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6 TRANSCRIPT OF PROCEEDINGS

7 Hearing

8 March 16, 2007
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12 In the Matter of Union Electric)
Company d/b/a AmerenUE for)
13 Authority to File Tariffs)
Increasing Rates for Electric) Case No. ER-2007-0002
14 Service Provided to Customers in)
the Company's Missouri Service)
15 Area)

16 MORRIS L. WOODRUFF, Presiding,
SENIOR REGULATORY LAW JUDGE.

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18 JEFF DAVIS, Chairman,
CONNIE MURRAY,
19 STEVE GAW,
ROBERT M. CLAYTON,
20 LINWARD "LIN" APPLING,
COMMISSIONERS.

21

22 REPORTED BY:

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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good morning once again.

3 It seems like we were just here, but here we are again.

4 When we left off last night, we had -- we were about to
5 call Mr. Proctor to the stand. He's here now, and this is
6 the first time you've been up or were you up earlier?

7 THE WITNESS: I was up earlier.

8 JUDGE WOODRUFF: So you were sworn earlier?

9 THE WITNESS: I was sworn earlier.

10 JUDGE WOODRUFF: You're still under oath.

11 THE WITNESS: Yes.

12 MR. IVESON: Excuse me, Judge Woodruff.

13 Just administratively, we were on for the issues that were
14 scheduled for today, and I have my witnesses here. After
15 speaking with Mr. Lowery, would it be fair to assume that
16 I can ask them to come back for the afternoon session?

17 JUDGE WOODRUFF: Yes. That will be fine.

18 MR. IVESON: Okay. Thank you.

19 JUDGE WOODRUFF: Thank you. We kind of
20 made decisions last night in your absence, but such is the
21 way it was.

22 MR. FREY: Judge, I believe Dr. Proctor has
23 at least one more correction to his testimony.

24 JUDGE WOODRUFF: Go ahead and deal with it.

25 MICHAEL PROCTOR testified as follows:

1 THE WITNESS: On page 31, at line 15 --

2 DIRECT EXAMINATION BY MR. FREY:

3 Q. Which testimony?

4 A. And this is in surrebuttal testimony. It's
5 Exhibit 229, both HC and NP. Line 15 reads, that same
6 data resulted in just under a 6.3 reduction, and it should
7 read, that same data resulted in a 5.9 percent reduction.
8 So strike out just under 6.3 percent and put in
9 5.9 percent. That's it.

10 Q. And I believe this is your last time on the
11 stand, is it not?

12 A. Yes.

13 MR. FREY: Then I can offer Dr. Proctor's
14 direct, rebuttal and surrebuttal. I believe that's
15 Exhibits 227, 228 and 229 respectively, both HC and NP.

16 JUDGE WOODRUFF: Exhibits 227, 228 and 229
17 have been offered into evidence. Are there any objections
18 to their receipt?

19 MR. LOWERY: No objection.

20 JUDGE WOODRUFF: Hearing none, they will be
21 received into evidence.

22 (EXHIBIT NOS. 227, 228 AND 229 WERE
23 RECEIVED INTO EVIDENCE.)

24 JUDGE WOODRUFF: And I assume we're ready
25 for cross-examination, Public Counsel?

1 MR. MILLS: No questions.

2 JUDGE WOODRUFF: For the State?

3 MR. MICHEEL: No questions for Dr. Proctor
4 on this issue.

5 JUDGE WOODRUFF: DNR?

6 MR. IVESON: No questions.

7 JUDGE WOODRUFF: MIEC? Not here. MEG,
8 Commercial Group, Noranda, AARP, Retailers, Mo-Kan, MASW,
9 Laclede, Aquila, Joint Bargaining and Ameren?

10 MR. LOWERY: Yes, your Honor, we have some
11 questions.

12 JUDGE WOODRUFF: I thought you might.

13 CROSS-EXAMINATION BY MR. LOWERY:

14 Q. Dr. Proctor, how are you?

15 A. Good morning.

16 Q. You finally got here?

17 A. Yes.

18 Q. Dr. Proctor, Staff models fuel and
19 purchased power costs, or what I think we sometimes refer
20 to as variable production costs, which include off-system
21 sales, correct?

22 A. That's correct.

23 Q. And Mr. Rahrer did so for Staff in this
24 case?

25 A. That's correct.

1 Q. And the company also models fuel and
2 purchased power costs and off-system sales, correct?

3 A. Correct.

4 Q. And no other party in this case, to your
5 knowledge, has modeled, run a production cost model to
6 model those variables, correct?

7 A. I believe that's correct, yes.

8 Q. And earlier in the case, the result of
9 Staff's modeled and the company's model did not totally
10 agree, but the company and the Staff have resolved
11 essentially all of their differences, and the model
12 results now agree, with one exception, and that is the
13 input of energy prices the company and the Staff don't
14 agree on, correct?

15 A. Input of fuel price for natural gas and the
16 inputs of off-system -- I'm sorry -- spot market prices
17 for electricity, yes.

18 Q. Those are the only two, to your knowledge,
19 points of disagreement between the modeling between the
20 company and the Staff at this point; is that correct?

21 A. That's my understanding, yes.

22 Q. And the company and the Staff have
23 essentially agreed on what normalized load should be and
24 what off-system sales volumes should be for purposes of
25 this case, correct?

1 A. They agree on load. And what was the other
2 one?

3 Q. What volumes of off-system sales.

4 A. I don't know about that one, because if you
5 change the prices, the volumes will change.

6 Q. You don't know one way or the other how
7 close the volumes between Staff's model results and the
8 company's modeling results are?

9 A. I'm not sure what the company's volumes are
10 right now.

11 Q. Does -- Staff's volumes are I think
12 9.75 million megawatt hours?

13 A. I believe that's correct, yes.

14 Q. And you're not aware that the company's
15 volumes are somewhere in the neighborhood of 9.5,
16 9.6 million megawatt hours?

17 A. I was not aware of that.

18 Q. If the company's volumes are at that level,
19 would you agree that that essentially reflects agreement
20 on the volumes? Obviously it may be 100,000 megawatt
21 hours off, but that's pretty close in a modeling exercise,
22 is it not?

23 A. Those sound very close, yes.

24 Q. Now, we normalize loads because loads vary
25 from year to year for various reasons, correct?

1 A. Correct. Primarily weather.

2 Q. Primarily weather. How the economy is
3 doing could affect that, correct?

4 A. Yes.

5 Q. Whether we have a major industrial customer
6 come on or come off the system could affect loads?

7 A. That could affect it as well, yes.

8 Q. And we normalize off-system sales volumes
9 because those volumes can vary from year to year as well,
10 correct?

11 A. This is the first case in which the Staff
12 has normalized off-system sales volumes, and in the past
13 the Staff had used historical test year sales volumes for
14 off-system sales. In this particular case, there were too
15 many changes from the historical test year, and a major
16 change was the -- during the test year the joint dispatch
17 agreement was in place.

18 On a going-forward basis the joint dispatch
19 agreement is not going to be in place, and that was a
20 primary reason for moving away from a historical test year
21 level for off-system sales. So we -- this is the only
22 case that I know the Staff has done that in.

23 Q. But off-system sales volumes can vary from
24 year to year, correct?

25 A. Absolutely.

1 Q. And, for example, if loads go up, the
2 volumes available for off-system sales may very well go
3 down?

4 A. Everything else held the same, that's true.

5 Q. Right. And plant availability can affect
6 off-system sales volumes, correct?

7 A. Absolutely.

8 Q. And plant availability can vary from year
9 to year?

10 A. It can, yes.

11 Q. For example, you have more planned outages
12 or longer planned outages, that's going to affect plant
13 availability and volumes, correct?

14 A. That will affect the level of off-system
15 sales.

16 Q. The point is that there are a lot of
17 variables that can affect off-system sales margins, and
18 you even mentioned one, for example, in this case, and
19 that's why we sometimes have to model those results,
20 correct?

21 A. Yes.

22 Q. And you would agree, and I think you've
23 agreed to this before, that off-system -- with respect to
24 off-system sales margins, you don't want to build a level
25 of off-system sales margins into rates that are too high.

1 Do you agree with that?

2 A. I agree.

3 Q. Now, Dr. Proctor, one set of data that you
4 have contended in this case, and I think you talked about
5 this in your surrebuttal testimony, support your use of a
6 \$7 per MMBtu gas price. When I talk about gas prices, I'm
7 not going to say per MMBtu each time, but obviously that's
8 the measure we use for gas prices, right?

9 A. Yes.

10 Q. One of the set of data that you've
11 contended in your surrebuttal testimony supports your use
12 of a \$7 normal gas price is an average of 2004 to 2006 gas
13 prices which you came up to be \$7, correct?

14 A. That's correct.

15 Q. And the significance of the gas price
16 that's used is that in general on-peak energy prices are
17 correlated with gas prices, correct?

18 A. That's one of the -- one of the
19 relationships I used in my testimony to get from gas
20 prices to on-peak energy prices.

21 Q. And you place significant reliance upon
22 that correlation --

23 A. Yes.

24 Q. -- between gas prices and on-peak energy
25 prices, correct?

1 A. That's correct.

2 Q. And basically what you did is you
3 determined the gas price that you think should apply and
4 in turn you then use that to arrive at what you think a
5 normalized on-peak energy price for off-system sales is,
6 correct?

7 A. That's correct.

8 Q. And in your original direct testimony you
9 also developed a \$7 normal gas price or your view that
10 that was a normal gas price using 12 months of data ending
11 November 2006, correct?

12 A. That's partially correct. It turned out
13 that the -- that the 12-month moving average as of -- and
14 I'm trying to remember the date right now. It wasn't
15 December. At that time I didn't -- at the time I filed my
16 direct testimony, I don't think I had data through the end
17 of December '06. I think I had it through the end of
18 November, if I recall correctly, and I looked at -- I
19 looked at what I saw to be the trend in gas prices and at
20 that 12-month average at that end of that period November
21 and came up with a \$7 price.

22 Q. Right.

23 A. I think what I said in my direct testimony
24 is that this appears to be a good level for normal gas
25 prices.

1 Q. Well, let's just clarify what you did or
2 didn't say, and I think that was my question. But would
3 you agree that on page 14, lines 3 to 5 of your direct
4 testimony, that you indicated that the 12-month average
5 for the 12 months ending November 2006 appears to be an
6 appropriate level to use for normal gas prices. The
7 12-month average price is \$7 per MMBtu?

8 A. That's correct.

9 Q. So you were using a 12-month average ending
10 November 2006 to arrive at a \$7 gas price, correct?

11 A. Yes, I'll agree to that.

12 Q. And in your surrebuttal, as we just
13 noticed, you looked at an average of '04, '05 and '06,
14 right?

15 A. That's correct.

16 Q. And you're still coming up with, in your
17 view, a \$7 gas price?

18 A. Right. I might just mention, we knew that
19 we -- we knew at the time that we would have to update
20 data and do true-ups and that type of thing.

21 Q. I understand. Now, use of gas price data
22 from 2005 data that was part of the average price that you
23 calculated for '04, '05 and '06, that includes several
24 months where the 2005 hurricanes significantly affected
25 gas prices, correct?

1 A. That's correct.

2 Q. In fact, those hurricanes had a
3 significant -- a significant effect of increasing gas
4 prices for several months, correct?

5 A. That's correct.

6 Q. And I think your direct testimony is quite
7 specific in stating that one of the goals of your analyses
8 that you were doing to come up with what your view of a
9 normalized level of energy prices is is to remove the
10 effects of abnormal events on prices so you can arrive at
11 a normal price level, correct?

12 A. That's correct.

13 Q. And those hurricanes were certainly
14 abnormal, would you agree?

15 A. I would agree.

16 Q. And, in fact, when you take a simple
17 average for 2004 to 2006 or you use a 12-month average
18 ending November 2006, you are including some months where
19 gas prices were significantly raised by the hurricanes,
20 correct?

21 A. The December month of 2005 was included in
22 that average, yes.

23 Q. It's included in the 12-month average
24 ending November '06, correct?

25 A. That's correct.

1 Q. And several months of significantly
2 increased gas prices are included in your '03-'04 --
3 excuse me -- I believe it's '04 to '06 average, correct?

4 A. That's correct.

5 Q. Because the hurricanes took place back
6 July/August time frame, and gas prices were affected -- at
7 a minimum they were affected July through December and
8 perhaps longer, correct?

9 A. Correct.

10 Q. And to the extent you're going to use
11 energy prices that are affected by abnormal events like
12 the hurricanes, it would be appropriate, in fact it would
13 be necessary to do your best to try to remove the effect
14 of those events from those prices if you intend to use
15 them to calculate off-system sales margins?

16 A. Not necessarily. I think you -- the
17 problem with removing those effects is how do you go about
18 removing it? One way that you remove it is to average it
19 with other data where those effects aren't in there.
20 There's --

21 Q. Well, Dr. Proctor, do you have a copy of
22 your deposition?

23 A. Yes.

24 Q. Could you turn to page 45, please?

25 A. Yes.

1 Q. You see line 9?

2 A. The question?

3 Q. Yes. Let me know if I read this
4 accurately. Is it a fact that in your deposition you
5 testified as follows: Question: You would agree that to
6 the extent you're going to use energy prices that were
7 affected by those events -- and those events you
8 understand to be the hurricanes, right?

9 A. Yes.

10 Q. Is that right?

11 -- it would be appropriate, in fact it
12 would be necessary to do your best to try to remove the
13 effects of those events from those prices in order if
14 you're going to use those prices to set off-system sales
15 margins, correct? Question.

16 Answer: Correct.

17 Was that your testimony during your
18 deposition?

19 A. That was my testimony.

20 Q. Because otherwise if you don't remove those
21 effects, you're going to distort margins, are you not?

22 A. Yes. And there's lots of ways you can
23 remove those effects. Averaging is one way.

24 Q. I understand. But if you don't remove
25 them, you're going to distort margins, correct?

1 A. That's correct. If you just use those
2 prices, you're going to distort margins.

3 Q. But as we've just discussed, it's
4 undeniable as a matter of mathematics if you use average
5 prices over '04 to '06, we are including prices that were
6 significantly raised by the hurricanes from several
7 months, correct?

8 A. You are including those in the calculation
9 of the average.

10 Q. That's correct. And it's undeniable if you
11 use a 12-month average ending November 2006, you're
12 including at least, in your view at least one month in
13 December of '05 that is also significantly affected by
14 those increased gas prices?

15 A. Yeah. And you have to weigh that against
16 other months that were in that 12-month average where
17 prices were well below normal.

18 Q. And, Dr. Proctor, if you did not include
19 gas prices from those months in 2005, at least 2005 where
20 the gas prices were significantly raised and you
21 calculated the average, you would get a lower price, would
22 you not? Just as a matter of mathematics, if you stripped
23 out those abnormally high months, you would get a lower
24 price than just calculating the average, correct?

25 A. If you were going to strip out the

1 abnormally high months, then you have to strip out the
2 abnormally low months, and I don't know what's going to
3 happen to the average if you do that.

4 Q. Now, we do know that gas prices were
5 affected, raised by the hurricanes at least through
6 December 2005 and perhaps beyond. You agreed with that
7 earlier, I believe, correct?

8 A. I agree through December 2005.

9 Q. Dr. Proctor, could you turn to page 102 of
10 your deposition.

11 A. Yes.

12 Q. I'm sorry, Dr. Proctor. I sent you to the
13 wrong reference. Page 43.

14 A. Okay.

15 Q. Would you take a look starting at line 7.

16 A. Yes.

17 Q. Question -- and I want you to verify I
18 asked this question to you.

19 A. Sure.

20 Q. Question: And the effect of those
21 hurricanes on gas prices continued into early 2006; would
22 you agree with that?

23 Answer: I know they continued through
24 2005.

25 So we certainly agree on that, correct?

1 A. Correct.

2 Q. Into 2006, I'd have to look. I don't

3 remember.

4 A. Correct.

5 Q. So you're not sure whether they continued

6 into 2006 or not; is that correct?

7 A. At that time, when you were asking me those

8 questions, I was not sure.

9 Q. I think you testified in your direct

10 testimony that there was an assent in gas prices that

11 started back in October 2004 and it did not stop until

12 February 2006. Do you remember that?

13 A. I don't remember that. I don't disagree

14 with that. I just don't remember that.

15 Q. If that's what your testimony reflects, as

16 you sit here today, you don't disagree with that

17 conclusion?

18 A. I don't disagree with that. I don't

19 remember it.

20 Q. Would you agree that there was a big drop

21 in gas prices in March 2006?

22 A. I'd have to look --

23 Q. Well, let's take a look.

24 A. -- at the data.

25 Q. Let's take a look at your direct testimony

1 on page 13, line 16 to 18, the 12-month average of natural
2 gas prices began to increase in October of 2004 and
3 continued increasing through February 2006. There was a
4 significant drop in natural gas prices in March 2006.

5 So having now had that read back to you,
6 you agree there was a significant drop in March 2006,
7 correct?

8 A. That's what I said in my direct testimony,
9 yes.

10 Q. You stand by that testimony?

11 A. Yeah, I stand by that testimony.

12 Q. And, in fact, you've testified in your
13 surrebuttal testimony that gas prices in January 2006 were
14 significantly higher than the three-year average, correct?

15 A. Would you repeat that question?

16 Q. You testified in your surrebuttal testimony
17 that gas prices in January 2006 were significantly higher
18 than the three-year average '04 through '06, correct?

19 A. Can you give me --

20 Q. That's on page 33 of your surrebuttal
21 testimony, Dr. Proctor.

22 A. Thank you.

23 Q. And the price for --

24 A. Yes.

25 Q. Okay. Thank you. Now, if we get rid of

1 2005 gas prices -- which at least we agree that there were
2 several months in 2005 where gas prices were significantly
3 increased by the hurricanes. If we get rid of those gas
4 prices, the average gas price for calendar year 2006 using
5 daily gas peak -- daily peak gas prices, I apologize, is
6 \$6.58, correct?

7 A. I recall that number, yes. That's the 2006
8 average.

9 Q. That's correct. If we remove those
10 hurricane affected months, if I can call them that,
11 correct? We remove December '05?

12 A. Yeah. If we agree that 2006 does not have
13 the effects of hurricanes in it, yes, that's --

14 Q. In other words, if you drop the December
15 '05 price and you replace it with a daily gas price from
16 December of '06 and you take the 12-month average, it
17 would be \$6.58, right?

18 A. That's correct.

19 Q. And when we do that, we get rid of December
20 '05 where gas prices as reflected on your schedule -- your
21 surrebuttal testimony Schedule 2.3, we're approaching \$13,
22 correct?

23 A. I'm sorry. Say --

24 Q. If we do that, we get rid of December '05,
25 which according to your surrebuttal Schedule 2.3 we're

1 approaching \$13 per MMBtu?

2 A. I'm sorry. I'm not following --

3 Q. Well, take a look --

4 A. -- your calculation.

5 Q. Take a look at Schedule 2.3 to your

6 surrebuttal testimony.

7 A. Okay. Yes.

8 Q. And if we look over at the highest point on

9 that graph and we've got a -- I guess that's a diamond

10 shape, that's the December '05 gas price?

11 A. I believe that's correct.

12 Q. And that's nearly \$13, is it not?

13 A. I agree with that, yes.

14 Q. And that \$6.58 we talked about is dropping

15 December '05, right?

16 A. That's correct.

17 Q. Now, let's take a look at this \$7 price

18 that you are suggesting is normal for purposes of setting

19 off-system sales margin, or I should say for purposes of

20 determining the on-peak energy price and in turn setting

21 off-system sale margins.

22 A. That's correct.

23 Q. That's how you use it, right?

24 A. That's correct.

25 Q. Now, another reason that you supported the

1 use of that \$7 price is that gas prices, according to your
2 analyses, are only 4 cents different between the summer
3 and the other months if you remove the trends, correct?

4 A. That's correct.

5 Q. And that conclusion is based on your
6 four-year de-trended natural gas prices which you graphed
7 on Schedule 2.3 of your surrebuttal testimony, right?

8 A. That's correct.

9 MR. LOWERY: Your Honor, I need to mark an
10 exhibit.

11 JUDGE WOODRUFF: All right.

12 MR. LOWERY: And I'm hoping you know which
13 one the next one is.

14 JUDGE WOODRUFF: Be 107.

15 (EXHIBIT NO. 107 WAS MARKED FOR
16 IDENTIFICATION BY THE REPORTER.)

17 THE WITNESS: You said Schedule 2.3. I
18 think this is Schedule 3.3.

19 BY MR. LOWERY:

20 Q. I did mean 3.3. Thank you, Dr. Proctor.
21 There's too many numbers for me to keep track of.

22 A. Me, too.

23 Q. I'm a lawyer, not an economist.

24 Dr. Proctor what is the average of your four-year
25 de-trended natural gas prices as shown in Exhibit -- let

1 me back up.

2 Do you recognize Exhibit 107?

3 A. Yes.

4 Q. That's one of your work papers, is it not?

5 A. It's one of my work papers, that's correct.

6 MR. LOWERY: With that, your Honor, I would
7 move the admission of Exhibit 107.

8 JUDGE WOODRUFF: 107 has been offered into
9 evidence. Are there any objections to its receipt?

10 (No response.)

11 JUDGE WOODRUFF: Hearing none, it will be
12 received into evidence.

13 (EXHIBIT NO. 107 WAS RECEIVED INTO
14 EVIDENCE.)

15 BY MR. LOWERY:

16 Q. Dr. Proctor, what is the average of your
17 four-year de-trended natural gas prices reflected on
18 Exhibit 107?

19 A. I believe it appears, if I'm remembering
20 this right, 6.63. \$6.63.

21 Q. If we look at the sixth column under
22 four-year and we go down to where it says average in I
23 guess the 13th row and we over pink and green, it says
24 6.6314, right?

25 A. That's correct.

1 Q. So, Dr. Proctor, you de-trended these
2 prices to make the point that you don't see much of a
3 summer and non-summer differential, and that point was
4 designed to support your view that you don't really need
5 to look at a seasonal difference in gas prices, right?

6 A. That's correct.

7 Q. But that very same data reflects an average
8 gas price that's just a nickel higher than the 2006
9 average gas price of 6.58 that the company says is
10 appropriate, correct?

11 A. That's correct.

12 Q. New, let's look at your de-trended prices a
13 bit more closely on Exhibit 3.3. Isn't it a fact,
14 Dr. Proctor, that every single data point there, all the
15 prices in those circles, those are the data points,
16 correct?

17 A. That's -- no. That's the average.

18 Q. Well, those are the average?

19 A. That's the four-year average.

20 Q. Right. For example, the \$6.13 for January
21 is the four-year average of January gas prices, correct?

22 A. That's correct.

23 Q. Every single one of those averages for each
24 of those months, with the exception of those affected by
25 the last few months of 2005, which would be August,

1 September, October, November, December, right?

2 A. Correct.

3 Q. Every single one of those, except for those
4 months which we agree were significantly affected by --
5 gas prices were significantly affected by the hurricanes,
6 are essentially in the mid \$6 range, correct?

7 A. That's correct.

8 Q. In fact, the only months where there are
9 any of those prices, any of those average prices in those
10 circles are above the company's recommended gas price of
11 6.58 are August, September, October, November and
12 December, right?

13 A. The only months where what?

14 Q. The only months where any of those prices
15 in those circles are above the company's recommended gas
16 price of \$6.58 are August, September, October, November
17 and December?

18 A. That's correct.

19 Q. And those five months include the
20 abnormally high gas prices because of the hurricanes of
21 2005, do they not? Those averages include those high gas
22 prices, correct?

23 A. What you're seeing here --

24 Q. That wasn't my question, Dr. Proctor.

25 Those averages include gas prices from the five months in

1 2005 where gas prices were significantly raised by the
2 hurricanes?

3 A. They include de-trended prices from those
4 months.

5 Q. All right. Fair enough. There's no --

6 A. I just don't want this data to be
7 represented as actual prices.

8 Q. There's no question pending, Dr. Proctor.

9 A. Okay.

10 Q. Now, in your surrebuttal testimony, you
11 talk about the three-year average for '04 to '06 which you
12 calculate to be \$6.98. Do you recall that?

13 A. Yes.

14 Q. But that \$6.98 also includes gas prices
15 from August to December 2005, does it not?

16 A. It does.

17 Q. And if you look at your surrebuttal
18 Schedule 2.3, you can see very high gas prices of more
19 than \$11, \$12, nearly \$13, correct?

20 A. There are three prices in there, yes, 11,
21 probably around 12.50 and close to 13, but slightly less
22 than that.

23 Q. All of the data points that we just
24 discussed, the three-year average, the original 12 month
25 ending November 2006, both of which you've used at one

1 point or another to support your view that \$7 is normal
2 gas price, all of those included gas price data from
3 several months in at least 2005 where hurricanes
4 significantly affected gas prices, correct?

5 A. It included all of 2005, yes.

6 Q. And by including all of 2005, you're
7 including several months where gas prices are
8 significantly raised by the hurricanes, correct?

9 A. That's correct.

10 Q. And if you -- and those numbers then did
11 not remove the effects of those hurricanes despite the
12 fact that you've testified in direct testimony that a
13 central goal of your analysis was to remove those effects?

14 A. Well, there's various ways that you can
15 remove those affects, and I --

16 Q. Dr. Proctor, that's not my question about
17 whether there are various ways.

18 A. You asked me if I removed the effects, and
19 the answer was, yes, I did, by averaging.

20 Q. But those averages include --

21 A. They include --

22 Q. -- those significantly higher prices,
23 correct?

24 A. That's correct. But one of the purposes of
25 averaging is to remove the effects of high and low prices

1 both.

2 Q. Dr. Proctor, let's consider what a gas
3 price of closer to \$6.50 would do to on-peak energy
4 prices. After all, we're using the gas price to try to
5 figure that out, right? That's what we're using the gas
6 price for --

7 A. That's correct.

8 Q. -- is to try to figure out normalized
9 on-peak energy prices, correct?

10 A. Correct.

11 Q. Please refer to Schedule 1.2 of your
12 rebuttal testimony. You can just let me know when you get
13 there.

14 A. This is rail and incidental costs?

15 Q. No. Schedule 1.2.

16 A. Of, I'm sorry, direct testimony or --

17 Q. No. Rebuttal testimony, Dr. Proctor, I
18 believe. Yeah, rebuttal testimony.

19 A. I'm there.

20 Q. At the top it says Ln Ln Correlation,
21 right?

22 A. Correct.

23 MR. LOWERY: Need to mark another exhibit,
24 your Honor.

25 JUDGE WOODRUFF: All right. Be 108.

1 (EXHIBIT NO. 108 WAS MARKED FOR
2 IDENTIFICATION BY THE REPORTER.)
3 BY MR. LOWERY:

4 Q. Dr. Proctor, Exhibit 108 that I just handed
5 you, would you agree that it is identical, with the
6 exception of the highly confidential designations that you
7 have on your Schedule 1.2 -- which those numbers are not,
8 your Honor, at this point highly confidential.

9 With the exception of that highly
10 confidential designation and the notation of \$6.58 along
11 the bottom axis and the line drawn up to the red line,
12 with those exceptions, it's identical to your Schedule
13 1.2; would you agree?

14 A. Sure appears to be, yes.

15 Q. I want you to assume for purposes of this
16 question that the normal natural gas price is \$6.58. Do
17 you have that assumption in mind?

18 A. Sure.

19 Q. This chart, in fact, shows that the log/log
20 regression implies an on-peak electricity price of near
21 \$50 per megawatt hour, correct?

22 A. Yeah. I believe it's a little above 50,
23 but approximately \$51 or something, 50 dollars and
24 some-odd cents.

25 Q. Probably closer to 50 than 51, wouldn't you

1 agree?

2 A. I'm not going to agree to that.

3 Q. Can we agree on approximately \$50?

4 A. That's fine.

5 Q. All right. Great. Now, your on-peak

6 energy price using \$7 gas is what, 54.51?

7 A. I believe that's correct.

8 Q. So a 42 cent gas price difference makes a

9 fairly significant difference in the on-peak energy price,

10 correct?

11 A. Oh, yes, it does.

12 MR. LOWERY: With that, your Honor, I'd

13 move admission of Exhibit 108.

14 JUDGE WOODRUFF: 108 has been offered. Any

15 objections to its receipt?

16 (No response.)

17 JUDGE WOODRUFF: Hearing none, it will be

18 received into evidence.

19 (EXHIBIT NO. 108 WAS RECEIVED INTO

20 EVIDENCE.)

21 BY MR. LOWERY:

22 Q. Now, Dr. Proctor, I want you to make some

23 assumptions. I want you to assume that off-system sales

24 volumes are equal to the Staff's model level of

25 9.7 million megawatt hours. Okay?

