assigned to Ameren Energy Resources, the
6 unregulated subsidiary doing typical accounting work.

7 Q. Okay. Was there more than one
8 assistant controller?

9 A. You know, I'm not sure if anyone else
10 had that title.

11 Q. Okay. But your duties were not Ameren
12 wide? They were fairly narrow?

13 A. They were. Yeah, I would -- I guess --
14 I got involved in Ameren activities, but they were
15 primarily AER.

16 Q. Okay. And then in 2001, you became
17 director of corporate modeling and performance
18 managing; is that correct?

19 A. That's correct.

20 Q. What does the corporate modeling and
21 performance management department division or group
22 do?

23 A. The corporate modeling is responsible
24 for all of the earnings per share forecast.

25 Performance management is the process

1 in which we grade the various different segments.

2 It's -- we're a balanced score card company. We use
3 different metrics to monitor performance.

4 Q. Okay. Those are two separate groups,
5 corporate modeling and performance management?

6 A. No. They were one in the same.

7 Q. Okay. They have two separate roles
8 that you just described?

9 A. Correct.

10 Q. Okay. What was your specific
11 responsibility as director?

12 A. I was involved in, you know, the actual
13 day-to-day modeling of Ameren's activities and also
14 overseeing several people that did the same thing.

15 Q. How do the activities of that
16 department benefit Union Electric customers?

17 A. I'm assuming most people want us to
18 have metrics that we strive for and monitor and have
19 bench marks that we try to improve upon.

20 Q. Does that department do any enterprise
21 risk management for Ameren?

22 A. No, it did not.

23 Q. Okay. So its role is exclusive to
24 Ameren UE?

25 A. No, it wasn't.

1 Q. Which Ameren entities does it do work
2 for?

3 A. It did work for all of the Ameren
4 entities.

5 Q. Okay.

6 A. I'm speaking in past tense. It could
7 have been changed. I'm not involved with it anymore.

8 Q. Okay. And what were your duties as
9 vice president of shared services?

10 A. I had responsibility for bringing
11 together the back offices of AEM, Ameren Energy
12 Marketing, and Ameren Energy. And these were the
13 billing, accounting, etc. in trying to put them into
14 kind of a shared responsibility so we weren't
15 duplicating work.

16 Q. Okay. And in 2004 you became vice
17 president of corporate planning, correct?

18 A. Correct.

19 Q. Who held that position before you?

20 A. Craig Nelson.

21 Q. And what position does Mr. Nelson now
22 hold?

23 A. His title is vice president of special
24 projects. I'm sorry. I don't know what else it is.

25 Q. Okay. And as vice president of

1 corporate planning, who do you report to?

2 A. I report to Warner Baxter the CFO.

3 Q. Okay. Has your reporting changed since
4 January 1, 2007?

5 A. No, it has not.

6 Q. Okay.

7 A. I mean, that's who I -- I have a solid
8 dotted line to him. As you well know, I'm in a
9 service organization. I serve the presidents of all
10 of the different utilities.

11 Q. Did you say you have a solid dotted
12 line to him?

13 A. I'm sorry. I have a solid line to him.

14 Q. What exactly does that mean?

15 A. He is my direct boss.

16 Q. Okay. Do you have a dotted line to
17 anyone else?

18 A. I don't know if it's demonstrated that
19 way on an organizational chart, but I have -- I work
20 with the other presidents a great deal.

21 Q. Now, in your testimony on Page 3, Line
22 12, you refer to the 20-year integrated resource
23 planning process. Do you have your testimony there
24 with you?

25 A. I do.

1 Q. Okay. Does that 20-year -- in that
2 20-year integrated resource planning process, do you
3 include any nuclear units in the last year?

4 A. I believe we have in there a
5 continuation of a unit similar to Callaway.

6 Q. Okay. One unit or two units?

7 A. One.

8 Q. And when you say it's a unit similar to
9 Callaway, what exactly does that mean?

10 A. Similar to operating characteristics,
11 cost, etc.

12 Q. And for the purpose of this modeling,
13 do you model your actual generating assets or do you
14 model units that are similar to them?

15 A. In that case, I don't think the
16 decision had been made as to whether or not they were
17 going to extend the license, which I think extended
18 beyond the period of time for this resource plan, but
19 typically it's the actual units.

20 Q. Okay. But in this case, if you're not
21 modeling the actual unit, you're modeling something
22 similar to it?

23 A. I guess for all intents and purposes,
24 it's really the same unit in terms of costs and
25 characteristics.

1 Q. Okay. And does that reflect an
2 assumption that the current Callaway unit will be
3 available in the last year of your 20-year integrated
4 resource planning process?

5 A. Yes.

6 Q. Now, with reference to EE, Inc., in
7 your testimony Page 10, Line 15, you make reference to
8 the fact that the most Power Supply Agreement expired
9 by it's own terms on December 31, 2005.

10 How many -- since the Joppa plant was
11 built, how many Power Supply Agreements have expired
12 by their own terms?

13 A. I don't know.

14 Q. Okay. Did you review the Power Supply
15 Agreement that expired on December 31st, 2005?

16 A. I believe I did if that was
17 Modification 17.

18 Q. Have you reviewed any other earlier
19 Power Supply Agreements?

20 A. I reviewed the one that was entered
21 into in 1987, and then I reviewed a couple other ones.
22 Subsequent to that, I don't recall the modification
23 number.

24 Q. Now, in terms of the 1987 agreement, I
25 think you said you reviewed, did that one run straight

1 through from 1987 to 1995 or were there extensions
2 that caused it to run through the end of 2005?

