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Staff Exhibit No. 258
3-21-07 Case No. ER-2007-0007
Reporter RF

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company)
d/b/a AmerenUE for Authority to File)
Tariffs Increasing Rates for Electric) Case No. ER-2007-0002
Service Provided to Customers in the)
Company's Missouri Service Area.)

DEPOSITION OF GARY RAINWATER, produced, sworn and
examined on the 25th of January 2007 at the office of AmerenUE,
1901 Chouteau Avenue, St. Louis, MO 63103, before JACQUELYN S.
WILLIAMS, a Notary Public and Registered Professional Reporter
within and for the State of Missouri, in a certain cause now
pending before the Public Service Commission of the State of
Missouri.

A P P E A R A N C E S

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By: Mr. Steven Dottheim
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By: Mr. Stuart Conrad

Behrens, Taylor, Wheeler & Chamberlain (via phone)
6 NE 63rd Street, Suite 400
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By: Mr. Rick D. Chamberlain

ALSO PRESENT:

Mike Brosch
Kevin Higgins
Ryan Kind

Jacquelyn S. Williams, RPR, CCR, CSR (IL)
Midwest Litigation Services
711 North Eleventh Street
St. Louis, MO 63101
(314) 644-2191

1 IT IS HEREBY STIPULATED AND AGREED that this
2 deposition may be taken in shorthand by Jacquelyn S. Williams, a
3 Notary Public and Registered Professional Reporter and afterwards
4 transcribed into typewriting; and the signature of the witness is
5 expressly reserved.

6 * * * * *

7 GARY RAINWATER,
8 Of lawful age, produced, sworn and examined on behalf of the
9 Public Service Commission, deposes and says:

10 DIRECT-EXAMINATION

11 BY MR. DOTTHEIM:

12 Q Good morning, Mr. Rainwater.

13 A Good morning, Mr. Dottheim.

14 Q Would you please state your full name for the record,
15 please?

16 A Gary L. Rainwater.

17 Q And would you please state the nature of your
18 employment, your job title?

19 A I'm employed by Ameren Corporation as chairman,
20 president and CEO.

21 Q Other job titles that you might hold or is that it?

22 A We've just made management changes effective
23 January 1st and I've relinquished the presidency of our
24 subsidiary companies.

25 Q And Mr. Rainwater, have you been deposed previously?

1 A Yes, I have.

2 Q So have you testified previously?

3 A Yes, I have.

4 Q So as far as depositions are concerned, you're familiar
5 with the process?

6 A Yes, I am.

7 Q You understand I will be asking you questions. You're
8 under oath.

9 A Yes, I am.

10 Q And if you don't hear my question or my question is not
11 clear, please ask me to state it again or if necessary clarify
12 it. I will try not to talk at the same time that you're talking.
13 Is there any reason today why you would not be able to give
14 truthful and accurate answers?

15 A No, there is not.

16 Q Okay. You're not taking any medication that would
17 impair your ability to give truthful or accurate answers?

18 A No, I am not.

19 Q Okay. Mr. Rainwater, you received a copy of the notice
20 of deposition?

21 A Yes, I did.

22 Q Did you have a chance to review it?

23 A Yes, I did.

24 Q And attached to the notice of deposition that you
25 received was an Exhibit A. Do you recall?

1 A Don't recall.

2 Q Okay. I'm going to hand to you a copy of the notice of
3 deposition that was filed with the Commission. Have you had an
4 opportunity to take a look at that document?

5 A Yes, I have.

6 Q Do you recall receiving a copy of that document?

7 A Yes, I do.

8 Q And if I could direct you to the very last page which
9 is Exhibit A the third page, the subpoena duces tecum.

10 A Yes, I do recall this.

11 Q And you have previously seen that Exhibit A?

12 A Yes, I have.

13 Q Do you have with you today any documents in response to
14 Exhibit A?

15 A Yes. We do have one document in response to question
16 one.

17 Q Okay.

18 A Copy of minutes of the Board of Directors of Ameren
19 Corporation from December 9th, 2005.

20 Q Do you have any documents in response to item No. 2?

21 A No, we do not.

22 Q And do you have any documents in response to item No.
23 3?

24 A No, we do not.

25 MR. DOTTHEIM: Who just joined us?

1 MR. HIGGINS: Hi. This is Kevin Higgins with
2 Commercial Group.

3 MR. DOTTHEIM: And Mr. Higgins could you -- we've
4 started the deposition. Could you provide us with your
5 full name?

6 MR. HIGGINS: Sure. My name is Kevin C. Higgins.

7 MR. DOTTHEIM: And you're with The Commercial
8 Group?

9 MR. HIGGINS: That is correct.

10 MR. DOTTHEIM: And you're represented by counsel?

11 MR. HIGGINS: That is correct. I'm a witness in
12 the case.

13 MR. DOTTHEIM: Okay. And could you identify
14 counsel for your group?

15 MR. HIGGINS: Richard Chamberlain.

16 MR. LOWERY: Mr. Higgins, Rick is not on at this
17 point. Is that true as far as you know?

18 MR. HIGGINS: As far as I know, yeah. I'm in a
19 different location.

20 MR. LOWERY: Okay. Thank you.

21 MR. HIGGINS: Sorry for joining late. I did try a
22 littler earlier and got the ring and so I held off and
23 tried again.

24 Q (By Mr. Dottheim) We'd like to obtain a
25 copy of the December 9th, 2005 Board of -- is this a

1 copy?

2 MR. LOWERY: That's it right there.

3 MR. DOTTHEIM: A copy that we could have?

4 MR. LOWERY: Yes, it is.

5 Q (By Mr. Dottheim) Mr. Rainwater, I assume
6 this is not the only document that at one time you
7 had that was covered by these three items that are
8 listed in Exhibit A. Would I be correct?

9 A I really don't know, Steve. I don't recall any other
10 documents.

11 Q Okay. Is there an Ameren retention policy regarding
12 documents?

13 A I'm sure there is a policy. I'm not familiar with the
14 policy but our secretary's office retains all documents that we
15 need to retain.

16 Q Okay. But you yourself as far as your files are
17 concerned, what you've provided is the only document that you
18 have in your files that is covered by the three items on Exhibit
19 A.

20 A That is correct.

21 Q But there are items that are covered by Exhibit A that
22 may be elsewhere in the files in Ameren Corporation?

23 A I don't know if there are or not.

24 Q Okay. Do you know if there's a retention policy of the
25 Electric Energy, Inc.?

1 A I don't know but I would assume that there is.

2 Q Okay. Do you have a standard practice as to how long
3 you yourself retain documents that you receive in the normal
4 course of business?

5 A My normal practice is to read documents and not retain
6 them.

7 Q When you say not retain them, what do you do with them
8 after you've read them?

9 A I normally throw them in the trash. I may retain them
10 for a short time while an issue is being considered but my normal
11 practice is to throw away everything. Documents simply become
12 too burdensome to try to keep track of.

13 Q By documents I assume you receive documents in various
14 forms such as do you receive documents in hard copy?

15 A Yes.

16 Q And when you say you dispose of documents by putting
17 them in the trash, do you just literally put them in the waste
18 basket?

19 A Normally.

20 Q Are they shredded?

21 A Some documents are shredded. Anything that deals with
22 employees or pay are normally shredded.

23 Q Okay. Do you receive documents electronically?

24 A Yes.

25 Q How do you dispose of documents electronically which

1 you didn't keep?

2 A I simply delete the message or the memo after I've read
3 it unless it's something I need to keep in which case I make a
4 printed copy. I keep it for the time I need to keep it and then
5 I throw it away.

6 Q Okay. Do you ever find that you dispose of a document
7 and later determine that you need that document or you want to
8 review it?

9 A Yes.

10 Q What do you do in an instance such as that? Is there
11 some practice you follow?

12 A I ask my secretary to try to find it for me.

13 Q Okay. And then if she finds it once you've reviewed it
14 and you've determined you don't have need for it again?

15 A Then I would put it in the trash again.

16 Q I've earlier just a few minutes ago referred to
17 Electric Energy, Inc. You of course are familiar with that
18 entity, are you not?

19 A Yes, I am.

20 Q And if I refer to Electric Energy, Inc. as EE, Inc.,
21 would that be acceptable to you?

22 A Yes, it is.

23 Q Okay. How are you familiar? What is your knowledge of
24 that entity EE, Inc.?

25 A It goes back to the early 1980's when I worked as an

1 engineer in corporate planning and worked on the contracts and
2 the process of negotiating new contracts with the Department of
3 Energy and since then I have served on the board of EE, Inc.
4 until shortly after becoming CEO of Ameren and then stepped off
5 the board of EE, Inc. and we appointed someone else.

6 Q Do you recall approximately what date you began your
7 service on the board of EE, Inc.?

8 A No. Although I would guess it's on the order of ten
9 years ago.

10 Q So that would be approximately 1997?

11 A It may even go back further than that but it would be
12 in the mid '90s.

13 Q And you've indicated that you are no longer on the
14 board of EE, Inc. Can you give us an approximate date when you
15 left the board?

16 A May of 2004.

17 Q Do you recall how you first came to serve as a member
18 of the Board of Directors of EE, Inc.? Were you appointed? Were
19 you elected? Is it something that you asked to serve on or was
20 it something that you were told you were serving on? I know I've
21 asked you just a number of questions now.

22 A I was asked to serve and I can't recall by who which
23 means that I was nominated by Union Electric to serve on the
24 board of EE, Inc. and the process as I recall for the board, you
25 know, in the name of the shareholders to consider that and

1 elected me as member of the board of EE, Inc.

2 Q Is there a set term for the individual directors of the
3 board?

4 A I don't recall if there is or not.

5 Q Do you recall if you were elected to the board of
6 directors more than once?

7 A No, I don't, Steve. Although I think the process is
8 that directors are elected annually.

9 Q When you served on the board of directors, I think
10 you've indicated that at least initially you served as a
11 representative of Ameren UE, is that correct, or Union Electric
12 Company?

13 A I think that's right although I may have also served as
14 representative of Ameren CIPS.

15 Q Do the directors on the board of directors serve as
16 representatives of individual shareholding entities of EE, Inc.?

17 A Well, my view is we serve as the representatives of EE,
18 Inc. shareholders which ultimately goes back to the shareholders
19 of the EE, Inc. owning companies which currently would be Ameren
20 and Eon.

21 Q You said Eon. Could you explain and also maybe spell
22 what you mean by Eon is or how it's spelled?

23 A Eon is spelled E-O-N. Eon is a German utility holding
24 company that owns LG and E, Louisville Gas and Electric which
25 owns Kentucky Utilities owns 20 percent ownership of EE, Inc.

1 Q But you've indicated if I'm stating this correctly and
2 understand this that you consider yourself as a representative of
3 or considered yourself as a representative of the shareholders of
4 EE, Inc. Do you know whether by the terms of the articles of
5 incorporation or by the bylaws whether you were actually serving
6 as a representative of one of the individual shareholding
7 entities of EE, Inc.?

8 MR. LOWERY: I would just object to the extent it
9 calls for Mr. Rainwater to draw a legal conclusion
10 about what the bylaws don't or don't mean. If he has
11 an opinion he can answer that.

12 THE WITNESS: Yeah, Steve. I have read the bylaws
13 20 years ago and I don't recall.

14 Q (By Mr. Dottheim) Okay. Mr. Rainwater,
15 have you read the articles of incorporation?

16 A I've seen those as well but I don't recall the terms of
17 those.

18 Q And when you said you read the bylaws 20 years ago,
19 would that be an approximate time frame for the articles of
20 incorporation too or when you served had you read those with
21 greater frequency?

22 A No, not with greater frequency and that would also have
23 been in the range of 15 to 20 years ago.

24 Q Okay. Could you identify who Mr. Hubert R. Osmant,
25 O-S-M-A-N-T, is?

1 A I recall the name but I don't know who he is.

2 Q In the time frame that you were a director on the Board
3 of Directors of EE, Inc., were there any independent directors on
4 the board of directors; that is directors who were not in some
5 manner tied to or representative of the entities that were
6 shareholders of EE, Inc.?

7 A No, there were not.

8 Q Mr. Rainwater, I'm going to hand you a copy of the
9 annual report for 2005 of Electric Energy, Inc. and I'd like to
10 refer you to Page 29. First let me ask you, have you ever seen
11 this document before?

12 A I don't recall.

13 Q Okay.

14 A I would have received a copy of it. I may or may not
15 have read it.

16 Q Okay. On Page 29 the upper part of the page there are
17 listed the directors of EE, Inc. and for 2005 you are not listed
18 as a director. From your prior response to a question of mine I
19 would take it that this is within the time period after you had
20 left the Board of Directors of EE, Inc. Is that correct?

21 A That is correct.

22 Q Okay. When I look at this list of seven directors, let
23 me ask you. Do you know each of these individuals who are shown
24 as the seven directors of EE, Inc.?