1 A. Okay.

2 Q. And that's in the Staff's no Joppa case?

3 A. Correct.

4 Q. I want you to assume that volumes remain

5 constant. Do you have those assumptions in mind?

6 A. Yes.

7 Q. I want to also assume that the incremental

8 costs associated with that 9.7 million megawatt hours of

9 off-system sales volumes is equal to Staff's model levels

10 and that those costs remain constant also.

11 A. Okay.

12 Q. Got that? Now, you stated in your

13 testimony, which I think you corrected the other day, that

14 off-system sales margins would be approximately

15 \$241 million for that set of assumptions, right?

16 A. That's correct.

17 Q. And that reflects an on-peak energy price

18 of \$54.51 per megawatt hour and an off-peak energy price

19 of 30.63 per megawatt hour, right?

20 A. Correct.

21 Q. Now, while you don't specifically recommend

22 it, you did indicate in your testimony that if the

23 Commission is concerned about taking congestion and losses

24 into account, it could reduce your recommended prices by

25 2 percent, right?

1 A. That's correct.

2 JUDGE WOODRUFF: Mr. Lowery, if you want
3 to, you can use the Smart Board.

4 MR. LOWERY: Can I just use the easel?

5 JUDGE WOODRUFF: It's actually incredibly
6 simple. Just go over there and pick up one of those
7 colors and start drawing?

8 MR. LOWERY: Can I really use the easel?

9 JUDGE WOODRUFF: You can use the easel if
10 you want to.

11 MR. LOWERY: I would prefer to. I'm kind
12 of an old-fashioned guy. I'm not smart enough for the
13 Smart Board. That's going to be in the record that I was
14 unwilling to use the Smart Board.

15 JUDGE WOODRUFF: That's right.

16 MR. LOWERY: I'll just have to take that
17 hit.

18 MR. CONRAD: We can mark it HC.

19 MR. LOWERY: Keep that under wraps.

20 BY MR. LOWERY:

21 Q. All right. Dr. Proctor, if I can regain my
22 composure after the judge has embarrassed me now. Under
23 the assumption that costs and volumes remain constant,
24 a 2 percent reduction in price should lead to a 2 percent
25 reduction in revenues, correct?

1 A. Correct.

2 Q. Now, in your testimony, you state that
3 under Staff's revised production cost model off-system
4 sales volumes were 9.7 million megawatt hours. We talked
5 about that, right?

6 A. Correct.

7 Q. And the average around-the-clock price
8 received for off-system sales is \$39.19 per megawatt hour,
9 correct? And I can point you to the --

10 A. I believe that's correct.

11 Q. 39.19.

12 A. I just have to get the number in mind.

13 Q. It's surrebuttal, page 29, line 16 to 27.
14 Why don't you verify that? I want to make sure --

15 A. Sure.

16 Q. -- we're both on the same page.

17 A. Yes.

18 Q. And if you multiply 9.75 million megawatt
19 hours by 39.19, you're going to get revenues of
20 382 million, right? I'll be happy to --

21 A. I will accept that subject --

22 Q. Why don't we just have you verify it
23 because I'm not much of a mathematician.

24 MR. LOWERY: May I approach, your Honor?

25 JUDGE WOODRUFF: You may.

1 THE WITNESS: This isn't reverse Polish?

2 BY MR. LOWERY:

3 Q. It's pretty simple. It's a business school

4 grad, not a mathematics major calculator.

5 A. So 300--

6 Q. 382 million times -- I'm sorry. 39.19

7 times 9.75 million megawatt hours. That would be the

8 calculation, correct?

9 A. I just turned your calculator off.

10 Q. Up in the upper right, I think you push it

11 again and it'll come back on.

12 A. I got it back on. Sorry to be so slow.

13 When you use somebody else's calculator, it's --

14 Q. I should have warned you that you needed to

15 bring one.

16 A. I'm sorry. It's doing something funny

17 here. Hang on.

18 JUDGE WOODRUFF: You can approach.

19 MR. LOWERY: Maybe I can help him.

20 BY MR. LOWERY:

21 Q. Times 9,750,000. It's just 9,750,000.

22 Equals is right down there. 382 million, right?

23 A. Right. When I put the decimal sign in, it

24 went nuts.

25 Q. It's probably failing on me. Technology's

1 going to fail me again.

2 So, Dr. Proctor, if we discount that
3 2 percent, that 2 percent reduction alone would decrease
4 revenues as well as off-system sales margins by
5 7.6 million, right, if we discount that 382 million by
6 2 percent?

7 A. I believe that's correct. Let me verify it
8 here real quick.

9 Q. All right. You verify that.

10 A. 6. -- 7.64 million?

11 Q. 7.6. I rounded to 7.6 million.

12 A. Yeah.

13 Q. My handwriting isn't very good,
14 Dr. Proctor, I realize, but I've got gas price of \$7,
15 Staff or Staff's recommendation, margins of 241 million at
16 on-peak price of 54.51, off-peak price of 30.63. Those
17 are all figures that you agree with, correct?

18 A. Yes.

19 Q. And then if I make this 2 percent
20 correction that we're talking about, if the Commission
21 believed it was appropriate, right?

22 A. Correct.

23 Q. Then we make the 2 percent correction.
24 We're still at \$7 gas, right?

25 A. Correct.

1 Q. We take 7.6 million -- I'm going to round
2 to the nearest million. Is that fair?

3 A. That's fine.

4 Q. Take 8 million off that number and we'd be
5 at 233, right?

6 A. Yes.

7 Q. And what we would have done is we would
8 have changed your prices by 2 percent negative, right?
9 And that's -- I'll just put 8 million to make it
10 consistent. That would be an \$8 million effect on margins
11 if we did that, correct?

12 A. Correct.

13 Q. Dr. Proctor, I want you to assume another
14 fact. Assume that as AmerenUE's modeling expert
15 Mr. Finnell has testified, that off-system sales volumes
16 are split 54 percent in the off-peak and 46 percent in the
17 on-peak, and continue to assume the volumes remain
18 constant. Okay?

19 A. Fine.

20 Q. Dr. Proctor, you also calculated a
21 corrected version of Mr. Schukar's model that yields a
22 normalized on-peak price of 51.78, correct? That's in
23 your surrebuttal at page 25, lines 15 to 17.

24 A. 51.78?

25 Q. Yes.

1 A. That's correct.

2 Q. And that's a reduction from your

3 recommended level for on-peak prices of \$2.74, right?

4 A. That's correct.

5 Q. All right. So to adjust your price, we've

6 got to go down by 2.74 on the on-peak, right?

7 A. To get to this corrected level for --

8 Q. For Schukar.

9 A. For Schukar.

10 Q. What you did, you corrected Schukar's

11 prices, and his corrected prices according to you would be

12 2.74 less than your price, correct?

13 A. Correct.

14 Q. Now, under those assumptions, Dr. Proctor,

15 what would be the impact on off-system sales margins from

16 a reduction in on-peak prices of \$2.74?

17 A. So are we going to go down to the 51.78?

18 Q. Yes. We're knocking \$2.74 off your on-peak

19 price and we're holding volumes constant.

20 A. So I've got to take -- I think your logic

21 is I've got to take 54 percent of the 9,750,000.

22 Q. I think we have to take 46 percent, don't

23 we, because the 46 percent was the on-peak weight.

24 A. Oh, okay. You're right. 46 percent of

25 that, and now you want to multiply that by the \$2.74, is

1 that what you want me to do?

2 Q. That's how you would do it, right?

3 A. Well, it's your scenario. Is that what you
4 want me to do?

5 Q. Well, Dr. Proctor, I want you to confirm
6 that if you were going to reduce on-peak energy prices by
7 \$2.74, and if 46 percent of those sales are made --
8 off-system sales are made in the on-peak, and if
9 off-system sales volumes are 9.75 million megawatt hours,
10 the correct equation would be 46 percent times
11 9.75 million times 2.74; isn't that correct?

12 A. Yes.

13 Q. I'd like for you to do that calculation.

14 A. 12 million?

15 Q. \$12 million, right?

16 A. Yes.

17 Q. Now, you also calculated a corrected
18 version of Mr. Schukar's model that yields a normalized
19 off-peak price of \$29.21; is that right? And that's on
20 your surrebuttal, page 26, lines 1 to 3.

21 A. That's correct.

22 Q. And that's \$1.43 less than your off-peak
23 energy price, right?

24 A. That's correct.

25 Q. So we knock \$1.43 off of your price here,

1 right? 30.63, \$1.43 comes off to get to Schukar's number
2 that you corrected, right?

3 A. Correct.

4 Q. I want you to do the same calculation about
5 the effect on margins of a reduction of \$1.43, 56 percent
6 -- or 54 percent weighting in the off-peak, 9.75 million
7 megawatt hours, \$1.43 reduction.

8 A. That's 7.5 million.

9 Q. All right. And we add 12 million and
10 7.5 million and we round -- I'll round up because it's in
11 my interest to do so -- that's \$20 million, right?

12 A. That would be, yeah. Yes.

13 Q. All right. So we've affected margins by
14 \$20 million. If we take 20 million off of 241, I can even
15 do this math, it would be 221 million, right?

16 A. Correct.

17 Q. And that's the corrected Schukar. And
18 we've still got \$7 gas, right?

19 A. That's correct.

20 Q. Now, let's take a look at what would happen
21 if the Commission believed a 6.58 gas price was more
22 appropriate than a \$7 gas price.

23 A. Okay.

24 Q. You also calculated a corrected Schukar
25 on-peak energy price using the actual 2006 gas prices that

1 average 6.58, did you not?

2 A. Help me out. I may have.

3 Q. I'll be happy to.

4 MR. LOWERY: I need to mark another
5 exhibit, your Honor, which I believe I guess would be 109.

6 JUDGE WOODRUFF: Yes, it would be 109.

7 (EXHIBIT NO. 109 WAS MARKED FOR
8 IDENTIFICATION BY THE REPORTER.)

9 BY MR. LOWERY:

10 Q. Dr. Proctor, do you recognize Exhibit 109
11 as one of your work papers?

12 A. Yes.

13 MR. LOWERY: With that, your Honor, I'd
14 move 109 into evidence.

15 JUDGE WOODRUFF: 109 has been offered into
16 evidence. Are there any objections to its receipt?

17 (No response.)

18 JUDGE WOODRUFF: Hearing none, it will be
19 received into evidence.

20 (EXHIBIT NO. 109 WAS RECEIVED INTO
21 EVIDENCE.)

22 BY MR. LOWERY:

23 Q. Dr. Proctor, that reflects a calculation of
24 the on-peak energy price at 6.58 gas, does it not?

25 A. I believe so, yes.

1 Q. That's \$48.66, correct?

2 A. Give me just a second because I --

3 Q. Absolutely.

4 A. Yes.

5 Q. So when we were looking at that log to log
6 regression earlier, which was Exhibit 108, and we were
7 talking about whether a 6.58 gas price implied a price of
8 around \$50, this calculation indicates it actually implies
9 a gas price of -- or an energy price of 48.66, does it
10 not?

11 A. Two different sets of data.

12 Q. Two different ways of getting to an on-peak
13 energy price, right?

14 A. No. Two different sets of data. The
15 original log log regression that you're talking about was
16 run on the data that I had available from the company at
17 that time. These regressions were run on the revised data
18 that the company introduced into -- in their rebuttal
19 testimony.

20 Q. Fair enough. Under this set of data, it
21 implies an on-peak energy price of 48.66, right?

22 A. That's correct.

23 Q. Now, Dr. Proctor, what would be the impact
24 on off-system sales margins from a reduction in on-peak
25 prices from your recommended price of 54.51 of \$5.85,

1 which I think if you double check me is the difference
2 between 54.51 and the 48.66 on Exhibit 109? Again, we're
3 assuming that 54/46 percent split between on-peak --
4 excuse me -- off-peak and on-peak.

5 A. Difference of 5.85, is that what you --

6 Q. Correct. Well, is 54.51 minus 48.66 5.85?

7 A. That's what I calculated. I get
8 26 million, 26.2 million.

9 Q. 26.2 million. So consistent with what
10 we've been doing, we take 5.85 off of your on-peak price.
11 Off-peak's not going to change because we're not using gas
12 prices to predict on-peak -- excuse me -- off-peak energy
13 prices, right?

14 A. Correct.

15 Q. So we can keep the 1.43. And I believe we
16 calculated that a drop of 1.43 amounted to \$7.5 million of
17 margin reduction, right?

18 A. That's correct.

19 Q. And we've got 26.2 million for the on-peak
20 based upon this 48.66 gas price, right?

21 A. That's correct.

22 Q. And if I'm adding correctly, we get about
23 \$33.7 million, right?

24 A. Yes. That's correct.

25 Q. All right. I'm going to round that up to

1 34. We'll make these in millions of dollars. If I take
2 34 off 241, we end up with 207 million, and that's the
3 corrected Schukar --

4 A. That's 6.58.

5 Q. Corrected Schukar, and that's at 6.58 gas,
6 right?

7 A. That's correct. And that's pretty much the
8 difference between the Staff and the company.

9 Q. I understand. And so you say it's pretty
10 much the difference. The company's at 202.5 million, and
11 under corrected Schukar at 6.58 gas, you'd be at
12 207 million, which in the context of these numbers is
13 pretty much the same number, isn't it?

14 A. Yeah. I suspect the over difference has to
15 do with Mr. Schukar's calculation of a different gas price
16 in the summer versus the non-summer months, but I don't
17 know.

18 Q. The few million dollars?

19 A. The other five 5 million.

20 Q. Sure. Sure. And if the Commission were to
21 rely on your corrections to Schukar's prices and believe
22 that a 6.58 gas price was more appropriate, we would only
23 be a few million dollars apart between the Staff, correct?

24 A. That's correct.

25 MR. LOWERY: Your Honor, I'd like to mark

1 this chart as Exhibit 110.

2 JUDGE WOODRUFF: All right.

3 BY MR. LOWERY:

4 Q. And it's not very pretty, I realize, but,
5 Dr. Proctor, I've accurately transcribed all the numbers
6 that you just testified to; is that correct?

7 A. I agree, yes.

8 Q. And you don't have to endorse the structure
9 or the neatness of the chart, but it's accurate, is it
10 not?

11 A. It is accurate.

12 MR. LOWERY: Your Honor, with that, I'd
13 offer Exhibit 110 into evidence.

14 JUDGE WOODRUFF: And will you be able to
15 reduce that to a size that we can --

16 MR. LOWERY: Absolutely.

17 JUDGE WOODRUFF: Which is actually what the
18 Smart Board is for.

19 MR. LOWERY: Could have saved myself some
20 trouble, couldn't I?

21 JUDGE WOODRUFF: Possibly.

22 MR. LOWERY: We will do that and submit
23 that so that it will fit in the record more appropriately.
24 Thank you.

25 JUDGE WOODRUFF: 110 has been offered. Any

1 objections to its receipt?

2 MR. MILLS: Can I raise a penmanship
3 objection?

4 JUDGE WOODRUFF: No. 110 is received into
5 evidence.

6 (EXHIBIT NO. 110 WAS RECEIVED INTO
7 EVIDENCE.)

8 BY MR. LOWERY:

9 Q. Dr. Proctor, isn't it true that if coal
10 prices for AmerenUE go up, the market price of off-peak
11 energy will not always increase more than the increase in
12 coal prices?

13 A. Slow down.

14 Q. I'll start over.

15 A. Yeah.

16 Q. Isn't it true, Dr. Proctor, that if coal
17 prices for AmerenUE go up, that the market price of
18 off-peak energy will not always increase more than that
19 coal price increase?

20 A. Not increase more than that coal? I'm
21 sorry.

22 Q. Coal prices go up 10 percent. It's not
23 always the case that energy prices are going to go up more
24 than 10 percent?

25 A. Okay. If you're -- if you're going to put

1 it on a percentage basis, then I understand it. I
2 understand the question.

3 Q. And the answer to the question is?

4 A. Sure. Yeah.

5 Q. And if the market price of energy increases
6 at an amount equal to or less than the coal cost increase,
7 then margins made in the off-peak may not increase at all,
8 correct?

9 A. Say it again.

10 Q. If the market price of energy increases at
11 an amount equal to or less than the coal cost increase,
12 then margins on off-system sales in the off-peak may not
13 increase at all, correct?

14 A. Now I'm back to the dollar per MMBtu versus
15 dollar per megawatt hour issue.

16 Q. Let's go back to that. Let's say that --
17 let's put it on a dollar per MMBtu basis.

18 A. Okay.

19 Q. And let's say that on a dollar per MMBtu
20 basis coal prices go up X amount.

21 A. Okay.

22 Q. It's not necessarily the case that energy
23 prices are going to go up more than that on a dollar per
24 MMBtu basis, correct?

25 A. When you say it's -- it's not necessarily

1 the case, I agree with that statement.

2 Q. All right. And if it doesn't, if an
3 increase in energy prices is not enough to overcome the
4 increase in the gas price increase, then margins are not
5 going to go up, right?

6 A. Certainly.

7 Q. in fact, margins could be less under that
8 scenario, could they not?

9 A. They could be if you got into a case where
10 your coal costs went up but the price for energy didn't go
11 up --

12 Q. Enough to cover the increase?

13 A. Didn't go up enough to cover the increase,
14 then yeah, your profit margins are going to drop.

15 Q. And the analysis reflected in your rebuttal
16 testimony where you suggest that off-system sales margins
17 may act as a natural hedge against fuel costs, that's not
18 a complete comprehensive analysis, correct? There's a lot
19 of variables that you need to examine, and you didn't
20 examine all of those variables, correct?

21 A. Well, I -- what I was looking at was how
22 those were likely to vary on an annual basis. That's
23 correct. If you --

24 Q. And there were -- I apologize for
25 interrupting. There were a number of variables you didn't

1 include in that analysis, correct?

2 A. I'm not sure. Give me an example.

3 Q. Take a look at your rebuttal testimony.

4 A. I didn't include load variations. I didn't
5 include variations relating to outages to be specific.

6 Q. And those were some of the things I was
7 referring to.

8 A. Okay. Yes.

9 Q. And in order to do a complete analysis, you
10 would need to do that, correct?

11 A. Correct.

12 Q. Now, you looked at two illustrations, and
13 you had Mr. Rahrer, who was Staff's production cost
14 modeling expert, run the production cost model relating to
15 those two illustrations, right?

16 A. Actually, I looked at more than just two,
17 but I had him run the two that were at the extremes and
18 then used those to estimate the scenarios that were in
19 between the extremes.

20 Q. You had Mr. Rahrer run just the two
21 extremes, right?

22 A. Two extremes, yeah.

23 Q. And basically you had Mr. Rahrer run a case
24 where energy prices were low, coal prices were low and gas
25 prices were low. That was one extreme, right?

1 A. That's correct.

2 Q. And where coal and energy and gas prices
3 were high, that was the other extreme?

4 A. That's true.

5 Q. And you didn't have him run analyses of a
6 whole bunch of scenarios in between, correct?

7 A. That's correct.

8 Q. And there are a lot of combinations that
9 you didn't examine. You could have high gas, low coal,
10 high energy, low coal, low gas. There's all kinds of
11 permutations that could exist, correct?

12 A. I believe that those permutations are
13 highly unlikely, so I -- no, I didn't have him run them.

14 Q. And there are other permutations that you
15 did not run that certainly could exist; would you agree
16 with that? You're not testifying here today that the two
17 scenarios that you ran were the only two scenarios that
18 were likely to exist in the marketplace?

19 A. Well, when you say the only two, I think
20 that's a misunderstanding of what I did.

21 Q. Well, you only had Mr. Rahrer run two
22 analyses, right?

23 A. He only ran two, and I used those two to
24 estimate other scenarios that were in between the extremes
25 and the normal.

1 Q. Right. But you don't have any modeling
2 results that support those scenarios in between, do you?

3 A. No, I do not.

4 Q. Now, Mr. Wood in his rebuttal testimony
5 regarding the FAC, he flatly states, quote, AmerenUE does
6 not need an FAC or an IEC since its revenue opportunities
7 in off-system sales mitigate much of its fuel price risk.
8 Do you recall him saying that?

9 A. I do.

10 Q. He did no independent analyses to support
11 that very definitive statement, did he?

12 A. He did not.

13 Q. He's relying completely on what you did,
14 right?

15 A. That's correct.

16 Q. And since you haven't performed a complete
17 analysis, you cannot say with certainty whether or not
18 that statement is, in fact, true, can you not?

19 A. I cannot.

20 MR. LOWERY: Thank you, Dr. Proctor.
21 That's all the questions I have.

22 JUDGE WOODRUFF: Then we'll come up for
23 questions from the Bench, beginning with Commissioner
24 Murray.

25 QUESTIONS BY COMMISSIONER MURRAY:

1 Q. Good morning, Dr. Proctor.

2 A. Good morning.

3 Q. Dr. Proctor, in the analysis that you did
4 to determine that off-system sales would offset the
5 increases in price, did you make the assumption that every
6 time the price of coal increases, that the market price
7 increases at least that much if not more?

8 A. No. What I assumed, what I used was the
9 correlation between coal prices and off-peak energy
10 prices. And I just want to state, coal prices are based
11 on a cents per MMBtu basis, and off-peak prices were on a
12 dollar per megawatt hour basis.

13 What I ran was a correlation that
14 determined on a percentage basis that if coal prices went
15 up by let's say 5 percent, what would be the percentage
16 increase in off-peak market prices. So that's -- that's
17 what I determined. It's not a dollar for dollar or one's
18 a dollar higher than the other.

19 Q. But doesn't that have to occur, don't the
20 market prices actually have to increase to a total that is
21 above the increased cost of coal in order for off-system
22 sales to be able to offset that increase?

23 A. Not -- you mean on a dollar per megawatt
24 hour basis? Yes. Yeah, for there to be a mitigating
25 effect.

1 Q. On an apples to apples basis.

2 A. To be a mitigating effect, a partial
3 mitigating effect, you have to have increases in prices
4 that are higher.

5 Q. That are actually greater than the
6 increases in cost; is that correct?

7 A. Well, see, I did not say and my testimony
8 and is not that the profits that you're going to get back
9 from those sales will more than offset the fuel cost. I
10 never said that, and I never calculated that. What I
11 calculated was a mitigating effect, and the level of the
12 mitigating effect.

13 Q. Well, let's talk about that, because what
14 do you have to do to mitigate? What does mitigation mean
15 to you?

16 A. Well --

17 Q. How do you mitigate the effect of an
18 increase in prices?

19 A. Maybe the word partially mitigate is a
20 better word.

21 Q. How do you partially mitigate?

22 A. Well, because when those prices go up, the
23 profits from your off-system sales will go up, and that's
24 going to decrease --

25 Q. Wait. Stop there. How do you make that

1 correlation? When the price -- the basic price of the
2 commodity goes up, how do you automatically assume that
3 the profits go up?

4 A. I don't automatically assume. I did a
5 correlation of what happened historically, but the
6 explanation of that's fairly simple, and that is that when
7 coal prices go up, people are bidding into the market
8 based on their incremental cost. Their incremental cost
9 has gone up, their bids are going to go up and the price
10 is going to go up.

11 Q. Beyond the cost -- beyond the increase in
12 the cost of the fuel itself?

13 A. I never said that, and my testimony never
14 said that.

15 Q. What does your testimony tell us then in
16 terms of being able to mitigate the effects of those
17 increases? That's what we're trying to find out here.

18 A. What it tells you is -- and if I can refer
19 you to page 27 of my rebuttal testimony, and I will give
20 you an example. What it tells you and what my -- the
21 purpose of my testimony was, if you separate off-system
22 sales from fuel costs, if you do it and at the time that's
23 what the company was proposing, that if you separate those
24 two, what you're going to end up doing is, when these
25 prices go up, you're going to see off-system -- profits

1 from off-system sales go up. You're going to be giving
2 consumers some money for that through the sharing
3 mechanism, and at the same time you're going to be taking
4 money away from them through the fuel adjustment clause.

5 Q. I'm sorry, but you're going to have to take
6 this more slowly with me.

7 A. Okay.

8 Q. You're making an assumption there. You
9 said when prices go up, profits from off-system sales go
10 up.

11 A. Yes.

12 Q. How do you verify that that is what
13 happens? Don't you have to show that what they get in
14 return for their off-system sales is greater, there is a
15 greater increase there than the increase of the cost of
16 the basic commodity? If there's no increase above their
17 increased costs, how can their profits go up?

18 A. Oh, the incremental -- I see what you're
19 saying. You're saying the price went up, doesn't it have
20 to go up by more than --

21 Q. Yes.

22 A. -- the incremental cost?

23 Q. You're saying profits go up. How are you
24 saying profits go up? Tell us how you're saying that.

25 A. Well, it came out of the correlations that

1 I ran between the prices, the coal prices and the off-peak
2 prices.

3 Q. And where are these calculations in your
4 testimony?

5 A. They are shown back on -- let me get the
6 right schedule -- Schedule 1.1 to my rebuttal testimony.

7 COMMISSIONER APPLING: Did you say
8 Schedule 1?

9 THE WITNESS: Schedule 1.1 to the rebuttal
10 testimony.

11 BY COMMISSIONER MURRAY:

12 Q. Is that one of the -- was that one of the
13 exhibits that was just introduced separately?

14 A. No, it wasn't.

15 Q. What was Exhibit 108 relating to?

16 A. It was related to natural gas. It was a
17 similar -- it was Schedule 1.2, and it was similar to
18 Schedule 1.1, but it related to natural gas and on-peak
19 prices.

20 Q. Well, let's go back to the natural gas one
21 for a minute that was introduced as Exhibit 108 because
22 that's -- that's making the same point, is it not, just in
23 relation to natural gas price increases?

24 A. Yes.

25 Q. Okay. Well, let's stay with that one since

1 we started there. What are you showing about the price of
2 the commodity itself? Where are you showing that on the
3 chart?

4 A. It's along the bottom axis, horizontal
5 axis, natural gas price, dollars per MMBtu.

6 Q. And then where are you showing the profits,
7 as you call them?

8 A. This graph doesn't show profits. It shows
9 the on-peak electric price, dollars per megawatt hour,
10 along the other axis. This is the correlation between the
11 prices, the natural gas price and the price -- on-peak
12 price for electricity.

13 Q. Okay. So where is it that you put
14 something in the chart that those of us who are not
15 economists or mathematicians can look at it and see that
16 you are showing us that when the prices of the commodities
17 go up, the profits go up?

18 A. Okay. Let me try to explain how that works
19 together, because I think if you -- if you take the
20 component, just for example, gas -- I'm sorry -- coal
21 costs and off-peak prices and you separate that from
22 what's going on with gas, gas costs and on-peak prices,
23 you're going to run into some issues about what's actually
24 happening here in these -- in these calculations.

25 Q. So in other words, your calculations are

1 combining the effects of on-peak --

2 A. Yes.

3 Q. -- off-peak?

4 A. That's correct.

5 Q. But is off-peak actually an issue in --

6 A. Yes.

7 Q. Okay.

8 A. Yeah.

9 Q. Go ahead.

10 A. Well, let me take -- on-peak natural gas
11 prices go up. Now, Ameren is a highly coal-based utility.
12 So when gas prices go up, that's not going to have a big
13 impact on its costs related to off-system sales. They
14 will be selling out some from their gas, but when those
15 prices go up, they're going to be making profits, higher
16 profits from their coal sales.

17 Now, what my scenarios did was combine both
18 of those, combined increases in coal costs, increases in
19 gas costs, and in on-peak and off-peak prices. So the
20 reason that you -- the reason that you get profits from
21 that is probably primarily from their sales in the on-peak
22 hours rather than their sales in the off-peak hours. And
23 that's where you get this partial mitigation effect. It's
24 not a total mitigation. I never took that position. It
25 tends to offset those.

1 And let me explain one of the reasons
2 that -- that those things kind of go hand in hand. When
3 natural gas prices go up on the margin units, coal units
4 that were not profitable before now become profitable
5 because you've got higher on-peak prices. When those coal
6 units on the margin become profitable, the operators of
7 those units then decide, I have to buy more coal.

8 So they go to the coal markets to buy more
9 coal. That pushes the price of coal up in the market, and
10 that's why you have the correlation between your gas
11 prices and your coal prices and your on-peak prices and
12 your off-peak prices. So those work together, and when
13 they're working together like that, that's where you get
14 the mitigating effect.

15 But you're right, if you only looked at the
16 off-peak prices and coal, I don't think you would get the
17 mitigating effect.

18 Q. But in order to make a profit when the
19 costs of the commodities, whether it be natural gas or
20 coal or both, when those costs increase, the off-system
21 sales have to increase by more than that total amount --

22 A. Oh, sure.

23 Q. -- is that correct?

24 A. Yeah.

25 Q. But have you done anything that shows that

1 historically that happens?