3 A. I believe there were extensions.

4 Q. I think I made a mistakes when I said
5 1995. I meant to say 1987 to 2005.

6 Would your answer be the same if I
7 corrected my answer that way?

8 A. Yes.

9 Q. During that period of time, who would
10 have elected to take advantage of those extensions?

11 A. When you say who? Can you -- what do
12 you mean?

13 Q. What entities?

14 A. The entities that were part of that
15 agreement.

16 Q. All of them?

17 A. I don't know.

18 Q. Now, on that -- in that same section of
19 testimony, you state that following the expiration of
20 the agreement, EE, Inc. elected to cease selling power
21 from the Joppa plant on a cost plus basis. Who
22 specifically decided to make that election?

23 A. EEI.

24 Q. And EEI being a corporation, how does
25 it act?

1 A. I guess it acts through its board
2 members that are listed in that 2005 annual report.

3 Q. Okay. So when -- in that section of
4 your testimony when you say EE, Inc. elected to, there
5 you're referring that the board collectively made that
6 election?

7 A. Yes.

8 Q. Do you know if that election was made
9 unanimously?

10 A. As I stated previously, I don't believe
11 it was unanimous.

12 Q. Okay. And can you tell me how you
13 believe the voting went?

14 A. As I stated earlier, I believe that
15 Kentucky Utilities voted in the opposite direction of
16 the other parties.

17 Q. Okay. In your testimony you go on to
18 say, As a consequence of that election, Ameren UE no
19 longer has the opportunity to purchase power from EE,
20 Inc; is that your testimony?

21 A. Yes.

22 Q. Is it possible that Ameren UE could
23 purchase power from EE, Inc. at market rates?

24 A. I suppose that's true. I thought I
25 believe there was an RFP issued in 2002 which UE

1 issued in 2002 which EEI did not respond to.

2 And given my knowledge of the
3 asymmetrical regulatory structure of its -- the
4 affiliates roles that are in place, I don't believe
5 they would have the ability to sell them at market.

6 Q. Now, when you say they, to whom are you
7 referring?

8 A. EEI would not have the ability to sell
9 to them at market or at least not receive market,
10 market base rates.

11 Q. And forgive me being so detailed but in
12 your last answer you said them and who does them refer
13 to?

14 A. Can you repeat what I said.

15 Q. I think you said EEI would not be able
16 to sell to them at market.

17 A. Ameren UE.

18 Q. Okay. Are you responsible for
19 integrated resource planning pursuant to the
20 Commissions integrated resource planning rules?

21 A. Yes, I am.

22 Q. And I'm not going to get into a lot of
23 details, but would you agree that one of the general
24 objectives of those rules is to ensure that utilities
25 acquire capacity resources at the least cost?

1 A. Yes.

2 Q. Okay. And would you consider the
3 Commission requiring a utility to acquire generating
4 resources at the least cost to be a penalty?

5 A. No.

6 Q. Do you know if the Virginia plant has
7 been ever treated below the line in Illinois or
8 Kentucky?

9 A. Can you explain that in Illinois or
10 Kentucky?

11 Q. In rate making proceedings before the
12 Illinois Commission or the Kentucky Commission?

13 A. No, I'm not aware of that. I don't
14 know.

15 Q. Okay.

16 A. Although, as you well know, Illinois is
17 a deregulated marketplace for the purpose of
18 generation, so I'm not sure it applies.

19 Q. And how long has it been deregulated in
20 that fashion?

21 A. Since '97.

22 Q. And when did the Joppa plant begin
23 operating?

24 A. In, I believe, the early '50s.

25 Q. Were you involved in the decision to

1 terminate the Joint Dispatch Agreement?

2 A. I was involved in -- yes, in various
3 meetings.

4 Q. Okay. In your involvement, did you --
5 did you have the opportunity to advocate for or
6 against the termination?

7 A. There was nothing to advocate for, from
8 my perspective, the contract expired in 12/31/05.

9 Q. That was going to be my next question.
10 It was not terminated it expired on its own terms?

11 A. I believe that's the case.

12 Q. Okay. Are you familiar with the Joint
13 Dispatch Agreement?

14 A. Yes. I mean, not in, you know, all of
15 its detail but for the general concept.

16 Q. Do you know whether or not it would
17 automatically renew absent some action to cancel
18 renewals?

19 A. I don't.

20 Q. In the meetings in which you were
21 involved discussing the termination of the Joint
22 Dispatch Agreement, did anyone at Union Electric
23 advocate that it should continue?

24 A. I don't recall.

25 Q. What sort of cost benefit analysis did

1 you personally review that showed that allowing it to
2 expire would be beneficial to Union Electric?

3 A. With respect to which -- which
4 agreement are you referring the?

5 Q. I'm still speaking of the Joint
6 Dispatch Agreement?

7 A. I'm sorry. Can you repeat the
8 question?

9 Q. What cost benefit analyses, did you
10 personally review that would indicate that allowing
11 the agreement to expire would be beneficial to Union
12 Electric?

13 A. The models that involved the transfer
14 of megawatts from UE to AEG at cost and, therefore,
15 not doing that and letting them have the ability to
16 sell those at market made sense for UE.

17 Q. So you ran production models both with
18 and without the Dispatch Agreement, is that your
19 testimony?

20 A. I believe someone in my department did.

21 Q. Okay. And they showed a benefit to
22 Union Electric in the models in which the Joint
23 Dispatch Agreement was not being used?