25 A I know every one except Mr. Voyles.

1 Q Okay. Do you know of Mr. Voyles?

2 A I know that he's an employee of LG and E.

3 Q Okay. And that actually goes to the question that I
4 wanted to ask you and that this page would indicate that of these
5 seven individuals, five are associated with Ameren or Ameren
6 affiliates and two with LG and E. Am I correct in that?

7 A That is correct.

8 Q Okay. Do you know how this allotment of directors that
9 is five individuals associated with Ameren and two associated
10 with LG and E came about? Is it specified in any manner in any
11 controlling document relating to EE, Inc.?

12 A I don't know how it's currently controlled. I know
13 that when EE, Inc. was owned by four separate companies, each
14 company was allowed to nominate two directors. Now over the
15 years we've consolidated the ownership and I'm a little surprised
16 that we don't have six directors because we now own the portions
17 of the company that was formerly owned by Illinois Power and
18 Central Illinois Public Service which would have increased our
19 share of directors to six of eight. Possibly that's been
20 changed.

21 Q In this instance -- well, is there provision for any
22 additional directors that is other than just by assigning two
23 directors to each of the entities that are shareholders of EE,
24 Inc.?

25 A I don't know.

1 Q Mr. Rainwater, when you were director on the board of
2 directors, were there any committees on the board of directors?

3 A I don't recall any standing committees. I do recall or
4 yeah, actually I'm not certain. I think that we may have created
5 committees for special purposes for instance to renegotiate the
6 contract with the Department of Energy although that may not have
7 been a committee of the board. It may have been simply a
8 committee of the owning companies.

9 Q Do you recall serving on any committee in your time as
10 a director on the board of directors?

11 A No.

12 Q When you were a director of EE, Inc., did you also hold
13 officer positions with Ameren entities?

14 A Yes, I did.

15 Q Could you identify what Ameren entities you held
16 officer positions with in that time frame?

17 A With Union Electric but it extended into the time that
18 I was also an officer of Central Illinois Public Service.

19 Q Any other Ameren entities?

20 A I think that's all.

21 Q When you were a director on the board of directors, how
22 was voting handled? Was it handled by proxy for example? Do you
23 recall any particulars?

24 A I don't recall if voting was ever handled by proxy but
25 it may have been but voting normally has been handled by members

1 being present at board meetings and essentially voting the
2 ownership of their company prior to board meetings.

3 MR. DOTTHEIM: Who just joined us?

4 OPERATOR: This is the conference operator.

5 Please hold for the rest of the parties coming on the
6 line.

7 MR. DOTTHEIM: State operator.

8 MR. LOWERY: Did somebody join us.

9 MR. DOTTHEIM: Hello?

10 MR. LOWERY: Not yet apparently. Yeah. That was
11 the state operator. Mike Brosch you're on there by any
12 chance, Rick Chamberlain? I guess they will beep in.

13 MR. DOTTHEIM: This is a Missouri Public Service
14 Commission staff deposition. Has anyone joined us?

15 MR. LOWERY: Off the record.

16 (Discussion off the record)

17 Q (By Mr. Dottheim) Mr. Rainwater, in
18 advance of board meetings, did you receive anything
19 from EE, Inc. in preparation for the board meeting?

20 A I think so, Steve. I think we normally received an
21 agenda and any materials appropriate to items on the agenda.

22 Q Okay. Were there any meetings in advance of board
23 meetings?

24 A We met within the company among our directors in
25 advance of board meetings.

1 Q When you say you met with companies in advance of board
2 meetings, that would have been either Union Electric Company or
3 CIPS in your tenure on the board of directors of EE, Inc.?

4 A Yes, but I would add to that. After we acquired CIPS,
5 then the four directors would typically have met to agree on
6 positions prior to board meetings.

7 Q Do you recall, were there ever disagreements among the
8 directors that were representing Ameren UE and Ameren CIPS?

9 A I don't recall.

10 Q Do you recall whether Ameren UE and the other Ameren
11 affiliates always voted together?

12 A Yes.

13 Q There were no votes that you recall where the Ameren
14 affiliates took different positions?

15 A No, they did not.

16 Q Mr. Rainwater, having served on the board of EE, Inc.
17 for a number of years, are you aware of the early history of EE,
18 Inc.?

19 A Yes, I am.

20 Q You of course are familiar with the term debt leverage,
21 are you not?

22 A Yes.

23 Q What does that term mean to you?

24 A Well, to use leverage means to use debt as a portion of
25 total capital and high leverage would mean using a high portion

1 of debt and EE, Inc. is a high leveraged company.

2 Q Is EE, Inc. -- was EE, Inc. a highly leveraged company
3 when it was initiated in its early years?

4 A Yes, it was.

5 Q Is EE, Inc. a highly leveraged company at the present
6 time?

7 A Yes, it is.

8 MR. LOWERY: Who is speaking, please? We can go
9 off the record again, please.

10 (Discussion off the record)

11 Q (By Mr. Dottheim) Mr. Rainwater, when EE,
12 Inc. was formed, do you recall approximately what
13 was the -- Mr. Rainwater, do you know what
14 approximately was Union Electric Company's
15 investment in EE, Inc. when EE, Inc. was established
16 in the early 1950's?

17 A No, I don't recall.

18 Q Do you know whether Union Electric committed to use or
19 sell its proportionate share of the generating unit in the case
20 of the Atomic Energy Commission should terminate its purchase of
21 power from EE, Inc. as further assurance regarding initial
22 repayment of EE, Inc.'s debt borrowings?

23 A No, I don't.

24 Q Mr. Rainwater, is there any shareholder presently of
25 EE, Inc. an ownership share larger than Union Electric Company?

1 A No.

2 Q Is there any shareholder of EE, Inc. presently holding
3 an ownership share as large as Union Electric Company?

4 A Actually, I guess the way I would characterize this is
5 that Ameren currently owns 80 percent of EE, Inc., 40 percent
6 owned as a subsidiary ownership of UE and the other 40 percent I
7 believe is owned directly by Ameren. So those shares would be
8 equal but essentially it's 80 percent ownership of Ameren.

9 Q And when you say 40 percent directly owned by Ameren,
10 is that 40 percent possibly owned by Ameren Energy Resources
11 Company?

12 A Possibly. I don't recall.

13 Q You are of course familiar with Ameren Energy
14 Resources.

15 A Yes.

16 Q What does Ameren Energy Resources do?

17 A It's a subholding company of Ameren Corporation which
18 owns Ameren Generating Company, Ameren Energy Marketing Company
19 and Ameren Energy Development Company and there may be one or two
20 other subsidiaries there.

21 Q Mr. Rainwater, you've mentioned Ameren Energy
22 Generating. What does Ameren Energy Generating do?

23 A It generates electricity which it sells into the
24 wholesale market.

25 Q And is Ameren Energy Generating unregulated?

1 A It is not rate regulated.

2 Q Have you held any positions with Ameren Energy
3 Resources?

4 A I was president and CEO of Ameren Energy Resources.

5 Q Have you had any involvement with Ameren Energy
6 Generating?

7 A You're stretching my memory. I think I was actually
8 president of Ameren Energy Generating as well up until about five
9 years ago, four years ago.

10 Q You were until recently president of Union Electric
11 Company, were you not?

12 A Yes, I was.

13 Q And you were president of Union Electric Company until
14 January 1, 2007.

15 A That is correct.

16 Q And the president of Union Electric Company is who?

17 A Tom Voss.

18 Q Mr. Rainwater, are you familiar with an individual by
19 the name of Craig D. Nelson?

20 A Yes, I am.

21 Q Could you identify who Mr. Nelson is?

22 A Craig is a vice president of Ameren UE.

23 Q Okay. I'd like to hand to you a copy of Mr. Nelson's
24 testimony for the FERC dated March 25, 2004 in FERC document
25 Number 81, the merger application of Ameren Dynasty and Villanova

1 and I'd like to direct you to a statement that Mr. Nelson makes
2 in that testimony. I'd like to direct you to Page 10, Line 15.
3 I'd like to direct you to also through line or to Line 18.
4 Mr. Nelson states on lines 15 to 18 the EE, Inc. bylaws currently
5 provide for the allocation of capacity and energy from the
6 generation facilities owned by EE, Inc. in proportion to the
7 owners' ownership shares. This provision however may be changed
8 by 75 percent vote of the outstanding shares. Have I read that
9 accurately from Mr. Nelson's testimony?

10 A That is correct.

11 Q Do you agree with that statement?

12 A I think that that was true at the time.

13 Q Do you know if that is still true?

14 A I don't know.

15 Q And you've indicated that you haven't recently read a
16 copy of the bylaws or articles of incorporation of EE, Inc. Is
17 that correct?

18 A That is correct.

19 Q Mr. Rainwater, do you know how EE, Inc. defines its
20 business purpose and let me before you answer that, let me give
21 you some background because I was going to ask you a number of
22 questions and I don't want -- it's not a trick or what have you
23 so let me just kind of set it up for you.

24 I want to ask you whether while you were a director of
25 EE, Inc. whether the business purpose of EE, Inc. changed and I'm

1 looking at the historical perspective of EE, Inc. from its
2 creation in 1950 to the present day.

3 A It depends, Steve, on how you define business purpose.
4 EE, Inc. was originally organized as a subsidiary of a number of
5 utility operating companies and its original purpose was
6 primarily to provide energy to the at that time Atomic Energy
7 Commission which later became the Department of Energy Uranium
8 Enrichment at Paducah, Kentucky. So it had a fairly defined
9 purpose.

10 Over the years increasing portions of the energy have
11 been purchased by the sponsoring companies and over the years EE,
12 Inc. has engaged in businesses other than generating electricity
13 and I could not tell you what those currently are. I know that
14 EE, Inc. has installed a coal handling facility and it may be
15 doing other things. It also sells ash from the Joppa power
16 plant. So the purpose has evolved and I could not tell you how
17 EE, Inc. currently defines its purpose.

18 Q And if I were to ask you what were and are the
19 objectives of EE, Inc., would you view that any differently than
20 my question as to what were and are the business purposes of EE,
21 Inc.? I'm looking at the two different terms.

22 A Yes.

23 Q Business purpose and objectives.

24 A Well, the ultimate business purpose in my view of EE,
25 Inc. is to make money for its stockholders. To make money for

1 its stockholders it generates electricity and does a number of
2 other things which it sells to its customers.

3 Q And how would you define the objectives of EE, Inc. if
4 you view those as being different?

5 A I don't know what they are.

6 Q Do you know whether a change in the business purposes
7 of EE, Inc. would require a vote of the Board of Directors of EE,
8 Inc.?

9 A No, I don't.

10 Q Do you know if the business purposes of EE, Inc. is set
11 out in any documents like articles of incorporation and their
12 bylaws of EE, Inc.?

13 A No, I don't.

14 Q Okay. And I'm sorry. I may have asked you if you knew
15 whether a change in the objectives of EE, Inc. require a vote of
16 the board of directors. I wanted to ask you also if a change in
17 the business purposes of EE, Inc. required a vote of the board of
18 directors. So I want to ask you both of those questions. I know
19 I asked you one of them and I don't recall myself exactly which
20 one I did but do you know whether?

21 A Well, to clarify a little bit, Steve, for you. When
22 you say business objectives, I think of these things like the
23 Joppa power plant and a high availability for operating the Joppa
24 power plant at a cost below a certain number. Operating the
25 Joppa power plant safely, avoiding accidents. Those are business

1 objectives and when I think of business purpose, I think of the
2 reason why the company exists is to make money for its
3 stockholders and I don't think that that purpose has changed.
4 The customers of EE, Inc. have changed when the contract with
5 Union Electric and other sponsoring companies expired at the end
6 of 2005.

7 Q Prior to the contract expiring at the end of 2005 for
8 the length of the history of EE, Inc., have the customers of EE,
9 Inc. as far as Union Electric been the retail rate payers of EE,
10 Inc.?

11 A No.

12 Q Who were the customers?

13 A Union Electric, Central Illinois Public Service,
14 Illinois Power, Kentucky Utilities and the Department of Energy
15 primarily and at times EE, Inc. sold power also to TVA and in the
16 wholesale markets to other companies.

17 Q Pursuant to Union Electric Company's contract with EE,
18 Inc. as a sponsoring company, who were the customers of Union
19 Electric Company? Were there any customers of Union Electric
20 Company?

21 MR. LOWERY: Steve, I guess I object to the form
22 of the question because could you clarify what contract
23 just to make sure what we're talking about.

24 Q (By Mr. Dottheim) I'm sorry. I'm
25 referring to the contract between the sponsoring

1 companies. In this case one of the sponsoring
2 companies being Union Electric Company and EE, Inc.
3 relative to that contract. Did Union Electric
4 Company have any customers being served relative to
5 that contract?