2 A. Well, just the analysis we were looking at
3 before, which were these regressions. All I'm doing there
4 is calculating the correlations between those, between the
5 natural gas prices and the on-peak prices or the coal
6 prices and the off-peak prices. And once I calculate
7 those relationships, I use those relationships in the
8 calculation in the -- with the production cost model.

9 Q. Okay. You said something earlier, this was
10 early on in the cross-examination, that when you agreed
11 that the -- if you just take the average fuel prices for
12 the two years that included the hurricane effects, the
13 results would be screwed with the unusually higher prices
14 resulting from the hurricanes. Is that -- did I
15 understand you to say that or agree with that?

16 A. No, I didn't agree with that. Throughout
17 the data set, there are months where prices are low and
18 there are months where prices are high. If you look at
19 December '05 and you just used December '05 as a measure
20 or the average price during December '05 for gas, if you
21 just used that price it would be too high because several
22 of the months in that particular year were too high.

23 Q. Okay. Isn't there a commonly accepted --
24 I'm at a loss for words as to what to call it, but when
25 doing an average of something, if you take -- if you're

1 averaging -- and we get into this with weather
2 normalization, for example.

3 A. Sure.

4 Q. If you have a year that is -- that has some
5 extraordinary events in it that are very out of the norm
6 but you use that year for your average, that's not going
7 to give you an accurate average, is it? I mean, it may
8 give you the average of that year, but that won't be a
9 normal?

10 A. Yeah. If you just use that year, I agree.

11 Q. So if you just use two years that included
12 those four months of unusually extraordinarily high prices
13 as a result of the hurricanes, doesn't that give you an
14 incorrect average or a non-normal average?

15 A. If you just -- if you just use that year to
16 calculate an average, I would agree with that.

17 Q. So how many years do you have to add to it,
18 only one to make it normal?

19 A. I use three years.

20 Q. So you used a three-year average, and were
21 there any unusual events that caused prices to spike in
22 any of those three years --

23 A. Sure.

24 Q. -- other than those four months?

25 A. There were unusual events that caused

1 prices to be low in those three years, yes.

2 Q. Okay. And how many of the months were they
3 low, and by comparison how low were they compared to the
4 spikes upward?

5 A. If you'd look on Schedule 2.3 of my
6 surrebuttal testimony, and let's start back around January
7 '04 on that, and I'm using the -- well --

8 Q. Okay.

9 A. -- you can use several. I've got the \$7
10 plotted in there.

11 Q. Let's just shortcut it. Your lowest there
12 was less than \$5, and your highest was almost 13; is that
13 correct?

14 A. Right. There were three that were -- that
15 were very high, and there are several in that average that
16 are below the \$7 line there.

17 Q. Okay.

18 A. There's several low values.

19 Q. And by comparison, I mean, if you just look
20 at it, eyeball it, the low volumes are much closer to the
21 \$7 than the high volumes are close to the \$7; would that
22 be accurate?

23 A. That's true, but there's many more of them.

24 Q. And this is a period of '03 up to '07? '03
25 through '06?

1 A. Yeah. January -- no. I used '04, '05 and
2 '06. So I did not use the values January '03 through
3 January '04. I started January '04 and went through
4 December of '06.

5 Q. And what you were telling us there, I
6 thought you said you did a three-year average?

7 A. Yeah, '04, '05 and '06.

8 Q. That is three years. Thank you. It's
9 early.

10 A. I know.

11 Q. And you're telling us that even with those
12 unusual, extremely unusual events, that that gives you a
13 normal trend line?

14 A. Well, on Schedule 2.3, there is a trend
15 line in there. It's the dark line that you see go up
16 during this Katrina effect.

17 Q. Is that a normal average?

18 A. Excuse me?

19 Q. I'll rephrase my question. A normal
20 average?

21 A. Yes. But the diagram also shows prices
22 trending up at the end of this. So I -- I mean, they had
23 to come down from Katrina, and we see them trending back
24 up at the end.

25 COMMISSIONER MURRAY: Thank you.

1 JUDGE WOODRUFF: Commissioner Gaw?

2 COMMISSIONER GAW: Someone else want to go
3 first?

4 JUDGE WOODRUFF: Commissioner Appling?

5 QUESTIONS BY COMMISSIONER APPLING:

6 Q. Dr. Proctor, how you doing this morning?

7 A. Very good. Thank you.

8 Q. I apologize. I didn't catch the first part
9 of Act 1 this morning, but anyway, I think most of the
10 questions that I had picked out of your testimony has been
11 already answered. So I'm going to ask you two questions,
12 okay, and that kind of relate and tack it on to what
13 Commissioner Murray was talking about.

14 First one, does -- I'm looking at the chart
15 here.

16 A. Yes.

17 Q. My question is, does Mr. Lowery's easel
18 demonstration show that Ameren prices are a better
19 estimate than the Staff estimates?

20 A. No.

21 Q. What conclusion have you come to on that?

22 A. I think what the easel shows is the
23 differences between the Staff and the company, and those
24 differences have to do with the assumed gas price and the
25 assumed data that was used. Those are the two primary

1 differences between the Staff and the company are gas
2 prices and data.

3 There's about -- and he doesn't show it on
4 his easel -- probably only about \$7 million or so
5 difference on off-peak prices that's primarily due to the
6 data, and the rest of that \$34 million difference, I think
7 is what he's showing up there, the rest of that really has
8 to do with two components of on-peak prices, and one of
9 those is the gas, what gas price is used. The company
10 used 6.58. The Staff used \$7.

11 And the other component is the data. The
12 company used average LMPs at coal-fired units during the
13 on-peak periods, and the Staff doesn't agree that those
14 are -- we view those as a lower bound. And his first
15 calculation up there, that 2 percent reduction that
16 amounts to \$8, we think that's probably a better
17 representation of what the congestion and losses would be
18 for both on-peak and off-peak prices.

19 So the data represents a lot more than that
20 2 percent. That's -- those are the two main issues.
21 What's the gas price and what's the right data to be
22 using?

23 Q. Second question, did the -- did the 2005
24 hurricane cause permanent shut-in of about 10 percent of
25 the Gulf of Mexico natural gas product?

1 A. My recollection was that I don't know the
2 percentage, but I know it shut down over 100 wells. So it
3 had a dramatic effect. Don't have any question about
4 that.

5 Q. Last question. Mr. Lowery was talking this
6 morning, and in Mr. Wood's testimony Mr. Wood said that
7 there was no need for a clause for Ameren because of the
8 mitigation between the SOS and the AC. What are your
9 feelings on that?

10 A. Well --

11 Q. Do they -- do you still hang with the fact
12 that they don't need an ACR?

13 A. The answer is I don't know. I don't think
14 there's good evidence in this case. I don't think the
15 company -- I think the company has the responsibility to
16 put together the evidence. Part of the problem is, if you
17 do this thing segmented, if you just look at fuel cost and
18 you only look at fuel cost, they're facing \$47 million
19 increase in fuel cost over the next couple years.

20 Okay? But how does that relate to what are
21 they going to see in terms of increases in off-system
22 sales? That was the one point that I was trying to bring
23 out in the testimony. Primary I did that because I didn't
24 like the way they were separating off-system sales from
25 fuel costs, because I felt there would -- there was --

1 well, I knew there would be a partial mitigation impact
2 that takes place there.

3 So that was -- that was one point they were
4 making. But there are a lot of other things that are
5 going to be happening at AmerenUE over the next couple of
6 years that hasn't been presented in this case. What about
7 declining rate base? That hasn't been included in the
8 calculations. How do you bring that into play?

9 In our calculation of off-system sales,
10 we're just looking at MISO markets. That's all we're
11 looking at. We didn't -- we didn't know how to and we
12 didn't bring in the effects of bilateral markets that they
13 may be involved in. We now know that they've made
14 capacity sales. Those weren't brought in -- those weren't
15 brought into the equations.

16 So all of those things to me, if I were
17 making the rec-- I think what Mr. Wood was trying to say
18 was the company hasn't made a case. You don't make a case
19 simply by saying my fuel costs are for certain going to go
20 up over the next couple years. You need -- you need to
21 put the whole thing together to look at it.

22 So I think that's what he was saying. Not
23 that they didn't need one, but that the company needs to
24 put the total case together for us, for the Commission to
25 know what their situation or what they think their

1 situation is going to be over the next couple years.

2 COMMISSIONER APPLING: Thank you very much,
3 sir. Good to see you this morning.

4 THE WITNESS: Good to see you. Thank you.

5 JUDGE WOODRUFF: Commissioner Gaw?

6 CHAIRMAN DAVIS: Commissioner Gaw, can I
7 ask a question?

8 COMMISSIONER GAW: Please. That would be
9 great.

10 QUESTIONS BY CHAIRMAN DAVIS:

11 Q. Dr. Proctor?

12 A. Yes.

13 Q. Can you expound a little more on this whole
14 declining rate base issue, because one of the other -- I
15 believe it was one of the other Ameren witnesses, I asked
16 him about depreciation and they were just like, oh, we're
17 spending more than that, so it's not really an issue. So
18 can you expand a little more on this declining rate base
19 issue?

20 A. Well, I don't have any data on it. What
21 I'm -- mean, you're going to have to look at their budgets
22 over the next several years and see what they are spending
23 on new capital improvements and in their system and see
24 where they're going with this, and I have not done that.

25 What I'm saying is, that's a part of the

1 total picture that needs to be put together, and the only
2 part of the picture that I had and I can really testify on
3 is you need to put fuel costs together with off-system
4 sales. You shouldn't separate those two. You need to
5 keep those together when you're looking at the total
6 picture.

7 So that's -- that's really all I can really
8 testify on is off-system sales.

9 Q. Dr. Proctor, how long have you been at the
10 Commission?

11 A. Since 1977, so 30 years.

12 Q. And how long have you had an opportunity to
13 observe Ameren and review their -- the data that they send
14 this Commission?

15 A. Probably from the outset, I was involved
16 with Union Electric at that time.

17 Q. Right. Okay. So AmerenUE and its
18 predecessors here in Missouri --

19 A. Yes.

20 Q. -- whatever entities they may have been?

21 Dr. Proctor, is it just me or is it
22 especially -- do you find it especially difficult getting
23 meaningful numbers out of Ameren on the first or second
24 try?

25 A. This has been really my first experience

1 with that, where I got sent numbers that I initially had
2 requested and then was later told, those aren't the right
3 numbers, you're using the wrong numbers, that the company
4 sent me. I have not experienced that previously with
5 Union Electric.

6 Q. Okay. But you did get that experience here
7 in this case with the numbers regarding off-system sales?

8 A. Yes, I did. Particularly with the prices
9 for off-system sales, yes.

10 Q. And I believe you testified that their fuel
11 costs are going to go up approximately \$47 million over
12 the next couple of years?

13 A. Their coal costs, yes.

14 Q. Does that include rail?

15 A. Yes.

16 Q. Okay. So --

17 A. That's my understanding, it includes rail.

18 Q. Okay. Now, I think the --

19 CHAIRMAN DAVIS: Judge, can you refresh my
20 recollection? Is that number that we've seen for
21 off-system sales, is that a highly confidential number or
22 not?

23 JUDGE WOODRUFF: I see heads shaking that
24 it is.

25 MR. LOWERY: Are we talking about the

1 budgeted number?

2 JUDGE WOODRUFF: Yes.

3 MR. LOWERY: That is.

4 CHAIRMAN DAVIS: Well, there was another
5 number I think that maybe Mr. Micheel made reference to.

6 JUDGE WOODRUFF: There was a budgeted
7 number that --

8 CHAIRMAN DAVIS: I'm not talking about --
9 this is a number that's new in this or it's not -- well,
10 it's not nec-- I don't know how new it is. The number
11 keeps changing here in this case. It's not the budgeted
12 number.

13 MR. LOWERY: The 202.5 is not a highly
14 confidential number.

15 CHAIRMAN DAVIS: Okay.

16 BY CHAIRMAN DAVIS:

17 Q. So there's a number of approximately
18 \$200 million. Are you familiar --

19 A. Yes, I am.

20 Q. -- familiar with that number?

21 Now, is it -- is it your position that
22 their off-system sales will, you know, could well exceed
23 that by \$50 million and offset that?

24 A. Yeah, I think that -- yes. I think what
25 the Staff's position on this is, and my position on this

1 is, is that instead of 202.5 million, we think they're
2 going to be closer to -- that normal profits are closer to
3 241 million. So we're about \$40 million -- a little less
4 than \$40 million difference on that particular issue.

5 Q. And on a scale of probability or on a scale
6 of likelihood of zero to 100, what do you think the
7 probability of Ameren getting to that \$240 million number
8 is?

9 A. I think it's very likely that they'll --
10 that they'll get to that number. I think there's a lot of
11 things that factor into that, but as I --

12 Q. There's lots of -- we know that there are
13 lots of variables in this equation, but if I had -- if you
14 had to put a number to it or if you had to quantify the
15 likelihood, is it 75 percent, higher, lower?

16 A. Actually, I'm going to answer that question
17 statistically almost from my testimony.

18 Q. Okay.

19 A. If that's okay.

20 Q. Okay.

21 A. If you look at what is -- what are the
22 probabilities, I think you're asking if they would meet or
23 exceed that level. That's the way I would put it.

24 Q. Yes.

25 A. Okay. Back on page 9 of my rebuttal

1 testimony, I've made calculations about where these
2 variations could be on a statistical basis, and the --
3 there is some probability that they will be lower than
4 that, and I don't -- looking at the variation of the data,
5 I don't think there's any question about that.

6 If you wanted to add up, and I will try to
7 do this very quickly, 9.6 percent, 13.9 percent and
8 17.3 percent is -- I come up with about a 30 or 31 percent
9 probability that they could be lower than that level and
10 about a -- therefore, about a 70 or 69 percent that
11 they'll meet that level or be higher on a -- just on a
12 straight statistical basis.

13 Q. Okay. Now let me ask you another question,
14 Dr. Proctor.

15 A. Okay.

16 Q. Depending on what we do on ROE --

17 A. Okay.

18 Q. -- do you think it would -- I mean, do you
19 think it would be possible to account for that likelihood,
20 probability that they wouldn't hit that number in terms of
21 ROE?

22 A. In other words, try to factor that into a
23 level of ROE that's determined for the company?

24 Q. Uh-huh. Because obviously, okay, let's say
25 that they have some risk.

1 A. Okay. Let me take you through a
2 calculation. I'm sorry about this, but --
3 Q. That's all right.
4 A. There's about \$40 million --
5 Q. That's why you're the doctor.
6 A. There's about \$40 million difference here.
7 Q. Okay.
8 A. Let's suppose we factored that with the
9 30 percent.
10 Q. Right.
11 A. There's a 30 percent chance that they'll
12 get \$40 million less. Okay?
13 Q. Okay.
14 A. So 30 percent of 40 million is what?
15 Q. \$12 million.
16 A. 12 million. Now you have to translate that
17 into ROE. How much -- how much difference is \$12 million
18 to rate of return? It's probably not very much.
19 Q. 1/100 of a point?
20 A. Probably. Pretty small.
21 Q. Okay.
22 A. Does that -- I don't know if that helps,
23 but --
24 Q. That helps.
25 A. Okay. Now, Dr. Proctor, did you have

1 occasion to look at the class cost of service study that
2 Ameren filed back in late 2005? Have you ever had an
3 opportunity to review any of the information?

4 A. No, I have not.

5 Q. You have not?

6 A. No. I was overwhelmed with work just
7 doing the off-system sales plus what I normally do. So I
8 did not look at the class cost of service studies or
9 results or rate design or any of that.

10 Q. Last thing. Dr. Proctor, with regard
11 MISO --

12 A. Yes.

13 Q. -- do you have an opinion as to whether or
14 not Ameren's continued participation or membership in the
15 MISO system is a benefit or detriment to the Missouri
16 ratepayers?

17 A. I have -- I haven't finalized an opinion on
18 that, but as a part of the agreement for Ameren to join
19 the Midwest ISO, they have agreed to do a cost/benefit
20 study and, as a matter of fact --

21 Q. They're doing their own cost/benefit study,
22 not --

23 A. Yes.

24 Q. Okay.

25 A. It's not a MISO cost/benefit. It's an

1 AmerenUE cost/benefit study. And as a matter of fact, if
2 I get off the stand today, I have to respond to a draft
3 RFP that's going to go out to consultants to perform that
4 study. So I'm reserving my opinion until I see the
5 results of this cost/benefit study that's going to be
6 performed.

7 By the way, my understanding is it's only
8 going to be performed on AmerenUE, not the other Ameren
9 companies.

10 Q. Okay.

11 A. Not CILCO, not SIPS, not --

12 Q. And when is this study supposed to be
13 completed?

14 A. Right now, it's scheduled for completion in
15 September of this year.

16 Q. If you're going out for RFP, that's -- I'm
17 just saying, Mr. Proctor, that appears to me to be a lot
18 of numbers to crunch in a very short period of time.

19 A. I agree. I think many of the consultants
20 that do this type of thing are -- how should I put it --
21 are already up to speed. They've been doing these types
22 of cost/benefit calculations and modeling things. I also
23 think that we'll hear back from the consultants in the RFP
24 if September's not a reasonable -- not a reasonable date
25 for them to complete that.

1 CHAIRMAN DAVIS: Dr. Proctor, thank you.

2 You've been very helpful.

3 JUDGE WOODRUFF: Commissioner?

4 COMMISSIONER GAW: I'm going to wait until
5 these guys are all done.

6 JUDGE WOODRUFF: I was going to say, we're
7 due for a break, so we'll take a break. We'll come back
8 in 15 minutes.

9 CHAIRMAN DAVIS: Judge, can I ask
10 Mr. Lowery one question here today right now?

11 JUDGE WOODRUFF: Go right ahead.

12 CHAIRMAN DAVIS: Mr. Lowery?

13 MR. LOWERY: Yes, sir.

14 CHAIRMAN DAVIS: Mr. Baxter's not being
15 able to appear today doesn't have anything to do with the
16 Post Dispatch article that was run this morning on
17 executive compensation at Ameren, does it?

18 MR. LOWERY: Mr. Davis, my understanding is
19 Mr. Baxter was unavailable as of yesterday before there
20 was any story. So I really don't know anything about it,
21 but his unavailability was announced before there was any
22 story in the paper as far as I know.

23 CHAIRMAN DAVIS: Okay. Thank you.

24 JUDGE WOODRUFF: We're on break then until
25 10:25.

1 (A BREAK WAS TAKEN.)

2 JUDGE WOODRUFF: Let's come back to order,
3 please.

4 COMMISSIONER CLAYTON: Dr. Proctor -- I'm
5 sorry.

6 JUDGE WOODRUFF: Go ahead. I was just
7 going to say, we're back on the record. Go ahead.

8 COMMISSIONER CLAYTON: Thank you, Judge.

9 QUESTIONS BY COMMISSIONER CLAYTON:

10 Q. Dr. Proctor, I just have a handful of
11 questions that I wanted to go through. First of all, I
12 want to ask about this issue involving the data and
13 getting conflicting data from Ameren. I was wondering,
14 did this happen on simply one occasion? Was it multiple
15 occasions? Was it systemic in nature? Could you
16 elaborate on that?

17 A. I wouldn't call it systemic. We had -- we
18 get data from Ameren on a monthly basis, and that was the
19 data that I actually intended to use in the analysis, but
20 there was a problem with that. There was an error in one
21 of the programs they had written, and it seemed to me like
22 after that problem was described to me, that that wasn't
23 going to get corrected quick enough, I'll put it that way,
24 so that we could get that data. Once we get the data, we
25 have a lot of analysis that we have to do with it.

1 So I went back to the company and I asked
2 for the data on prices that they had used in their
3 analysis and -- but updated. I wanted it -- I wanted more
4 recent data than what they had. They had just used data
5 through the end of 2005. And I got data through about mid
6 September of 2006 from the company, and based all of my
7 analysis in my direct testimony on that data, and then
8 when I was deposed was told that that data was the wrong
9 data, that it didn't include congestion and losses, and
10 that was just a surprise to me at that time.

11 Q. Were you led to believe that the data did
12 include congestion and losses?

13 A. That wasn't -- I didn't ask that question,
14 you know, from -- I will say I wasn't -- I didn't ask the
15 company specifically whether the data included congestion
16 and losses. In my view, they didn't say one way or the
17 other. When we got the data, they said this data is
18 Midwest ISO day ahead energy prices, LMP energy prices.

19 And I guess from that I was supposed to
20 discern that it didn't include losses and congestion
21 because the word energy was in there. I didn't discern
22 that. It was the same data that they had used, and they
23 didn't tell me that it didn't include it at that time, and
24 I didn't ask.

25 Q. Now, you've been around since 1977?

1 A. Yes.

2 Q. And we've heard on multiple occasions that
3 Ameren hasn't had a rate case since 1987. Is it safe to
4 assume that you were around in 1987 in the last rate case?

5 A. Yes, I was.

6 Q. Were you around in the complaint case of
7 2001?

8 A. Yes, I was.

9 Q. When was the rate case prior to 1987?
10 Would that have been the early '80s, or did '87 include
11 Callaway?

12 A. What we -- my recollection was that the
13 most recent rate case before the complaint case was
14 associated with the merger with SIPS, and at that time we
15 had come to an agreement with the company on this sharing
16 mechanism. There was a three-year sharing mechanism that
17 went into place, and I'm trying to remember the years now.
18 I'm not very good at remembering years, but it was in the
19 mid '90s.

20 Q. You can figure out off-system sales but you
21 can't remember years?

22 A. I can't remember years going back.

23 Q. Interesting. Interesting.

24 A. And when that three-year time period was
25 completed, the Staff did an audit and they determined that

1 AmerenUE needed a rate -- another rate decrease, and I
2 think there was another settlement that followed that.
3 And then we got to the 2002 complaint case, if my memory's
4 correct.

5 Q. So there were at least three proceedings,
6 maybe four proceedings that involved analysis of
7 recalculating revenue requirement and subsequent rates?

8 A. Yes.

9 Q. Okay.

10 A. The merger case and then one before the
11 complaint case, I believe, then the complaint case, and
12 now this case.

13 Q. And you've been on Staff in a similar
14 capacity, if not your current capacity, during each of
15 those occasions?

16 A. Yes.

17 Q. Now, when you asked those questions in the
18 past and you received data, did the data include the
19 information associated with congestion or the other item
20 that you mentioned?

21 A. Yeah. Prior to the day two Midwest ISO
22 market starting up, which was March of 2005, that was not
23 an issue.

24 Q. Okay.

25 A. All of the data on off-system sales was

1 from bilateral transactions, and so the prices represented
2 the prices that AmerenUE actually received for the sales.
3 When you -- with the MISO market starting up, frankly, I
4 don't understand why the calculation of the actual dollars
5 received wasn't there, but we had difficulty getting that.
6 That's the type of data we would normally get. That's
7 when I went to the company and said, please update the
8 data that's used in the analysis.

9 Q. So this has really been the first occasion
10 when those charges would have been applicable? They
11 wouldn't have been present in prior cases?

12 A. That's correct.

13 Q. Okay. Do you feel like you've gotten all
14 the data that you need to offer the recommendations made
15 in your testimony?

16 A. Yes, I do. I will say that I still have
17 real concerns about using the prices at the coal
18 generation during on-peak hours to represent what they're
19 going to receive, and subsequently, subsequent to filing
20 my surrebuttal testimony, we have had some additional time
21 and have downloaded data from the Midwest ISO.

22 Now, this is -- you have to download each day one
23 at a time. So this was a time-consuming process. So we
24 were not able to -- we have not been able to download
25 every month since March 2005. So we thought we'd download

1 a sample of months, and we've downloaded July 2006, August
2 2006, October 2006, April 2006 and January 2007.

3 Q. Establishing a sampling of on-peak and
4 off-peak periods throughout the year?

5 A. Right. Well, primarily we were focused at
6 on-peak, because I don't have -- I really don't have very
7 much problem with using the prices at the coal generators
8 during the off-peak because you're not going to be making
9 sales from your gas turbines in the off-peak hours. So we
10 were primarily focused on the on-peak hours, and what we
11 initially looked at was the difference between the prices
12 at the gas turbines and the prices at the coal generators
13 during the on-peak hours, and the price differences, they
14 vary by the month.

15 I mean, that's the reason we kind of
16 sampled to see how consistent they were. They're higher
17 in the summer months when you're likely to be making sales
18 from your gas-fired generations. We were over \$2 a
19 megawatt hour difference on the gas generation versus the
20 coal. And we were -- we were less than that in like
21 October and April, but not a whole lot less. I mean, like
22 at \$1.80, something like that.

23 Q. Let me -- when you started your answer --

24 A. Yes.

25 Q. When you stated your answer, you mentioned

1 that you had a concern about having a sufficient amount of
2 data. Do you have confidence in -- with the data that you
3 have received, and do you have confidence in your
4 conclusions or do you believe that they're missing data
5 that would make them more accurate?

6 A. In the -- I believe there is data that
7 would make the results more accurate. Now, I talked to
8 Michael Rahrer about this, and what I believe would make
9 the results more accurate is if we could download -- if we
10 could have two sets of prices, one for the coal generators
11 based on the coal LMPs, and one from the gas generators
12 based on the gas LMPs, and then run the production cost
13 model with two sets of prices that you would sell from
14 that would be different between coal and gas.

15 And I asked Michael Rahrer if this would be
16 possible to do, and his answer was he thinks so but it
17 would take about a week's work on his part. And frankly,
18 we're -- we're at the end of our budget expenditures for
19 Mr. Rahrer, and plus it would take a lot of additional
20 work to download all of the data for the gas turbines
21 throughout a whole year to get what you think the
22 differences in those would be.

23 Q. So this data's not normally reportable?
24 It's not part of normal surveillance reports or --

25 A. It's a part of what the Midwest ISO posts

1 on its website, but it takes a lot of data work to
2 download it, calculate the averages for all the gas
3 turbines and that type of thing.

4 Q. Well, would the risk with -- with your
5 desire to have additional data, more computations, more
6 analysis --

7 A. Yes.

8 Q. -- where would -- if there would be any
9 change, if you had that data, how would that potentially
10 affect, or do you know? Would it cause greater sales,
11 less sales? Do you have any idea?

12 A. What it would do is it would -- probably
13 for the gas -- I'm sorry. For the coal-fired on-peak
14 price, it would lower that price. I don't have any
15 questions about that. The LMPs at the coal-fired
16 generators during on-peak periods are lower than the
17 prices that I used in my analysis, and that has to do with
18 congestion and losses from the coal-fired generations to
19 the load. And I don't have any question it would do that.

20 For the gas-fired generation that's run in
21 the model, it would increase the price. And actually we
22 also looked at how the gas turbine prices compared to
23 loads, to load prices, or prices at the load, and they are
24 actually higher at the gas turbines than they are at the
25 load. I don't know if I can explain why, but that's the

1 case, which means that there's reverse congestion in those
2 particular cases. So any of the sales that we would get
3 out of the gas turbines would be higher.

4 Q. Any way to net that in potential?

5 A. I felt like this applying the 2 percent
6 number would come close to that, but that's -- that's a
7 rough estimate. I mean, I know the 2 percent represents
8 what would happen to the off-peak prices. We would lower
9 the off-peak prices by 2 percent. On the on-peak prices
10 you've got them going two different ways. You've got gas
11 prices going up. You've got coal prices going down. And
12 2 percent is just an estimate of what I think might come
13 out of that.

14 Q. Okay. Now, you mentioned -- you mentioned
15 the existence of bilateral contracts, especially prior to
16 the creation of the day two market. I wanted to talk to
17 you about the municipal contracts that were -- they still
18 are in existence, but potentially not going to be in
19 existence.

20 A. Yes.

21 Q. Did you include any analysis with regard to
22 the municipal contracts that are especially in place in
23 Missouri right now? I don't know if there are any
24 other --

25 A. No. The way that -- the way that that is

1 done in the analysis is that those are considered part of
2 the native load, and costs are allocated between retail
3 and wholesale as a part of the -- both the company's and
4 the Staff's cost of service calculations. We don't look
5 at revenues on those cases. We allocate costs.

6 Q. Why are they part of native load?

7 A. Because AmerenUE has an obligation to serve
8 those customers at this time.

9 Q. Why is that?

10 A. Because --

11 Q. Considering they're not -- those rates are
12 not tarified, so why do they have an obligation to serve
13 those customers?

14 A. They're not tarified, but they're
15 contracted, and they have an obligation to serve those
16 customers as long as those customers are under contract.

17 Q. But they don't have any obligation to reup
18 that contract in 2008, do they?

19 A. They have no obligation to, that's correct.

20 Q. Okay. So their obligation is purely
21 contractual? It's not based on another statute or a
22 tariff or a Commission rule?