24 A. If they ran those models, I think they
25 would have shown there was some benefits.

1 Q. Do you know if anyone did run those
2 models?

3 A. I can't recall with 100 percent
4 accuracy.

5 Q. Ask you recall with 100 percent
6 accuracy whether you saw outputs of those models?

7 A. No, I can't.

8 Q. Okay. Can you explain to me the
9 process by which it was decided that you would be the
10 Union Electric witness to file the testimony that you
11 filed in regard to EE, Inc.?

12 A. Again, being vice president of
13 corporate planning and having responsibility for the
14 resource plan, they decided I would be the witness.
15 It was agreed upon that I would be the witness.

16 Q. It was agreed upon by whom?

17 A. It made sense for me to be the witness.

18 Q. So who did you tell that you planned to
19 be the witness?

20 A. I discussed it with counsel.

21 Q. Okay. And it was your decision to be
22 the witness; is that correct?

23 A. Yes, it was.

24 Q. Did anyone else offer to provide
25 testimony on EE, Inc.?

1 A. Not that I'm aware.

2 Q. Now, with respect to the recent
3 Illinois auctions, do you know why Union Electric
4 elected not to bid into those auctions?

5 A. I believe the reason involved the risk
6 profile of Union Electric not wanting to get involved
7 in unknown market.

8 Q. Okay. On what do you base that belief?

9 A. Through discussions here at Ameren.

10 Q. And who did you have those discussions
11 with?

12 A. Discussions between Shawn Schukar and I
13 believe -- yeah, I think that was it. And then
14 ultimately I think there was some other discussions at
15 the Gary Rainwater level as well.

16 Q. And who would have made that decision
17 ultimately?

18 A. I believe Gary Rainwater would have.

19 Q. And did you provide any input yourself
20 into that decision?

21 A. I did not.

22 Q. Did corporate planning your department,
23 do any quantitative analysis of the risk you just
24 mentioned?

25 A. I'm sure they probably did.

1 Q. Were those analyses done at your
2 direction?

3 A. No.

4 Q. Now, when you say I'm sure they did, is
5 that because you know that they did or because you
6 believe that that would be something that that
7 department should do?

8 A. I believe that's something that -- my
9 analytical support department provides those kind of
10 day-to-day basis analysis on a frequent basis, so that
11 would be something very typical for someone like a
12 Shawn Schukar to ask for.

13 Q. Okay. Would your department do that
14 sort of analysis in the absence of someone like Shawn
15 Schukar asking for it?

16 A. With respect to which -- the specific
17 issue?

18 Q. Yes.

19 A. No.

20 Q. Now, let me back up a little bit.
21 We've been discussing the fact that Union Electric
22 decided not to bid into those auctions. Is it correct
23 to understand that Union Electric does, in fact, have
24 capacity available that could have been bid into those
25 auctions?

1 A. Yes.

2 Q. And instead of bidding into those
3 auctions, what has Ameren UE decided to do with what
4 capacity?

5 A. They've been selling that capacity off
6 in basically bilateral market.

7 Q. When you refer to the bilateral market,
8 is that the same market that people frequently refer
9 to as a spot market?

10 A. Well, it's not spot. I believe they're
11 entering into a contract between a seller and a buyer
12 for capacity.

13 Q. Okay. Are they entering into multiple
14 contracts or a single contract?

15 A. Multiple contracts.

16 Q. And with whom?

17 A. I do not know.

18 Q. Do you know of any of the counter
19 parties?

20 A. I don't.

21 Q. Do you know how much has been sold
22 through these contracts?

23 A. I would be guessing.

24 Q. Can you narrow it down to a range?

25 A. A couple hundred megawatts.

1 Q. And how much capacity does Union
2 Electric have available to sell to these contracts?

3 A. In order to maintain their 17 percent
4 long-term margin, their 15 percent short-term margin,
5 I think they around, I'm guessing here, 350 megawatts.

6 Q. Of which you say about 200, you
7 believe, has already been contracted?

8 A. I believe that's correct.

9 Q. Now, can you identify for me all the
10 capacity additions that Union Electric has made since
11 you've been there?

12 A. Since I've been in charge of corporate
13 planning, we made the capacity additions of the
14 Audrain facility and the Raccoon and Goose Creek
15 facility.

16 Q. Okay. And those were all combustion
17 turban; is that correct?

18 A. That's correct.

19 Q. In terms of how it's decided to either
20 contract for or do something else with the excess
21 capacity that we were just speaking of, is it your
22 responsibility to decide what to do with that?

23 A. No.

24 Q. And whose is it?

25 A. Shawn Schukar.

1 Q. Okay. And what is Mr. Schukar's title?

2 A. Vice president of Ameren Energy.

3 Q. And in your role of vice president of
4 corporate planning, do you provide advice and
5 information to Mr. Schukar in making those decisions?

6 A. As I stated before, I have an analytic
7 group that does on a, certainly, daily, weekly basis
8 provide analytical support.

9 Q. would that go through you to Mr.
10 Schukar or would it come directly from analyst that
11 work in your department?

12 A. It depends. A lot of times it's just
13 direct with them -- with Shawn.

14 Q. Okay. In any of the -- in any of those
15 decisions that have been made since you've been vice
16 president of corporate planning, have you advised Mr.
17 Schukar on what to do?

18 A. No.

19 Q. Now, in terms of -- and I believe Mr.
20 Dottheim asked you this question. It had to do with a
21 data request that initially started with public
22 counsel asking for minutes of the EE, Inc. board of
23 directors. Do you recall those questions from Mr.
24 Dottheim?