6 A There's no connection between that contract and Union
7 Electric customers. Union Electric serves currently 1.2 million
8 customers. Union Electric purchases power from a number of
9 sources and generates most of its power itself. The EE, Inc.
10 contract was one of a number of contracts.

11 Q Mr. Rainwater, when you were serving as a director on
12 the Board of Directors of EE, Inc., did you receive any
13 compensation from EE, Inc.?

14 A No, but let me explain that.

15 MR. LOWERY: Did somebody just join us?

16 MR. CONRAD: Yeah. This is Stu. I had
17 inadvertently pushed a button and got cut off. I'm
18 sorry.

19 MR. LOWERY: Okay. Thank you.

20 THE WITNESS: EE directors were paid a small
21 retainer which was contributed by EE, Inc. to charities
22 named by directors.

23 Q (By Mr. Dottheim) Mr. Rainwater, when you
24 were a director of EE, Inc., were there any
25 subsidiaries of EE, Inc.?

1 A I think so.

2 Q Do you recall what any of those subsidiaries were?

3 A I don't recall the details of it, Steve, but I do
4 believe we created a subsidiary for the ash handling business of
5 EE, Inc., for coal blending facility of EE, Inc. and for building
6 combustion turbines owned by EE, Inc.

7 Q Do you recall any other subsidiaries or companies?

8 A No, I do not.

9 Q Mr. Rainwater, I'm going to hand you a copy of a FERC
10 form one and it's the FERC form one for Electric Energy, Inc. for
11 the year ending 2005. Mr. Rainwater, are you familiar with that
12 document?

13 A I don't recall if I've read it or looked at it or not.

14 Q Are you familiar with the form itself, FERC form one?

15 A Yes.

16 Q Do you recall ever reviewing a FERC form one for
17 Electric Energy, Inc.?

18 A Yes, I do.

19 Q I'd like to refer you to Pages 123.2 to 123.3 and I'd
20 like to refer you to the section that is denominated small d
21 (operating revenues) that continues from 123.2 to 123.3. I'd
22 like to ask you if you would read that.

23 A Okay. Okay.

24 Q Mr. Rainwater, are you familiar with the information
25 that is contained in those paragraphs that I've directed you to?

1 A Yes, generally.

2 Q Okay. Is the information contained therein to the best
3 of your knowledge correct?

4 A I believe it is.

5 Q I'd like to direct you to and you may have handed it
6 back to me. I may have taken the -- no. The Electric Energy,
7 Inc. annual report and I'd like to direct you to Pages 13 and 14.

8 A Okay.

9 Q And I'd like to direct you to the section small letter
10 d (operating revenues) and if you would read that section,
11 please.

12 A Well, this looks like the same thing I just read in the
13 FERC form one.

14 Q So it appears to be the same content.

15 A Yes.

16 Q Okay. Thank you. Mr. Rainwater, I'd like to next hand
17 to you the FERC form one for Electric Energy, Inc. for the year
18 ending 2004 and direct you to the pages 123.1 to 123.2 and on
19 those pages direct you to the section that is titled small d
20 (operating revenues) and ask you to read that and ask you if the
21 information contained therein is accurate to the best of your
22 knowledge.

23 A Okay.

24 Q Is the information contained in that section d
25 (operating revenues) accurate to the best of your knowledge?

1 A I believe it is.

2 Q And I have a few more annual reports. If you bear with
3 me, please, I would appreciate it. I appreciate your patience.
4 I'd like to next direct you to FERC form one for Electric Energy,
5 Inc. for the year ending 2003 and I'd like to direct you to
6 Page 123.1 to 123.2 again to the section denominated small D
7 (operating revenues) and ask you to read that and if you can tell
8 me whether the information contained therein is accurate to the
9 best of your knowledge.

10 A I believe it is.

11 MR. LOWERY: Mr. Dottheim, have you reviewed
12 various FERC form ones that contain that language in
13 the same section as the same in each of them?

14 MR. DOTTHEIM: Well, I'm just --

15 MR. LOWERY: I don't think we have a dispute about
16 what it says or doesn't say. I'm just trying to
17 short-cut this a little bit if possible.

18 MR. DOTTHEIM: All right. Well, I think I've got
19 a few more. I don't think this is going to take very
20 long.

21 MR. LOWERY: Very well.

22 Q (By Mr. Dottheim) And again, the
23 information contained therein was accurate to the
24 best of your knowledge and I would now direct you to
25 the FERC form one for Electric Energy, Inc. for the

1 year ending 2002. I'd like to direct you to Pages
2 123 to 123.1. Again, the section d (operating
3 revenues).

4 A Okay.

5 Q And is the information contained therein accurate to
6 the best of your knowledge?

7 A I believe it is.

8 Q I have two more.

9 A Okay.

10 Q I'd like to hand you the FERC form one for Electric
11 Energy for the year ending 2001 and I'd like to direct you to
12 Page 123 to 123.1 and this time to paragraph c (operating
13 revenues).

14 A Okay.

15 Q And is the information contained therein accurate to
16 the best of your knowledge?

17 A It appears to be accurate.

18 Q Okay. And finally the last one.

19 A Okay.

20 Q The FERC annual report for Electric Energy, Inc. for
21 the year ending 2000 and I'd like to direct you to Page 123 to
22 123.1 the paragraph small C (operating revenues) and I'd like to
23 ask you if the information contained therein is accurate to the
24 best of your knowledge.

25 A I believe it is.

1 Q Okay. Mr. Rainwater, thank you for your patience on
2 that. Mr. Rainwater, while you were on the Board of Directors of
3 EE, Inc., the board did address the matter of the expiration of
4 the power supply agreement between the sponsoring companies and
5 EE, Inc., did it not?

6 A Yes, it did.

7 Q When do you recall or do you recall when was the first
8 time that that matter was addressed by the board of directors?

9 A No, I don't.

10 Q Do you have any recollection even approximately as far
11 as a year is concerned?

12 A The question of what to do with EE, Inc. power when
13 that contract expired in 2005 probably came up as far back as
14 five years or so prior to the expiration of the contract.

15 MR. DOTTHEIM: Who just joined us?

16 MR. BROSCH: This is Mike Brosch. Good morning.

17 MR. DOTTHEIM: Morning.

18 Q (By Mr. Dottheim) Mr. Rainwater, would the
19 matter of the expiration of that contract and what
20 would occur thereafter have come up in the year
21 2000?

22 A Possibly.

23 Q Is that as early as it would have come up as far as
24 your present recollection?

25 A Well, I really don't recall. It might have been

1 further back than 2000.

2 Q On a going forward basis in that time frame 2000 going
3 forward, was that subject matter actively addressed?

4 A No. Well, I wouldn't describe as actively addressed
5 because the contract didn't expire until the end of 2005. The
6 subject of what should we do with the power after 2005 was
7 discussed but no decisions were made because it was too far in
8 the future.

9 Q Was that subject matter ever discussed in the affiliate
10 with which you were associated at the time you were on the board
11 of directors?

12 A Yes.

13 Q During that time frame would have been AmerenUE as part
14 of that time frame?

15 A AmerenUE and Ameren CIPS.

16 Q And who would that subject matter have been discussed
17 by? Was there a specific group of individuals?

18 A I don't recall. There were probably discussions
19 between me and Chuck Miller. There were probably discussions
20 between me and Alan Kelly and Tom Voss and possibly others. I
21 don't recall.

22 Q In those discussions, was there ever an expression of a
23 desire to continue the contract on a cost basis beyond
24 December 31, 2005?

25 A I don't believe so.

1 Q Do you recall what were the nature of the discussions?

2 A Changes in the wholesale market that allowed nonrate
3 based, nonrate regulated power plants to sell power at market
4 prices.

5 Q One moment, please. Mr. Rainwater, I'm going to hand
6 to you a document that's -- it's a data request response. The
7 staff requested a copy of a data request response received by the
8 Office of the Public Counsel relating to the board of director
9 meeting minutes of Electric Energy, Inc. covering the period
10 January 1, 2003 through June 30, 2006 and I'd like to ask you to
11 review that document if you would.

12 MR. LOWERY: For the record, Mr. Dottheim, the
13 response to OPC 2005 which is part of this document
14 that you've given Mr. Rainwater was objected to in part
15 and the documents that were provided were provided
16 subject to that objection.

17 THE WITNESS: Okay.

18 Q (By Mr. Dottheim) Mr. Rainwater, have you
19 had an opportunity to review that document?

20 A Yes.

21 Q For purposes of identification, it's OPC data request
22 No. 2005 in case number ER-2007-002 which the staff requested a
23 copy of from the company and the staff's data request to AmerenUE
24 is No. 499. First Mr. Rainwater, the board of director minutes
25 they're numbered at the bottom of the page in the lower

1 right-hand corner, are they not? There's a number. First page
2 is 2.1 and then the 2.2, 2.3?

3 A Okay.

4 Q Which also reminds me in looking at them that this data
5 request before we start getting into any of the subject matter is
6 marked highly confidential and as a consequence, I guess we need
7 to check as to who is on the conference call whether they've
8 signed nondisclosure agreements and this part of the transcript
9 probably till otherwise it's reviewed needs to be under seal.

10 MR. LOWERY: Mr. Higgins and Mr. Brosch, you've
11 signed agreements I'm confident, correct?

12 MR. BROSCH: Yes, I have.

13 MR. HIGGINS: Yes, I have.

14 MR. LOWERY: Yeah. I think we just need to have
15 this section disseminated as highly confidential.
16 Otherwise I think the participants are properly
17 covered.

18 (Highly confidential section
19 contained in separate transcript)

20

21

22

23

24

25

1 Q (By Mr. Dottheim) Mr. Rainwater, are you
2 the ultimate decision maker for AmerenUE regarding
3 resource planning?

4 A It depends on the resource planning decision. There
5 are decisions that I would take to the board of directors and the
6 board of directors would be the ultimate decision maker.

7 Q What are those decisions that you would take to the
8 board of directors and the board of directors would be the
9 ultimate decision maker?

10 A To build a new nuclear plant for instance.

11 Q Would that be in essence the only type of resource
12 planning decision that you can think of at the moment that you
13 would take?

14 A No. Any major capital investment would go to the board
15 of directors. Smaller decisions like the decision to enter into
16 a wholesale power contract would not.

17 Q Would or did the decision as to how to proceed
18 respecting the conclusion of the power supply agreement among the
19 sponsoring companies and EE, Inc. on December 31, 2005, is that
20 something that you would take to the Board of Directors of Ameren
21 Corporation?

22 MR. LOWERY: Object to the form of the question.

23 I don't think -- you used the term decision is vague.

24 I don't know what decision you're talking about. You
25 can answer the question if you understand it.

1 THE WITNESS: I'm not sure if I understand the
2 question but if the question was would I take a
3 decision to the board of directors to enter into a 400
4 megawatt power contract with Energy, Electric, Inc. no,
5 I would not.

6 Q (By Mr. Dottheim) The decision as to then
7 in particular as far as Ameren proceeding with ADM
8 entering into power supply agreement for 100 percent
9 of the power from EE, Inc., is that a decision that
10 was taken to the board of directors?

11 A No. We typically would not discuss individual
12 contracts with the board. We would discuss strategy with the
13 board.

14 Q Was the strategy respecting the approach to the
15 megawatts that became available at the conclusion of the power
16 supply agreement on December 31, 2005 a matter that was taken to
17 the board of directors for discussion?

18 A That's not a decision that would have been taken to the
19 board for their approval but the general issue of using
20 unregulated plants, nonrate based plants to sell power at market
21 prices in the wholesale markets would have been discussed. The
22 board would have been briefed on that as strategy.

23 Q Was the board actually briefed on the strategy, the
24 approach regarding the power supply agreement with EE, Inc.
25 regarding ADM concluding with the December 31, 2005 power supply

1 agreement?

2 A I don't think that it was and actually I don't recall
3 if -- I know that we've had the discussion of unregulated power
4 sales in general, but I don't know that we've broken it down into
5 that level of detail. We may have.

6 Q Does AmerenUE have corporate objectives regarding cost
7 containment?

8 A Yes.

9 Q Are they set out as policy or guidelines in any manner?

10 A They're set out as a result of our annual budgeting
11 process.

12 Q Union Electric Company generally does not accept
13 whatever cost increases other entities attempt to impose upon
14 Union Electric Company, does it?

15 A We try to get the best price we can for everything we
16 purchase.

17 Q One moment, please. Mr. Rainwater, I'm going to hand
18 to you a document that I'd like to refer you to some specific
19 pages and the document is a spiral bound document. On the cover
20 it has on it in the upper right-hand corner document two and also
21 on the cover Energy Resource Plan, Union Electric Company
22 Resource Planning Committee June 1995. Mr. Rainwater, do you
23 recognize that document?