23 A. That's correct.

24 Q. A municipal customer is not considered the
25 same as a customer under what we consider a customer?

1 A. In everything that we look at, as long as
2 the -- for example, if we're looking at their need for
3 capacity, just take that for an example, and if they have
4 a contract to serve that customer, that customer's load
5 will be included in our calculation of reserve margins and
6 those types of things because they have a contractual
7 obligation to serve them.

8 When you look at those, if you go out past
9 2008, those will show up right now in their capacity
10 expansion tables as zero, that that load goes away simply
11 because we don't know. We don't know if they will
12 recontract with those customers or not. And so it's
13 represented as, in the capacity expansion tables right
14 now, as zero load.

15 (REPORTER'S NOTE: At this point, an
16 in-camera session was held, which is contained in
17 Volume 22 of the transcript, pages 1533 to 1535.)

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1 BY COMMISSIONER CLAYTON:

2 Q. So if in the past on those bilateral
3 contracts you're just assigning cost?

4 A. Allocating cost, yes.

5 Q. Allocating cost. So in the future, you've
6 got zero for capacity?

7 A. That's correct.

8 Q. Where do those costs go moving forward if
9 you assume zero?

10 A. They go to retail load.

11 Q. Okay. So those costs just move over?

12 A. Some of those costs do, in particular the
13 generation costs. Now, most of these cities are not --
14 well, they have their own distribution system. So they
15 didn't get any of the distribution costs allocated to them
16 in the cost of service.

17 So now you're left with generation costs,
18 production costs, and I'll just call it overheads or
19 things that go with that as a part of the -- a part of the
20 allocation, other costs, ANG costs, that type of thing.
21 So you will not be allocating any generation costs to them
22 in the future.

23 Transmission costs, I don't -- I haven't
24 sat down and talked with our accountants. There's two
25 ways you can treat it. One is as a revenue source. Union

1 Electric will receive dollars from the wholesale rate that
2 could be used as an offset against our costs.

3 Another alternative is that you allocate to
4 them their -- still allocate to them their share of the
5 transmission costs, because they are still using a part of
6 the AmerenUE transmission system. They are still a
7 transmission user. I'm not going to say customer because
8 they'll be a customer of the Midwest ISO.

9 Q. So moving forward, if you're anticipating
10 zero capacity and assuming that there is not a replacement
11 contract --

12 A. Yes.

13 Q. -- then the costs associated with serving
14 those customers will then just be shared by the other
15 retail customers?

16 A. The generation cost in particular, yes.

17 Q. Okay. Now, that is obviously shifting
18 costs to the retail customer?

19 A. Yes.

20 Q. Do you make any recommendations or any
21 suggestions regarding that scenario?

22 A. No, because it's not a scenario that we
23 have to consider in this rate case. It's not --

24 Q. That's not a cost issue that should be
25 considered in this case?

1 A. That's correct, because it's something out
2 past 2008.

3 Q. Outside -- you mean outside of the test
4 year?

5 A. Outside of the test year, and outside of
6 any known and measurable.

7 Q. But the test year would include those
8 allocation of costs?

9 A. They absolutely do, yes.

10 Q. So does the test year calculation include
11 those costs or not? I guess I'm --

12 A. Yes.

13 Q. If you're using the test year, the test
14 year would include that cost allocation.

15 A. That's correct.

16 Q. So your recommendations or the Staff
17 recommendations contemplate that those contracts are going
18 to continue?

19 A. That's correct.

20 Q. Okay. All right.

21 A. That's correct.

22 Q. All right. Are there any differences --
23 explain to me what differences exist in sales of energy or
24 capacity in the form of the bilateral contract between UE
25 and the bilateral contractees or whoever we would call

1 them and the sale of energy or capacity to those same
2 folks from an affiliate that is not regulated. Is there a
3 difference in price? Is there a difference in the sale?
4 Does that question even make sense?

5 A. Well, I'm not -- I'm not sure I have a
6 level of knowledge about their bilateral transactions and
7 what kinds of bilateral transactions they enter into
8 because most of that is -- most of that has diminished
9 significantly since the MISO market came into place.

10 Q. What is diminished?

11 A. Bilateral.

12 Q. Oh, the bilateral contract?

13 A. Most of the bilateral contracts that
14 AmerenUE would enter into today would be to, I'll use the
15 word hedge, hedge against prices in the Midwest -- that
16 they might be faced in the Midwest ISO. So you might be
17 willing to enter into a bilateral contract for power over
18 the next month, okay, at some average price, and what
19 you're doing is, you're committing part of the generation
20 that you otherwise would have had available to sell into
21 the Midwest ISO market, you're actually committing that to
22 sell to another individual.

23 Okay. So you -- so you can think of it is,
24 now I don't have this power to sell to the Midwest ISO
25 market. It actually doesn't work that way. It actually

1 works on a financial basis. So -- but you can think of it
2 as a physical commitment and now I can't put this into the
3 Midwest ISO market. If that price turns out to be at a
4 higher price than what you could have got in the Midwest
5 ISO market, you've made some additional money.
6 If it turns out that it's at a lower price than what you
7 could have made in the Midwest ISO market, you lose some
8 money on it compared to the Midwest ISO market.

9 But you've hedged it because you've fixed
10 it. So it's a fixed price. Financially you have fixed
11 that's the price you're going to get for that power no
12 matter what happens in the Midwest ISO market.

13 Q. You're creating some certainty, is what
14 you're saying?

15 A. You're creating some certainty.

16 Q. So is it possible to assess from the
17 perspective of the Missouri AmerenUE ratepayer whether it
18 is more appropriate to have existence of a bilateral
19 contract or -- with the allocation of costs versus having
20 that capacity available to sell on to the market?

21 A. I think --

22 Q. Is it even possible to make that
23 assessment?

24 A. No, not -- well, let me back up. I think
25 if you were going to make that assessment, it would be

1 similar to the assessment that you would make of a gas
2 utility, for example. Is it appropriate for them to be
3 hedging their gas costs ahead of time? That's the type of
4 thing that you'd have to be looking at.

5 Now, I don't know how prevalent it is at
6 AmerenUE. The Staff has not looked at that. We have not
7 gone into the details of whether it's appropriate for
8 AmerenUE to be hedging the Midwest ISO market. We haven't
9 looked at that in this particular case. I don't --
10 frankly, I don't know how much hedging they actually do.
11 Would it be complicated? Yes. Would it be -- could you
12 do it? My answer is, yes, we probably could, if we felt
13 that was an appropriate task to be involved in, but
14 hopefully after I retire. That would not be an easy
15 thing.

16 Q. Can you give me -- this is, I think, my
17 last line. I wanted to ask you, on your estimates for
18 off-system sales in light of fuel costs, can you give me
19 some scenarios that would cause the greatest negative
20 impact on the ratepayer in terms of what the market would
21 look like either -- is it weather? Is it gas prices
22 plummeting? Is it -- what circumstances would cause the
23 greatest negative impact on the ratepayer, and then on the
24 flip side of that I want to ask, what would be the
25 greatest risk that would befall the utility, what

1 circumstances?

2 A. Okay. I think I can, and I'm going to --
3 I'm going to restrict that to prices. There are probably
4 some other scenarios out there. I mean, clearly you're at
5 risk if -- if the Callaway nuclear facility would go down
6 for an extended outage, that's a big risk, I mean, those
7 kinds of things.

8 Q. Callaway going out would be under -- under
9 your recommendations would be a great risk --

10 A. Yes.

11 Q. -- to the utility?

12 A. Yes.

13 Q. Not necessarily to the ratepayer?

14 A. That's correct.

15 Q. Okay.

16 A. And let's -- let me get a context. Let's
17 say under traditional -- I'll call it traditional
18 ratemaking where we don't have a fuel adjustment clause.

19 Q. Yes.

20 A. So under traditional ratemaking, and we're
21 talking about down side risk for the company, for AmerenUE
22 as an operation -- operating its electricity in the
23 off-system sales is a significant, significant -- let me
24 think through this just a second. A significant drop in
25 natural gas prices would be -- would pose a risk for the

1 company because it would lower the prices that they would
2 get on the off-system sales market. Okay. That would be
3 a significant risk for them as a seller of electricity.

4 Now, if I were looking at it from the
5 ratepayer standpoint, you know, I mean, that would cause
6 their off-system sales to drop. From a ratepayer
7 standpoint, and I'm thinking about going in, you know,
8 going into the next rate case now, what is the most
9 significant risk?

10 Q. I suppose the negative to the ratepayer
11 wouldn't carry a change in the current rate. It would
12 basically be the possibility that they'd be overpaying for
13 service at least in the short term. I mean, that's the
14 type of risk we're talking about?

15 A. Yeah, if you put it in the fuel adjustment
16 clause context now, and then what would cause the -- well,
17 increases in the price of fuel, those -- and I think we've
18 discussed that somewhat.

19 Q. Increase in gas prices?

20 A. Increasing gas prices, increasing coal
21 prices both. In my rebuttal testimony, if you look on
22 page -- give me just a second.

23 Q. That just sounds so -- I'm sorry. Go head.

24 A. On page 27 of my rebuttal testimony, I look
25 at the down side risks with and without sales, and the

1 down side risk without sales of a -- these down side risks
2 have to do with coal and gas prices increasing, okay -- of
3 \$42 million. I'm looking at the table on page 27. The
4 bottom line is \$42 million, and if you include sales, that
5 drops to \$20 million.

6 Okay. But those are the -- and then it
7 goes on up. With obviously decreasing probability, it
8 goes on up to at the extreme with only about a 10 percent
9 probability \$126 million versus \$60 million. So having
10 price increases in fuels going in under a fuel adjustment
11 clause would pose the greatest risk to the -- down side
12 risk to the ratepayers.

13 Q. To the ratepayer?

14 A. Yeah.

15 Q. Now, you said in starting off your answer
16 the negative or risk to the ratepayer in the context of
17 not having a fuel adjustment clause, and you may have just
18 answered this or I may --

19 A. Sure.

20 Q. I want to be clear. Let's assume that
21 there is not a fuel adjustment clause. We're doing
22 traditional ratemaking.

23 A. Right.

24 Q. You're including base amounts for each
25 factor. Is the ratepayer at risk also in terms of

1 increased costs in gas and/or coal prices?

2 A. Not -- not until the next rate case. Okay.

3 In the risk, if I were measuring the risk, you might ask
4 the question, well, what's going to make that new rate
5 case get filed sooner rather than later? Let's say we use
6 that as a measure of the risk, and then increasing --
7 increasing fuel costs will cause that -- could cause that
8 case to get filed sooner.

9 Q. I want to ask, you mention on the negative
10 side to the utility that a significant drop in gas prices
11 would -- would cause -- would be a serious risk factor for
12 the utility, and that would be because of the reduction in
13 off-system sale prices, correct?

14 A. Prices, yes.

15 Q. Now, what happens if you have a significant
16 increase in gas prices? Let's say you have a hurricane.
17 What would that do to --

18 A. Here's my logic in that: Because AmerenUE
19 is not dependant, very dependent upon gas generation, the
20 impacts of a significant increase in gas price would not
21 be to increase their cost of generation.

22 Q. I understand. It would increase the amount
23 of their sales presumably --

24 A. Yes.

25 Q. -- because of the increase in price?

1 A. Right.

2 Q. Right. So that would be a risk presumably
3 to the ratepayer that their -- that they're not
4 receiving --

5 A. The flow back of the --

6 Q. Exactly.

7 A. -- of the increased profits, yes.

8 Q. Now, it is also your testimony that --
9 well, what occurs if you have an increase in coal prices
10 from the perspective of the ratepayer, including an
11 assessment of off-system sales?

12 A. What my testimony was, that by including
13 off-system sales, you're going to cut the risk to
14 ratepayers by approximately one-half. It's a little less
15 than one-half from those -- from those increased costs of
16 coal or gas, but primarily coal in Union Electric's case.
17 But yes, there is risk to the ratepayer of that, of
18 increasing coal costs.

19 COMMISSIONER CLAYTON: I don't think I have
20 any other questions at this time. Thank you, Doctor.

21 THE WITNESS: Thank you.

22 JUDGE WOODRUFF: Commissioner Gaw?

23 QUESTIONS BY COMMISSIONER GAW:

24 Q. Good morning, Dr. Proctor.

25 A. Good morning.

1 Q. I want you to step back away for just a
2 moment, not literally but figuratively, and give me --
3 help me to understand first of all just very generally the
4 model that was used in this case and how -- what that
5 model was and how it was developed.

6 A. The production cost model or the model to
7 develop prices?

8 Q. Well, tell me what the production cost
9 model was designed to do first.

10 A. All right. Production cost model that both
11 the Staff and similarly the company used is used for a
12 couple of reasons, and it's there to develop a normalized
13 level of production cost, basically fuel cost. That's --
14 that's the focus, and that has always been the focus of
15 the Staff over the past several -- as far as -- as long as
16 I've been here and we've been using production cost
17 models, the focus has been on what is a normalized level
18 of fuel costs.

19 And that was the objective because we
20 couldn't use test year actual loads and test year actual
21 costs for lots of different reasons. One is weather, so
22 the loads aren't normal, so we have to normalize the
23 loads. Two, outages, both scheduled and random outages or
24 forced outages aren't normal in any given test year. So
25 you have to normalize for that.

1 Thirdly, we almost always have known and
2 measurable charges in fuel costs, and we've got a big one
3 in this case. I mean, the test year did not have the huge
4 increase in coal costs that were seen between 2006 and
5 2007. So you have to -- you have to adjust for that one.

6 In this particular case, we also had to
7 make an adjustment for off-system sales because --
8 primarily I think because the JDA was in effect, the Joint
9 Dispatch Agreement was in effect during 2006. So we had
10 to include off-system sales and normalize for that as if
11 the Joint Dispatch Agreement wasn't there.

12 We know -- and let me give you an example
13 of this. Historically when you look at any of the figures
14 that show, they call it net interchange, that a large
15 portion, and I've calculated 80 percent of what you're
16 seeing in those numbers are interchange sales between
17 subsidiaries. They're going from AmerenUE to in this case
18 Ameren Energy Generation based on an incremental cost.

19 I think there's a little bit of an adder,
20 \$2 a megawatt hour adder to cover variable O&M costs. I
21 think there's -- they also -- when I say incremental
22 costs, I mean their dispatch costs. So there's an SO2
23 adder and there's -- all of that's included in the
24 dispatch cost. So the transfers were being made on that
25 basis, 80 percent of them.

1 So we needed to find out from the
2 production cost model, if we didn't have the Joint
3 Dispatch Agreement, what would be a normal level of
4 off-system sales.

5 Q. Okay.

6 A. We can't determine that from historical
7 records because historical records have the Joint Dispatch
8 Agreement in there. I think what we found was that sales
9 are going to be lower than the transfers that we looked at
10 historically, but they're going to be at a higher price.

11 Q. Okay. So the volume of sales you think may
12 be lower?

13 A. They will be lower than the transfers.

14 Q. That occurred when the JDA was in place?

15 A. JDA was in place, yes.

16 Q. Tell me why that would be.

17 A. Okay.

18 Q. If there is an explanation.

19 A. There is an explanation. Think of it in
20 the following way: The Joint Dispatch Agreement has both
21 utilities in essence looking at their incremental costs.
22 So if AmerenUE has a coal-fired generator that has some
23 capacity in it, energy in it that's not needed to meet its
24 native load, you calculate the incremental cost of that
25 and you compare it to the incremental cost of SIPS meeting

1 its own load at whatever its incremental cost is. Let's
2 say it's a much less efficient coal generator.

3 Q. All right.

4 A. Now you're going to make the transfer
5 because the incremental cost at UE is lower than the
6 incremental cost at the SIPS -- I'm going to call it the
7 SIPS generator.

8 Q. Okay.

9 A. So that transfer takes place. Now we're
10 going to go to market. Okay. We're working with market
11 prices now. We're not working with -- we're not working
12 with incremental costs anymore.

13 And market prices, market clearing prices
14 tend to be higher than incremental cost. So now SIPS is
15 looking and they've got a generator on the margin.
16 They're not looking at this lower UE incremental cost.
17 They're looking at marking price and whether they should
18 buy at that market price or run their generator.

19 In those instances where there's some
20 difference, they may actually run their generator when
21 they didn't before, and AmerenUE may not make that
22 transfer where it would have before because of the level
23 of the market price.

24 Q. How do we know that there's not another
25 buyer out there, though, for that generation that will pay

1 that higher price?

2 A. Well, on a bilateral basis or on a MISO
3 basis?

4 Q. Any basis.

5 A. Well, on the MISO basis, because that
6 price -- the way that market works is, here's the price.
7 You know, I put in a bid.

8 Q. Right.

9 A. And here's the price, and if your bid is at
10 or below that price, you'll make a sell. Okay. If that
11 price is below your bid or your incremental cost, then
12 you're not going to make a sale. So it's fairly
13 straightforward in terms of the generator's response is,
14 is I simply look at the price in that five minutes and I'm
15 going to make a sale or I'm not going to make a sale.

16 Q. Well, I'm a little confused about this
17 scenario where it might be -- the price at the market
18 might be below incremental cost.

19 A. Yes.

20 Q. I would assume if we had the JDA that you
21 would -- that the affiliate would not have access to that
22 AmerenUE generator if they had access to the -- to
23 generation at below the incremental cost of the UE
24 generator.

25 A. If they had access to that generation from

1 somebody else?

2 Q. Yes.

3 A. Yes.

4 Q. So that would seem to me to not be a factor
5 in your analysis.

6 A. I understand what you're saying. The way
7 the JDA works is if there is a purchase that you could
8 make out there at a price that's beneficial to either of
9 the utilities or to both of them, then they'll make that
10 purchase.

11 Q. Yes, instead of using that generation --

12 A. That's correct.

13 Q. -- they have themselves?

14 A. But I don't know that those prices are
15 really comparable to the market clearing prices that you
16 see in MISO. It was one of the initial things that we
17 expected the volumes or the quantities to be about the
18 same --

19 Q. Yes.

20 A. -- with and without the JDA, and when we
21 got the results back and they were lower, I know that was
22 a concern to us in trying to figure out why were the --
23 why were the sales below what was occurring when we were
24 transferring under the Joint Dispatch Agreement? And I'm
25 giving you the only explanation I could come up with.

1 Q. Did you -- did you look at their bilateral
2 transactions as far as volumes were concerned after the
3 expiration of the JDA? Was that in the number that you
4 were looking at on volumes?

5 A. No. We simply looked at -- we looked at
6 market clearing prices. We didn't look at volumes or
7 bilateral transactions in what the Staff went through.

8 Q. The reason I'm asking is that -- I don't
9 want to mischaracterize Mr. Schukar's testimony from last
10 night, but I got the impression there were significant
11 numbers of those transactions occurring today after the
12 expiration of the JDA.

13 A. There could be.

14 Q. If those figures are not in your volumetric
15 figures post-JDA, is that a -- is that something that
16 should be in those figures?

17 A. Possibly. Now, it's -- I don't know that
18 it's a problem from a volume standpoint. It might be a --
19 it might be a problem from a price standpoint, because
20 anything -- like I was discussing before, anything that
21 you do -- anything that you do in volumes is related to
22 the Midwest ISO price. That's the way we ran the
23 production cost model. To go in now and determine and
24 think of it in the following way, would I have had higher
25 volumes, because if I make this bilateral sale of energy,

1 I can think of that as this is energy I do not now have
2 available to sell to the Midwest ISO market.

3 Q. Okay.

4 A. So another way you might model that is to
5 say, hey, this is a bilateral sale. I have to add it to
6 my load.

7 Q. Yes.

8 A. Okay. I have to add it to my load. When I
9 add it to my load, I'm not going -- I've got to use my
10 generation to meet my load before I can go to the
11 off-system sales market.

12 Q. Maybe I'm just -- maybe I just am not quite
13 seeing this issue of the volume correctly. In the model
14 that you used, did it take the available volumes that --
15 in capacity above what was assumed to be utilized for
16 native load and suggest that those volumes were available
17 to the market?

18 A. Absolutely.

19 Q. And then did it utilize some sort of a --
20 some sort of a calculation to come up with what would be
21 assumed to be sold based upon the cost of running those
22 generating units and the likely price at the MISO market?

23 A. Absolutely.

24 Q. Okay.

25 A. Looked at the incremental cost and compared

1 that to the MISO price.

2 Q. So in essence, regardless of what might
3 have been appearing to be the case in regard to the volume
4 of sales post JDA, it really is irrelevant in regard to
5 the results of the production cost modeling. Am I
6 following you?

7 A. I think you're following me correctly, yes.

8 Q. Okay. Well, I'm sure there are other
9 people that probably understand this and can ask you to
10 clarify if I'm not following you correctly.

11 Whenever you looked at this model -- is
12 this a model that Staff has used before, this particular
13 model that was used in this case?

14 A. Yes, but this is the first time that we've
15 modeled off-system sales.

16 Q. Okay. And does this -- where does this
17 model came from, if you could tell me?

18 A. Yeah. The name of the model is Real Time.
19 It was developed by Michael Rahrer, who is -- in this
20 particular case it's -- well, first of all, our Staff
21 people who typically run the model were tied up with other
22 rate cases.

23 Secondly, since this is the first time we
24 were going to be running the off-system sales, we put it
25 out for contract, and Michael Rahrer was our contractor

1 and was the individual who ran the model for us.

2 Q. Okay. And has it been utilized in other
3 jurisdictions to estimate off-system sales?

4 A. I know it's used by other states. I
5 believe we became aware of the model -- and this is going
6 back to my poor memory now -- because it was being used at
7 that time by UtiliCorp. I mean, we looked at several,
8 several models for the Staff to use, and this was the one
9 that the Staff choose at that time. And I believe
10 UtiliCorp was using that model at that time.

11 Q. Okay. The assumptions that were made in
12 the model in regard to fuel prices, I assume there were
13 different assumptions that were made and different runs
14 that were made; would that be accurate?

15 A. Yes. For example, the first run that
16 Michael -- first runs that Michael Rahrer performed were
17 to benchmark the model against the company's model.

18 Q. What happened, just generally speaking, in
19 those first runs?

20 A. He was -- well, there are a lot of little
21 tweaks and stuff that you have to do to a model that have
22 to do with stuff like what's the minimum run level for a
23 plant and what's the ramp rates for plants and those types
24 of things, to try to get the models to approximate and
25 then to say in Michael Rahrer's case, am I having to put

1 anything in this model that I don't agree with in order to
2 get the same results that the company's getting? He got
3 very close to the company results.

4 Q. Okay. So the thought -- after those runs
5 were made and the results were fairly close to the
6 company's results, the parties felt like that -- felt they
7 had confidence in the -- in this particular model and the
8 inputs being used?

9 A. Well, that was the purpose of doing that.

10 Q. Yes.

11 A. Now, subsequent to actually filing, there
12 were a few things that were modeled incorrectly by the
13 Staff that we have corrected. Primarily among them was a
14 mismatch between the prices and the loads. You've got to
15 match up -- you've got a cyclical behavior in the prices,
16 and those follow the cyclical behaviors in the loads, so
17 we had to rematch those.

18 I think the company was concerned that we
19 had modeled all of the Callaway outage, fuel outages in
20 the spring when prices are lower than they are in the
21 fall. So we split up the outages on Callaway between the
22 spring and the fall.

23 Those were some of the things that I
24 remember. There were other little things where there was
25 still a little bit of disagreement in the application, but

1 we are now at a point where we're in agreement.

2 Q. Okay. Now, in regard to the assumptions on
3 fuel prices, you've been talking a significant amount
4 about that. If you would, please, tell me your opinion
5 today in regard to what those fuel prices ought to be in
6 calculating, in running the model for off-system sales.

7 A. Okay. My recommendation right now is the
8 same as it was in my direct testimony.

9 Q. Okay. Which is again?

10 A. Let me look to --

11 Q. Sure.

12 A. And I don't know if any of these numbers
13 are highly confidential.

14 MR. LOWERY: Are you talking about your
15 dispatch price for --

16 THE WITNESS: Yes.

17 MR. LOWERY: No.

18 THE WITNESS: And the results for on-peak
19 and off-peak prices.

20 MR. LOWERY: That are used in the modeling?

21 THE WITNESS: Yes.

22 MR. LOWERY: No, those aren't.

23 THE WITNESS: Okay. Well, when I initially
24 submitted the testimony and asked what was highly
25 confidential, I was told all these numbers were highly

1 confidential.

2 MR. LOWERY: I think they're on the board
3 up here already.

4 THE WITNESS: Some of them are. So I was
5 sitting here going, whoa, wait a minute. Yeah, for
6 natural -- for on-peak spot -- spot on-peak prices,
7 \$54.51, natural gas price \$7 per MMBtu. The off-peak
8 price was \$30.63, and I think that's up on the board. And
9 the coal price is not on the board, but was \$1.39 per
10 MMBtu.

11 MR. LOWERY: Your Honor, if I could just
12 interject, just explain to the Commissioners, the reason
13 early in the case some of those numbers were highly
14 confidential is they're going to be these '07 fuel prices
15 and based on things that were not in the public domain at
16 that time. Since they have become in the public domain.
17 Because of the fact that we have SEC requirements, there's
18 some things we can't talk about openly until those are in
19 the public domain.

20 COMMISSIONER GAW: okay. That makes sense.

21 BY COMMISSIONER GAW:

22 Q. Okay. The discussion you had about the
23 discounts with counsel --

24 A. Yes.

25 Q. -- is it your opinion that there should be

1 or shouldn't be a discount?

2 A. My -- my opinion is that the prices that
3 they originally gave me do not -- and I agree with them --
4 do not include a congestion component or a losses
5 component.

6 Q. Okay.

7 A. What they offered as an alternative in
8 their rebuttal testimony was to use the average LMPs,
9 locational marginal prices, at the generator, at the coal
10 generator. Okay. And I have -- I have no problem with
11 that representing where we are in terms of off-peak
12 prices.

13 Q. Yes.

14 A. I'm struggling with using those as
15 representative of what they sell on peak at. I think it's
16 a lower bound.

17 Q. Well, and I think I understand what you're
18 saying there. What I'm looking for is, once you have this
19 additional information, what is your recommendation in
20 order to take that into account?

21 A. Well, I think the Commission has to take a
22 whole lot of different things into account. Okay? And
23 when they look at where to set the -- where to set the
24 prices in this, my recommendation is that they didn't
25 lower it from the initial levels, and part of that had to

1 do with information that came out just prior to me filing
2 surrebuttal testimony about where the fuel budget was.

3 And their fuel budget was way above -- not
4 way above, but above the results that the Staff was
5 getting in their run, in their fuel budget for 2007. And
6 to me that was a red flag telling me, yes, if you look
7 literally, maybe we should lower these prices by 2 percent
8 to reflect the differences for losses and so forth, but
9 how does that fit together with, you know, what the
10 company's showing now or putting in their fuel budget for
11 2007?

12 That was to me kind of a red flag, and so I
13 wasn't willing at that time because I had some concerns
14 about the prices that they were giving me. I wasn't
15 willing to back off from what I originally filed at that
16 point. So that was one of the concerns that I had, and
17 that was what I indicated in my testimony.

18 Q. So you're basically still at the same
19 figure, as you've said?

20 A. Yes.

21 Q. Okay. If you were -- tell me why that's
22 appropriate in light of what you know. Since you know
23 this additional information in regard -- or you have
24 additional information, tell me theoretically or give me
25 an explanation as to why the adjustment shouldn't be made

1 up or down.

2 A. Theoretically, theoretically my prices are
3 too high because -- because they don't include congestion
4 and losses.

5 Q. All right. What offsets that?

6 A. And I think in my mind what offsets that is
7 what are the company's expectations about prices that
8 they're going to be facing in 2007.

9 Q. And if those fuel prices are higher than
10 what your inputs were into the model --

11 A. That's correct.

12 Q. -- that would mean the prices would be --
13 on off-system sales would be higher according to your
14 theory?

15 A. That's correct.

16 Q. Is it close enough to -- I mean, what I'm
17 getting here is, I understand this ballpark concept of
18 saying, well, there's some offset, but I'm looking for
19 something a little more definitive about why that -- why
20 that is an offset that justifies leaving it at the same
21 price rather than running new numbers.

22 A. I don't think I can quantify that for you
23 if that's what you're looking for is a specific
24 quantification.

25 Q. I'm actually not looking for a specific

1 quantification as much as I am assurance that that's an
2 appropriate offset, that those newer figures --

3 A. The budget numbers?

4 Q. -- for fuel are at least allowing a
5 ballpark set off against the failure to include the
6 congestion prices.

7 A. Okay. One of the -- you know, we use this
8 \$7 natural gas price.

9 Q. Yes.

10 A. And the company used a -- what's called a
11 forward curve for synergy hub. One of the things that I
12 observed and one of the reasons I did not want to back off
13 the \$7 gas price was that it looked very much to me like
14 gas prices were starting to go back up, natural gas prices
15 were starting to go back up. I think the forward synergy
16 hub price confirms what the market's expecting about
17 what's going to be happening over the next 12 months.