25 A. I do.

1 Q. And do you recall that data request?

2 A. Yes, I do.

3 Q. Okay. Did you review the minutes that
4 were provided in response to that data request?

5 A. Yes, I briefly ran -- read through
6 them.

7 Q. Tell me what you mean by briefly ran
8 through them.

9 A. Counsel prepared this for me and I
10 looked at the document before it was sent out.

11 Q. And did you read the response word for
12 word?

13 A. No, is it not.

14 Q. Specifically, who was the counsel that
15 provided those to you?

16 A. I believe it was Tom Byrne.

17 Q. Did you review any other EE, Inc.,
18 board minutes to see if they might be responsive to
19 that data request?

20 A. No, I did not.

21 Q. Did you attempt to?

22 A. I did not.

23 Q. Did you do anything to reassure
24 yourself that only those that were provided in
25 response to that data request were, indeed, responsive

1 to that data request?

2 A. I relied on my counsel to help me put
3 that together.

4 Q. Now, when you say to help put me
5 together to me that implies that the counsel assisted
6 you in putting it together. What was your role in
7 putting together that response?

8 A. The counsel prepared it and then ran it
9 by me.

10 Q. Now, in your testimony you got figures
11 in capacity margin. In fact, on Page 4 you have a
12 graphical depiction; is that correct?

13 A. Correct.

14 Q. And in that graph and throughout that
15 section of your testimony when you're talking about
16 the projected capacity deficit, are you assuming in
17 those figures that the output of the Taum Sauk pumped
18 hydro facility is available?

19 A. I believe we have it returning to
20 service in 2009 time frame.

21 Q. So the bar graph that's shown on the
22 top of Page 4 has capacity from Taum Sauk in that bar
23 beginning in 2009 and in subsequent years?

24 A. I believe it does.

25 Q. Okay. And how many megawatts --

1 A. It certainly does in all of our
2 resource plans today that we're expecting it to come
3 back in 2009.

4 Q. When was the bar graph at the top of
5 Page 4 prepared?

6 A. I don't recall.

7 Q. Is it the same bar graph that would
8 have been contained in your resource planning
9 documents provided in case No. EO-2006-0240?

10 A. It should have been.

11 Q. And when was that filing prepared?

12 A. I'm sorry. Refer me back to the
13 filing, which filing are you talking about?

14 Q. The initial filing in EO-2006-0240.

15 A. I'm sorry, are you talking to the
16 resource plan that we filed in December of '05?

17 Q. That's correct.

18 A. Yes, absolutely.

19 Q. Well, Taum Sauk happened in December of
20 '05, correct?

21 A. So it happened after our filing.

22 Q. Right.

23 A. So, therefore, it would have been
24 included in there.

25 Q. It would have been included in there as

1 returning to service in 2009?

2 A. No. It would have been in there for
3 the entire period.

4 Q. Okay. So turning back to the graph at
5 the top of Page 4, does that graph show Taum Sauk as
6 being in there through all of those years or out of
7 service for 2006 through 2008?

8 A. I don't know.

9 Q. And in the discussion it sort of goes
10 along with that graph as it talks about figures.
11 Would your answer be the same that you don't know Taum
12 Sauk is in or out?

13 A. Correct.

14 Q. Did you prepare your testimony
15 yourself?

16 A. I did with the assistance of other
17 people in corporate planning.

18 Q. Okay. Do you have any specific
19 recollection of updating this graph to conclude in
20 this particular filing?

21 A. No, I do not.

22 Q. Okay.

23 A. Again, just to be clear, I do know for
24 research planning purposes today, that we are assuming
25 that Taum Sauk comes back in '09.

1 Q. Okay. And are there -- in order for
2 that to happen, what sort of -- does UE need to get a
3 new license from the FERC to rebuild that facility?

4 A. I can't answer that.

5 Q. You can't answer --

6 A. I do not know.

7 Q. Okay. Do you know what the basis is
8 for assuming that that facility will be available in
9 2009?

10 A. The basis is in talking to Mark Birk.
11 That's where my information is coming from. That is
12 the plan they're telling me currently.

13 Q. And who is Mark Birk?

14 A. He is vice president of UE generation.

15 Q. Okay. Would his area encompass all
16 fossil and hydro generation?

17 A. It would.

18 Q. Would it also encompass the nuclear
19 generation facilities?

20 A. It would not.

21 Q. Okay. Had any MIDAS, M-I-D-A-S, all
22 caps, runs for UE resource planning that shows Taum
23 Sauk returning in '09?

24 A. Yes.

25 Q. And why were those MIDAS runs prepared?

1 A. I don't recall.

2 Q. Now, when I refer to MIDAS runs, I'm
3 referring to the outputs of a proprietary model called
4 MIDAS, is that your understanding?

5 A. Yes.

6 Q. Is that -- is that the same thing that
7 Union Electric refers to when it refers to asset mix
8 optimization studies?

9 A. Yes.

10 Q. Okay. Can you tell me what the two
11 dates on which the two most recent asset mix
12 optimization studies were performed?

13 A. No, I can't tell you the dates.

14 Q. Have any been done since you presented
15 your -- since you filed, I should say, your resource
16 plan in Case No. EO-2006-0240?

17 A. I don't believe so.

18 Q. I'm sorry. I didn't hear you. You
19 don't believe so or you do?

20 A. I do not believe so.

21 Q. Then let me go back. Did you say you
22 have done MIDAS runs that show Taum Sauk returning in
23 '09?

24 A. I don't know if we've done MIDAS runs.
25 I know from a resource plan perspective we are just

1 assuming that it came back, based on my discussions
2 with Mark Birk.

3 Q. Okay. So if you had answered a
4 previous question that you have done MIDAS runs that
5 shows Taum Sauk returning in '09, would that answer
6 have been incorrect?