24 A Yes, I do.

25 Q Could you identify it?

1 A It's Union Electric's Energy Resource plan filed with
2 the Commission I believe in 1995.

3 Q I'd like to direct you to Pages 26 and 27 and in
4 particular the second column on Page 26, the last paragraph that
5 continues to the top of the first paragraph of Page 27.

6 A Okay.

7 Q And it reads there's kind of a heading Joppa. It says
8 the Joppa plant located on the Ohio River in Joppa, Illinois
9 owned by Electric Energy, Inc. which is jointly owned by four
10 utilities. Union Electric owns 40 percent of Electric Energy,
11 Inc. and is entitled to receive as much as 405 megawatts of
12 capacity for a limited time each year.

13 Union Electric can currently take 10 percent of the
14 Joppa plant available generation during the calendar year and
15 with a five year notice can increase its take to 40 percent.
16 Before August 1st of each year, Union Electric provides a
17 schedule to Electric Energy, Inc. indicating the time periods and
18 amounts of Joppa plants capacity that should be reserved for
19 Union Electric during the following calendar year. Did I read
20 that accurately?

21 A Yes. That is correct.

22 Q I'd like to direct you next to Page 33 and I'd like to
23 direct to you the last paragraph on that page. It states table
24 4-3 shows preferred all supplied side resource plant resulting
25 from the quantitative screening analysis. The results of the

1 quantitative screening analysis were incorporated in the resource
2 degradation analysis described in section five. Did I read that
3 accurately?

4 A Yes, you did.

5 Q And Mr. Rainwater, I now would like to direct you to
6 Page 36 where table 4.3 is located and if you would take a look
7 at the table 4.3, I want to give you a chance to take a look at
8 it but in particular I want to direct you to the table on that
9 page and beneath the table the very first line that reads Joppa
10 405 megawatts-1995-2014. Mr. Rainwater, does that table indicate
11 that 405 megawatts of Joppa is available from 1995 to 2014?

12 A No.

13 Q No?

14 A It indicates someone assumed it would be.

15 Q I see. But that is the assumption in the table 4.3.

16 A That appears to be correct.

17 Q I'd next like to direct you to Page 46 and I'd like to
18 direct you to the second column on Page 46, the second full
19 paragraph, the first couple of sentences. The first couple of
20 sentences state the company's preferred resource plan is shown in
21 table 6.7 and is based on the DSM-20 plan. The DSM-20 plan was
22 developed for the greener environmental mitigation level
23 discussed in section five. Did I read that accurately?

24 A That is correct.

25 Q And I would next like to direct you to Page 54 where

1 appears table 6.7 which is entitled Preferred Resource Plan
2 Greener Environmental Mitigation Level-Controls on New Units and
3 I'd like to ask you to review that page but I'd like to direct
4 you in particular to one of the columns, the column labeled EE,
5 Inc. purchase megawatts. That column EE, Inc. purchased
6 megawatts in the first column which shows years shows 405
7 megawatts available for EE, Inc. for the years 1995 to 2014, does
8 it not?

9 A Yes, it does.

10 Q Mr. Rainwater, I'd next like to hand to you another
11 document and this document on the cover has the title Risk and
12 Uncertainty Analysis Briefing Union Electric Resource Planning
13 October 1997. Have I read that accurately?

14 A Yes, you did.

15 Q Mr. Rainwater, can you identify that document?

16 A I don't recall that I have ever seen it before but I
17 will take it for its worth. It was a risk and uncertainty
18 analysis briefing done in October 1997.

19 Q I'd like to direct you to the second page in that
20 document. That page length wise has at the top Optimize
21 Expansion Plans for Various Sensitivities (probable environmental
22 cost included). Did I read that accurately?

23 A Yes, you did.

24 Q Then it has a heading for the various columns year
25 based sensitivity and in various of the columns appears the word

1 extra Joppa. Do you see those words?

2 A Yes, I do.

3 Q The word extra Joppa appears in columns for various
4 sensitivities analysis, does it not?

5 A Yes, it does.

6 Q Okay. And it appears in columns for different years,
7 does it not? For example, for reduced economy purchases it
8 appears in the year 2010.

9 A Yes, it does.

10 Q And in the column base nominal conditions it appears
11 for the year 2014.

12 A Okay.

13 Q And for increased FOR it also appears in the column
14 2014.

15 A Yes.

16 Q For the column high SO2 cost it appears on column 2014.

17 MR. LOWERY: Steve, we'll stipulate.

18 THE WITNESS: Is that a question, Steve?

19 MR. LOWERY: We'll stipulate the page says what it
20 says.

21 Q (By Mr. Dottheim) All right. And there's
22 a note at the bottom of the page extra Joppa
23 indicating that extra Joppa means increased
24 utilization of Joppa energy.

25 A Yes. There is a note that says that.

1 Q Okay. If I could direct you back to the first document
2 and I'd like to direct you to Page 30 and I'd like to direct you
3 to the second column, last paragraph which states UE also had the
4 opportunity to purchase additional energy from the Joppa plant
5 and to extend the existing contract for wholesale power with
6 Arkansas Power and light (P and L). Did I read that accurately?

7 A Yes, you did.

8 Q And then if I could refer you to Page 31 the second
9 column about the middle of the page the heading Possible
10 Additional Resource Opportunities, the sixth bullet point is
11 additional Joppa energy.

12 A Uh-huh, yes.

13 Q If I could have a moment, please. Mr. Rainwater, I'd
14 like to direct you to some additional documents I'm going to hand
15 to you. Mr. Rainwater, I've handed to you what are responses to
16 data requests by AmerenUE to Office of the Public Counsel data
17 request and the staff's 2002 excess earnings complaint case
18 against AmerenUE which the staff requested copies of from the
19 Office of Public Counsel and if you would take a look at those
20 data request responses, I'd like to ask you a few questions.

21 A Okay.

22 Q I'd first like to direct you to the data request itself
23 from the Office of the Public Counsel which is No. 501.

24 A Okay.

25 Q And the information requested is please provide a copy

1 of all documents created by or for Ameren or its affiliates in
2 the last three years that contains summary of electric supply
3 resource plans for some or all of AmerenUE's Missouri
4 jurisdictional operations. If no documents within the scope of
5 those requested in this DR exist, please provide a statement to
6 that effect and the response which is signed by David J.
7 Brueggeman, B-R-U-E-G-G-E-M-A-N, the response is the AmerenUE
8 resource plan for years 1998, 1999 and 2000 are attached. Each
9 resource plan shows a ten year forecast of demand capabilities
10 and resources needed. Each resource plan is based on the
11 resources that were known by April 1st for that given year. Did
12 I read that accurately?

13 A Yes, you did.

14 Q Okay. I'd like to first direct you to the page and I
15 should say that the pages that I'm going to refer you to are
16 marked proprietary. I don't know with the passage of time
17 whether they're no longer proprietary but they are marked
18 proprietary so we can treat them as being under seal until
19 otherwise.

20 MR. LOWERY: I guess that's what we should do,

21 Steve. I don't have any way to.

22 Q (By Mr. Dottheim) No. I don't have any
23 problem treating them as proprietary. If I could
24 direct you to the first page which has a heading on
25 it AmerenUE Forecast to Peak Demands and System

1 Capability at Time of Peak (1998-2007).

2 I'd like to direct you to approximately halfway down
3 the page. There's a line total install generating capability
4 gross and then underneath it there's a line purchase-net Electric
5 Energy, Inc. (3) and for that line there are shown various
6 columns. There's a column for 1997 actual. There's 405
7 megawatts shown for that column and then forecast for the years
8 1998 to 2007 405 megawatts is shown. Am I reading that
9 correctly?

10 A That is correct.

11 Q I'd like to next direct you to the next page which up
12 in the top has the title AmerenUE Forecast of Peak Demand and
13 System Capability at Time of Peak (1999 to 2008) and then direct
14 you about halfway down the page to the line total install
15 generating capability-gross and underneath it purchase-net
16 Electric Energy, Inc. (2) and then there are columns. There's a
17 column actual 1998 and the number 405 megawatts and the columns
18 for 1999 to 2008 forecast and the numbers 405 megawatts. Have I
19 read that accurately?

20 A That's correct.

21 Q And then I'd like to next direct you to the next page
22 which is the last page which has at the top AmerenUE Forecast of
23 Peak Demands and System Capability at Time of Peak (2000-2009)
24 and I'd like to direct you to about halfway down page the line
25 total install generating capability-gross and then the line

1 purchase-net Electric Energy Inc. (2). There are then columns.
2 There's the column 1999 actual and the No. 450 and then columns
3 for 2000 to 2009 forecast but for the columns 2000 to 2005
4 forecast is the No. 437 megawatts but there are no numbers shown
5 for 2006 to 2009 for megawatts numbers. Is that correct?

6 A That's correct.

7 Q One moment, please. Mr. Rainwater, the present
8 chairman of the board of EE Inc. is who?

9 A I believe it's Alan Kelly.

10 Q And Mr. Kelly is also an Ameren officer?

11 A Yes, he is.

12 Q And what official title or titles does he hold?

13 A He is president and CEO for Ameren Energy Resources.

14 Q And what are his duties as president and CEO of Ameren
15 Energy Resources?

16 A To manage all of our unregulated generating plants. I
17 should say nonrate nonregulated generating plants including EE,
18 Inc. and the Joppa plant and to sell that power primarily in the
19 wholesale market.

20 Q Does he have any -- does he hold any official position
21 with AmerenUE?

22 A He did at one time. He no longer does.

23 Q At that time that he held an official position with
24 AmerenUE, did he also hold an official position with Ameren
25 Energy Resources?

1 A I don't believe he did with Ameren Energy Resources
2 although he did with Ameren Energy Generating Company, a
3 subsidiary of Ameren Energy Resources.

4 Q Would that be a conflict in itself having when -- if he
5 held responsibilities with Ameren Energy Generating and AmerenUE
6 holding responsibilities with an entity that has regulated
7 operations and an entity with nonregulated operations?

8 A It was not a conflict.

9 Q Does Ameren have policies or guidelines regarding
10 conflicts of interest?

11 A Yes, we do.

12 Q Are those directed respecting conflicts of interest
13 within the Ameren Corporation respecting the various affiliates?

14 A They're primarily intended to prevent conflicts of
15 interest from Ameren versus outside companies.

16 Q Mr. Rainwater, are you familiar with the term senior
17 team?

18 A Yes, I am.

19 Q What does the term senior team mean to you?

20 A It was -- we no longer use it but it was in reference
21 to the group of officers including myself and my direct reports.

22 Q That term is no longer used?

23 A Effective with the organization change we made
24 January 1, 2007 it is no longer used. We now use the term
25 executive leadership team to refer to me and my direct reports.

1 Q Could you name the individuals who comprise the
2 executive leadership team?

3 A Me, Tom Voss, Scott Vissle, Alan Kelly, Warner Baxter,
4 Donna Martin and Steve Sullivan.

5 Q And these are the same individuals who previously
6 constituted the senior team?

7 A No. There's some overlap but they're not exactly the
8 same group.

9 Q Does the senior team or excuse me. Does the executive
10 leadership team have any specific responsibilities?

11 A Well, they each have a specific responsibility. Would
12 you like me to outline those?

13 Q Well, do they have specific responsibilities as a team?

14 A No.

15 Q Did the senior team have specific responsibilities as a
16 team?

17 A I suppose that's a manner of interpretation in that it
18 was -- included me and my direct reports and we met routinely,
19 weekly to discuss operations of the company. So collectively we
20 were responsible for operations of the company but my view would
21 be that ultimately I was responsible for operations of the
22 company.

23 Q Were minutes kept of the meeting of the senior team?

24 A No.

25 Q Were votes taken of the senior team?

1 A No.

2 Q Would the senior team discuss matters such as the
3 Missouri rate cases?

4 A Yes.

5 Q Did any members of the senior team that are now the
6 elective leadership -- excuse me. Executive leadership team
7 attend any of the local public hearings relating to the pending
8 electric and gas rate increase cases?

9 A I don't know.

10 Q Was it considered at any time that members of the
11 senior team or the executive leadership team would attend any of
12 the local public hearings via the pending rate increases?

13 A No, it was not.

14 Q Mr. Rainwater, is Ameren presently studying or
15 considering the potential acquisition of any utilities in the
16 near term?

17 A We study the possible of potential acquisitions almost
18 continuously.

19 Q Are there specific utilities that are being considered?

20 MR. LOWERY: You're talking about any acquisitions
21 that would be imminent, correct?

22 MR. DOTTHEIM: Yes.

23 THE WITNESS: There is nothing under consideration
24 at this time.

25 Q (By Mr. Dottheim) I've used the term

1 imminent. What would the term imminent mean to you?

2 A It would mean that if for instance we were in
3 discussions with another company about an acquisition, there are
4 no discussions taking place.