18 So in those -- in those terms, the \$7, you
19 know, you've heard all this stuff about it not being
20 normal but including these high prices from Katrina and so
21 forth, but it may actually turn out to be a low price
22 looking out into the future. And it certainly appears
23 from what the synergy hub forward prices were that that's
24 probably the case.

25 Q. Okay.

1 A. I feel fairly -- I feel very comfortable
2 with the coal price that we're using. We do have to
3 update that because a component of that is the Ameren --
4 average AmerenUE Weymouth price for coal. I recommended
5 that that be included, and there is some true-up, I think
6 is the right word, true-up to that price that has to
7 occur. My understanding is it may go up a little bit.

8 Q. Okay. Now, I want two different general
9 assumptions made here. The first one is for you to
10 explain to me how the fuel prices that you're using in
11 off-system sales are matching the fuel prices, if you
12 know, that are going in to account for the prices to run
13 all the generating units.

14 A. Okay.

15 Q. If everything were to be placed in base
16 rates and there were no fuel adjustment clause, and then I
17 want to go through the second scenario if there were. But
18 I'm trying to understand how -- first of all, if the
19 numbers are the same in the assumptions and then how they
20 interact together.

21 A. Okay. For natural gas, they're the same.

22 Q. Okay.

23 A. The fuel dispatch prices in the accounting
24 places are identical.

25 Q. Okay.

1 A. Whether it's the 6.58 in the company's case
2 or the \$7 in the Staff's case, we're using those both for
3 the accounting and for the dispatch.

4 Q. Okay.

5 A. Okay. For coal, they're not the same.

6 Q. Why?

7 A. Well, because the coal price depends upon
8 various spot market prices, and I have -- I have moved
9 them as close as I can get them by using the Weymouth
10 price for coal that is going to go into the case from an
11 accounting perspective. Okay?

12 Q. All right.

13 A. But in addition, the dispatch price has to
14 or does include an adder for SO2 costs. Okay. Now, think
15 of it in the following way: I'm going to be making
16 judgments in sales on the margin for my coal units, and if
17 those are higher than my budget, I'm going to have to buy
18 additional SO2 allowances in order to make those sales, so
19 I want to reflect the opportunity costs for that.

20 When I'm running this -- when I'm looking
21 at my native load, I've got SO2 allowances to cover that.
22 I've already got those in there. So one of the major
23 differences between the dispatch price that's used and the
24 accounting price is the accounting price doesn't include
25 these SO2 costs because they have allowances to cover it,

1 but the dispatch price has to include it as an opportunity
2 cost, and that's the big difference.

3 Q. Is there anything else that's of
4 significance in the difference between the prices?

5 A. Should not be, no.

6 Q. Okay.

7 A. Not in the Staff's prices, and the company
8 has adopted the Staff's coal dispatch price.

9 Q. They have or have not?

10 A. They have.

11 Q. They have?

12 A. Yes.

13 Q. That price again, so I can understand it,
14 is there any tie between that price and the price that
15 Ameren has incurred for purchases of coal for the coming
16 two or three-year period under contract?

17 A. Yes. That price is set based upon what
18 they're paying in their contract starting 2007 for
19 Weymouth, the Weymouth price of the coal.

20 Q. Okay. And is it -- is there any adjustment
21 for the contracts that are farther out than '07?

22 A. No.

23 Q. Or is that just that '07 price?

24 A. It's just that '07 price.

25 Q. Now, when you're looking at both the

1 increases of fuel costs for purposes of just expense that
2 the company has and how those -- what off-system sales
3 revenues will be, if I have increasing fuel costs, is it a
4 net positive or a net negative to the company? And I
5 suspect that is more complicated than a one answer
6 question. So I'm trying to understand how those two
7 interrelate when they're netted against one another.

8 A. If I'm following the question, if the
9 company is facing increasing coal costs --

10 Q. Yeah. Give it a scenario of coal and/or
11 natural gas if they're different.

12 A. And natural gas?

13 Q. Either one if they're different. I'm
14 looking for what the pattern is.

15 A. Well, I correlate the two, so I do not
16 separate them, and that correlation is on an annual basis,
17 not on a day-to-day basis and certainly not on a monthly
18 basis or day-to-day month basis.

19 Q. Okay.

20 A. So on a monthly or day-to-day basis, you
21 can see those variations, but over the year what I'm
22 saying is that those variations tend to wash out. So I'm
23 looking at them on an annual basis, and I thought that was
24 appropriate in terms of looking at a fuel adjustment
25 clause.

1 Q. Okay.

2 A. So I view them as highly correlated on a
3 year-to-year basis. So on a year-to-year basis, if the
4 costs go up, if the fuel costs go up, then that is a net
5 negative for the company, including off-system sales.

6 Q. Okay.

7 A. In other words, they will lose money when
8 their fuel costs go up.

9 Q. All right.

10 A. All right. What my testimony was, is if
11 you separate that, you know, it doesn't -- there's no way
12 it totally mitigates it so that they come out even or
13 zero.

14 Q. Right.

15 A. But it cuts -- it cuts the losses that you
16 would see in their increased fuel cost by about a half.
17 The increase in off-system sales, profits from off-system
18 sales will cut that -- that loss from -- from increased
19 fuel costs by about one-half, is what my testimony is.

20 Q. That's if you -- if you just assume natural
21 gas and coal prices are going up --

22 A. Together.

23 Q. -- together?

24 A. Yes.

25 Q. If natural gas prices are going up but coal

1 is holding fairly steady, is there a difference in how
2 that --

3 A. Yes.

4 Q. -- relates?

5 A. Actually, the company would make money.

6 Q. So there it would be a net positive?

7 A. Yes.

8 Q. Okay. And if you reverse that, if coal
9 were going up and natural gas were steady, it would be
10 more of a negative than if both were going up?

11 A. Right.

12 Q. Okay.

13 A. Yeah.

14 Q. Now, if you move over to the fuel
15 adjustment mechanism such as what is proposed by the
16 company, and at least for the moment let's ignore the
17 incentive portion of it --

18 A. Okay.

19 Q. -- so we can just focus in on the other, on
20 the portion dealing with how these things would ride up
21 and down. Can you explain to me how that would work under
22 the company's proposal?

23 A. Excluding the sharing mechanism?

24 Q. Excluding the sharing mechanism for the
25 moment.

1 A. Well, you would set in a base level. Okay.

2 Q. And would that base level be -- is there an
3 agreement as to what that base level might be between the
4 parties at all?

5 A. I'm going to say this, and I hope it
6 doesn't surprise anybody, but if you go to just a straight
7 fuel adjustment clause --

8 Q. Yes.

9 A. -- it really doesn't matter where you set
10 the base level.

11 Q. Unless you get into the sharing mechanism?

12 A. Unless you get into the sharing mechanism.

13 Q. Okay.

14 A. Does that make sense that it wouldn't?

15 Q. I think it does. It may make a difference
16 in the first quarter or first third.

17 A. The first -- yeah. Probably the first year
18 it would make a difference because you -- because you've
19 got this lag.

20 Q. Yes. But it's just a lag.

21 A. It's just a lag. If you set it too low, if
22 you set the base level too low, the company's going to be
23 able to increase its prices over the next thing and get up
24 to whatever level it's actually at. I mean, that's the
25 way the mechanism works. So there's a lot less pressure

1 on getting that base level correct without a sharing
2 mechanism. But once you put the sharing mechanism in,
3 then now you -- now you want to get that base level
4 correct.

5 Q. Okay. What's the company's proposal on the
6 base level? Do you recall?

7 A. I don't -- I know they've got the 202 in
8 off-system sales. I'm not sure what their fuel costs are.
9 I don't --

10 Q. You don't know if it's the same as what has
11 been utilized in their model or in their modeling?

12 A. I'm just not familiar with the numbers, the
13 total numbers for fuel costs.

14 Q. Okay. Well, if you get into the sharing
15 mechanism that's proposed by the company, if you set -- if
16 you set the base level too high, what happens in regard to
17 the -- to the sharing mechanism that the company proposed?

18 A. It has no -- has no effect. They never get
19 into the sharing mechanism because it becomes very
20 difficult, if not impossible, for them to get below the
21 base level that was set.

22 Q. And if you set it too low?

23 A. It's like a gift. Here's -- you know,
24 automatically you're -- you really don't even have to do
25 anything to get a share of what those differences are.

1 Q. Okay. Oh, I wanted to ask you, in the
2 modeling that was done, how was EEI handled?

3 A. We ran the model both with and without EEI.

4 Q. Okay.

5 A. So we knew -- and the reason that we did
6 that, I mean, the Staff's position is to include EEI. But
7 the reason we did that is because we knew that we would
8 have to have comparisons to what the company's results
9 were.

10 Q. All right.

11 A. And in order to get to those comparisons,
12 we ran the model without EEI as well.

13 Q. Can you tell me the difference that
14 occurred with and without?

15 A. I believe that it's about \$78 million.

16 Q. 78 million. I know this should be easy to
17 understand, but which way was it most beneficial, to whom?

18 A. Well, it reduced the company's cost. The
19 way you can view it, and the way I like to think about it
20 is, you can view EEI is we're going to take all that
21 energy and sell it into the market, and we're going to
22 make \$78 million off of it and that's revenues that we can
23 subtract from the company's cost of service. So it lowers
24 the company's cost of service by -- and I believe
25 \$78 million is the correct number, but I -- I can be

1 wrong.

2 Q. Okay. Is that -- do you remember if the
3 model showed EEI's available capacity at around the
4 400 megawatt level?

5 A. That is correct.

6 Q. And did the model allow for capacity from
7 EEI that was not being utilized for native UE load to be
8 sold into the off-system sales market?

9 A. Here's actually the way the model works.
10 It dispatches, and I -- because EEI is a purchased power
11 contract, it's got a fixed price. And the regular -- the
12 Union Electric rate case units have heat rate curves.
13 Okay. And they -- I'm going to describe it as if they
14 blocked off those heat rates, and so what you've got is,
15 after you get past the minimum loading, you've got these
16 increasing costs of getting generation from those, but in
17 case of EEI you've just got this flat cost.

18 Q. Yes.

19 A. So, in essence, EEI just gets base loaded.
20 Now, there may be -- so you can think of it as we were
21 talking the other day of hydro coming in first or RUNNER
22 River hydro coming in first, then Callaway, and the way I
23 normally thought of it was EEI comes in next. Okay. But
24 you do have some minimum loads from the other coal --
25 minimum running that has to come in from those.

1 Q. Okay.

2 A. So what that does is it actually pushes the
3 other units up. It lowers the cost to serve native load,
4 but it pushes the other units up to make off-system sales.

5 Q. Right. So there may be some -- there would
6 be some additional available coal capacity within UE's
7 generating units available for off-system sales that
8 wouldn't have been if it were not for EEI?

9 A. Right. The other way you can think of it
10 is, well, let's just sell to the market every hour from
11 EEI. Okay. Well, the profit margin that I'm going to
12 calculate is higher than I would calculate from what I
13 described to you before, but what it's doing by adding to
14 that profit margin is offsetting the lower costs from
15 dispatching EEI to serve the native load.

16 So it doesn't really matter which of those
17 two scenarios you look at, you're going to get the same
18 answer financially.

19 Q. Okay. Some of the -- there is an exhibit,
20 and I don't want to go through this with you. I've done
21 this, I'm sure, ad nauseam with some people. But there
22 was a -- showing the generation utilized, each generator
23 being utilized historically as a percentage for native
24 load and a percentage for off-system sales or interchange.
25 I don't know if you've seen that or not.

1 A. I don't recall seeing it.

2 Q. There were some of those figures -- all of
3 the figures dealing with EEI showed it being utilized
4 100 percent for --

5 A. I recall now, yes.

6 Q. -- for native load, but the actual megawatt
7 hours vary from year to year. I was wondering if you knew
8 what the explanation for that was.

9 A. Well, first of all, that it serves native
10 load is because it's one of the cheapest resources to
11 serve native load. In the loading order, it's just not
12 going to get up -- the way you stack the costs, it's just
13 not going to get up there. Variations from year to year
14 could be caused by outages, either scheduled outages,
15 maintenance outages, whatever.

16 Q. Okay.

17 A. I'm not intimately familiar with that
18 contract, but I suspect the contract is -- may have some
19 provision in it where when the plant's down for
20 maintenance outages, the power's not available to UE. I
21 don't know for sure, but that's one possible explanation.

22 Q. Do you know whether or not that contract
23 allowed -- was a capacity or an energy contract?

24 A. Well, it was a contract for energy.
25 However, because it was a firm contract for energy,

1 AmerenUE used the capacity in its calculation of its
2 reserve margin. There's no question about that. So while
3 the contract may have been for energy, the capacity was
4 there and it counted as a part of their total capacity in
5 calculating their reserve margin.

6 Q. Okay. There's been some that have touched
7 on this already. I just want to try to run through it
8 pretty quickly here. In regard to MISO costs, how were
9 they handled in the production cost model?

10 A. The MISO costs were totally outside the
11 production cost model.

12 Q. All right. So how --

13 A. Outside of congestion and losses, that
14 issue.

15 Q. Okay. What about the other costs, how are
16 they factored in to this case?

17 A. They are -- they are just brought into this
18 case in total. Okay. We're not trying to in this case
19 separate them between off-system sales and native load.
20 And that was a big point of contention, and it was a point
21 of contention, I think, according to Mr. Lyon's testimony,
22 was what caused him to change his recommendation, combine
23 off-system sales with fuel, was people were not in
24 agreement about how those costs should be allocated
25 between off-system sales and native load.

1 Q. Okay. And once there's a matching of
2 off-system sales with fuel costs in regard to whether
3 things are in base rates or in fuel adjustment, that issue
4 goes away generally?

5 A. That issue, the allocation of that issue
6 goes away. There may be some disagreement, and I don't
7 know, about if there are any of those MISO costs that
8 should or should not be included in the fuel adjustment
9 clause. I think that still is out there, but --

10 Q. Do you who's testifying about that?

11 A. I believe the Office of Public Counsel, and
12 this is just from what I heard, has some concerns about
13 some of the MISO costs being included in fuel adjustment
14 clause. That's from memory.

15 Q. If we do not have a fuel adjustment clause,
16 how were MISO costs determined in the Staff's
17 recommendation for base rates?

18 A. They are included for actual costs incurred
19 in 2006. There was no adjustment made to the MISO cost
20 from 2006.

21 Q. Are you comfortable with that considering
22 some of the volatility that was seen with MISO costs for
23 the first year or so since startup?

24 A. This only includes MISO costs from 2006,
25 where I think most of that volatility had already -- MISO

1 went through -- the volatility occurred in 2005. They
2 went through corrective actions, my recollection was
3 September through about December of 2005, went into place
4 to correct those issues, and by 2006 I felt fairly
5 comfortable that they had addressed most of those issues.
6 So yes, I am comfortable with that.

7 Q. And again, on the other side of the
8 equation here with MISO, there is -- at least I think
9 there's been some testimony that there are some benefits
10 being derived from being a part of the MISO market and
11 part of the MISO system. Where are the benefits reflected
12 in the Staff's recommendations for setting rates in this
13 case?

14 A. We don't go in and try to identify those
15 benefits. In order to identify benefits you would have to
16 say, for example, what would their off-system sales
17 margins have been without MISO? We didn't attempt to do
18 that. But the benefits would be showing up in, No. 1,
19 reduced transmission costs, and No. 2, in additional
20 profits from off-system sales.

21 Q. Okay. So should that be reflected, then,
22 in the test year numbers?

23 A. I think it should be in the test year
24 numbers, yes. Finding it may be an issue, and since the
25 test year had the JDA in there, it gets very complex from

1 the test year numbers to ferret it out. I mean, what
2 we -- that's essentially what we tried to do with this
3 modeling exercise was to get -- was to ferret that out as
4 to what the impact would be without the Joint Dispatch
5 Agreement.

6 Q. So at this point, it's difficult for you to
7 testify about --

8 A. Benefits.

9 Q. -- where we could look to see what those
10 benefits might be?

11 A. That's correct. And our hope is that this
12 cost/benefit analysis that we're going to be working with
13 AmerenUE on will be able to do that.

14 Q. I think Commissioner Clayton had a
15 question, and since he's not down here, I'll try to ask
16 it. We talked about this. Can you tell me whether there
17 was any documentation that you saw as to the level of
18 off-system sales that Ameren was able to make during the
19 storm outages in '06?

20 A. I have seen documents that our accountants
21 have gotten from the company, part of their, we call them
22 FS reports, that show what their sales are. Now -- during
23 those months. Do I remember those numbers in my mind?
24 The answer is no.

25 Q. Thank you. Who would know that?

1 A. Greg Meyer would know that. John Cassidy
2 would know that.

3 COMMISSIONER GAW: Okay. I think that's
4 all I have. Thank you, Dr. Proctor.

5 THE WITNESS: Thank you.

6 JUDGE WOODRUFF: Does anyone wish to
7 recross based on questions from the Bench? Mr. Mills
8 first.

9 RECROSS-EXAMINATION BY MR. MILLS:

10 Q. Good morning, Dr. Proctor.

11 A. Good morning.

12 Q. Do you have Schedule 2.3 from your rebuttal
13 testimony there that Commissioner Murray asked you some
14 questions about?

15 A. Are you sure about the number? Can you
16 show me what it is?

17 MR. LOWERY: Just to speed it along,
18 surrebuttal, Lewis, not rebuttal.

19 THE WITNESS: It's surrebuttal? That will
20 help. That helps me.

21 JUDGE WOODRUFF: Thank you, Mr. Lowery.

22 MR. LOWERY: It's been a long week.

23 THE WITNESS: Yes. I could not find 2.3 in
24 my rebuttal. Sorry about that.

25 BY MR. MILLS:

1 Q. My fault.

2 A. Yes.

3 Q. And she was focusing on the, I believe the
4 three highest peaks because --

5 A. Yes.

6 Q. -- of the aftereffects of the hurricanes?

7 A. Correct.

8 Q. Would it be statistically valid to simply
9 take out those three peaks and everything else?

10 A. In my view, it wouldn't. That would lower
11 the average. You have to look at all the numbers that
12 were below the average. I think you could -- and I
13 haven't done this -- you could say, well, those three are
14 outliers. I'm going to take them out. Then in order to
15 be fair, you would have to go in and say, well, let me
16 look at all the ones that are low and pull those out,
17 those outliers out.

18 And what's happening is you're getting into
19 an area of judgment rather than just calculating a
20 statistical average.

21 Q. Now, I think you describe that schedule as
22 showing that it's, I believe your phrase was trending back
23 up at the end?

24 A. That's correct.

25 Q. Is there any way to predict where that line

1 is going once you get out in the future?

2 A. I had a discussion with Commissioner
3 Clayton about this. Yes. You can look at what futures
4 prices are. Now, are they good predictors? You asked me
5 if there was a way, and there is a way, and that's to look
6 at futures prices. Is it accurate? It may be. It may be
7 not.

8 Q. My question's specifically about the data
9 on that graph. Does the data on that graph --

10 A. Can I use that to predict?

11 Q. Can you use that data to predict out?

12 A. No.

13 Q. Some data perhaps you could if it's showing
14 you a nice straight line, but that data you can't?

15 A. I would not want to predict out based on
16 that data.

17 Q. Now, in response to questions from
18 Commissioner Appling, I believe you said we now know that
19 they've made capacity sales?

20 A. Yes.

21 Q. This is -- I'm on a whole different topic
22 now. How do we know that?

23 A. Because it was on your cross-examination of
24 Mr. Schukar yesterday, and I believe also the State of
25 Missouri.

1 Q. And why is that important in the analysis?

2 A. Because no revenue offsets have been
3 included in this case by any of the parties for capacity
4 sales as offsetting the revenue requirement for the
5 company.

6 Q. And to be consistent with regulatory
7 principles, should those offsets be made?

8 A. Yes. If they're known, they should be
9 made.

10 Q. Right. And is it your understanding that
11 at least some of those are known at this point?

12 A. It's my understanding that there's about a
13 little over 3 million. I wasn't going to get into --

14 MR. LOWERY: I don't know if the
15 aggregate's even confidential. I'm sure the details of
16 the contracts are.

17 BY MR. MILLS:

18 Q. But the number that you mentioned is
19 contained in the exhibits that I offered yesterday --

20 A. Is it?

21 Q. -- is that correct?

22 Well, you weren't here all day yesterday,
23 were you?

24 A. No. I didn't -- I didn't see that number
25 in the exhibits. I calculated that number off an exhibit

1 that the State of Missouri had offered.

2 Q. Okay. I know the one you're talking about.

3 Okay. Now, in general does UE have better access to its
4 data than you do?

5 A. Yes.

6 Q. Okay. Does it have more control over how
7 it operates its system than you do?

8 A. Yes.

9 Q. Does it have more control over how it
10 markets its power than you do?

11 A. Yes.

12 Q. So wouldn't its budgeted off-system sales
13 numbers deserve some real consideration?

14 A. Well, I -- that was what I was concerned
15 about when I saw what their budgeted numbers were for 2007
16 is what's -- to me, this is -- this was an indication of
17 where they thought their profits and sales were going. So
18 do they have a better idea than I do of where they're
19 going? The answer is yes. I think it's an important
20 consideration.

21 Q. Now, along those same lines, do you think
22 that the company personnel when using data that will
23 impact incentive compensation would use the best and most
24 accurate data they have?

25 MR. LOWERY: Objection. Calls for

1 speculation.

2 JUDGE WOODRUFF: Sustained.

3 BY MR. MILLS:

4 Q. Now, in terms of budgeted data, I'm going
5 to hand you a copy of what's been marked as Exhibit 421HC.

6 MR. MILLS: May I approach.

7 JUDGE WOODRUFF: Yes, you may.

8 BY MR. MILLS:

9 Q. I'm going to -- most of the numbers on that
10 sheet, Dr. Proctor, are highly confidential, and I'm going
11 to see if I can tiptoe around that.

12 A. Okay. I'll be careful, too.

13 Q. That way we can keep this in the public
14 domain. What page are you open to there?

15 A. 37 of 156.

16 Q. Now, on that page, the top of the -- the
17 only portion of that page that is not highly confidential
18 is the \$305 million earnings estimate for Union Electric.
19 So that number is okay. All the rest are highly
20 confidential. Are you with me so far?

21 A. I'm with what you said. I just can't find
22 it on my copy here, but that's okay. Okay. I'm now on
23 page 38 of 156.

24 Q. And do you see the top section talks about
25 UE's projected 2007 earnings?

1 A. Yes.

2 Q. And the number there is the 305 million?

3 A. Correct.

4 Q. Now, are you -- are you familiar -- and
5 just to speed this along, let me just represent this to
6 you, and the record will reflect that it's true, that
7 another exhibit offered and admitted yesterday shows that
8 SEC filings that UE had made -- has made also reflects
9 that \$305 million figure.

10 A. Okay.

11 Q. Are you aware of the importance of earnings
12 targets for United States corporations?

13 A. Probably familiar with some aspects of
14 that. If they don't meet their earning targets, it seems
15 to have a pretty negative impact on their stock prices.

16 Q. And one of the reasons that the Enron folks
17 got in such trouble is their efforts to manipulate those?

18 A. That's correct.

19 Q. So that earnings target has a fairly
20 significant degree of importance?

21 A. Yes, it does.

22 Q. Okay. Now, if -- and I'm not sure if you
23 were here for this portion of the cross-examination of
24 Mr. Schukar yesterday, but if Mr. Schukar testified that
25 the middle number in the off-system sales margin section

1 just below that feeds into that \$305 million earnings
2 target --

3 A. Okay.

4 Q. -- would that indicate to you that the
5 company places a great deal of reliance on that middle
6 number?

7 MR. LOWERY: Objection, calls for
8 speculation.

9 MR. MILLS: Well, we've had a great deal of
10 testimony on how to approximate the off-system sales
11 number. Dr. Proctor has talked about the company's access
12 to data. He's talked about the company's ability to do
13 things such as operate its system, market its products in
14 terms of how they can influence their off-system sales
15 margin, and the number that I'm asking about here is
16 simply an outgrowth of all those factors.

17 MR. LOWERY: And he's asking this witness
18 to tell him what the company does or does not expect or
19 what meaning the company does or does not put on a number,
20 and this witness has absolutely no way to know that.

21 JUDGE WOODRUFF: I'll sustain the
22 objection.

23 BY MR. MILLS:

24 Q. Now, I think another -- I'm moving on to a
25 different topic now. Another topic that you touched on,

1 and this I believe was with Commissioner Clayton,
2 concerned essentially using bilateral contracts to hedge
3 the MISO. Do you recall those?

4 A. Yes.

5 Q. If it were the case that UE has actually
6 done such hedging for 2007, would such hedging tend to
7 firm up its off-system sales margins for 2007, reduce the
8 volatility of those?

9 A. Yes, it would.

10 Q. Okay. And you also talked about -- talked
11 with Commissioner Clayton about the Callaway outage.

12 A. Yes.

13 Q. Possibility of a Callaway outage. Do you
14 know if UE has any insurance or reserve sharing agreements
15 that would mitigate that risk or the impacts of that risk?

16 A. I do not know.

17 Q. Do you know if that's a fairly common
18 industry practice?

19 A. It's common, and again I'm going to put it
20 in -- in the MISO market in terms of hedging, if you were
21 going to have a large base load unit out, out of service,
22 you know it's going to be scheduled out of service, it
23 would be -- at least it was common prior to that to enter
24 into a bilateral transaction where you purchased energy
25 from someone else.

1 And what you're doing -- I mean, you can
2 always purchase that energy from the MISO market, but what
3 you're doing by making that purchase through a bilateral
4 is you're hedging the price at which you can get that
5 replacement energy.

6 Q. And that would be a prudent thing for a
7 utility to do, would it not?

8 A. It depends on the price. You know, it's
9 always people's expectations, first of all, what do you
10 expect the future price at MISO to be during this period?
11 In the gas industry, for example, you have the Black
12 Shoals model that's used to determine what the premium is
13 based upon the futures price. This is the premium that
14 you would have to pay in order to -- in order to get a --
15 I mean, you could always buy at that futures price, but if
16 you wanted to get an option, you would have to pay that
17 premium.

18 So there is always this question about
19 prudence of hedging and it gets into the details of how
20 it's done. So I don't want to say it's always a prudent
21 thing to do, but it certainly is prudent to look at it as
22 a very important option.

23 Q. And I think -- I think at least part of
24 that time we have been talking about different things.
25 Do you know if UE carries any insurance that would

1 essentially mitigate the cost of unplanned outages at any
2 of its units?

3 A. I do not know.

4 Q. Were you at all involved in the KCPL case
5 involving the Hawthorn 5 unit?

6 A. No.

7 MR. MILLS: Okay. I think that's all I
8 have.

9 JUDGE WOODRUFF: Any other recross?

10 MS. VUYLSTEKE: Judge, can I ask a few
11 questions?

12 JUDGE WOODRUFF: Certainly. And it's my
13 understanding the parties want to break for lunch at
14 one o'clock; is that correct? That's what Mr. Byrne told
15 me at an earlier break.

16 MR. LOWERY: If that's what Mr. Byrne said,
17 then I'm sure that's right.

18 JUDGE WOODRUFF: That was my plan. Go
19 ahead.

20 RE-CROSS-EXAMINATION BY MS. VUYLSTEKE:

21 Q. Good morning, Dr. Proctor.

22 A. Good morning.

23 Q. Commissioner Gaw asked you about volumes of
24 off-system sales.

25 A. Correct.

1 Q. Would you agree that there has been no
2 benchmark of either Staff's model or the company's model
3 to post-JDA operations by the company?

4 A. You can't benchmark -- you can't benchmark
5 that because post-JDA didn't start until this January.

6 Q. Okay. And then Commissioner Clayton asked
7 you about native load municipal sales. Would you agree
8 that once those sales expire, it would free up generation
9 capacity that could potentially be sold at a higher
10 market-based rate into the wholesale electricity market?

11 A. That's possible, yes.

12 Q. Okay. This is my last question.
13 Commissioner Gaw asked you about wholesale electricity
14 prices utilized in Staff's model.

15 A. Yes.

16 Q. Do you know what average around-the-clock
17 price they amount to?

18 A. It's in the \$40 range. I kept my
19 calculations separated between on-peak and off-peak, and
20 maybe at one point I calculated them around the clock. I
21 know the company's around-the-clock is around \$38. I
22 think ours is in -- don't hold me to this, but maybe
23 something around \$42. I don't know for sure.

24 Q. Okay. So average around-the-clock
25 wholesale electricity prices in Staff's model you're

1 saying are around in the \$40 range?