7 A. Yes, it would have been. I was
8 confused.

9 Q. Now, in response to an OPC Data Request
10 No. 2098, which asked for two most recent asset mix
11 optimization studies, you provided the response or at
12 least it says that it's prepared by Michael Moehn.
13 And the response was -- refers to the study filed on
14 EO-2006-0240, which we've just discussed, and it also
15 attached a file with a file name of Breese
16 2003-12-16.PPT. Are you familiar with that file?

17 A. No, I'm not.

18 Q. Okay. The data request response says
19 that that attached file shows the previous study.
20 Does that refresh your recollection?

21 A. No, it doesn't.

22 Q. I believe you responded to a question
23 by Mr. Dottheim that you have not reviewed any
24 previous resource plans submitted by Union Electric to
25 the PSC prior to the most recent one that was filed

1 under your supervisor; is that correct?

2 A. That's correct.

3 Q. Is resource planning an ongoing
4 process?

5 A. It is. I mean, as you well know, I
6 mean we have entered into a stipulation agreement to
7 do another filing in December or -- for February of
8 '08, and we're going to be working through the process
9 throughout '07.

10 Q. Turning back to your testimony on Page
11 4, and I'm specifically looking at the answer that
12 runs from Line 5 through Line 9, and you talk about
13 the possibility that wholesale customers may issue a
14 request for proposal post 2008 capacity and energy
15 requirement; is that correct?

16 A. That's correct.

17 Q. For -- is it -- would it be UE's normal
18 practice to wait for someone to issue a request for
19 proposal to decide what to do with available capacity
20 and energy?

21 A. I don't know.

22 Q. Within the corporate planning
23 department, who specifically is responsible for
24 running the MIDAS model?

25 A. Tim Finnell.

1 Q. Now, in response to a question by Mr.
2 Dottheim, you mentioned that you had discussions with
3 Robert Powers about SO2 reduction projects at Joppa
4 plant; is that correct?

5 A. That's correct.

6 Q. What was the nature of those
7 discussions?

8 A. They're evaluating their scrubber
9 projects that they have to do to comply with care, the
10 Clean Air Act, and they're doing evaluations on when
11 they should install those scrubbers.

12 Q. Okay. And did Mr. Powers come to you
13 in your role as vice president of corporate planning
14 to ask your assistance in making those decisions?

15 A. Yes.

16 Q. And did you provide him with
17 assistance?

18 A. Someone in my department did, yes.

19 Q. And who provided him assistance and
20 what did they provide?

21 A. Tony Artman would have provided
22 assistance and it would have been analysis around
23 whatever questions he had.

24 Q. Okay. Do you know what the specific
25 questions were?

1 A. It would be around the timing of their
2 scrubber program.

3 Q. And what is Mr. Artman's expertise in
4 that area?

5 A. He is an engineer. He is also very
6 informed about the environmental rules and laws and
7 has a tremendous amount of experience doing modeling.

8 Q. Does he have a similar role within
9 Ameren in terms of expertise in the area of SO2
10 allowances and pollution control technology?

11 A. He provides assistance to Union
12 Electric as well.

13 Q. Is environmental compliance planning
14 part of your department?

15 A. No. It's not. I think the
16 responsibility really lies with the generation
17 company. Ameren UE in the generation company we
18 provide support and analysis.

19 Q. Okay. So in that instance the -- the
20 expertise and the analysis comes from Ameren UE rather
21 than Ameren Services; is that your testimony?

22 A. Correct.

23 Q. Okay. What is your role in terms of
24 corporate planning in terms of providing analysis or
25 decision making with regard to decisions about the

1 sale of SO2 allowances and the installation of
2 pollution control technology?

3 A. Our role being one of analysis in
4 hoping -- make sure that UE optimizes their SO2 bank.
5 Also looking at whatever their compliance needs will
6 be in terms of scrubber technology in trying to
7 balance those two.

8 Q. You provide analysis. Are decisions
9 made at Ameren Services or are they made at Ameren UE?

10 A. They're made at Ameren UE.

11 Q. Okay. And who at Ameren UE would make
12 those decisions?

13 A. I'm assuming it would involve Mark
14 Birk. And beyond that, I don't know.

15 Q. Do you have any role in the management
16 of Union Electric's SO2 allowances, beyond providing
17 analysis?

18 A. Not beyond providing analysis.

19 Q. Are there types of analysis that you
20 provide routinely or do you just provide analysis when
21 asked?

22 A. When asked.

23 Q. Just one moment, please. Let me ask
24 this. Is your department in charge of resource
25 planning for Union Electric?

1 A. We are.

2 Q. But not for planning the use of or the
3 sale of SO2 allowances; is that correct?

4 A. Again, it's a role of analysis that we
5 provide.

6 Q. Do you believe those two planning areas
7 are related?

8 A. Yes.

9 Q. Explain to me how they are integrated
10 in the decision making process, if they are?

11 A. I think they are. I believe they're
12 integrated in a way that you're balancing the SO2 bank
13 that UE has with their need to comply with care.

14 Q. Are you familiar with the Risk
15 Management Steering Committee?

16 A. I am.

17 Q. Are you on that committee?

18 A. I'm not.

19 Q. Do you know if that committee has a
20 role in deciding when and how SO2 allowances are sold?

21 A. I do not.

22 Q. And I believe you identified the person
23 as Mark Birk that you're aware of at Union Electric
24 that would make SO2 allowance sales decisions; is that
25 correct?

1 A. I don't believe I said that. I thought
2 he had -- I thought I said he had responsibility for
3 the environmental compliance aspects of that.

4 Q. Okay. Does someone else have
5 responsibility for making SO2 allowance sales
6 decisions?

7 A. When you say decisions, what do you
8 mean?

9 Q. Well, in order for a company like Union
10 Electric that has a bank of allowance to sell some of
11 those allowances, someone must make the decision to
12 sell them?