5 Q A potential acquisition could have an impact on the
6 operations and costs of AmerenUE, could it not?

7 A Yes, it could. Well, let me explain that. It would
8 not directly have an impact on the operations or costs of
9 AmerenUE. However, it would have an impact on the allocation of
10 services from Ameren Services Company which would have an impact
11 then on the ultimate cost of AmerenUE.

12 Q An acquisition could provide economies of scale for the
13 regulated operations of Ameren?

14 A Yes, it could. In fact it has.

15 Q Did Ameren bid into the Illinois auction in
16 September 2006?

17 A Yes, it did.

18 Q What were the results of those bids?

19 A We are selling some power from Ameren Energy Marketing
20 Company to Ameren IP, Ameren CIPS and Ameren CILCO. I don't
21 recall how much or the price.

22 Q Was the Joppa unit bid into the auction?

23 A Well, the auction didn't work that way. Specifically
24 units were not bid in. Ameren Marketing bid to sell power.
25 Resources were not specified.

1 Q Was Union Electric Generation then considered for
2 utilization in the bid or was it as part of the bid in any of the
3 bids?

4 A I don't see how it would have been since that is not a
5 resource available to Ameren Energy Marketing.

6 Q Okay. What are Ameren's plans for bidding in the next
7 Illinois auction?

8 A Well, presuming there is another auction we would bid
9 in the auction.

10 MR. DOTTHEIM: Why don't we take a break and let
11 me go through my list and see what I might have left,
12 if anything.

13 MR. LOWERY: Okay.

14 (A break was taken)

15 Q (By Mr. Dottheim) Mr. Rainwater, when we
16 were talking earlier this morning about the types of
17 decisions that you would take to the board of
18 directors, there are various board of directors.
19 Were you referring to the Ameren Corporation Board
20 of Directors or the Ameren UE Board of Directors for
21 example, when we were talking about power supply
22 agreements?

23 A I was referring to the Ameren Board of Directors.

24 Q And that's the Ameren Corporation Board of Directors?

25 A Yes.

1 Q Is AmerenUE operated separate and apart from the
2 operations of all other affiliates of Ameren Corporation?

3 A Yes, it is.

4 Q We talked earlier this morning about Mr. Powers, Robert
5 L. Powers. Could you identify who Mr. Powers is?

6 A Well, Bob has a couple of roles. He is president of
7 the EE, Inc. I think and he's a vice president of Ameren Energy
8 Generating Company. He may also be a vice president of AmerenUE
9 and I'm not sure how he fits with the structural change that we
10 made on January 1st, but I guess the way I would put it is Bob is
11 a resource for all of our generating plants.

12 Q Mr. Michael Moehn has testimony filed in the pending
13 rate case on EE, Inc., does he not, Mr. Rainwater, if you're
14 aware?

15 A Well, I'm not aware of it but I will take your word for
16 that.

17 Q Okay. Thank you. Is Mr. Moehn an officer of EE, Inc.?

18 A I don't think that he is. He's an officer of Ameren
19 Services Company.

20 Q Did he have any role in the decision respecting what
21 EE, Inc. did with the available capacity upon the conclusion of
22 the power supply agreement between EE, Inc. and the sponsoring
23 companies on December 31, 2005?

24 A I don't know.

25 Q Do you know whether Mr. Moehn had attended any of the

1 meetings of the Board of Directors of EE, Inc.?

2 A I don't know that either.

3 Q When you were a member of the Board of Directors of EE,
4 Inc., do you recall whether he attended any of the meetings that
5 you attended?

6 A I don't recall him ever attending.

7 Q Mr. Rainwater, are you aware of an issue in the pending
8 case involving the Commission's rule on income on depreciation
9 fund investments? It's rule FCSR 240-10.020.

10 A No, I'm not.

11 Q Okay.

12 MR. DOTTHEIM: Thank you for your great patience,
13 Mr. Rainwater. I truly appreciate it.

14 THE WITNESS: You're welcome.

15 MR. MICHEEL: Lewis, why don't you go. Why don't
16 you ask some questions of this individual?

17 MR. MILLS: Okay. I will be happy to.

18 EXAMINATION

19 BY MR. MILLS:

20 Q Mr. Rainwater, this is Lewis Mills from the Public
21 Counsel's office.

22 A Good afternoon, Lewis.

23 Q Good afternoon. If it's okay with you I will assume
24 that if I ask the question --

25 MR. LOWERY: Lewis, this is Jim. Maybe you can

1 get a little closer to your speaker because you were
2 breaking up a little bit.

3 MR. MILLS: Okay. Is this better?

4 MR. LOWERY: That's better. Thanks.

5 Q (By Mr. Mills) Okay. I was just saying I
6 can go through the preliminary questions about do
7 you know the purpose of a deposition, if my
8 questions aren't clear, that sort of thing that Mr.
9 Dottheim went through in the beginning. Do I need
10 to go through that again or would your answers be
11 the same?

12 A My answers would be the same.

13 Q Okay. Thank you. Let me just start out with some sort
14 of background questions. Have you filed testimony in the current
15 pending rate case ER 2007-002?

16 A No, I have not.

17 Q Do you intend to?

18 A No, I hadn't planned to.

19 Q Okay. Do you intend to appear as a witness at the
20 evidentiary hearings in that case?

21 A I had not planned to.

22 Q If a party such as Public Counsel or the staff wish to
23 ask you questions at the evidentiary hearing, would you be
24 willing to appear?

25 A Certainly.

1 Q Now, can I get you to describe your role in the
2 resource planning process at Union Electric and how that has
3 changed over the years?

4 A If we want to go back to ten years or so ago when I was
5 vice president of corporate planning, I was responsible for the
6 resource planning for Union Electric. Today I suppose you could
7 say I'm still ultimately responsible as the CEO of Ameren
8 Corporation but it's not under my direct supervision.

9 Q Has there been a time during that period when you have
10 not either been directly or ultimately responsible for resource
11 planning at Union Electric?

12 A Yes, there has been. When I left Union Electric just
13 prior to the acquisition or merger with CIPS, in 1997 I actually
14 left Union Electric to go work for CIPS in anticipation of the
15 merger being completed and when it was completed in 1998 I
16 remained an employee of CIPS, Ameren CIPS at that time until
17 about 2001 or so when I became president, chief operating officer
18 of AmerenUE.

19 Q Okay. So roughly that four year period from 1997 when
20 you first went to CIPS and until 2001 you have no direct or
21 oversight over resource planning at AmerenUE?

22 A That is correct although I can't recall the exact date
23 when I became president of UE. It may have been 2002.

24 Q Okay. So for instance last year you weren't involved
25 in resource planning at AmerenUE.

1 A That's correct.

2 Q From what I'm hearing you have no authority directly.
3 Did you have any input?

4 A No.

5 Q AmerenUE talk to you for advice or spoke to you about
6 the resource planning issues?

7 A Not that I can ever recall. I don't think that ever
8 took place.

9 Q Now, can you describe your role in the resource process
10 at CIPS how it's changed over the years?

11 A No, I really can't recall any resource discussions at
12 CIPS. CIPS was somewhat long on generating capacity at the time
13 we purchased the company and any need for additional capacity
14 would have been far in the future so it wasn't a timely issue.

15 Q And during your time at CIPS, what were the positions
16 that you held?

17 A President and CEO. Well, president and chief operating
18 -- excuse me. In 1997 when I moved to CIPS it was as executive
19 vice president and then on January 1st, 1998 I assumed the job of
20 president and CEO of CIPS.

21 Q Okay. And that's the position you held until 2001,
22 2002?

23 A Yes, and in fact I continued to hold that position
24 after becoming the president and chief operating officer of UE as
25 well.

1 Q Do you still hold that position?

2 A No, I do not.

3 Q And when did that stop?

4 A With the purchase. I tell you to the best of my
5 recollection and these dates are probably not exactly right, but
6 with the purchase of CILCO in 2001 we appointed Scott Sissle as
7 president of CILCO and I think at that time also made Scott
8 president of CIPS and then when we merged with Illinois Power,
9 Scott also became president of Illinois Power but during that
10 time I kept the title of chairman and CEO of those companies.

11 Q Can you describe to me your role in the resource
12 planning process, your role in Genco how that has changed over
13 the years?

14 A In resource planning at Genco?

15 Q Yes or capacity expansion planning.

16 A Well, when I was president of Genco if there was any
17 consideration of adding generation we did add combustion turbines
18 during that time period but that would have been under my
19 direction. When you use the term resource planning, I think of
20 the regulatory kind of resource planning process and I wouldn't
21 describe our generation planning as that kind of a process.

22 Q Right, and that's why I wanted to broaden the term to
23 include any sort of capacity expansion planning.

24 A Okay. I would have been responsible for capacity
25 expansion planning for the generating company during the time I

1 headed the generating company.

2 Q When you say responsible for it, do you mean directly
3 involved in making decisions or describe that responsibility.

4 A Directly involved in making decisions.

5 Q Then currently who is responsible for resource planning
6 analysis at Union Electric?

7 A I guess that falls in Michael Moehn's area as vice
8 president of corporate planning.

9 Q And who is responsible for resource planning decision
10 making at Union Electric?

11 A Well, when you say decision making I'm not sure exactly
12 what you mean. As far as a regulatory plan that would fall under
13 Michael's responsibility. Michael reports to Warner Baxter so I
14 guess you could say it's Warner's responsibility to oversee that
15 but if you mean a decision to build a power plant, a large
16 capital investment then that's a decision that would go to me and
17 ultimately go to the board as well. Of course we haven't made
18 those kinds of decisions.

19 Q You talk about a large power plant. Are you
20 considering some for example the recent CTs since you've acquired
21 do not fall into that category? I'm sorry. For the record when
22 I say CT I mean combustion turbine.

23 A Well, the CTs that we have acquired were acquired after
24 they were built. So for Union Electric we haven't -- well, that
25 isn't entirely correct. I should say, I was about to say that we

1 haven't made a decision to build any plants but we have added CTs
2 at Union Electric as well and those decisions would have gone to
3 the board of directors to approve the capital investment. They
4 did go to the board of directors.

5 Q So if I were to ask you specifically about the decision
6 to build Pino Creek and the decision to acquire Pinckneyville and
7 Kinmundy, all of those would have gone to the board of directors?

8 A That is correct.

9 Q Who would have made recommendations to the board of
10 directors to approve or build or acquisition?

11 A Probably me although I can't recall if we brought
12 someone in say either Michael Moehn or from Michael's group to
13 talk about the resource planning needs but it was probably me.

14 Q If you were the one that made the presentation. I
15 don't mean that as a sense of a formal presentation but if you're
16 the one that presented that idea to the board, who was it and
17 speaking specifically about let's start with Pino Creek. Who was
18 the one who would have brought that proposal to you?

19 A You know, I don't remember.

20 Q In the normal course of planning resource decisions,
21 I'm not asking for a person's name, but what position in the
22 AmerenUE entity would you have expected to bring that to you?

23 A Michael Moehn and I can't recall if Michael -- well,
24 corporate planning. Michael may not have headed corporate
25 planning at that time. It may have been Craig Nelson.

1 Q Now, do those sorts of decisions always flow in that
2 direction? I mean, does UE bring you decisions on resource
3 acquisitions or do you sometimes recommend to them resource
4 acquisition decisions?

5 A Well, I have a point of view on things but I would
6 expect recommendations to flow from the UE resource plan.

7 Q In that sense when you talk about the UE resource plan,
8 are you talking about the resource plan that results in and comes
9 out of the CMC integrated resource planning process?

10 A Yeah. The resource developed by our corporate planning
11 department.

12 Q Now, to what extent does the Union Electric Board of
13 Directors get involved in those sorts of resource decisions?

14 A Well, any time there's a decision to build which
15 requires a capital investment that's a decision that would go to
16 the board.

17 Q Does that go to the Union Electric board or the Ameren
18 board?

19 A It would go to the Ameren board.

20 Q And does Union Electric have its own board?

21 A Yes, it does.

22 Q Would it approve those sorts of decisions before
23 they're up to the Ameren board?

24 A I don't think so.

25 Q What sorts of decisions would the UE board deal with?

1 A Decisions that I would call perfunctory kinds of
2 decisions that would be at a level that would not need to go to
3 the Ameren board. Let's say a decision to sell property that had
4 been purchased to build a substation that we no longer needed,
5 that would be approved by the UE board but would not need to go
6 to the Ameren board.

7 Q Now, are you familiar with the Commission's resource
8 planning rules?

9 A In a general sense, yes.

10 Q And in fact, you were probably involved in corporate
11 planning electric at the time those rules were drafted.

12 A Yes, I was.

13 Q Somewhat significantly involved in the draft process as
14 I recall. Is that correct?

15 A I probably was twenty years ago.

16 Q You have in recent years have had occasions to
17 refamiliarize yourself with those rules or does your familiarity
18 go back to what period of time?

19 A I probably have not looked at those rules since 1996 or
20 so, so ten years or so.

21 Q Is it your understanding that the rules requirement
22 minimization of the present work for long run utility cost as the
23 primary criterion in choosing preferred resource plans?