2 A. They're above \$40. I think they're
3 somewhere like 42. I'm not exactly sure.

4 MS. VUYLSTEKE: Okay. Thanks.

5 JUDGE WOODRUFF: Further recross for
6 Ameren?

7 MR. LOWERY: Bear with me just a second,
8 your Honor. I'm looking for something based on that last
9 question.

10 RECROSS-EXAMINATION BY MR. LOWERY:

11 Q. Dr. Proctor, I think you testified earlier
12 today, I pointed to your surrebuttal testimony on page 29,
13 line 16 to 27, that the around-the-clock price that you
14 had calculated was \$39.19; isn't that correct?

15 A. That's not around-the-clock price. That's
16 the average revenue from actual sales. Around-the-clock
17 price is an average of hourly prices whether the sales are
18 made or not made.

19 Q. I understand, but the average price
20 received for off-system sales according to Staff's
21 modeling is 39.19?

22 A. 39.19, that's correct.

23 Q. Not 41 or 42?

24 A. No, but --

25 Q. I understand. Dr. Proctor, Commissioner

1 Davis asked you some questions about whether you had a
2 view about whether or not we needed a fuel adjustment
3 clause or not. Do you remember those?

4 A. Yes.

5 Q. And I think in response to some of those
6 questions, you indicated that there could be
7 considerations other than whether or not this mitigation
8 factor does or does not exist with respect to off-system
9 sales offsetting fuel cost, and one of those you mentioned
10 was maybe the company's rate base is declining. Do you
11 remember that?

12 A. That's correct.

13 Q. Do you have any idea whether the company's
14 rate base is actually going to decline over the next few
15 years?

16 A. I haven't made those calculations.

17 Q. You really don't have any idea, do you?

18 A. I don't know.

19 Q. In fact, are you aware in this case, for
20 example, the company's testified they expect to invest
21 \$3 billion in its rate base in just the next four or five
22 years?

23 A. I understand that the company plans to do
24 improvements at -- I think I can say -- at the Sioux plant
25 that I think will start two years from now, and I would

1 expect the company to come in and file a rate case at that
2 time. Yes, I'm aware of that.

3 Q. And are you aware the company's invested
4 nearly \$3 billion in the last five years in its Missouri
5 rate base?

6 A. I don't know the exact number. I was aware
7 of the investment that was made in transmission to
8 increase the rate base. I don't know what the net effect
9 of that was, whether it offset depreciation or not. I
10 haven't made those calculations.

11 Q. It may very well be that investments the
12 company's going to make will more than offset the
13 depreciation expense?

14 A. Could be. I don't know.

15 Q. You don't know?

16 A. No.

17 Q. And Mr. Wood in his testimony did not cite
18 a declining rate case as one of the reason the company
19 would not need a fuel adjustment clause, did he?

20 A. I agree with that. I think what my
21 testimony was is we need to -- we should have seen exactly
22 where the company felt it was going to be over the next
23 four years in terms of its total cost of service to make a
24 determination, and that we shouldn't fragment out just
25 increases in fuel cost. That was my -- and I was just

1 using declining rate base as a potential example.

2 Q. It's a potential example, but it's one for
3 which you have no facts?

4 A. I wasn't claiming any facts.

5 Q. I understand. Let's take a look at
6 Schedule 2.3 of your surrebuttal testimony. I believe you
7 were asked some questions about it. Well, I know
8 Mr. Mills asked you some questions about it, and
9 Commissioner Murray did as well.

10 A. Yes.

11 Q. The dashed line going across the page
12 horizontally, that's a representation of your recommended
13 normalized gas price level, correct?

14 A. That's correct.

15 Q. And if we look at the points in the
16 triangles, those are natural gas prices for each of those
17 months, correct?

18 A. Correct.

19 Q. Wouldn't you agree that on this graph that
20 the predominant in terms of number if you've got -- I
21 guess we have 48 prices, is that right, roughly?

22 A. I don't know.

23 Q. Well, you've got -- well, you've got four
24 years times 12 months in a year. That would be 48,
25 wouldn't it?

1 A. Okay.

2 Q. Would you agree we have about 48 data
3 points?

4 A. Yes.

5 Q. Would you agree that the predominant number
6 of data points, whether it's 30 out of 48 or 35 -- I don't
7 know exactly the number. I suppose we could take the time
8 to count them up -- show that gas prices over this period
9 are below your normal level?

10 A. Oh, yeah. The four-year average was on
11 another sheet that you put in as was \$6 and --

12 Q. About \$6.64, I believe, correct?

13 A. Let me --

14 Q. Maybe 63 cents.

15 A. 6.63.

16 Q. About a nickel more than the company says
17 is a normalized gas price, correct?

18 A. That's correct.

19 Q. Commissioner Clayton asked you some
20 questions about receipt of data from the company.

21 A. Yes.

22 Q. Do you remember those?

23 A. Yes, I do.

24 Q. And you indicated that you didn't realize
25 that energy prices supplied to you were energy only

1 prices, correct?

2 A. That's correct.

3 Q. Now, if I remember correctly, the Data
4 Requests relating to those issues, I believe they were
5 propounded to the company by Mr. Cassidy. Do you remember
6 that?

7 A. That's correct.

8 Q. And I'm assuming that you went to
9 Mr. Cassidy and you said, hey, I need this and so write up
10 a Data Request and send it?

11 A. That's correct.

12 Q. Did you draft the particular Data Requests
13 in those cases?

14 A. I did not.

15 Q. And when Mr. Cassidy sent the Data Request
16 at issue, did Mr. Cassidy specify to the company, I need
17 energy only prices, I need prices that include congestion
18 and losses? Did he specify that to the company?

19 A. No.

20 Q. And when he sent those Data Requests, did
21 he tell the company why he wanted that data?

22 A. Let me look. We had had a meeting on
23 September 18th. This is in the Data Request, and in that
24 meeting with Tim Finnell and Shawn Schukar, we discussed
25 with them Staff's need for that data. I don't think at

1 that time -- well, the issue of whether it included losses
2 or congestion was not an issue. It wasn't something
3 discussed. We talked to them about our needs.

4 So his Data Request says, based on a
5 meeting held on September 18th, 2006 with Tim Finnell and
6 Shawn Schukar, for a period covering April 1st, 2002
7 through June 30th, 2007, updating by month as available,
8 please provide the complete database of all the hourly
9 transaction prices for off-system purchases and sales.
10 For example, refer to the data supplied by Mr. Finnell
11 during the September 18th, 2006 meeting.

12 So it was referring to the data that we had
13 discussed at that meeting. Did we discuss how the Staff
14 was going to use that data at that meeting? I believe we
15 did, but I can't -- I can't swear to you absolutely
16 positively we said, company, we're going to use this data.
17 But we told them at that meeting the problem that we had
18 with the data that we were getting, and I knew I told
19 them, you know, we need that data to do our analysis.

20 Q. Do you think Mr. Finnell supplied you data
21 in some attempt to mislead you?

22 A. No.

23 Q. You know Mr. Finnell, don't you?

24 A. Yes. I do not believe he would do that,
25 and I hope I never conveyed that, that it was misleading.

1 I think it was a mistake that was made.

2 Q. Well, in fact, Dr. Proctor, you are well
3 aware that energy-only prices do not include congestion
4 and losses?

5 A. Absolutely.

6 Q. And you know that energy-only prices is one
7 way that data like that's presented and can be obtained
8 from the MISO, right?

9 A. Yes, it can be presented that way. MISO
10 gives you daily data. The whole first set of data has --
11 that you look at when you pull down the screen has the
12 losses and congestion in them. You have to go down to the
13 bottom of the screen to pull any energy-only data. I
14 wouldn't -- I wouldn't even know why anybody would pull
15 that data in or use that data. I'm sorry. That's -- that
16 was my assumption. Obviously I was wrong, but --

17 Q. That is the data Mr. Schukar had previously
18 used in that same form, right?

19 A. Yes.

20 Q. And then when you asked for the data, it's
21 not at all illogical for the company to just give you the
22 same data, is it?

23 A. I'm not saying it is. I think it was a
24 mistake that Mr. Schukar used it, and they gave it to me,
25 and then after my testimony came in, they went uh-oh.

1 Q. Well, there seemed to have been suggestion
2 perhaps that the company was doing something untoward --

3 A. No.

4 Q. -- in trying to have a systemic problem
5 with not giving you the right data. You don't believe
6 that's the case, do you?

7 A. No. I did not testify that that's the
8 case. I don't think it was.

9 Q. And, in fact, you've testified, I believe,
10 that you have not had a systemic problem with the company
11 of getting data that you asked for?

12 A. That's correct.

13 Q. The Staff has sent the company, I won't say
14 thousands, although I think it is in the thousands, but
15 hundreds of Data Requests in this case, has it not?

16 A. Yes. I believe we're -- I forget the
17 number we're up to.

18 Q. You'd be very surprised if it wasn't in the
19 hundreds?

20 A. Oh, it's in the hundreds.

21 Q. And when you've asked for data, you
22 essentially got, subject to this mistake that you believe
23 was made, an honest mistake you believe was made, you got
24 the data that you needed to do your analyses, did you not?

25 A. That's correct.

1 Q. Now, Commissioner Clayton asked you some
2 questions about wholesale contracts going away and the
3 cost associated with that generation. Today we allocate,
4 I think it's about a percent and a half is the wholesale?

5 A. It's fairly small, yes.

6 Q. If those contracts go away, that generation
7 gets freed up to serve native load presumably, right?

8 A. Absolutely.

9 Q. And he said something about a shifting of
10 costs, and it would be a shifting of costs presumably,
11 right?

12 A. Correct.

13 Q. But it's a shifting of costs with respect
14 to generation that then serves native load, right?

15 A. Yes. Or off-system sales.

16 Q. Or off-system sales. But if that
17 generation serves native load, it's perfectly appropriate
18 to include the cost associated with that generation in
19 native load costs, is it not?

20 A. I would agree.

21 Q. Now, Commissioner Gaw asked you a lot of
22 questions about modeling and explaining modeling, and
23 there were assumptions that you had to make, et cetera, et
24 cetera. Do you remember those?

25 A. Yes.

1 Q. And you indicated that one of the reasons,
2 several of the reasons that you need to model fuel costs,
3 including off-system sales, is you need to have normalized
4 loads, right?

5 A. Yes.

6 Q. And you need to have normalized outages?

7 A. Yes.

8 Q. And you need to take into account known and
9 measurable changes in fuel costs?

10 A. Correct.

11 Q. You've got to take into account that we
12 don't have a JDA anymore?

13 A. Yes.

14 Q. And that we've had load changes during the
15 test year, significant load changes, correct?

16 A. Correct.

17 Q. I don't think you mentioned that one, but
18 that would be another one, right? Like Noranda for
19 example?

20 A. Noranda.

21 Q. That's a pretty big load change?

22 A. I'm not sure when they came online, but
23 during your test year, I think they -- I think they came
24 online after your -- yeah, after the test year. That's
25 correct. No. I don't remember --

1 Q. Fair enough.

2 A. -- whether Noranda was online 12 months.

3 Q. But if we did have a significant change in
4 load during the test year --

5 A. Yeah. A large customer comes on or large
6 customer leaves, those are the kinds of adjustments that
7 Staff makes to load.

8 Q. I think there were some questions also
9 about bilateral contracts post JDA.

10 A. Yes.

11 Q. If we enter into bilateral contracts in a
12 post-JDA world for X amount of volume, that volume is
13 being sold bilaterally to a counterparty --

14 A. Yes.

15 Q. -- we can't also sell that volume
16 off-system into the MISO market, right?

17 A. From a -- in a physical context, that's
18 true.

19 Q. I mean, we're not manufacturing or freeing
20 up more volumes for off-system sales somehow by entering
21 into bilateral contracts, correct?

22 A. Well, how do I explain this?

23 Q. I don't know.

24 A. This is -- it depends on exactly what that
25 bilateral contract is. You may get into a bilateral

1 contract where you give that individual the right to
2 actually take generation and bid it into the market. I
3 think it's probably unusual.

4 So what's going to happen is you're
5 actually going to bid that generation into the market
6 anyway, okay, and you will get a price for it, and the way
7 it will turn out is you will have to net that against the
8 price you actually received. So if the price in the MISO
9 market was lower than the price you received, you just
10 made money from the sale. If the price in the MISO market
11 turns out to be higher, you just lost money.

12 Sometimes these are called contracts for
13 differences, and they're bilateral contracts, which says,
14 okay, buyer, if that price is lower -- the price that
15 we've entered into is lower than the price you -- that's
16 in the MISO market, then I pay you a. If it's higher,
17 then you pay me. So a lot of times those bilaterals will
18 be contracts for differences and they're actually just
19 financial.

20 Q. They're really speculative trading
21 instruments?

22 A. That's right. They're hedging contracts.
23 It's a financial trade.

24 Q. Now, you were asked questions by
25 Commissioner Gaw about the modeling or the model that

1 Staff uses. Remember those?

2 A. Yes.

3 Q. Now, Mr. Rahrer, we've heard his name

4 several times, Mr. Rahrer I believe is the gentleman who

5 designed, built, knows how to run the real-time model

6 better than anybody on earth, would you agree?

7 A. I would agree.

8 Q. I would hope that he does since he designed

9 it. Wouldn't you agree with that?

10 A. I agree.

11 Q. And given that the company -- you indicated

12 that Staff had some corrections it needed to make in its

13 modeling. The company pointed those out and, quite

14 frankly, the company and the Staff have worked together

15 and come to complete agreements on their models at this

16 point, correct?

17 A. That's correct.

18 Q. And so if UE were to run its model with

19 your prices, let's stick in your prices instead of the

20 company's prices, we'd get the same result, wouldn't we?

21 A. I sure hope so.

22 Q. It'd be awfully close, wouldn't it?

23 A. It should be.

24 Q. There's not a lack of confidence in either

25 of models at this point, is there?

1 A. Not to my knowledge.

2 Q. Now, Commissioner Gaw asked you some
3 questions about the fuel budget, and let me ask you, fuel
4 budget not based on normalized loads, is it, or to your
5 knowledge it's not, is it?

6 A. I would think it is. I would think any
7 forecast that you are doing is based upon weather
8 normal -- you know, has normalized for weather, has
9 normalized for any expected changes, like new large
10 customers going on or coming off.

11 Q. What about normalized outages and
12 availability?

13 A. Well, in this particular instance, no. For
14 a particular year it would reflect the outages in that
15 particular year, and in this -- scheduled outages.

16 Q. Right.

17 A. Okay. And then the model is modeled, so it
18 would take care of the random outages. In this particular
19 instance, the scheduled outages for 2007 are very close to
20 what at least the Staff ran in its model on a normal
21 basis. There is an outage for Sioux. There was an outage
22 for Rush Island. There was an outage for Labadie. And
23 our understanding from the DR responses that we got from
24 the company, all three of those units were out. There was
25 an outage on Callaway, which is very comparable to the

1 outage that the Staff put into its normal run.

2 The one difference, slight difference that
3 I saw is we had an outage on Meramec 3 -- let me back up.
4 We had an outage on Meramec 1, 3 and I believe it was
5 Unit 4 in our model. In 2007 there was just a planned
6 outage for Meramec 3. So -- but it was an extended hour
7 outage, so you have to -- but they're pretty close.

8 Q. Are you talking about outages that you
9 expect to actually occur in 2007 or are you talking about
10 normalized outages that you ran in your model?

11 A. I'm comparing the two. They're very
12 comparable in -- from the data that we've seen in response
13 to Data Requests that the Staff had submitted actually
14 early on to the company in terms of what outages would
15 occur, what outages had occurred and what outages were
16 planned for the upcoming period, periods.

17 I think we got -- I know we got what the
18 company was expecting for outages in 2007, and I think we
19 got 2008 as well. Part of that data was to try to get a
20 handle on how they normalize, and you can look at
21 historical, but you also have to look at what the
22 company's looking forward to in terms of planned outages.

23 Q. Dr. Proctor, we think we talked about
24 this -- actually, I don't think we did, but you made some
25 corrections to your surrebuttal testimony. You had

1 originally reached a conclusion, I believe, that you found
2 to be erroneous that AmerenUE's generation LMPs you
3 initially thought were in general greater than synergy
4 prices and, in fact, you've concluded that that was
5 actually the opposite?

6 A. Or off-peak, yes.

7 Q. And are you aware -- you're aware, are you
8 not, that this budget number that we've talked about is
9 simply based on a synergy price from one day?

10 A. Well --

11 Q. Were you aware of that?

12 A. I thought it was based on a forward price
13 for synergy, not a one-day price, but I may be wrong.

14 Q. A forward price for synergy pulled for one
15 day? In other words, you look at the synergy forward
16 price on one day and you grab that number, that's what the
17 budget's based on; is that your understanding?

18 A. No, that's not my understanding.

19 Q. If you're wrong about that?

20 A. My -- yeah. Well --

21 Q. How do you know?

22 A. Because you have a forward price for the
23 whole year. You've got forward prices for -- you've got
24 forward prices for the year 2007 --

25 Q. I understand, but how --

1 A. -- give on one day. You've got a forward
2 price for every day in that period. And when you talk
3 about forward prices and you talk about one day, it's the
4 day that you drew it on, and you would use it for the
5 whole year. If you told me you were only taking a forward
6 price for one day, my answer would be what day, because
7 it's a forward price. It's not -- there isn't -- there
8 isn't a forward price for one day. There's -- you know,
9 which day would it be? Is it July? Is it --

10 Q. I understand the distinction you're
11 drawing, but the forward price, if I look at the forward
12 price on January 2nd --

13 A. Yes.

14 Q. -- may be different that the forward price
15 on January 3rd if I look it up?

16 A. Yes.

17 Q. On January 7th, on February 14th?

18 A. Absolutely.

19 Q. May completely change?

20 A. Yeah. The forward price curve would
21 change.

22 Q. Right. The curve changes potentially every
23 single day?

24 A. That's correct.

25 Q. And if I just pulled that forward price

1 curve as of a particular day, I think that's how you're
2 correcting the way I characterized it, that may or may not
3 really be reflective, correct, of what the conditions are
4 going to be in that year?

5 A. Well, it's the best picture that you've got
6 of what the markets say on that day.

7 Q. On that day only, though?

8 A. That's right. It's like getting a forecast
9 when you know -- I agree with you, the forecast is going
10 to change every day, probably just slightly, but it will
11 change every day.

12 Q. Probably slightly, but isn't it a fact that
13 throughout the year forward price curves can change a lot?

14 A. Absolutely.

15 Q. They can go way up, they can go way down,
16 they move all over the place, correct?

17 A. That's correct. They are a very important
18 tool that analysts use in order to make decisions about
19 how to hedge their positions.

20 Q. Now, you were asked some questions by
21 Commissioner Gaw, and actually, I think this was on behalf
22 of Commissioner Clayton, so I want to give him credit for
23 the questions if I'm remembering it correctly, about storm
24 outages and off-system sales, those kinds of things. Do
25 you remember that at all?

1 A. Yes.

2 Q. I think it was one of the last questions
3 you were given.

4 A. Yes.

5 Q. Doesn't the company lose more in native
6 load margins than it gains in off-system sales or
7 certainly -- doesn't that certainly happen that the margin
8 on native load is greater than the margin on off-system
9 sales in many hours of the year?

10 A. I don't know. I haven't made that -- I
11 haven't made the calculation of the margin on native load
12 sales. It could vary depending upon the --

13 Q. The hour?

14 A. Well, and the period, because summer prices
15 are higher for native load. So you have a summer outage
16 where you're probably going to lose more margin on your
17 native load than the more recent outage which occurred in
18 the non-summer period. I just haven't made those
19 calculations.

20 Q. You don't know, but --

21 A. I don't know.

22 Q. -- it could very well be that the margin
23 lost on native load sales exceeded any margin that could
24 have been gained on off-system sales?

25 A. That could be the case.

1 Q. And let me ask you this. You've been with
2 the Staff for 30 years, right?

3 A. Yes.

4 Q. I'm not trying to date you, but I think
5 it's relevant to the question. Had the Staff seen that
6 the company had in effect profited from storm outages
7 because somehow it gain more margins in off-system sales
8 than it lost on native load, you would certainly expect
9 Mr. Meyer and the other accountants to pick that up, would
10 you not?

11 A. I would have expected somebody here on
12 Staff to pick that up. I don't know if it would be
13 Mr. Meyer or if it would be Mr. Wood.

14 Q. But somebody at Staff would have picked
15 that up. It seems like a fairly obvious thing to look at,
16 wouldn't you agree, given the outages that we had?

17 A. Whether the company profited from the
18 outage or not?

19 Q. Sure.

20 A. I don't know. I --

21 Q. Well --

22 A. If it jumped out at you, yes. I mean --

23 Q. Well, let's put it this way: You don't
24 have any evidence or reason to believe that the company
25 somehow profited by making more off-system sales

1 margins --

2 A. No.

3 Q. -- when it lost that native load because of
4 the outages?

5 A. If you're saying, here's the question the
6 Staff should have asked, is it in the company's best
7 interests to delay the outage because it's making profits
8 from off-system sales, given the negative publicity that
9 they got, I would say absolutely not. It's not in their
10 best interests.

11 Q. You don't really believe the company did
12 that either, do you?

13 A. No, I don't.

14 Q. Now, I think there was a discussion about
15 you quantified a small -- and I call it small. To me
16 personally it's not very small, in the single digits in
17 the millions of dollars. But you quantified a number of
18 capacity sales that you said were known, that we at this
19 point know about, right?

20 A. Yes.

21 Q. That number in the grand scheme of
22 202.5 million or 241 million in calculating margins is
23 sort of noise around what the right number should be,
24 isn't it?

25 A. I think so, yeah. It's not -- it's

1 contributing to it. It's one of the many factors that
2 needs to be taken into account.

3 Q. Mr. Mills also asked you some questions
4 about, I think about Callaway outages or insurance for
5 outages or a way to hedge the effect of those, correct?
6 Do you remember those?

7 A. Yes, I do.

8 Q. Now, if you know --

9 MR. MILLS: Your Honor, isn't this redirect
10 based on questions from the Bench, not questions from me?

11 JUDGE WOODRUFF: That's correct.

12 MR. MILLS: Then I object to this question.

13 JUDGE WOODRUFF: Sustained.

14 MR. LOWERY: Fair enough. I don't think I
15 have any other questions. Earlier in the hearing we
16 talked about depositions of witnesses, and I think you
17 indicated that to the extent they were appearing, the time
18 to put those in was when they were appearing. I don't
19 know if that's still what you'd like to do.

20 JUDGE WOODRUFF: That would be fine.

21 MR. LOWERY: Well, I'd like to offer
22 Dr. Proctor's deposition, which has been premarked as
23 Exhibit 100, into evidence at this point as an admission
24 of a party opponent.

25 JUDGE WOODRUFF: Exhibit 100 has been

1 offered into evidence. Are there any objections to its
2 receipt?

3 (No response.)

4 JUDGE WOODRUFF: Hearing none, it will be
5 received.

6 (EXHIBIT NO. 100 WAS MARKED FOR
7 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

8 JUDGE WOODRUFF: Any redirect?

9 MR. FREY: Yes, your Honor. Thank you.

10 COMMISSIONER GAW: Judge, can I ask a quick
11 question? The deposition coming into evidence, at this
12 point in time the Commissioners haven't had a chance to
13 look at those depositions, and I would assume that if we
14 had questions based upon questions and answers in those
15 depositions, we'd have a chance if we wanted to to recall
16 Dr. Proctor.

17 JUDGE WOODRUFF: I suppose so.

18 COMMISSIONER GAW: Okay. Thanks.

19 JUDGE WOODRUFF: That's not a ruling at
20 this point, but bring it up, we'll deal with it.

21 MR. MILLS: Judge, given that question,
22 would it be your preference that depositions that the
23 parties know they're going to offer be offered sooner
24 rather than later?

25 JUDGE WOODRUFF: Actually, that's probably

1 a good idea.

2 MR. MILLS: And I don't know if Mr. Frey is
3 aware of this, but it's my understanding that the
4 depositions of a number of AmerenUE employees will be
5 offered coming up.

6 JUDGE WOODRUFF: Yes. Ameren also has
7 marked a number of depositions.

8 MR. LOWERY: A number of Staff witnesses
9 and Public Counsel witnesses we intended to offer as well.

10 JUDGE WOODRUFF: Let's deal with that when
11 we finish this witness. That's a good point, Mr. Mills.
12 Go ahead, Mr. Frey.

13 REDIRECT EXAMINATION BY MR. FREY:

14 Q. I just have a few questions, Dr. Proctor.
15 During his cross-examination Mr. Lowery took you through a
16 number of off-system sales calculations using a natural
17 gas price of \$6.58 per MMBtu. Do you recall that?

18 A. Yes.

19 Q. And that price represented a correction to
20 your correction to Mr. Schukar's calculations; is that
21 correct?

22 A. That was the -- the 6.58 is the average
23 price that Mr. Schukar is using. Right now he's got it
24 split between the summer months at a lower price than that
25 and the non-summer months at a higher price than that, but

1 the average over the 12 months is \$6.58.

2 Q. Okay.

3 A. And that comes from 2006.

4 Q. Can you explain why you support the \$7
5 natural gas price as opposed to the 6.58?

6 A. Yeah. I think I dealt with that in my
7 surrebuttal testimony, starting at the bottom of page 32
8 and going on. Let me just read: The 2006 average is
9 lower, lower than the \$7, at \$6.58 per million Btu, but
10 the prices for September, October and December of 2006
11 were well below their three-year average, and the price
12 for January 2006 was well above its three-year average.
13 Because of these variations, I would not use 2006 as
14 representative of normal for natural gas price.

15 So I was concerned. We had three months in
16 there in 2006 where gas prices were well below their
17 average. We had one month where it was above their
18 average. And one of the problems with using a single year
19 rather than using multiple years is that -- is that you
20 can have within a given year more occurrences of things
21 that are below normal in this particular instance than
22 above or vice versa, where they're above normal rather
23 than below. So that's why I did not support the use of a
24 one-year average.

25 Q. Thank you. Now, Mr. Lowery introduced

1 Exhibit 107 dealing with work papers that you had
2 submitted.

3 A. Yes.

4 Q. Do you have that exhibit with you?

5 A. Yes, I do.

6 Q. And in that exhibit there are a number of
7 prices shown in those little orange circles there. Do you
8 see those?

9 A. Yes.

10 Q. And I believe they represent detrended
11 natural gas prices, do they not?

12 A. That's correct.

13 Q. Can you explain what that means?

14 A. Yes. If you turn back to the Schedule 2.3,
15 2.3 is a graph of the actual prices. Okay. And you see a
16 very dark line in there that represents the trend line.
17 And what you do is, in essence, you replace that trend
18 line with a flat line across the whole graph that's at the
19 four-year average. In this case it's four years,
20 four-year average level, which on Schedule -- or excuse
21 me -- Exhibit 107 is \$6.63.

22 Okay. So you replace it with that, and
23 then you take the variations of the prices around that
24 trend line and you put them above or below that average,
25 and that's what's called the detrended prices. So I've

1 taken the trend out, I've made the trend flat, but I still
2 leave the variation in, the variation that was around the
3 trend in.

4 And the purpose of this was then to average
5 over all four years to find out what the cycle of prices
6 looked like. And in this particular instance that average
7 is shown by these orange prices you were pointing out, and
8 it doesn't follow any of the cyclical behavior that's in
9 the company's -- I'm sorry -- any cyclical behavior. It's
10 fairly flat across the year.

11 So these detrended prices are not the ones
12 that you see on Schedule 2.3. They are, in fact, the ones
13 that I just described. I just didn't -- I don't want
14 anybody to look at this Schedule 107 and say, oh, those
15 were -- those were the actual prices because they're not.

16 Q. Thank you. Mr. Lowery asked you some
17 questions about the analysis you performed at your extreme
18 levels of gas, coal, off-peak and on-peak electricity
19 prices. Do you recall that?

20 A. Yes, I do.

21 Q. Did you use statistical techniques to
22 develop probabilities for those outcomes?

23 A. Yes, I did. That shows up in my -- in my
24 rebuttal testimony, and I believe those -- the
25 probabilities show up on page 9 of my rebuttal testimony

1 where the two extremes have a probability of 9.6 percent,
2 but they're at the extremes, and then we had all these
3 scenarios between the extremes and the normal that had
4 much higher probabilities than the extremes.

5 So one definition of an extreme is that
6 it's a value that's furthest away from the mean and has
7 the lowest probability of occurrence. So that -- that's
8 what I meant -- that would be my definition of an extreme
9 value, one that's furthest from the mean and has the
10 lowest probability of occurrence.

11 Q. And you used those same statistical
12 techniques to assign probabilities to the other
13 intermediate outcomes, did you not?