13 A. Okay.

14 Q. And I'm trying to determine who that
15 would be.

16 A. Yeah. I think ultimately -- the
17 environmental responsibility of when to put in
18 scrubbers, as I said, I think resides in Union
19 Electric. And as a part of that you're balancing that
20 SO2 bank against -- against those decisions.

21 Q. You stated that Mark Birk has the
22 responsibility for pollution control decisions; is
23 that correct?

24 A. In his role as vice president of
25 generation for UE, I would believe that that would be

1 a responsibility.

2 Q. And how are those decisions balanced
3 against the sale or retention of SO2 allowances?

4 A. I think the analysis would involve
5 trying to look at the SO2 market and the volatility
6 that's there, balancing that with the environmental
7 compliance standards, again the care. And the needs
8 of -- the different parties and what they're going to
9 want in terms of do they want hard technology
10 installed or would they rather buy SO2 credits.

11 It's a combination of all of those
12 factors. Recognizing that the SO2 market is extremely
13 volatile.

14 Q. And who is it that analyzes and makes
15 decisions based on all of those factors that you just
16 mentioned?

17 A. Tony Artman would provide a lot of the
18 analysis.

19 Q. Okay. Would he make the decision?

20 A. No.

21 Q. Who would make the decision?

22 A. Again, I think the environmental
23 responsibility lies with Mark Birk and Union Electric.

24 Q. Okay. Are you saying that Mark Birk is
25 responsible for making decisions about selling

1 allowances?

2 A. I think Mark Birk is responsible for
3 making sure that he optimizes the environmental
4 requirements and the compliance schedule.

5 Q. And does that include decisions about
6 selling allowances?

7 A. Indirectly, yes, it would.

8 Q. Okay. Can you explain to me what you
9 mean by indirectly it would?

10 A. Well, if you're trying to balance the
11 compliance needs versus the SO2 bank, my sense is
12 you're going to arrive at a decision to either install
13 technology or sell credits or keep credits.

14 Q. Okay. So if -- I think you described
15 this as indirectly he does. Who makes the direct
16 decision?

17 A. I think it's a -- I guess it is a
18 shared responsibility is how I would put it.

19 Q. Shared by whom?

20 A. Through corporate planning and the
21 analysis that we provide to Mark Birk.

22 Q. And I don't mean to make you say
23 something if you don't know the answer to, but the
24 only name I'm getting from you is Mark Birk. Is Mark
25 Birk the one that decides to sell or not sell

1 allowances?

2 A. We provide to Mark, again, this
3 optimization of the environmental compliance and in
4 there, there would be, again, this balance of do you
5 hold SO2 or sell SO2. And so I think it's through our
6 analysis and Marks's decision -- Mark's decision
7 around the environmental compliance that it's a shared
8 responsibility.

9 Q. So you yourself, Michael Moehn, and
10 Mark Birk decide whether or not to sell allowances, is
11 that what you're telling me?

12 A. I think taking all of those factors in,
13 we make a decision -- UE makes a decision as Union
14 Electric to decide what to do with that.

15 Q. Union Electric makes that decision?
16 There's a fictitious entity?

17 A. I think a combination of -- again,
18 several people. I don't know if there's one specific
19 person that it says you should do this. It takes into
20 all of these different factors and if the
21 recommendation is out of that compliance plan, that it
22 makes sense to sell some SO2, then SO2 is sold.

23 Q. So you provide the analysis, and I
24 assume that analysis will, in most instances, show
25 that a decision to sell at a particular time is cost

1 justified; is that correct? Is that the sort of
2 analysis that you provide?

3 A. Correct.

4 Q. Okay. And are you aware of any
5 situations in which that analysis has not been
6 followed?

7 A. No, I'm not.

8 Q. Where does -- where does Ameren fuels
9 and services get guidance from regarding Union
10 Electric's SO2 sales?

11 A. Ultimately, I guess that would come
12 from corporate planning.

13 Q. From you?

14 A. Again, I think it would come from this
15 combination of looking at trying to optimize the SO2
16 credits with complying with care. And again, I think
17 there's ultimately a recommendation that comes out of
18 that and AFS is the one that ultimately sells them.

19 Q. Is there a single person that makes the
20 decision on whether to sell or not sell a particular
21 allowance or a group of allowance at a particular
22 time?

23 A. Not that I'm aware of.

24 Q. Is that division made by a committee
25 then; is that your testimony, by a group of people?

1 A. Yes, I think it's done by a combination
2 of folks.

3 Q. Okay. And who are those folks?

4 A. Again, I think it's corporate planning
5 in providing the analysis to Mark Birk on how to
6 optimize this thing. It would certainly be discussed.
7 It -- other levels, upper levels, Warner Baxter, etc.
8 And the person who actually physically sells them
9 again is AFS.

10 Q. And who -- so this is the actual
11 decision to sell or not sell is made at AFS; is that
12 correct?

13 A. No. Again, I don't think I just said
14 that. I believe I said they actually physically sell
15 them.

16 Q. Okay. So the decision is made
17 elsewhere and then passed to AFS and AFS actually does
18 the transaction to sell the allowances?

19 A. Correct.

20 Q. Okay. And who provides a decision to
21 AFS?

22 A. I guess ultimately the senior team.

23 Q. Okay. And are you on the senior team?

24 A. I am not.

25 Q. Were you until January 1, 2007?

1 A. I was not.

2 Q. Okay. Do you -- have you ever provided
3 guidance to the senior team on whether or not to sell
4 a particular amount of allowances at a particular
5 time?