24 A No. What I recall is present value of revenue
25 requirements was the criteria. Minimize present value of revenue

1 requirements.

2 Q Right. Okay. Now, Mr. Dottheim asked you some
3 questions about the utilities and the position of the utilities
4 as EE, Inc. contract was expiring at the end of 2005. Do you
5 recall those questions?

6 A Yes, I do.

7 Q And if you could just tell me again what is your
8 understanding of what Kentucky Utilities or LPG or Eon was
9 discussing possibilities for Kentucky Utilities after the
10 expiration?

11 A It looks like Kentucky Utilities took the position that
12 they wanted to continue purchasing power from EE, Inc. under
13 essentially the old contract, the egg at cost based contract
14 rather than the rate based contract.

15 Q Was Union Electric pursuing the same sort of
16 arrangement?

17 A No, we did not.

18 Q Did Union Electric ever discuss pursuing the same sort
19 of arrangement?

20 A Not that I'm aware of.

21 Q So then that notion never came up at Union Electric.
22 Is that correct?

23 A A decision had been made by EE, Inc. to go to market
24 pricing as the markets changed and I can't recall when that would
25 have occurred, but if you would go back to the energy policy act

1 whenever -- well, the evolution of open markets occurred. That's
2 probably going back to the late 1990's. As the markets changed
3 and we were able to sell power at market prices, you know, that
4 became the choice for the company.

5 Q And what time period was that decision made?

6 A Well, I don't know that I would call it a decision at
7 that point since we still had a contract that ran until 2005, but
8 I can remember thinking about it as far back as the late '90s.

9 Q And at that time you were on the Board of Directors for
10 EE, Inc. Is that correct?

11 A Yes, I would have been.

12 Q And I believe you said that EE, Inc. made the decision
13 to go to market based rates. Is that correct?

14 A Yes, that's correct.

15 Q And would that have been EE, Inc. operators or the EE,
16 Inc. board?

17 A Well, it would have been the EE, Inc. board.

18 Q And given the time frame would you have been involved
19 in making those decisions?

20 A Well, I would have been on the board at that time
21 although a decision wouldn't have been made until some time after
22 I left the board. I would have been on the board when it was
23 discussed and when I say discussed, I don't know to what extent
24 it was discussed at board meetings but I have discussed it with
25 other EE, Inc. board members.

1 Q And in those discussions what was the driving factor
2 that caused or to believe that going market based rates was a
3 better avenue than providing cost based rates to sponsors?

4 A To maximize the return for EE, Inc. shareholders.

5 Q Is KU an EE, Inc. shareholder?

6 A Yes, it is.

7 Q But based on your description of what you understood KU
8 wanted after the expiration of that contract, were there
9 discussions on the board --

10 MR. LOWERY: Lewis, you're cutting out.

11 Q (By Mr. Mills) I'll start over. At the
12 board meetings or outside of board meetings, did any
13 representatives of EE, Inc.'s board talk to you
14 about KU's rationale for taking a different avenue
15 or advocating a different avenue?

16 A Not that I can recall.

17 Q Do you have any knowledge of why KU advocated a
18 different avenue?

19 A I have no knowledge. I could speculate about it but I
20 have no knowledge of it.

21 Q Please go ahead and speculate.

22 MR. LOWERY: I'm just going to object to the
23 extent you're implying he speculate about things
24 whatever is in somebody's else mind.

25 THE WITNESS: Let me just leave it at I don't know

1 why KU made its decisions. You would have to ask KU
2 why it made its decisions. I can explain why we've
3 made our decisions.

4 Q (By Mr. Mills) Go ahead.

5 A I'm sorry?

6 Q You said you can explain why you made your decisions
7 and I ask you to please do so.

8 MR. DOTTHEIM: Lewis, you're cutting in and out.
9 For a while quite a while back you were coming across
10 very clearly but for some time now you just cut in and
11 out.

12 MR. MILLS: Okay. If it doesn't get better maybe
13 we should dial in and try again.

14 MR. DOTTHEIM: I don't know if you're moving
15 closer to the speaker phone or not but you just got a
16 little bit better.

17 Q (By Mr. Mills) Okay. Mr. Rainwater, you
18 offered to give me your reasons why you advocated
19 the avenue you did and I asked you to please do so.

20 A Okay. Then let me be specific about the decision. The
21 decision to sell power from EE, Inc. at market rates because EE,
22 Inc. is a nonrate based below the line asset of Union Electric, I
23 believe it's a fiduciary responsibility for myself and all the
24 officers of our company to maximize the return of those assets.

25 Q And is it your understanding that the KU members of the

1 board have the same fiduciary responsibilities?

2 A Yes, I would believe they do.

3 Q Did you directly talk to any KU board representatives
4 about KU's thinking of this topic?

5 A No, I didn't.

6 Q Do you know if anyone else from Ameren or AmerenUE did?

7 A I don't know but I would assume that they have. I'm
8 sure that it was discussed at EE, Inc. board meetings.

9 Q And when I said KU, I should have included as well LG
10 and E and Eon representatives. Did you talk to people from
11 either of those firms?

12 A No, I have not.

13 Q Now, during the period from 1998 to 2002, did Ameren
14 attempt to create or generate a business line that included all
15 of Ameren Generation which at that time would have been both KU,
16 UE and CIPS?

17 A Yes, we did.

18 Q What was your involvement in those efforts?

19 A I guess you would say I was the architect of that plan
20 and worked in lobbying or discussing it with the Missouri state
21 legislators.

22 Q Can you give me a general outline of the time frame
23 when that effort started, what happened during those years?

24 A I don't recall the precise date but I would think it
25 was around 2002 and the general approach would have been to allow

1 Union Electric to transfer its generating plants into Ameren
2 Energy Generating Company and for Ameren Energy Generating
3 Company to take on the obligation to sell power to Union Electric
4 at cost based rates indefinitely. So it was essentially a plan
5 to pull the generation resources of Ameren in order to operate
6 one generation business rather than two and the premise was that
7 we could operate a single generation business more efficiently,
8 more effectively and at lower cost than operating two separate
9 generation businesses.

10 Q And as part of that, did Union Electric put regulation
11 of retail electric rates in Missouri?

12 MR. LOWERY: Lewis, I'm sorry but I think part of
13 your question broke up again.

14 Q (By Mr. Mills) The question was about
15 deregulation and my question was specifically as
16 part of that process for which you were the
17 architect, was deregulation of the provision of
18 retail electric service in Missouri considered?

19 A Lewis, I don't recall clearly but I think that it was
20 offered for industrial customers but not offered for all
21 customers. So industrial customers would have had open excess
22 provisions like we have in Illinois. Would have been able to go
23 to the plant and buy power and not required to buy power from
24 Union Electric.

25 Q And during that period did Union Electric ever do

1 planning on the assumption that the generation to business line

2 --

3 THE WITNESS: I'm sorry. You're breaking up
4 again, Lewis. I caught part of that. What I heard was
5 did Union Electric do any generation planning based on
6 the assumption that the generation would be transferred
7 to another company. Was that the question?

8 Q (By Mr. Mills) In fact that's even better
9 than the question I asked.

10 MR. LOWERY: Don't help him.

11 THE WITNESS: I don't believe that we did because
12 it was more a concept at that point and actually the
13 possibility of getting it done was always considered
14 fairly remote.

15 Q (By Mr. Mills) Was planning at the Ameren
16 level ever done on the assumption that the Genco
17 would come about?

18 A No, I don't believe it was.

19 Q During that period of time was it ever assumed for
20 planning purposes that both UE and CIPS shared the Joppa plant
21 could be used by Genco after the expiration of the power supply
22 agreement at the end of 2005?

23 A Yeah. If you're referring to the period around 2002,
24 let me just speak for myself. I would have assumed that both the
25 UE and the CIPS portions of the Joppa plant would be used to sell

1 power into the unregulated market after 2005. I don't know if we
2 made an assumption at that time whether or not UE would buy power
3 at the market rates or not or if and going again back to 2002, a
4 decision had not been made at that time as far as EE, Inc.
5 deciding how to sell power, who to sell it to.

6 Q Just speaking of the metro east transfer, can I sort of
7 use that as a shorthand reference to the issues that were
8 involved in Commission case EO 20040108 and you'll know what I'm
9 talking about?

10 A The metro east expansion I'm familiar with and the case
11 number I am not but go ahead.

12 Q In your role at AmerenUE and at Ameren, would you have
13 been involved in making decisions such as the decision to
14 complete the metro east transfer?

15 A Yes, I would have.

16 Q And was that a sort of decision that would have gone to
17 the Ameren Board of Directors for approval?

18 A No, I don't recall if we asked for approval or just
19 briefed the board on the transaction but certainly it would have
20 been discussed at the board level.

21 Q How about at the UE board level?

22 A No, it would not have been discussed there. The UE
23 board is just an internal board that we use for what I would call
24 perfunctory issues that need a formal approval but really don't
25 rise to the level of going outside our directors for approval.

1 Q In terms of the metro east transfer, can you describe
2 for me the decision making process that led to the decision to
3 transfer the metro east assets?

4 A Well, I can describe my thinking on the issue and my
5 thinking is really related to the changes in the regulatory
6 framework or frameworks between the states in Missouri today
7 remain as vertically integrated, fully regulated state while
8 Illinois an open excess state and I felt that Union Electric
9 should be in a company in only one of those states in order to
10 prevent or well simplify the business I guess is the best word
11 because trying to do business as a single company in both a
12 regulated market and an unregulated market would create
13 conflicts.

14 So transferring that unregulated business to or that
15 open excess business to an Illinois company that was already in
16 the open excess market simply made a lot more sense to be a part
17 of Union Electric and then the other part of the decision was the
18 decision of what to do with the regulated generating capacity
19 that had been rate based in Illinois and there were a couple of
20 alternatives.

21 One would have been to transfer that to an unregulated
22 company. The other would have been to reallocate it or bring it
23 back into Missouri and we chose to bring it back into Missouri
24 because it was UE generating capacity and we preferred to
25 dedicate it to our Missouri regulated customers as a way to

1 reduce costs.

2 Q Okay. Now in terms of acquisition of capacity and I'm
3 speaking of not huge acquisitions of capacities as we kind of
4 covered that but thinking in chunks of couple hundred megawatts
5 or larger, can you describe for me the process that you go
6 through to evaluate whether or not to make such an acquisition?

7 A Well, I would be briefed by our corporate planning
8 department on the resource plan with their views of what are the
9 best options and the lowest cost options and we would discuss
10 that amongst the officers of our company. We would make a
11 decision and we would take that decision to the board of
12 directors to get final approval.

13 Q Okay. So as part of that process, do you generally
14 rely on due diligence performed by corporate planning on each
15 acquisition?

16 A Well, that is where the analysis would be done and that
17 is the analysis we would rely on.

18 Q Is the corporate planning organization that does that
19 analysis as part of Ameren Services Corporation?

20 A I think you said, Lewis, is that part of Ameren
21 Services Corporation. Yes, corporate planning is part of Ameren
22 Services Company.

23 Q Is the sound quality okay or do we need to dial in
24 again?

25 A It's okay now. Every now and then I think you're

1 moving away from the mike and it fades out.

2 Q Whenever you tell me the sound is good, that's when I'm
3 about two inches away from the mike. So I'm leaning way over
4 now.

5 MR. DOTTHEIM: Yeah. I don't think, Lewis,
6 dialing back in is going to improve it.

7 Q (By Mr. Mills) Okay. If I were to ask you
8 the same questions about other major transactions as
9 I just asked you about acquisition of generating
10 assets, would your answers be generally the same?

11 A That's generally the process that we follow.

12 Q So are there any significant differences between the
13 process that you would use to analyze major transactions as
14 opposed to acquisitions of generating assets?

15 A By major transactions and acquisitions of generating
16 assets, I'm not sure what you mean by major transaction and by
17 acquisition of generating assets, do you mean building new plants
18 or do you mean buying plants in the market as we have recently?

19 Q By acquisition I mean both of those. By major
20 transactions I mean such as the metro east transaction,
21 terminating the ADA and things such as that.

22 A Well, in all those major transactions discussions would
23 have taken place between me and my senior team or subsets of the
24 senior team. We would have made decisions and those decisions to
25 the extent we needed board approval, we would have taken to the

1 board for approval.

2 Q I'm not sure. Is there a specific sort of bright line
3 cut up of the type of thing that goes to the Ameren board for
4 approval and those things that don't need to go to the board for
5 approval?

6 A Lewis, there probably is a bright line and I can't tell
7 you exactly what it is in terms of a capital investment above
8 some number but I don't know what the number is.

9 Q But you do think there is a specific task?

10 A I'm not sure that there's a bright line. It's
11 something that one may exist but it's more a case of if anything
12 I would error on the side of being conservative and take any
13 decision I felt needed discussion at the board to the board.
14 Steve Sullivan or someone may be able to tell you if there's a
15 bright line. I'm not aware of what it is.