14 MR. LOWERY: I'm going to object, your
15 Honor. I don't want to elongate the hearing too much, but
16 Mr. Frey is essentially leading the witness through this
17 entire redirect.

18 JUDGE WOODRUFF: I'll have to sustain that.

19 MR. LOWERY: I think that's improper.

20 BY MR. FREY:

21 Q. Okay. Are you familiar with the criticisms
22 company witness Schukar has demonstrated in Schedule 17.2
23 attached to his surrebuttal?

24 A. Yes, I am.

25 Q. And how do you respond to those criticisms?

1 A. Mr. Schukar looked at extremes that -- to
2 compare them to the two extremes that I had looked at. As
3 I indicated, the extremes I looked at have low
4 probabilities on them. I consider the extremes that
5 Mr. Schukar looked at as having almost zero probability on
6 them and as not being relevant for -- for making valid
7 comparisons.

8 Q. Thank you. Mr. Lowery asked you some
9 questions about the -- in connection with the July storms
10 that just took place in his last round of questioning. Do
11 you recall that?

12 A. Yes.

13 Q. Are you aware that during the July storms
14 MISO set a system-wide peak usage?

15 A. That vaguely -- I vaguely remember that,
16 yes.

17 Q. Assuming that's the case, what would you
18 expect the price level to be during such a time?

19 A. Well, I'd expect it to be fairly high. The
20 MISO prices go up and down with loads within MISO. So if
21 loads were high, I would expect prices to be high.

22 MR. FREY: Pardon me. I think whatever
23 people are sharing here has caught up with me. I'm afraid
24 I'm having trouble coughing out the words. But I have to
25 go in-camera for this question, your Honor.

1 JUDGE WOODRUFF: We will go in-camera,
2 then.

3 (REPORTER'S NOTE: At this point, an
4 in-camera session was held, which is contained in
5 Volume 22, pages 1623 through 1624 of the transcript.)

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1 JUDGE WOODRUFF: It's now nearly
2 one o'clock, so it is time for lunch. Before we break,
3 we've spent the full morning on one witness, and we've got
4 several more on the off-system sales as well as the other
5 issues that were scheduled for today. I did want to put
6 the parties on warning that we may need to go into this
7 evening again also, just like we did last night, if you
8 need to make plans.

9 All right. I understand there was going to
10 be a settlement meeting at one o'clock?

11 MR. BYRNE: That's correct, your Honor.

12 JUDGE WOODRUFF: Do you need past
13 2 o'clock?

14 MR. BYRNE: Could we have 'til 2:30? It's
15 up to you. We probably won't need past 2 o'clock.

16 JUDGE WOODRUFF: Let's say 2 o'clock, then.

17 MR. BYRNE: Okay. Thank you, your Honor.

18 MR. MILLS: Your Honor, did you want to
19 talk about depositions and when and how to introduce
20 those?

21 JUDGE WOODRUFF: We had that discussion
22 about depositions. I think it would be appropriate to get
23 them into the record at this point, not this point. When
24 we come back from lunch, if everybody can have their
25 depositions ready, we'll do it then.

1 MR. CONRAD: Judge, did you already deal
2 with 100?

3 JUDGE WOODRUFF: Yes, 100 was admitted.

4 MR. CONRAD: I think just as a general
5 proposition, I'm going to have a problem with this
6 wholesale admission of depositions. I hear people talk
7 about what they claim is a change to the Missouri rule on
8 that, but what I've -- what I've seen of that Missouri
9 rule does not convince me that the rules of evidence have
10 been waived with respect to that.

11 And, therefore, you still have the problems
12 of witness unavailability. You still have the problems of
13 proper use of a deposition to impeach a witness. It's
14 still an out of court statement. It's still hearsay. We
15 don't have to argue it now, but I'm just -- if you want to
16 go ahead, I'm just going to have a blanket objection to
17 that because I want to preserve that.

18 JUDGE WOODRUFF: Well, I certainly
19 sympathize with that view, and the parties can discuss
20 that if it's really necessary to put all these depositions
21 in. I know the parties have anticipated doing that. We
22 can discuss that again after lunch.

23 MR. CONRAD: Sure. Thank you.

24 JUDGE WOODRUFF: All right. At this point
25 we are in recess until two o'clock.

1 (A BREAK WAS TAKEN.)

2 (EXHIBIT NO. 110 WAS MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)

4 JUDGE WOODRUFF: Welcome back from lunch,
5 and we're ready to go with the next witness. Michael
6 Rahrer is next on my list. I understand he's not here.

7 MR. LOWERY: Yes. Because the modeling
8 issues in the case have been settled, we've agreed that we
9 don't need to have him on the schedule any longer.

10 JUDGE WOODRUFF: I thought that might be
11 the case, since Mr. Kind is on the stand.

12 Mr. Frey, the new revenue requirement
13 reconciliation, I think that was passed out to the parties
14 yesterday, wasn't it?

15 MR. LOWERY: Yes, we did get one.

16 JUDGE WOODRUFF: The Bench hasn't seen a
17 copy of it yet.

18 MR. MICHEEL: Do you have a copier back
19 there? Here it is (indicating).

20 CHAIRMAN DAVIS: If it's filed in EFIS --

21 JUDGE WOODRUFF: I don't think it's been
22 filed in EFIS.

23 MR. LOWERY: I'll give you my copy.

24 CHAIRMAN DAVIS: I wanted to just see it,
25 see where we're at now.

1 JUDGE WOODRUFF: All right. Mr. Kind, I
2 believe you testified earlier, right?

3 THE WITNESS: Correct.

4 JUDGE WOODRUFF: The days are running into
5 one another. You're still under oath.

6 THE WITNESS: All right.

7 JUDGE WOODRUFF: Are we ready for
8 cross-examination?

9 MR. MILLS: I will tender the witness for
10 cross-examination.

11 JUDGE WOODRUFF: All right. Beginning with
12 Staff.

13 MR. FREY: No questions.

14 JUDGE WOODRUFF: State?

15 MR. MICHEEL: No.

16 JUDGE WOODRUFF: DNR? MIEC? MEG?
17 Commercial Group? Noranda? AARP? Retailers? Mo-Kan?
18 MSW? Laclede? Aquila? Joint Bargaining? Ameren?

19 MR. LOWERY: No questions.

20 JUDGE WOODRUFF: Mr. Chairman, did you have
21 any questions for Mr. Kind on this issue?

22 CHAIRMAN DAVIS: No.

23 JUDGE WOODRUFF: Thank you very much. I
24 don't either. So there's no need for recross or redirect.
25 You can step down.

1 And the next name on my list is Mr. Brosch.
2 We agreed last night he would be coming back later on
3 other issues. So Mr. Brubaker would be the next one, and
4 I don't see him in the room.

5 MR. LOWERY: I have literally a minute of
6 questions for Mr. Brubaker, just a handful.

7 MR. MILLS: And, Judge, I think, as you
8 know, there was a settlement discussion taking place at
9 one o'clock here, and I believe he's probably still
10 involved with that. It was still going on as many of us
11 left.

12 MR. LOWERY: He was up here just a second
13 ago. I thought he was out of the discussion.

14 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

15 JUDGE WOODRUFF: What the Chairman was just
16 discussing was the fact that we need to be sure that the
17 Bench is always informed if any new issues arise. This
18 has come up in an earlier rate case where issues that the
19 Commission wasn't necessarily aware of have come up very
20 late in the process. So if there are new issues coming
21 up, please let us know.

22 I mean, we've already had the discussion
23 about the consumer council issue question. We'll address
24 that again later, but I just wanted to give you that
25 warning.

1 And I see Mr. Brubaker has arrived.

2 MR. BRUBAKER: Sorry, Judge. I apologize.

3 JUDGE WOODRUFF: We ripped right through

4 Mr. Kind. And, Mr. Brubaker, I believe you testified

5 earlier.

6 MR. BRUBAKER: Yes, sir, I did.

7 JUDGE WOODRUFF: And you are still under

8 oath.

9 MR. BRUBAKER: Yes, sir.

10 MS. VUYLSTEKE: Proffer the witness for

11 cross-examination.

12 JUDGE WOODRUFF: Is this the last time

13 he'll be on or is he back again later?

14 MS. VUYLSTEKE: Back again, I believe.

15 JUDGE WOODRUFF: Okay. All right. For

16 cross-examination, Staff?

17 MR. FREY: No, thank you.

18 JUDGE WOODRUFF: All right. I skipped over

19 the State. Did you have any?

20 MR. MICHEEL: No.

21 JUDGE WOODRUFF: Public Counsel?

22 MR. MILLS: No, thank you.

23 JUDGE WOODRUFF: Ameren?

24 MR. LOWERY: Just a few, your Honor.

25 MAURICE BRUBAKER testified as follows:

1 CROSS-EXAMINATION BY MR. LOWERY:

2 Q. Good afternoon again, Mr. Brubaker.

3 A. Good afternoon, Mr. Lowery.

4 Q. Mr. Brubaker, neither you nor
5 Mr. Dauphinais have noted off-system sales or off-system
6 sales volumes in this case?

7 A. I certainly have not. Mr. Dauphinais did
8 not do a production simulation with the model.

9 Q. No one from MIEC has; is that correct?

10 A. That's correct.

11 Q. As far as you know, no other party in the
12 case has run a production cost model to simulate fuel
13 costs or off-system sales volumes in the case?

14 A. Correct.

15 Q. And it's your understanding that the Staff
16 and the company have resolved their modeling differences
17 and they are in essential agreement on all aspects of
18 that, except they don't agree what energy prices should be
19 used?

20 A. It's my understanding that they agree on
21 the modeling process but not the inputs.

22 Q. And you don't have and to your knowledge
23 Mr. Dauphinais nor anybody from MIEC has any modeling
24 results that would dispute the modeling results of the
25 company and the Staff with respect to volumes of

1 off-system sales; is that correct?

2 A. Correct.

3 MR. LOWERY: No further questions.

4 JUDGE WOODRUFF: We'll come up for
5 questions from the Bench. Commissioner Gaw, do you have
6 any questions for Mr. Brubaker?

7 COMMISSIONER GAW: I saw you had Mr. Kind
8 already up and out of here. You-all were hurrying so we
9 didn't get down here quick.

10 MR. MILLS: Commissioner, we'd be happy to
11 put Mr. Kind back on if you have questions for him.

12 COMMISSIONER GAW: I figured you would.

13 QUESTIONS BY COMMISSIONER GAW:

14 Q. Mr. Brubaker, real quick, your basic
15 position on this is closest to which party's position with
16 regard to your testimony?

17 A. Judge, on this part -- Commissioner, on
18 this part of the testimony, it was just the volumes of
19 off-system sales, and I did not have a specific number.
20 What I did is when I saw the original filing and I saw the
21 rebuttal, I wanted to sound some alarm bells because I
22 thought the numbers were low, and so that's basically all
23 I testified to on off-system sales. I do not have a
24 specific number that I'm recommending.

25 Q. All right. Are you concerned about the

1 Staff's numbers that it's using for off-system sales?

2 A. You know, I have some discomfort. The
3 Staff and the company volumes are pretty much -- pretty
4 close. Staff is a little bit higher. I guess my major
5 discomfort is that we've never modeled the system as it's
6 going to exist before, so there's a lot of uncertainty
7 around what that volume is, which doesn't lead me to
8 criticize the model itself, but just a recognition of the
9 difficulty of knowing whether or not you've got it right
10 when you can't benchmark it, you know, to other
11 circumstances.

12 Q. Is that because of the fact that there are
13 factors such as the expiration of the JDA and the
14 difference in the EEI contract, the Taum Sauk issue, that
15 it's difficult to benchmark and come up with some numbers,
16 does that have to do with what you're saying or is there
17 something else?

18 A. Those are issues around that. Primarily
19 the fact that the JDA no longer exists.

20 Q. Were you in here earlier when -- and I
21 cannot remember if this was HC or not, but the general
22 question I don't think would be. Would you -- were you in
23 here earlier when there were discussions with Dr. Proctor
24 about the January figures, January '07 figures on
25 off-system sales?

1 A. I remember the question. I don't recall if
2 Dr. Proctor had those numbers at hand. If he had them --
3 if he had them, then I was not here.

4 Q. Okay. I don't know that he had the
5 specific numbers, just the general -- and he might have.
6 We will have to look back in the transcript. If those
7 numbers were higher than what was anticipated, would that
8 cause you additional concern about the numbers or would it
9 be enough to give you any indication of concern about
10 numbers that might be used in the production cost model?

11 A. I think it might be difficult to draw any
12 conclusions from a single month.

13 Q. Yes. Now, you're not in favor of having a
14 fuel adjustment clause; is that correct?

15 A. We've taken -- we've not taken a hard
16 position for or against a fuel adjustment clause. We've
17 tried to offer some suggestions to the Commission that, if
18 you decide that one's appropriate, here's some features
19 that should be present in it, and certainly one of them is
20 deduct the full value of off-system sales revenues.

21 Q. Generally, if you went to a fuel adjustment
22 clause, would that assist your concern or make some of
23 your concern go away about the level of off-system sales
24 that you're seeing assumed in the production cost model?

25 A. It would greatly alleviate the concern and

1 the problem because there would be an ability to track
2 with what they actually were as we go forward. So that
3 removes a lot of that uncertainty.

4 Q. Okay. Are you supportive of the fuel
5 adjustment proposition that's been placed in the, I think
6 it's surrebuttal of the company?

7 A. I'm supportive of some aspects of it. The
8 deduction of all off-system sales revenues from total fuel
9 cost is something I agree with and what we had proposed.
10 I do not particularly like the incentive aspect of that
11 clause. I much prefer the incentive features in the
12 clause that I sponsored.

13 Q. Okay. Your incentive mechanism just
14 basically does what again?

15 A. It has a small dead band -- let me back up
16 a second. It operates off of a comparison of cents per
17 kilowatt hour for fuel net of off-system revenues, and so
18 you start with a test year number, maybe it's 7/10 of a
19 cent, let's say. You go forward to the next period where
20 you compare, might be .8, might be .6. You would look at
21 the difference per kilowatt hour and times the volumes in
22 the forward period would be the dollar difference that
23 you're trying to deal with.

24 And in my fuel clause, I had a dead band --
25 if I can find it here, if I got all the pieces of

1 testimony as I came up. I had a dead band of \$10 million
2 per year on either side of zero, during which -- at which
3 level the company would either absorb the impact of the
4 cost increase or retain the benefit of cost decrease, just
5 because it's a small amount, small deviation.

6 As I told Commissioner Murray, I wouldn't
7 have a problem if we didn't have a dead band, but a lot of
8 these things do. And then going either up or down, the
9 next \$50 million, 90 percent of the increased cost or
10 90 percent of the reduced cost goes to the consumer and
11 10 percent to the stockholder. The next \$50 million,
12 it's 80 percent to the consumer and 20 percent to the
13 stockholder.

14 And then if we get \$110 million difference
15 in caps, it stops and then the customer gets more benefits
16 from any further deviations. That puts it at a level
17 that's plus or minus 50 basis points ROE.

18 Q. All right. And your opposition or your
19 concern about the company's latest proposition, could you
20 explain that briefly?

21 A. I wish I brought my notes. Mr. Brosch last
22 night laid out a number of problems, and I pretty much
23 agreed with his observations on that.

24 Q. That's fine. Now, what is your suggestion
25 in regard to EEI's treatment for off-system sales

1 purposes?

2 A. We've not offered evidence on the EEI
3 issue.

4 COMMISSIONER GAW: That's fine. I think
5 that's all I have, Judge. Thank you.

6 JUDGE WOODRUFF: Commissioner Appling, do
7 you have any questions?

8 COMMISSIONER APPLING: Judge, I don't think
9 I have any questions. Mr. Brubaker hadn't turned in his
10 homework yet, so I think I'll move on. Thank you very
11 much, but I have no questions.

12 JUDGE WOODRUFF: Does anyone wish to
13 recross based on questions from the Bench?

14 (No response.)

15 JUDGE WOODRUFF: Any redirect?

16 MS. VUYLSTEKE: No, thank you.

17 JUDGE WOODRUFF: All right. Then,

18 Mr. Brubaker, you can step down, and I believe

19 Mr. Dauphinais is next.

20 MS. VUYLSTEKE: Your Honor, I do think that
21 Mr. Dauphinais has some supplemental direct. So I'd like
22 to ask him a few questions to get that into the record.

23 JUDGE WOODRUFF: Is it about the tariff
24 changes?

25 MS. VUYLSTEKE: Correct.

1 JUDGE WOODRUFF: Go right ahead. He's
2 testified earlier, so he is under oath at this point.

3 JAMES DAUPHINAIS testified as follows:

4 DIRECT EXAMINATION BY MS. VUYLSTEKE:

5 Q. Mr. Dauphinais, were you present for
6 Mr. Schukar's testimony on Ameren's latest proposed
7 off-system sales margin of approximately 202 million?

8 A. Yes. I believe the figure is 202.5
9 million.

10 Q. Okay. Have you reviewed the work papers
11 supporting the company's latest proposed off-system sales
12 margin that were provided by Mr. Lowery on March 13th,
13 2007?

14 A. Yes, I have.

15 Q. Do you have any changes to your recommended
16 off-system sales margin baseline?

17 MR. LOWERY: Your Honor, I'm going to
18 object to this line of questioning. The purpose of
19 putting on more direct testimony was to address the
20 language and how the tariff language worked, not to have
21 further direct testimony based about what the margin of
22 off-system sales should be.

23 JUDGE WOODRUFF: Ms. Vuylsteke?

24 MS. VUYLSTEKE: I think that it's important
25 that if Ameren's going to introduce a new proposal that

1 makes certain assumptions, that our witnesses are able to
2 respond to that, react to that. They put that into
3 evidence and I think we should be able to respond to it.

4 MR. LOWERY: Has nothing to do with the
5 language in Exhibit 104, how that language works, which
6 was my understanding that the Bench was ruling that
7 additional direct testimony would be allowed.

8 JUDGE WOODRUFF: Your response?

9 MS. VUYLSTEKE: My response is, once again,
10 that Mr. Dauphinais' supplemental direct is directly
11 related to the proposal that Ameren provided and the
12 tariff language that Ameren provided.

13 JUDGE WOODRUFF: And you're asking him
14 for -- what was your question again?

15 MS. VUYLSTEKE: My question is, do you have
16 any changes to your recommended off-system sales margin
17 baseline?

18 MR. LOWERY: Has nothing do with the tariff
19 language whatsoever.

20 MS. VUYLSTEKE: The tariff language
21 represents a proposal by Ameren.

22 MR. LOWERY: The sharing -- it has nothing
23 to do with -- it represents a proposal about a fuel
24 adjustment clause, but the Bench's ruling was that because
25 they had not seen the language implementing that proposal,

1 that they would be allowed to put on direct testimony
2 about the mechanics of how that language applied and then
3 Mr. Lyons would stand cross-examination about that
4 language.

5 JUDGE WOODRUFF: Let me refresh my memory.
6 Did Mr. Lyons bring in some additional -- did he change
7 his numbers during his --

8 MR. LOWERY: No, he did not.

9 JUDGE WOODRUFF: He did not. Okay. That
10 was somebody else.

11 MR. LOWERY: Mr. Schukar made corrections
12 to his testimony about off-system sales margins, not about
13 the tariff language or the mechanics of Exhibit 104.

14 MS. VUYLSTEKE: Your Honor, for the sake of
15 efficiency, if we have to ask these questions for
16 Mr. Dauphinais after Mr. Lyons testifies, I suppose we can
17 do that. I think it would be requiring us to call
18 Mr. Dauphinais back again, but if that's necessary to lay
19 a foundation, we'll do it, but I think it would be more
20 efficient and better use of Commission and the witness'
21 time to ask the two questions now.

22 JUDGE WOODRUFF: I'll allow you some
23 leeway. I'll overrule the objection. You can go ahead.

24 You can go ahead and answer the question or
25 you can have it re-asked.

1 THE WITNESS: Would you repeat it, please?

2 BY MS. VUYLSTEKE:

3 Q. Sure. Do you have any changes to your
4 recommended off-system sales margin baseline?

5 A. Yes. Based on review of the work papers
6 for Mr. Schukar's revised numbers, as well as new
7 information that came to light last night during the
8 hearing, I'm revising the lowest level, that is the
9 minimum off-system sales margin that I'm recommending to
10 \$211,200,000.

11 Q. Why are you framing your recommendation as
12 a minimum off-system sales margin baseline?

13 A. As I discussed in my direct testimony,
14 there's a great deal of uncertainty with regard to the
15 volume of off-system sales. Historic levels of off-system
16 sales volumes are higher than what is coming out of
17 production cost runs. There is no benchmark of the
18 post-JDA conditions, operating conditions.

19 The other factor is forward electricity
20 prices. If forward electricity prices -- in my direct
21 testimony I had a schedule which calculated based on
22 forward electricity prices what the margin would be, and
23 it was close to \$235 million. So there is definitely
24 upward movement. There is a wide range of reasonability,
25 and my \$211.2 million figure is a conservative floor, I

1 would say, on what's reasonable.

2 MS. VUYLSTEKE: Thank you.

3 JUDGE WOODRUFF: Thank you. I assume he's
4 tendered for cross-examination. Let me ask this, would
5 anyone like to cross-examine this witness?

6 MR. LOWERY: I have no cross, your Honor.

7 MR. MILLS: No questions.

8 JUDGE WOODRUFF: Commissioner Gaw, any
9 questions?

10 COMMISSIONER GAW: Real quick, I hope.

11 QUESTIONS BY COMMISSIONER GAW:

12 Q. Mr. Dauphinais, this issue in regard to
13 off-system sales, I need you to explain to me why you feel
14 these adjustments are necessary after this additional
15 information that you referred to came to light.

16 A. The new production cost simulation runs
17 that produced the \$202.5 million figure that Mr. Schukar
18 presented yesterday were based on some adjustments to the
19 modeling. They were not entirely related to price, but
20 there also was a price adjustment, but the price was to
21 38.04 for megawatt hour on an around-the-clock basis. My
22 recommendation had been the lowest around-the-clock price
23 that should be input to the model 38.54 per megawatt hour.
24 That's the first component.

25 The second component is in regard to

1 regulatory capacity. Regulatory capacity, we found out
2 last night that no amount was included in off-system sales
3 margin for sales regulatory capacity, nor does it appear
4 any adjustments were made for the lost opportunities to
5 make regulatory capacity sales due to the outage at Taum
6 Sauk.

7 The last adjustment is actually a reduction
8 that gets us down to 211.2 million, and that was a million
9 dollars for MISO charges attributed to off-system sales
10 margin. That was also a revised figure presented by
11 Mr. Schukar last evening.

12 Q. Can you recall how that adjustment on the
13 MISO charges came about from Mr. Schukar?

14 A. We have not seen the work papers as of yet.
15 We've requested them.

16 Q. The end result in regard to your
17 recommendation does what? Just big picture, what does
18 that mean as far as where you were and where you are now?

19 A. Previously I was at \$206 million, and now
20 I'm at 211.2 million. The company of course is at
21 202.5 million. Again, my number is a conservative number
22 in my view. We used forward prices, as I did in one of my
23 exhibits, one of my schedules in my direct testimony,
24 which had a \$42 per megawatt hour price based on forward
25 prices at that time, which is very close to the Staff's

1 number. I came up with a number not very far from Staff,
2 235 million.

3 Q. Did you make any attempt to see whether or
4 not there could be some prediction on off-system sales
5 based upon historical transactions and volumes of
6 generation?

7 A. Well, if I do a simple scaling of the
8 off-system sales margin and we take 13 million megawatt
9 hours, which is what we had historically in the year 2006
10 over the company's value, which I believe its modeling --
11 I don't believe it would be HC. It's not. Okay. The
12 company's value is 9.5 million megawatt hours. We scale
13 that out, I come up with a number of \$186 million.

14 Q. Okay.

15 A. \$286 million.

16 Q. 200. Not 100, 286?

17 A. \$286 million.

18 Q. Okay. And that's based upon what
19 assumptions and data?

20 A. That would assume that we would have a
21 replication of 13 million megawatt hours off-system sales,
22 and based on using my low end number of \$38.54 per
23 megawatt hour for the input into around-the-clock prices
24 for wholesale electricity.

25 Q. That's a significant difference from the

1 other figures?

2 A. Yes, it is.

3 Q. Do you have -- do you have more confidence
4 in the production cost modeling figures or that figure?

5 A. It's a mix. As Mr. Brubaker discussed,
6 there's some concern -- I share the same concern he has,
7 that maybe we're missing something in production cost
8 models where we're not getting volumes. There's no
9 benchmark of a JDA. One couldn't be done, as I think
10 Dr. Proctor told us earlier today. So there's some
11 uncertainty that I think the Commission needs to put some
12 weight on in regard to that. And that's one factor.

13 Other than that, doing a production cost
14 model is certainly a more precise approach than the ones
15 that I used in my estimates.

16 Q. Assuming that the data are accurate and
17 representative and good assumptions, is that -- would that
18 be true? Are you making those assumptions when you say
19 the production cost model should be more accurate?

20 A. Production cost model takes into
21 consideration a lot more factors than my estimates did.

22 Q. All right. But you're still not sure which
23 one in the end is going to be more likely to be correct as
24 a predictor?

25 A. I feel you have to put -- you have to put

1 weight. I can't put a simple percentage on these. What I
2 can tell you is that there is a -- it's extremely likely
3 that the off-system sales margin will be \$211.2 million or
4 higher.

5 Q. Okay.

6 A. And it's likely the number will be
7 something below \$286 million.

8 Q. Okay. So you think the range is in between
9 those two figures somewhere?

10 A. Yes.

11 Q. Are those figures with EEI included as a UE
12 asset or excluded?

13 A. All those figures that I've given are with
14 EEI excluded.

15 Q. Did you run the numbers with it included?

16 A. No, I have not.

17 COMMISSIONER GAW: All right. That's all I
18 have. Thank you, Judge.

19 JUDGE WOODRUFF: Commissioner Clayton, did
20 you have any questions?

21 Commissioner Appling?

22 All right. Did anyone wish to recross
23 based on the questions from the Bench?

24 (No response.)

25 JUDGE WOODRUFF: Any redirect?

1 MS. VUYLSTEKE: No, thank you.

2 JUDGE WOODRUFF: All right. Is this
3 Mr. Dauphinais' last appearance?

4 MS. VUYLSTEKE: I believe that it is.

5 JUDGE WOODRUFF: All right. Do you wish to
6 offer his testimony at this time?

7 MS. VUYLSTEKE: Yes, I would like to offer
8 his testimony. Would you like me to read the exhibit
9 numbers?

10 JUDGE WOODRUFF: Yeah. I believe it starts
11 710, 711.

12 MS. VUYLSTEKE: Right. We have 710HC,
13 710NP, 711HC, 711NP, and 712HC and 712NP.

14 JUDGE WOODRUFF: Exhibit 710, 711 and 712HC
15 and NP have been offered into evidence. Are there any
16 objections to their receipt?

17 (No response.)

18 JUDGE WOODRUFF: Hearing none, they will be
19 received into evidence and, Mr. Dauphinais, you're
20 excused.

21 (EXHIBIT NO. 710, 711 AND 712HC AND NP WERE
22 RECEIVED INTO EVIDENCE.)

23 JUDGE WOODRUFF: And I had Kevin Higgins as
24 the next name on the list. What were you going to do with
25 him? I don't see Commercial Group here, is why I ask.

1 MR. MILLS: It's my understanding that
2 Mr. Higgins will be appearing next week on the EEInc issue
3 and will stand cross on this issue at that time as well.

4 JUDGE WOODRUFF: All right. Same situation
5 with Billie LaConte.

6 MR. BYRNE: Yes, I believe that's true.

7 JUDGE WOODRUFF: And Nancy Brockway is
8 already scheduled to be here on the 20th. That brings us
9 to Mr. Lyons, then.

10 MR. BYRNE: Yes, your Honor.

11 MR. MILLS: My understanding of your
12 earlier ruling is that after we have a chance to cross
13 Mr. Lyons, we'll have the opportunity to put our witnesses
14 back on for additional live testimony on this issue?

15 I know some of the parties have done it
16 when their witnesses have been up anyway, but I was
17 planning to put Mr. Kind on after Mr. Lyons.

18 JUDGE WOODRUFF: That will be fine.

19 MR. MILLS: Okay. Thank you.

20 JUDGE WOODRUFF: We weren't exactly clear
21 on how we were going to do that. Welcome back, Mr. Lyons,
22 And, of course, you're still under oath.