6 A. If you mean by guidance, providing
7 analysis and support, yes.

8 Q. Have you given presentations to the
9 senior team on that topic?

10 A. No.

11 Q. Has anyone in your department given
12 presentations to the senior team on that topic?

13 A. No.

14 Q. What information have you or your
15 department given to the senior team on that topic?

16 A. The analysis would have been part of,
17 again, optimizing the environmental schedule. So to
18 the extent that they have a scrubber program, it would
19 be factored into that.

20 Q. Now, are you familiar with the number
21 of allowances that Union Electric now has in what I
22 would call an allowance bank?

23 A. I don't know the exact number. I know
24 they do have a lot of allowances, thousands of
25 allowances.

1 Q. Okay. So would you consider that a
2 relatively large allowance bank?

3 A. Yes.

4 Q. Okay. Having a relatively large
5 allowance bank give a utility more flexibility in
6 making pollution control technology decisions?

7 A. Yes.

8 Q. Within the context of a mission control
9 upgrade at the power plants, are you familiar with the
10 concepts of the cost to create allowances?

11 A. No. Not -- can you explain that?

12 Q. Well, let me ask you another term. Are
13 you familiar with the term the cost per ton of
14 reducing SO2 emissions?

15 A. Yes.

16 Q. Does having a large bank of allowances
17 permit UE to delay installing emission controls by
18 reducing the need to buy allowances to comply with
19 requirements for emissions?

20 A. It would give them flexibility.

21 Q. Flexibility to delay installing control
22 technology?

23 A. I suppose that would be one outcome. I
24 guess they would also make the decision that given
25 where the SO2 market is maybe they decide to try to

1 sell because they feel like they have too many SO2, as
2 you indicated, they have a large bank. So maybe
3 there's a way to diversity that risk. If something
4 would happen to the value of those SO2s.

5 Q. Now, I believe you just said that
6 you're financial with the concept of the cost per ton
7 of reducing SO2 emissions. Can you tell me what the
8 range of that cost would be at Union Electric plants?

9 A. I'm guessing a little bit. It's been a
10 while since I've look at any of the analysis, but I
11 want to say that it's -- I'll give you a range, 800 to
12 \$1000 a KW.

13 Q. Do you or someone in your department
14 keep track of SO2 sales on a monthly or quarterly
15 basis -- I'm sorry -- SO2 allowance sales?

16 A. No.

17 Q. Are you generally familiar with the
18 level of SO2 allowance sales over the last few years?

19 A. Yes.

20 Q. And I believe in response to a question
21 just a couple of questions ago, you gave the figure of
22 \$800to \$1,000 a kilowatt?

23 A. Right.

24 Q. What does that translate to in terms of
25 cost per ton of SO2 emissions reduced?

1 A. Well, I think what you're trying to do
2 is look at the cost to install versus the cost of SO2.
3 And again the cost of SO2, as I said before, it's a
4 very volatile market. It moves up and down. Its
5 range is as high as \$1600 a ton to, you know, as low
6 as \$150 a ton.

7 Q. Now, do you know the -- the total
8 number or the general amount of SO2 allowance sales
9 made by Union Electric in calender year 2006?

10 A. It's in the millions of dollars.

11 Q. Are you familiar with a relatively high
12 level of sales in the fourth quarter of 2006?

13 A. Yes, I am.

14 Q. And what was the level of sales in the
15 fourth quarter of 2006?

16 A. Again, it was in the millions of
17 dollars.

18 Q. Would it surprise you to -- or would
19 you agree that it was nearly \$40 million in that
20 quarter?

21 A. It would not surprise me.

22 Q. Are you aware that that's the
23 approximate figure?

24 A. Yes.

25 Q. Other than that one quarter we're just

1 now discussing, what is the next highest per quarter
2 number of allowances sold that you know of?

3 A. I don't know.

4 Q. Are you aware of any quarter in which
5 that dollar amount of allowance has been sold?

6 A. In previous years, I think it's been in
7 the millions of dollars again. I don't know off of
8 the top of my head what the actual amount is.

9 Q. Okay. So to answer my question,
10 though, do you know of any other quarter in which that
11 number of allowance was sold, would your answer be no?

12 A. That exact number? No.

13 Q. Anything larger than that number?

14 A. Not that I'm aware of.

15 Q. Anything approaching that number?

16 A. Could be.

17 Q. How did you become aware of the amount
18 of the fourth quarter 2006 sales?

19 A. In my responsibilities for corporate
20 modeling, I need to keep track of the earnings
21 forecast.

22 Q. Explain to me how the allowance sales
23 figure into the earnings per share forecast?

24 A. It figures in when I get whatever the
25 actual earnings were for a particular month.

1 Q. Did you become aware of the amount of
2 SO2 allowance sales for the fourth quarter of 2006
3 before those sales were done or after they were done?

4 A. I was aware they were being discussed
5 before.

6 Q. And when were you aware that they were
7 being discussed?

8 A. Some time in the late fall of '06.

9 Q. And at the time they were being
10 discussed, what were the earnings per share forecast
11 for the fourth quarter of 2006?

12 A. I don't recall.

13 Q. How does Union Electric's 2006 earnings
14 compare to the projections that go to the investment
15 community?

16 A. My sense would be with all of the
17 storms that we had, they would have to be extremely
18 low relative to what the analyst would be expecting.

19 Q. Okay. Is it part of your job in
20 corporate planning to -- to know what the earnings are
21 and what the forecasts are?

22 A. When you say know, what do you mean?

23 Q. Well, I think you said in your last
24 answer that you suspect that because of the storms
25 that earnings may be low.