16 Q Okay. Now, with regard to the term specific since the
17 last step I want to ask you a few questions about those that sort
18 of bore in more specifically about the generality we were just
19 talking about. Can you tell me what is the nature of the
20 analysis that you relied upon to make the decision about
21 constructing Pinckneyville and Kinmundy generating facilities?

22 A Pinckneyville and Kinmundy were -- I'm trying to recall
23 now exactly which plant is which. We built so many but
24 Pinckneyville and Kinmundy were originally built as original
25 generating plants. That is correct. You probably reviewed that

1 more recent than I have.

2 Q Yes, they were and then recently transferred to UE.

3 A The analysis we relied on to make those decisions would
4 have been an analysis of the market and our cost to build those
5 plants and whether or not we felt we could make money selling
6 power in the market.

7 Q And who would have been involved in presenting that
8 sort of analysis to you?

9 A You know, I can't recall who actually did the analysis
10 at that time. It was probably done in corporate planning but I
11 don't remember.

12 Q Similarly, what was the specific analysis that you went
13 through in terms of making the decisions to construct the Pino
14 Creek generating facilities also sometimes called the Pike County
15 generating facilities?

16 A Okay. Pino Creek is one that was built as a regulated
17 plant.

18 Q That's correct.

19 A Well, then the analysis would have been done by
20 corporate planning.

21 Q And do you recall any specifics of that analysis that
22 was presented to you?

23 A No, I don't.

24 Q But that would have been a decision that would have
25 been presented to you and that would have been presented to the

1 board. Is that correct?

2 A I don't recall the analysis or presenting it to the
3 board but I would assume that we did.

4 Q A similar question in terms of acquiring the 1400
5 megawatts of CTs from the Aquila.

6 MR. LOWERY: Lewis, you're fading out.

7 Q (By Mr. Mills) The question had to do with
8 acquiring the generating capacity from Aquila to NRC
9 recently.

10 A That one is more recent so I can recall that better and
11 that was an analysis that was done by corporate planning and
12 presented by Mike Moehn.

13 Q Would those decisions in turn have been brought to the
14 Ameren board?

15 A Yes, they were brought to the board and approved by the
16 board.

17 Q Were all of those generating facilities approved sort
18 of as a package or were they analyzed by the board individually?

19 A No. They were approved as a package I think. You
20 know, I really don't recall if we probably did present the
21 analysis of each plant individually and ask the board for
22 approval to purchase both of the plants. If the purchase was
23 negotiated we got approval to actually purchasing the plants, but
24 the approval we got from the board was to purchase either or
25 both.

1 MR. MILLS: I think maybe in terms of the sound
2 quality if I could ask the folks that are on the calls
3 that are not actively participating and they're not
4 talking I think that may help. We're getting a lot of
5 paper shuffling going on in the background and I think
6 that's causing part of the problem. Thank you.

7 Q (By Mr. Mills) Let me ask you a similar
8 question about acquiring and installing emission
9 control equipment owned directly and indirectly by
10 the Ameren Corporation. Does that follow the same
11 decision making path we just talked about?

12 A In general it would, Lewis, in that and you're asking
13 me questions that I can't fully answer but I will give you a
14 general response. Is that corporate planning is kind of a focal
15 point of those kind of analyses but when you get into plant
16 specific analysis of emission controls, that would be done at
17 some level actually by the generating plant or by our
18 environmental group and then the analysis would go to corporate
19 planning to kind of put it all together.

20 Q Okay. And then in terms of the 2005 upgrade at the
21 Callaway plant, can you give me the decision making process on
22 that?

23 A I don't know if corporate -- I don't remember if that
24 was done by nuclear or if it was done by -- corporate planning
25 was involved at all. It may have been done by nuclear. The

1 decision though to replace the steam generators is a decision
2 that went to the board because of the size of the capital
3 investment.

4 Q The same process that the steam generators were --

5 A I'm sorry. We could not hear that.

6 Q Were the turbines at Callaway replaced at the same time
7 that the steam generators were replaced?

8 A Yes, they were.

9 Q Is it your recollection that that decision followed a
10 somewhat different path than the ones we've been talking about
11 that that may have come to you from the nuclear side of the
12 business without going through corporate planning?

13 A I think that that's the case but I'm not certain of
14 that and corporate planning may have been involved in that as
15 well.

16 Q And if I've got some specific questions about those
17 specific operating, are you familiar with the details of those?

18 A No. I'm familiar in general with those upgrades.

19 Q Let me start to ask and if you don't know, tell me you
20 don't know but when we spoke to Mr. Davis a couple of days ago,
21 he suggested that the reason the turbines were upgraded and
22 replaced was because that allowed the plant to put out additional
23 49 megawatts. Is that your understanding as well?

24 A Well, that's not my complete understanding. That's
25 part of the story but it also allowed the plant to operate

1 safely. There was some concern with stress corrosion cracks in
2 the turbines and they might not be able to operate safely. So an
3 efficiency -- it's a combination in my view of those factors.

4 Q Does any consideration of life extension figure into
5 that analysis?

6 A No. It was a question of operating I put both the
7 turbine blade replacements and steam generators in the same
8 category. It was a question of being able to operate the plant
9 safely for the remaining life of the plant. The remaining
10 license of the plant over the next 20 years.

11 Q Was their analysis presented to you that showed the
12 sort of cost benefit analysis of those replacements?

13 A I think that there was although I don't remember the
14 specifics of that.

15 Q Do you remember a period of time that analysis would
16 have been shown?

17 A In general that would have been four or five years ago.

18 Q Okay. But my question was over what period of time
19 would the analysis run. Would it have indemnified the plan
20 simply up to the initial license or beyond?

21 A I don't know.

22 Q If anybody, particularly Mr. Rainwater, if you need a
23 break let me know. Unless I hear something from someone I'll
24 just keep going.

25 A Okay. Let's continue.

1 Q The questions I've been asking you generally have been
2 with respect to your analysis and your role as president of
3 Ameren. If I were to ask you the same questions with respect to
4 your role as president or CEO of AmerenUE or Union Electric,
5 would your answers be the same or would they be different?

6 A Well, we've covered a lot of ground. I don't know.

7 Q Well, for example with respect to constructing the Pino
8 Creek generating facilities.

9 A Okay. In Pino you have to remind me again. I need to
10 look at all of the maps but Pino Creek is one that we built for
11 Union Electric as a rate based plant.

12 Q That's correct.

13 A And the process of making those decisions in UE and in
14 the generating company would have been two different processes.
15 I'm sorry. Will you restate your question now? Let me think
16 about that.

17 Q Okay. I have a few questions about what was the nature
18 of the analysis that you relied on Ameren to make the decision
19 about going ahead. Now my question is what is the decision
20 making process that you went through as president and CEO of
21 AmerenUE with respect to that particular plant.

22 A Okay. We missed part of that. Would you just restate
23 that?

24 Q You've already answered the question about what your
25 role, your analysis in the decision making about the increase was

1 with respect to your role as president of Ameren and now my
2 question is was there a different role, a different analysis of a
3 different decision making process for you as president of
4 AmerenUE or Union Electric with respect to Pino Creek.

5 A No, there wasn't.

6 Q And with respect to the acquisition from equipment and
7 NRC would they have different roles?

8 A No, they would not have been different.

9 Q Would you have received any different analysis or
10 different information as president of UE as opposed to the
11 information and analyses received as president of Ameren?

12 A No, I would not have seen anything any different.

13 Q And in terms of emission control equipment prior to
14 installing that, would your role be different than of UE as
15 opposed to your role as president of Ameren?

16 A No, it would not.

17 Q And the same question with respect to the 2005 upgrade
18 at Callaway.

19 A No, there would be no difference.

20 Q Similar questions. There was a couple of the items
21 that I identified as major transactions, for example the metro
22 east transaction. Would you have approached that differently as
23 the president of AmerenUE as opposed to the way you approached it
24 as president of Ameren?

25 A Well, somewhat because that involves more than one of

1 our subsidiary companies. So I would look at it from the point
2 of view of UE and from the point of view of CIPS and try to find
3 a way to make sense for both of those companies.

4 Q So in a situation like that, I'm specifically asking
5 about the metro east transfer. Would you have gotten a set of
6 analyses and decision making points from people at AmerenUE any
7 different?

8 A No, I would not. We would not have had any different
9 analysis and when you say analysis of that, it's more than
10 spreadsheet. It's a judgment of how the regulatory frameworks
11 have changed and how we should respond to that.

12 Q So in that instance did you receive information from
13 both CIPS and from UE?

14 A I can't recall that if there was any information that I
15 accepted. We probably did an analysis but I don't recall what it
16 was or if we looked at anything any differently for UE or for
17 CIPS. I would not think that we would have. Most of the
18 discussion though would have been fairly simple and
19 straightforward.

20 The fact that it makes more sense for UE to be a
21 Missouri only company when we have other subsidiaries that are
22 Illinois only companies and for UE to try to do business in two
23 frameworks. The analysis, Lewis, was about that simple that it
24 just made a lot more sense to simplify UE's business and focus on
25 Missouri only.

1 Q So was there any sort of a quantitative cost benefit
2 analysis for Union electric?

3 A There would have been some analysis as far as the Union
4 Electric resource plan and the impact on dedicating roughly 600
5 megawatts that had been allocated to Illinois to Missouri and the
6 impact that there would not have been a similar analysis in
7 Illinois because the business had changed and there was no
8 generating capacity dedicated to the Illinois business any
9 longer.

10 Q And I assume that if there was any analysis that showed
11 a negative cost benefit impact on Union Electric that the
12 transaction wouldn't have gone forward.

13 A If it had a negative impact on UE, I don't believe we
14 would have done it but there certainly wasn't a negative impact
15 on UE. It's a positive impact on UE by bringing back low cost
16 generation which had been rate based in Illinois and rate basing
17 it in Missouri it had a very favorable impact on UE.

18 Q Was it favorable in the sense that that generation was
19 cheaper than anything else that could have been found at the
20 time?

21 A Lewis, I don't know if that kind of analysis was done
22 or not. If it had been I'm pretty confident it would have been
23 cheaper than anything else at the time because it is very low
24 cost generation. It's the primary reason why Union Electric
25 rates are among the lowest in the United States.

1 Q So do you believe an after analysis should have been
2 done?

3 A Well, I don't know if it was done or not. I assume
4 that the Commission would have required some analysis and that's
5 an analysis I don't know if I saw it or not but can't answer it.

6 Q So I'm sorry. I think you said I can't answer that. I
7 think my question is do you think it should have been done.

8 A I don't know if it would be required or not as part of
9 the resource planning process.

10 Q Okay. Is that from your perspective as the CEO of
11 Ameren, do you think that that is the sort of thing that should
12 have been looked at?

13 A I don't know how far you would want us to go. Should
14 we have done a request for proposals and looked at alternatives
15 and compared those before doing that, I guess I would put it that
16 way. It was so clear-cut that I personally didn't believe that
17 any analysis was necessary.

18 Q If I were to ask you the same question about your role
19 of president of UE, would your answer be the same?

20 A Yes.

21 Q In terms of terminating the joint dispatch agreement
22 I'll call the JDA, what was the nature of the analysis that you
23 relied on as president and CEO of Ameren to make that decision?

24 A It was primarily just an analysis of how things had
25 changed since the JDA was developed. So I would say it was more

1 subjective than analytical and frankly I don't recall looking at
2 any kind of analytical analysis, but when the JDA was developed
3 both UE and CIPS were essentially regulated businesses and the
4 presumption was that a joint dispatch agreement would minimize
5 the cost for both and since then the maysomart (sic) had
6 developed which minimized the cost of dispatch for companies on a
7 broader basis than the JDA and the JDA was no longer necessary.

8 Q Okay. And again, would that be the same analysis that
9 you would have taken as president of Union Electric?

10 A Yes.

11 Q I'm going to kind of switch gears on you a little bit.
12 One of the things that you mentioned in response to some
13 questions to Mr. Dottheim was the recent management
14 reorganization that took effect at the beginning of this month.
15 Can you explain to me first of all just what happened? What was
16 the changes that were made?

17 A Tom Voss was appointed president and CEO of UE. Voss
18 was president or CEO of our Illinois delivery businesses which
19 include IP, CIPS and CILCO. Alan Kelly president and CEO of
20 Ameren Energy Resource. Warner Baxter president and CEO of
21 Ameren Services and the reason for the changes is simply I would
22 term it improved focus where Tom in the past had been spread
23 across both the Missouri and Illinois businesses, his
24 responsibility now is Missouri only. Alan had managed both
25 regulated and unregulated generation. His responsibility is

1 unregulated only. We had Illinois CIPS no one really in charge
2 other than me as president of Ameren of all of the services and
3 Warner now directly manages all of that.