1 And I'm trying to find out if you have
2 any knowledge of that or if that's just a general
3 suspicion on your part?

4 A. No, I know what the earnings are.

5 Q. And are they, in fact, low?

6 A. Yes.

7 Q. How low compared to projections from a
8 year ago?

9 A. When you say projections, external
10 projections, internal projections?

11 Q. Either.

12 A. External projections I can't comment on
13 it. I don't know. Internal projections quite a bit
14 lower would be my guess.

15 Q. Okay. Is this a guess or something
16 that you know?

17 A. It would be something that 30 -- 30
18 cents lower, maybe.

19 Q. Per share?

20 A. Per share.

21 Q. For UE or Ameren?

22 A. For Ameren.

23 Q. Okay.

24 MR. CYNKAR: Let me interject a
25 question here, Lewis. I don't know if -- how much of

1 this is public information or not.

2 THE WITNESS: It's not.

3 MR. CYNKAR: So I think this whole line
4 of question -- which you obviously can pursue, I think
5 we're going to have to make that -- we're going to
6 have to seal that.

7 MR. MILLS: I understand. I don't have
8 objection to that.

9 I think -- I don't know how many of
10 these depositions you've listened in to this week, but
11 there have been times at which we've identified when
12 we're going into highly confidential stuff. I don't
13 think we've been nearly as careful about identifying
14 when we have come out of highly confidential stuff.

15 I think the transcripts from all of
16 these depositions are going to require a little bit of
17 scrutiny to figure out exactly what is confidential
18 and what's not. Of course, we're happy to work with
19 you to do that.

20 MR. CYNKAR: That's fine. And
21 mercifully, I haven't listened to any.

22 MR. MILLS: Okay. I think you'll
23 find, if you read through the transcript, that we're
24 pointed out when we're starting to discuss highly
25 confidential stuff, but maybe not when we stopped.

1 We'll probably have to go through and
2 figure out what is highly confidential and what isn't.

3 MR. CYNKAR: Right. Well, I think if
4 we start this when you got into this line of
5 questions, we can obviously try to figure out where
6 that is, and when you're going to shift topic, if you
7 want to flag that on the record now, but obviously we
8 can revisit that once we see the transcripts.

9 MR. MILLS: Sure. I think I'm
10 basically done with the earnings questions. I'm not
11 sure that the -- I think the SO2 sales questions are
12 probably not highly confidential, but I'm not sure of
13 that.

14 MR. CYNKAR: Well, as I say, we can
15 double-check that.

16 (A temporary recess was taken at this
17 time.)

18 Q. (By Mr. Mills) Mr. Moehn, we had a
19 request for the individuals responsible for managing
20 and overseeing SO2 allowance transactions at Ameren UE
21 and the response is prepared by James Moore. Are you
22 familiar with Mr. Moore?

23 A. I am.

24 Q. Do you know what his title is?

25 A. I do not.

1 Q. Mr. Moore lists himself in his response
2 as responsible for SO2 allowances. He also lists Tony
3 Konsky. Do you know who Tony Konsky is?

4 A. Yes.

5 Q. And what is his job title or job
6 duties?

7 A. I don't know.

8 Q. Ken Rutter, do you know Mr. Rutter?

9 A. I do.

10 Q. Do you know what his job title or job
11 duties are?

12 A. I believe it's something to the effect
13 of manager of risk management or something.

14 Q. Okay. Randy Katz?

15 A. Yes.

16 Q. And do you know his job duties or
17 title?

18 A. No. I do know he's involved in risk
19 management. I don't know what his title is.

20 Q. Stephanie Brooks?

21 A. Yes, I do know Stephanie.

22 Q. Are you familiar with her involvement
23 in managing and overseeing SO2 allowance transaction?

24 A. I think she works in the accounting
25 department. I'm not sure what her involvement would

1 be.

2 Q. Okay. How about Ann Fowler?

3 A. I do not know that person.

4 Q. Okay. Steve Hughes?

5 A. I believe he's in environmental.

6 Q. Tony Artman?

7 A. Yes, Tony works in corporate planning.

8 Q. Are any of those other names -- are
9 those the names that work in corporate planning?

10 A. Tony was the only one.

11 Q. Okay. And what is his job title or job
12 duties within corporate planning?

13 A. Tony is -- I believe his title is
14 supervising engineer. And he has responsibility for
15 assisting with resource planning environmental
16 analysis and other analysis as they come up.

17 Q. Okay. Does he report directory to you?

18 A. He does not.

19 Q. Who does he report to?

20 A. Rick Voytas, does.

21 Q. Okay. Does Rick Voytas report directly
22 to you?

23 A. He does.

24 Q. Has Union Electric made any sales of
25 Phase II SO2 allowances?

1 A. I do not know.

2 Q. Do you know what the Phase II SO2
3 allowances means?

4 A. I've heard it before.

5 Q. Okay.

6 A. But I do not know what it means.

7 Q. Okay. I'm going to turn briefly to
8 some key performance indicators for the corporate
9 planning department. What are the key performance
10 indicators for your department?

11 A. Controlling our own M costs,
12 controlling capital costs. There should be some
13 employee development -- working on development plans,
14 staff reviews and then a lot of our other things are
15 based -- are project based.

16 Q. Okay. And in response to an attorney
17 general data request, you gave a -- part of the
18 response included a corporate planning performance
19 score card for the period ended 9/30/2006. Are you
20 familiar with these score cards?

21 A. Yes.

22 Q. Are you familiar with the particular
23 one for the period ending 9/30/2006?

24 A. I don't everything that's on there, but
25 I am familiar with the scorecard.