4 Q And so this recent reorganization you were directly in
5 charge of both Union Electric and Ameren Services and now there
6 are people in charge of both of those and they report to you. Is
7 that part of the change?

8 A That's correct.

9 Q I believe another either resulting or concurrent change
10 that you identified was the elimination of the senior team or at
11 least the elimination of that term. Is that correct?

12 A Yes, that's correct although the term just applied to
13 me and my direct reports and, you know, we just changed the name
14 of it is the only real substantive change.

15 Q Okay. So in essence the new executive leadership team
16 will have the same sort of makeup and the same sort of role as
17 the senior team that you used to have?

18 A It's me and my direct reports and the role is more
19 informal in that if you assume a team operating for example like
20 a board of directors where we discuss things and take votes, it
21 doesn't work that way. It's just me and my staff getting
22 together to discuss things and ultimately I make decisions on
23 things.

24 Q When you say more informal, are you comparing both the
25 senior team and the executive leadership team to something like a

1 board of directors or you are you comparing them to the old
2 senior team?

3 A I was comparing it to something like a formal board of
4 directors.

5 Q So you weren't saying that the executive leadership
6 team is more informal than the senior team.

7 A No. The approach has not changed at all.

8 Q Now, I believe in response to one of the questions by
9 Mr. Dottheim you said that you became CEO. You stepped off the
10 board and I believe you were referring to the board of JDA and
11 were reappointed to something else. Do you recall answering
12 questions in that fashion?

13 A Yes, I do.

14 Q Who was appointed?

15 A I don't remember. It's one of the current members.
16 Tom Voss, Dave Whiteley. Either Tom or Dave would most likely
17 have appointed them.

18 Q And when you say we appointed someone else, who is the
19 we you're referring to?

20 A Well, I guess it's my decision as the CEO of Ameren to
21 nominate someone to the EE, Inc. board and then the board would
22 accept the nomination. Of course we control the board.

23 Q Now, in your new role as president and CEO of Union
24 Electric, will Tom Voss make the nomination of representatives
25 for UE on the EE, Inc. board?

1 A That's fine with me. That's not something I've thought
2 about but it's a good suggestion. Thank you.

3 Q I hate to jump around on you like this but I neglected
4 to ask you a question about when I was referring to major
5 transactions. Referring to now as dividing the combined CIPS and
6 UE control areas into separate control areas, what sort of
7 analysis and presented by whom did you review in making that
8 decision in your role as president of Ameren?

9 A I don't recall reviewing any analysis of that. I do
10 recall discussing that. I'm sure that there was analysis that
11 was done.

12 Q Would your approach to that decision have been any
13 different than your role as president of UE?

14 A No, it would not.

15 Q And would you have approached that decision from the
16 perspective of your role as president of CIPS?

17 A Any different than I would approach it from my role as
18 president of Ameren, no.

19 Q If I understand your last answer, is it correct that
20 you made that decision without doing any quantitative analysis?

21 MR. LOWERY: Object to the form of the question.
22 That's not the testimony he gave.

23 THE WITNESS: Yeah. That's not correct and I
24 don't recall what analysis was presented. I think that
25 analysis was presented but I don't remember what it was

1 or who presented it.

2 Q (By Mr. Mills) And that's fine. That's
3 what I was asking was whether it was presented.
4 Now, in discussions in Mr. Naslund's deposition two
5 days ago I had some questions for him about current
6 studies under way at the Callaway site evaluating
7 the potential for adding another generating station.
8 Are you familiar with those studies?

9 A Yes, I am.

10 Q And is it correct that those studies are being directed
11 by and paid for by Ameren rather than by Union Electric?

12 A I think that that's the case, Lewis, although I'm not
13 certain.

14 Q Can you explain to me why that is?

15 A [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 Q [REDACTED]

23 A [REDACTED]

24 [REDACTED]

25 Q [REDACTED]

1 [REDACTED]

2 A [REDACTED]

3 Q [REDACTED]

4 A [REDACTED]

5 Q [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A [REDACTED]

9 Q [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 A [REDACTED]

13 Q [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A [REDACTED]

19 Q [REDACTED]

20 [REDACTED]

21 A [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q [REDACTED]

25 [REDACTED]

1 A No, I don't.

2 Q Do you have an estimate of the costs to pursue those
3 studies and the additional information necessary to file the
4 licensing application for the NRC by the end of 2008?

5 A I don't have an exact number for you but I have an
6 order of magnitude and Chuck Naslund can give you a precise
7 number if you wanted it, but it's in the order of \$60 million.

8 Q And that's between now and filed by the end of 2008?

9 A About half of that would be between now and 2008 and
10 half of that would be to actually get the construction and
11 operating license which would take about another two years.

12 Q Now, in terms of Union Electric's resource planning,
13 does Union Electric do any resource planning that extends out
14 beyond 2024?

15 A I don't know how far it goes.

16 Q Do you know if Union Electric has done any modeling
17 that doesn't include Callaway one beyond 2024?

18 A I don't know.

19 Q Do you know if Union Electric has done any modeling
20 that includes a second unit at Callaway?

21 A No, I don't know but I would assume that it has been
22 done.

23 Q Do you know -- well, strike that. Just sort of best
24 scenario if things went swimmingly with respect to licensing and
25 constructing a second Callaway unit, when would you expect that

1 to be on line?

2 A In about 2018.

3 Q So 2018 would be essentially best case scenario?

4 A 2018 would be a most likely scenario with the
5 possibility of 2017 as a best case.

6 Q [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A [REDACTED]

10 [REDACTED]

11 Q Okay. I believe and if I mischaracterized your
12 testimony please correct me, but I believe in response to a
13 question by Mr. Dottheim you said that and I'm jumping around on
14 you again. I'm going back to EE, Inc. that in the years leading
15 up the expiration of the power plant at the end of 2005, I
16 believe you said that you were not aware of any discussions about
17 Union Electric continuing to receive cost based power after the
18 expiration of that contract. Is that correct?

19 A No, I'm not aware of any discussions.

20 Q Are you aware of any discussions about CIPS continuing
21 to receive cost based power after the expiration of that contract
22 at the end of 2005?

23 A No, I'm not.

24 Q And how about the same question with respect to ADM,
25 was there any discussion about ADM receiving power cost based

1 rates after the end of 2005?

2 A I don't know.

3 Q And I think in response to one of the questions by
4 Mr. Dottheim you said that it was your understanding that one of
5 the proposals that Kentucky Utilities was talking about was
6 essentially I believe the term you used was rate basing in share
7 of the Joppa plant. Do you recall that?

8 A Yes, I do and I'm not certain if that was proposed but
9 I vaguely recall something that made me think of that.

10 Q Did you ever discuss doing something similar with Union
11 Electric's share?

12 A I can recall doing something discussing, that about 20
13 years ago.

14 Q What was the nature of those discussions?

15 A Someone suggested that that might be a good option.

16 Q Twenty years ago what would your role have been at
17 Union Electric?

18 A I think at that time it would have been an engineer and
19 I would have been listening to the discussion. Probably not much
20 a part of it.

21 Q And do you recall that ever having come up since then?

22 A No, I don't.

23 Q Was that option ever discussed for CIPS?

24 A Not to my knowledge.

25 Q The period of time leading up to the expiration of the

1 power at the end of 2005, did Union Electric ever affirmatively
2 propose any alternatives to the EE, Inc. board?

3 A Any alternatives in terms of what?

4 Q In terms of the fact that the power supply agreement
5 was ending very near the end of 2005 there was nothing to take
6 its place.

7 A Well, no. Well, not that I can recall. If you mean
8 alternatives to selling power at a market rate, I'm not sure what
9 you mean by alternatives in terms of alternative purchasers or
10 alternative concepts.

11 Q Well, I was really talking about alternative concepts
12 but let me go back a bit. Did Union Electric -- was Union
13 Electric the entity that proposed selling the output of the Joppa
14 plant at market based rates?

15 A Well EE, Inc. proposed selling the Joppa capacity at
16 market based rates.

17 Q Okay. Who at EE, Inc. made that proposal first?

18 A It would have been made by the Board of Directors of
19 EE, Inc.

20 Q Would it have been specifically made by a Union
21 Electric representative on the board?

22 A It might have been.

23 Q Might it have been made by a KU representative?

24 A Not likely.

25 Q Could it have been made by an Ameren representative?

1 A By Ameren you mean one of the directors from Ameren
2 Energy Resources yes, it might have been.

3 Q And that is what I meant. Thank you. You don't really
4 recall who first proposed it. Is that correct?

5 A No, I really don't recall when it first came up because
6 it's kind of a concept that has evolved as the markets have
7 evolved and at some point it became clear that this wasn't the
8 direction that we should go and, you know, that's just something
9 that has sort of crystalized over time with a decision being made
10 at the end of the current contract.

11 Q And during the time that that direction was
12 crystalized, do you recall anyone from Union Electric ever
13 advocating for a different direction?

14 A No, I don't.

15 Q You on behalf of Union Electric never advocated such a
16 different direction. Is that correct?

17 A No, and I wouldn't have seen it that way because it
18 would have been my role on the EE, Inc. board in terms of my
19 fiduciary responsibility to Union Electric shareholders the same
20 as I would see the role of on EE, Inc. officer and it's to
21 maximize the profit of that below the line asset and I would make
22 a decision how we use above the line and below the line assets in
23 that above the line assets with rate based and the way that we
24 make money on rate based assets is at least in concept to use
25 those for the benefit of the customers to achieve the lowest

1 prices that we can for our customers. That's why when we
2 transferred the Illinois service territory to CIPS, we rate based
3 the assets that were already rate based. We just moved them from
4 the CIPS rate base to the Union Electric rate base but EE, Inc.
5 had never been a rate based asset.

6 It was originally organized as a separate subsidiary
7 below the line nonrate based, so it's fundamentally different
8 than Union Electric assets and my interpretation as explained to
9 me by attorneys of my fiduciary responsibility is to maximize the
10 earnings of EE, Inc. and thereby to maximize the earnings of UE
11 and Ameren. So I wouldn't view those decisions any differently.

12 Q I believe you had discussions about what to do after
13 the 2005 contract expired were extended for some years before the
14 expiration. Did anyone from Union Electric on the EE, Inc. board
15 ever suggest that Union Electric had the responsibility to its
16 customers to serve them at the lowest cost possible consistent
17 with the provision statement adequate service with reasonable
18 rates?

19 A I think everyone at Union Electric would agree that we
20 need to use our rate based assets to serve our customers at the
21 lowest cost possible and that future resources should be acquired
22 in a way that minimizes cost and keeps rates to a minimum and I
23 would point out that we've done a pretty good job just judging by
24 the low rates that we have, but I would not extend that logic to
25 be a below the line assets owned by shareholders and never used

1 in a way that would put UE customers at risk for the cost of
2 those assets.

3 Q And the analysis of what to do with some of the above
4 the line assets, the cost of repairs really doesn't even figure
5 into the equation. Is that a correct summary of what you said?

6 A Well, you're paraphrasing but a below the line asset is
7 not an asset that we feel obligated to use for the benefit of
8 customers. It's an asset that I feel obligated because of my
9 fiduciary responsibility to use solely for the benefit of
10 shareholders because shareholders have taken the entire risk of
11 developing and operating those assets over a long period of time,
12 not customers.

13 Q Now, with respect to you had some questions from
14 Mr. Dottheim about this. With respect to the team that was
15 proposed in 2005 to study options for after the expiration of the
16 power supply agreement at the end of 2005, I believe you
17 testified that you did not know whether a team was formed. Is
18 that correct?

19 A I may have said that although I think I read in one of
20 the documents that Bob Powers recommended a team so I assume that
21 a team was formed.

22 Q So you don't know for sure one way or the other whether
23 it was or was not?

24 A No, I don't.

25 Q Can you tell me how it came about that EE, Inc. applied

1 to the FERC for exempt wholesale generator status?

2 A Can you tell me when that would have been, Lewis?

3 Q Approximately 2000.

4 A Well, I should know the answer to that but I don't
5 remember. I suppose I was involved in the decision.

6 Q Mr. Dottheim also asked you a couple of questions about
7 the senior team and one of the questions was does the senior team
8 meetings, were there ever minutes produced of those meetings.
9 Was he asking that question?

10 A Yes, he did and there are no minutes.

11 Q And I think he also asked you whether there were ever
12 notes produced.

13 A There are no notes produced.

14 Q Have the members of the senior team been instructed not
15 to take notes?

16 A No.

17 Q And I believe you testified that the senior team at
18 least at one point met weekly.

19 A We try to meet weekly although schedules sometimes
20 don't allow that.

21 Q Do the same topics ever come up from week to week?

22 A Yes.

23 Q Would it not be more efficient to have notes of
24 previous discussions of the same topics available?

25 A Well, some people may keep notes. I don't know about