23 THE WITNESS: Thank you, and good
24 afternoon.

25 MARTIN J. LYONS, JR. testified as follows:

1 DIRECT EXAMINATION BY MR. BYRNE:

2 Q. Mr. Lyons, do you have what's been marked
3 as Exhibit 104, which I believe is the FAC tariff?

4 A. I do.

5 Q. And could you just briefly explain what
6 that is?

7 A. Yes. It's a tariff rider that was
8 developed to implement the fuel adjustment clause outlined
9 in my surrebuttal testimony.

10 MR. BYRNE: Thank you, Mr. Lyons. I tender
11 the witness for cross-examination.

12 JUDGE WOODRUFF: For cross-examination,
13 looks like Noranda is the first one that's here. I'm
14 sorry. MIEC would be first.

15 MS. VUYLSTEKE: No questions at this point,
16 thank you.

17 JUDGE WOODRUFF: Thank you. Noranda?

18 CROSS-EXAMINATION BY MR. CONRAD:

19 Q. Good afternoon, Mr. Lyons.

20 A. Good afternoon.

21 Q. Your counsel indicated that you would have
22 before you a copy of what's been marked for identification
23 as Exhibit 104?

24 A. Yes, sir.

25 Q. Being original sheet 98.1, .2, .4 and .5

1 proposed, right?

2 A. Yes, sir.

3 Q. I want to direct your attention, if I may,
4 to the rate cap provisions. I think generally, if I
5 understand the structure of your proposal, that would be
6 on sheet 98.2, and toward the middle of that page there is
7 an indented single-spaced paragraph. Am I correct?

8 A. Yes, sir, I see it.

9 Q. I want you to make a couple of assumptions
10 with me. Please assume a rate class with an average rate
11 realization of 3 cents per KWH during what we'll call the
12 true-up year, and let's just call that Customer Class X --

13 A. Yes, sir.

14 Q. -- for the time being.

15 And I'd like just for purposes of
16 simplicity, if you would, to just ignore any loss factors
17 in our numbers here. Is that okay?

18 A. Yes, sir.

19 Q. Now, you may or may not need a calculator
20 to do this, but what would be 4 percent of that 3 cents?

21 A. .12.

22 Q. .12 cents; is that correct?

23 A. Yes. Yes, sir.

24 Q. Does that .12 cents as we've calculated it
25 here represent the maximum increase above the 3 cent

1 assumption that I gave you at any time during the next
2 following, the next following true-up here for Class X?

3 A. Yes, it would.

4 Q. Now, under your proposed rider A,
5 Exhibit 104, what are the dates of the first true-up year?

6 A. The first true-up here as proposed would
7 begin on July 1st, 2007 and run through June 30th of 2008.

8 Q. And would I be correct then that the
9 corresponding dates for the second true-up year would be
10 July 1, '08 through June 30, 2009?

11 A. That is correct.

12 Q. Now, I want to embellish our example just a
13 little bit. And pursuant to the first accumulation
14 period, and that's in the column on the very first page of
15 your Exhibit 104, the left-hand column. During the first
16 accumulation period, which we'll identify as
17 July 2007 through October 2007, there is an increase of a
18 little less than a tenth of a cent. Let's assume
19 .09 cents. Okay?

20 A. Yes, sir.

21 Q. When would that change take effect under
22 your proposal?

23 A. If there was a difference in the first
24 accumulation period, you would begin to collect that in
25 March of 2008 over a 12-month period.

1 Q. Key question, Mr. Lyons. Is that within
2 the cap?

3 A. Yeah, it is within the cap. The .09 is
4 less than the .12 we discussed earlier.

5 Q. And so in the first year, the period of
6 July 1, 2007 through June 30 of 2008, what would you
7 compute to be the average rate for Class X? And I'd ask
8 you just to try to make it simple, assume constant usage
9 and assume that all of the non-FAC charges continue to
10 average 3 cents.

11 A. I believe I'm doing my math correctly that
12 that would be .30 cents.

13 Q. To develop that, just unpack it, as
14 Mr. Micheel says, 3 cents plus .09 times four months, and
15 then that divided by 12, equals in the math that I had
16 worked out 3 plus .03 cents. Did we do it right?

17 A. That's what I said, 3.03.

18 Q. Now, what is 4 percent of 3.03?

19 A. I calculate .121.

20 Q. So the maximum rate under your proposal
21 here of the class, my hypothetical Class X would face
22 during the next true-up year due to the operation of your
23 proposed mechanism, would you agree with me that it would
24 be 3.03 cents that we just calculated plus 1.21 -- excuse
25 me -- .121 cents?

1 A. Yes, I get 3.151.

2 Q. And that next true-up year that we're
3 talking about, that would be July 1, 2008 through June 30
4 of 2009?

5 A. Yes, sir.

6 Q. And staying kind of within that same
7 example, assume with me that pursuant to costs in the
8 second accumulation period, that there would be an
9 increase in the FPAC, and for the benefit of the
10 Commission, that's a factor that appears -- if I've done
11 it right -- 98.2, near the top of the page, and before any
12 consideration of the cap from .09 cents that we talked
13 about before to .16 cents. So far so good?

14 A. I think I'm with you.

15 Q. All right. When would that take effect?

16 A. That would take effect in the second
17 recovery period, which would be July of '08 that runs
18 through June of '09.

19 Q. And what true-up year would we be in when
20 that rate becomes effective?

21 A. That would be the second true-up year.

22 Q. Now, the important factor from our
23 perspective, what is the rate for Class X after
24 consideration of the cap?

25 A. I believe we -- I believe we calculated the

1 cap to be 3.151.

2 Q. And that's again the 3.03 plus the .121
3 that we worked up a moment ago?

4 A. Correct.

5 Q. So far so good. And that amount,
6 Mr. Lyons, if I understand your proposal, that would be
7 deferred over a 12-month period; am I correct?

8 A. Yes, sir.

9 Q. So think with me now. How long would that
10 3.151 cents per KWH remain in effect?

11 A. It would remain in effect throughout the
12 second true-up year, which would end June 30th of 2009.

13 Q. And that would be true unless there was
14 some kind of an offsetting decrease in one of the other
15 adjustments during that year, agreed?

16 A. That's right.

17 Q. Now, let's go back, if you could, to
18 Exhibit 104 in the second sheet that's 98.2. Tell me when
19 you're there.

20 A. I think I'm still there, yeah.

21 Q. Okay. Maybe we didn't move you off there.
22 I thought perhaps I had. Look at the second sentence in
23 that paragraph that we were talking about before, please,
24 and this is the sentence that begins with the phrase,
25 during the first true-up year. Do you see that sentence?

1 A. I do, sir.

2 Q. Now, should I read that sentence as
3 referring to that class, and we're hypothetically talking
4 about X, but it would be any class, average approved rate,
5 meaning the rate that was approved by these folks up here?

6 A. Yes, during the first true-up year, that is
7 correct.

8 Q. And I take it, then, that if there were to
9 be during that same period, Mr. Lyons, another rate order
10 from the Commission that would issue during the four-year
11 period that this fellow would be in effect, we would again
12 reset the cap based on that approved set of rates coming
13 out of that rate order; am I right?

14 A. That's right. The expectation would be
15 that a new rate case would set a new base price and then
16 the caps would be reset, that's correct, sir.

17 Q. Would you then agree with me, Mr. Lyons,
18 that that is the thrust of the second paragraph from the
19 bottom on sheet 98.4 that begins, if a general rate
20 proceeding is concluded?

21 A. That is correct, sir, that is the intent of
22 that paragraph.

23 Q. Now, of course, the Commission could do
24 something otherwise, couldn't it?

25 A. I suppose.

1 Q. Being the Commission, they can do lots of
2 things, right?

3 A. That was my thought, sir.

4 MR. CONRAD: Judge, we appreciate the
5 opportunity to work through this after we got this
6 package, because it did truly simplify things for us.
7 That is all I have.

8 Thank you, Mr. Lyons.

9 JUDGE WOODRUFF: Thank you very much. AARP
10 is not here. State have any questions?

11 MR. MICHEEL: No.

12 JUDGE WOODRUFF: Public Counsel?

13 MR. MILLS: Really just one.

14 CROSS-EXAMINATION BY MR. MILLS:

15 Q. Good afternoon, Mr. Lyons.

16 A. Good afternoon.

17 Q. Can I get you to look at sheet 98.4? That
18 may be the one you're still on.

19 A. I'm there now, sir.

20 Q. There's a table about a third of the way
21 down, and as I read the table, the first two rows are
22 simply labels, and then the third row down, this is where
23 you actually get into the meat of the table. On the third
24 row down, there's a notation BFC dollars. All the
25 subsequent rows on that use the notation NBFC dollars.

1 Why is that?

2 A. I'm sorry. It is just a typographical
3 mistake. It should be N.

4 Q. Okay. Thank you.

5 A. You're welcome.

6 JUDGE WOODRUFF: Staff have any questions?

7 MR. DOTTHEIM: No questions.

8 JUDGE WOODRUFF: Come up for questions from
9 the Bench. Commissioner Gaw?

10 COMMISSIONER GAW: No questions.

11 JUDGE WOODRUFF: Commissioner Clayton?

12 COMMISSIONER CLAYTON: No questions.

13 JUDGE WOODRUFF: Commissioner Appling?

14 No questions from there. So there's no
15 need for recross. Any redirect?

16 MR. BYRNE: No, your Honor.

17 JUDGE WOODRUFF: All right. Then,
18 Mr. Lyons, you can step down. I believe this was his last
19 appearance also?

20 MR. BYRNE: It was, your Honor, at least his
21 last one so far. So I guess I would offer Exhibit 19, 20,
22 21 and 104.

23 JUDGE WOODRUFF: 104 I believe also --
24 well, no, we didn't either. Never mind. Exhibits 19, 20,
25 21 have been offered. And I'll get to 104 in a minute.

1 Any objection?

2 (No response.)

3 JUDGE WOODRUFF: Hearing none, they will be
4 received into evidence.

5 (EXHIBIT NO. 19, 20 AND 21 WERE RECEIVED
6 INTO EVIDENCE.)

7 JUDGE WOODRUFF: Exhibit 104 was offered
8 previously and then just again right now. Are there any
9 objections?

10 MR. CONRAD: Let me make clear, and also
11 perhaps the question from Mr. Mills, the modifications
12 that we talked about, the interpretations that we talked
13 about from the stand, those obviously are part of the
14 record, but will those be incorporated in another exhibit?

15 I had asked you to withhold ruling on 104
16 until we've done cross, which has been done, so I don't
17 have any objection, but I guess my question is going to be
18 -- Mr. Mills talked about an N and correction of typos and
19 so on.

20 MR. BYRNE: Yes, we will correct the typo.

21 MR. CONRAD: I don't know if it needs to be
22 an exhibit. I'm just questioning how that's going to
23 happen.

24 MR. BYRNE: Presumably, if the Commission
25 were to approve the tariff, we would correct the typo in

1 the compliance filing. I guess that's how I'd propose to
2 handle it.

3 MR. CONRAD: Answers my question.

4 JUDGE WOODRUFF: 104 is admitted.

5 (EXHIBIT NO. 104 WAS RECEIVED INTO
6 EVIDENCE.)

7 JUDGE WOODRUFF: And, Mr. Lyons, you're
8 excused.

9 THE WITNESS: Thank you.

10 JUDGE WOODRUFF: Mr. Mills, you indicated
11 you might wish to recall Mr. Kind.

12 MR. MILLS: Yes, I would like to. Can you
13 give me a minute to find him?

14 JUDGE WOODRUFF: There he is.

15 You're still under oath also, Mr. Kind.

16 THE WITNESS: Okay.

17 MR. MILLS: May I proceed?

18 JUDGE WOODRUFF: Yes, you may.

19 RYAN KIND testified as follows:

20 DIRECT EXAMINATION BY MR. MILLS:

21 Q. Mr. Kind, have you had a chance to look
22 briefly at Exhibit 104?

23 A. Yes, I have.

24 Q. I understand you've been somewhat busy with
25 other issues related to this rate case, but you've been

1 able to look at it somewhat?

2 A. I have. I've tried to concentrate on it
3 today, and I guess I still feel just slightly unsettled
4 about how to resolve some issues to make some
5 clarifications for really the purpose of trying to avoid
6 having arguments amongst the parties later about the
7 meaning of some of the terms, so I have some proposals to
8 make along those lines.

9 Q. Now, your proposals to make some changes to
10 the language on this exhibit, do those change your overall
11 position with respect to the fuel adjustment clause in
12 this case?

13 A. No, definitely not. I and the Office of
14 Public Counsel that I represent are still opposed to
15 having a fuel adjustment clause result from this case.

16 Q. Can you go through and describe the
17 particular items that you believe should be clarified on
18 Exhibit 104?

19 A. Yes, I can. Be glad to. The first change
20 that I want to discuss is on Tariff Sheet 98.3, and it has
21 to do with the definition at the top of that page, which
22 carries over from the preceding page, which is Item A,
23 Sub I, and it's -- that item talks about various
24 categories of costs associated with fossil fuel or hydro
25 plants. And the change on 98.3 is where in the fifth line

1 down, starts with the word, transportation, says,
2 transportation, fuel hedging costs. Wanted to just drop
3 the word fuel so that we would just be dealing with
4 hedging costs, the idea being that there is hedging going
5 on that the companies involved with with respect to sales
6 of energy, possibly sales of capacity as well, that aren't
7 related to purchases of fuel.

8 So I deleted the world fuel there, and that
9 would include then costs associated with other hedging
10 activities. And then I think we need also another item to
11 reflect potential revenues associated with all hedging
12 activities, not just in the fuel area. Again, and the way
13 that I'm going to suggest including that is by changing
14 the definition towards the bottom of that page for what's
15 abbreviated as OSSR, off-system sales revenues, and I
16 would like to then include in that category -- just
17 basically include revenues associated with hedging.

18 So I have another change as well to that
19 category, and again, it's just for clarification purposes,
20 to hopefully avoid any future disagreements amongst the
21 parties and make -- if there is any disagreement, we can
22 find out about it here today rather than later. So I
23 wanted to suggest, then, changing that definition OSSR so
24 that it would read -- and I'll just read it as it's
25 changed. Mostly I'm just tacking some things on to the

1 end of what's already there.

2 And so it would read, off-system sales
3 revenues from the jurisdictional portion of off-system
4 sales, and then after the word sales insert of energy
5 and/or capacity. After capacity begin parentheses and
6 state, including, but not limited to, sales of regulatory
7 capacity, close parentheses. After the close parentheses,
8 that's where I would tack on, and hedging revenues, and
9 then the end of what's already there is just there would
10 be another comma after hedging revenues, and then the
11 words, if applicable.

12 I'm actually unsure of why the company put
13 the words if applicable there, because I think their
14 proposal is just that off-system sales would be included.
15 Maybe that's something they could clarify. It seems to me
16 that the only possible purpose for the words if applicable
17 being there would be if for some reason the company
18 thought there might be a time period during the existence
19 of the FAC when there are no off-system sales revenues
20 occurring, but I can't foresee that happening myself.

21 So anyway, maybe I'll just read that
22 through one more time to make it clear what I'm proposing.
23 Off-system sales revenues from the jurisdictional portion
24 of off-system sales of energy and/or capacity, begin
25 parentheses, including but not limited to sales of

1 regulatory capacity, end parentheses, and hedging
2 revenues, and then the two words, if applicable.

3 Q. in your understanding of what if applicable
4 is, would it be clearer to say, if any?

5 A. Yes, I think that would be much better
6 language to use there.

7 Q. Would you like to propose that change?

8 A. Yes, I would very much like to propose that
9 change. So propose ending that with if any, as opposed to
10 if applicable. That seems to be probably more consistent
11 the intent of the company's proposal in this case.

12 After that, there's just one other thing
13 that I really just was sort of confused about here and I
14 guess I'm going to suggest a change, and we can see what
15 the company's response to that is, which is on the next
16 page 98.4, Sheet No. 98.4, where there's the table there
17 that has the various -- on the right side of the table
18 there's the list of percentages coming from Column A,
19 and you get to the very bottom of that, the last
20 line in Column B, which is across from the greater than
21 135 million below NBFC dollars states 100 percent of
22 Column A.

23 I'm thinking the intent there was to be --
24 I'm sorry. It says 100 -- there is no percentage. It
25 says 100 in Column A, and I think it should be zero

1 percent is what the -- seems like that would be consistent
2 with the company's proposal.

3 Q. Because it was the company's proposal that
4 if there were -- if it was greater than 135 million below,
5 that they would not share any of it?

6 A. Correct.

7 Q. Is that correct?

8 A. Yes.

9 Q. Do you have any other further comments
10 about Exhibit 104?

11 A. That's the end of the changes that I wanted
12 to propose and the feedback that I wanted to give.

13 MR. MILLS: With that, your Honor, I'll
14 tender the witness for cross-examination.

15 JUDGE WOODRUFF: All right. Does anyone
16 wish to cross-examine this witness?

17 MR. MILLS: No, your Honor.

18 JUDGE WOODRUFF: Any questions from the
19 Bench?

20 COMMISSIONER GAW: Not on this subject. Is
21 Mr. Kind going to be back next week again for EEI and some
22 other things? If it's all right -- I didn't ask him
23 questions on the other issues earlier. If it's all right,
24 I might just wait and do that all at that point.

25 JUDGE WOODRUFF: Certainly.

1 COMMISSIONER GAW: Thanks, Judge.

2 JUDGE WOODRUFF: So no need for recross.

3 Any redirect? I guess there was no cross, so no redirect.

4 COMMISSIONER CLAYTON: No questions, Judge.

5 JUDGE WOODRUFF: I'm sorry.

6 COMMISSIONER APPLING: No questions.

7 JUDGE WOODRUFF: Sorry. I didn't intend to

8 slight you.

9 COMMISSIONER CLAYTON: That's okay.

10 JUDGE WOODRUFF: All right. Then,

11 Mr. Kind, you can step down.

12 THE WITNESS: Thank you.

13 JUDGE WOODRUFF: Was there any other

14 testimony regarding Mr. Lyons' most recent testimony?

15 MS. VUYLSTEKE: Actually, my expert

16 informs me he would like to put in a little testimony on

17 Mr. Lyons' proposal on the tariff, so if we could do that

18 at this time, that would be great.

19 JUDGE WOODRUFF: That would be fine. Come

20 on back, Mr. Dauphinais. Of course, you're still under

21 oath.

22 THE WITNESS: Yes.

23 MS. VUYLSTEKE: I'm sorry.

24 JUDGE WOODRUFF: I think you'll have to ask

25 the questions.

1 JAMES DAUPHINAIS testified as follows:

2 DIRECT EXAMINATION BY MS. VUYLSTEKE:

3 Q. Mr. Dauphinais, could you go ahead and
4 provide your supplemental direct testimony on Mr. Lyons'
5 proposal tariff?

6 A. Yeah. I have two comments that are in
7 addition to those Mr. Kind offered. One is referring to
8 Sheet 98.4. This is the sharing matrix table that is
9 found in the proposed tariff. Mr. Kind was talking about
10 the row that says greater than 135 million below NBFC
11 dollar sign, and he mentioned that he thought the 100 of
12 Column A should be zero. Just to further expand on that,
13 I believe if you look at the surrebuttal testimony of
14 Mr. Lyons, you'll see that the company's proposal, in
15 fact, put zero in that row.

16 My second comment is in regard to MISO
17 charges, credits and revenues. I believe -- I feel that
18 this rider needs to be expanded to be clear that all MISO
19 revenues, credits and charges except for those under MISO
20 Schedules 10, 16, 17 and 24 associated with the company
21 should be passed through the FAC.

22 MS. VUYLSTEKE: Thank you. Thank you, your
23 Honor.

24 JUDGE WOODRUFF: Does anyone wish to cross
25 Mr. Dauphinais?

1 MR. BYRNE: No, your Honor.

2 JUDGE WOODRUFF: Any questions from the
3 Bench, Commissioner Gaw and Commissioner Appling? I'll
4 ask you this time.

5 COMMISSIONER APPLING: No questions.

6 COMMISSIONER GAW: No.

7 JUDGE WOODRUFF: Then you may step down.
8 Is that all for this issue?

9 I believe that also ends off-system sales
10 and allows us to move into wind power.

11 MR. BYRNE: Your Honor, I was wondering if
12 we might be able to take our witnesses slightly out of
13 order. Mr. Mark is here. He's scheduled to testify on
14 the low-income program. I was wondering if he might be
15 able to go ahead of Mr. Moehn.

16 JUDGE WOODRUFF: I certainly don't have any
17 problem with that if the parties don't.

18 (Witness sworn.)

19 JUDGE WOODRUFF: You may be seated. Since
20 these four issues seem to be fairly closely related, and I
21 believe there's just five or six witnesses altogether, do
22 we want to just go by witness and deal with the issues all
23 at one time, rather than bring them up four times?

24 MS. TATRO: That will be fine.

25 JUDGE WOODRUFF: The first one is Mr. Mark

1 for UE.

2 MS. TATRO: Mr. Mark has no changes, so I
3 tender him for cross.

4 JUDGE WOODRUFF: Okay. First party for
5 cross would be DNR.

6 MR. IVESON: Just a second, your Honor.
7 I'm trying to change shifts.

8 RICHARD J. MARK testified as follows:

9 CROSS-EXAMINATION BY MR. IVESON:

10 Q. Good afternoon, Mr. Mark.

11 A. Good afternoon.

12 Q. Mr. Mark, can you explain when AmerenUE
13 began its low-income weatherization program?

14 A. Weatherization. Okay. The weatherization
15 program as it's funded today, I know it was funded from
16 the 2002 settlement of the rate case, when this portion
17 that I testified to is when it started.

18 Q. So it was a result of a prior rate case?

19 A. Correct.

20 Q. And has the program been successful?

21 A. I believe so. It's administered through
22 DNR, and the program is administered by Environmental
23 Improvement and Energy Resources Authority, and -- a
24 division of the Department of Natural Resources. They
25 actually handle it. We provide the funds to them. We do

1 have some input on it. Molly Martin, from my staff,
2 participates, has participated in it and tracks it. We
3 get reports on the number of homes that have been
4 weatherized. I believe over 1,500 have been weatherized
5 to date, and we feel it's a good program.

6 Q. It's been successful, it's a good program
7 and, therefore, it's worth supporting by Ameren?

8 A. Yes.

9 Q. In your direct testimony on page 17,
10 lines 10 to 14, if I could direct you there.

11 A. Okay.

12 Q. You indicated that AmerenUE is committed to
13 finding ways to assist those of our customers who are in
14 need and to help all customers conserve energy. That's
15 line 13, 14; is that correct? Do you see that?

16 A. Mine must be numbered differently.

17 Q. The question begins on page 17 at line 10,
18 is AmerenUE willing to consider continuing the kinds of
19 low-income and energy efficiency programs?

20 A. Yes.

21 Q. So line 13, your testimony is, absolutely,
22 AmerenUE is committed to finding ways to assist those of
23 our customers who are in need and to help all customers
24 conserve energy; is that correct?

25 A. Correct.

1 Q. Is that still your testimony?

2 A. Yes.

3 Q. If you would look at your surrebuttal
4 testimony, page 3.

5 A. Okay.

6 Q. At line 5, the question, as a component of
7 its revised FAC/OSS proposal, is the company willing to
8 provide additional funding for the low-income
9 weatherization program? Do you see that?

10 A. Yes.

11 Q. And as part of your answer it says, the
12 company is willing to adopt the recommendation of Staff
13 witness Lisa Mantle, who recommended that the company fund
14 the low-income weatherization program at a level of
15 \$1.2 million per year. is that only as a condition of
16 acceptance of your FAC/OSS proposal?

17 A. Yes.

18 Q. So is that reneging on the commitment
19 you expressed in your direct testimony to support the
20 low-income weatherization program?

21 A. We support low-income weatherization
22 programs, but this one here, the testimony was part of
23 this agreement, from what I understood.

24 Q. Okay. But separate and apart from the
25 agreement, you would agree, wouldn't you, that it's a good

1 program?

2 A. Yes, it has been a good program.

3 Q. And worth supporting?

4 A. Yes.

5 Q. Successful?

6 A. It's been successful.

7 Q. Whether or not the FAC/OSS proposal is

8 accepted, all of that is still true, is it not?

9 A. We would be willing to consider it, yes.

10 Q. The question was, is it good? It's a good

11 program, it's a successful program and it's worth

12 supporting. All of that remains true even if the FAC OSS

13 program is not approved; isn't that true?

14 A. Let me just go back and read your first

15 question.

16 Q. Now, actually my question right now is

17 just, it's a good program, correct?

18 A. Yes, it has been.

19 Q. And this is -- these are questions I'm

20 asking you today. And it's been a successful program?

21 A. Correct.

22 Q. And it's worth supporting, correct?

23 A. I believe so, yes.

24 Q. And all of those facts remain true,

25 regardless of whether the company's FAC OSS proposal is

1 approved, correct?

2 A. Yes.

3 MR. IVESON: Nothing further.

4 JUDGE WOODRUFF: Next party here would be

5 MIEC.

6 MS. VUYLSTEKE: No questions.

7 JUDGE WOODRUFF: Noranda? State?

8 MR. CARLSON: No questions.

9 JUDGE WOODRUFF: Public Counsel? They're

10 not here. Staff?

11 MR. BAKER: I just have a couple

12 CROSS-EXAMINATION BY MR. BAKER:

13 Q. I got down here a little bit, so excuse me

14 if a couple of these have been asked already. You already

15 said that Ameren will fund the low-income weatherization

16 program at 1.2 million a year?

17 A. Correct.

18 Q. Half of that amount will be covered in

19 rates and the other half paid by the company?

20 A. That's what it states, yes.

21 Q. And the low-income programs will be

22 included in Ameren electric tariffs?

23 A. Could you repeat the question, please?

24 Q. Ameren will include the low-income

25 weatherization program in its electric tariffs?

1 A. That's what it states, yes.

2 Q. And Ameren will conduct an evaluation of
3 the current weatherization program?

4 A. Yes.

5 MR. BAKER: That's all the questions I
6 have.

7 JUDGE WOODRUFF: And is there any questions
8 from the Bench, beginning with Commissioner Gaw?

9 COMMISSIONER GAW: I want to defer to my
10 fellow Commissioners.

11 JUDGE WOODRUFF: Commissioner Clayton, do
12 you have any questions?

13 COMMISSIONER CLAYTON: Not at this time.

14 COMMISSIONER CLAYTON: Commissioner
15 Appling?

16 COMMISSIONER APPLING: I was hoping that my
17 colleagues were going to give me a little warm up here.

18 QUESTIONS BY COMMISSIONER APPLING:

19 Q. How you doing, Richard?

20 A. Good.

21 Q. It's been a long year, hasn't it?

22 A. Yes, it has.

23 Q. I probably made all of the -- or attended
24 all of the public hearings in St. Louis, and since that
25 time the only way I go into St. Louis is during the hours

1 of darkness, because every time I run into somebody, they
2 want to know what's going to happen with Ameren and what
3 are we going to do.

4 How much money do you have in the low
5 income? Are you proposing to put the 1.2 million there?

6 A. Yes.

7 Q. Okay. Why don't you go back just a second
8 or two and describe for me what you're doing in this
9 program. I realize that you made a lot of public hearings
10 yourself. In fact, I watched and read about you in the
11 paper in trying to overcome some of the bitterness and
12 angriness that some of the customers have in St. Louis,
13 and I'm interested in the area that you are, and I know
14 what kind of work you do, because you and I have been out
15 on the road to give some money to Columbia and to
16 Jefferson City and to the Lake.

17 But describe that program just a little bit
18 for me, if you wouldn't mind.

19 A. Well, we have two components of our
20 low-income program. One is our Dollar More program, which
21 we fund about \$2 million a year. Half of that funding,
22 approximately 900,000 of the funding for that comes from
23 customers as well as employee contributions to the Dollar
24 More program. That goes to the low-income energy assis--
25 low-income customers in need to help to pay their utility

1 bills.

2 And then through the company funds, we do
3 put another million dollars, right at a million dollars
4 toward that fund to match the contributions. All the
5 contributions that we receive are passed through to the
6 United Way. We work with approximately 39 social service
7 agencies in the St. Louis area. We have an advisory group
8 of those agencies. I meet with the directors of those
9 agencies and we talk about how we can best structure
10 programs to meet the needs of low-income people.

11 We try to bring in those agencies that
12 distribute the funds, as well as other social service
13 agencies that are involved in the community to try to look
14 at options, such as we worked this summer with the Urban
15 League of St. Louis to distribute air conditioners to
16 senior citizens and people with medical issues that were
17 low income and could not afford them.

18 And so our low-income program, we try to
19 expand it and target it. But we have the Dollar More. We
20 have the give-away programs that we do, things for people
21 in need based on information we get back from our
22 community advisors. And then we have the weatherization
23 program, which we provide weatherization to the homes,
24 which I addressed earlier.

25 So we do a range of things, as well as we

1 give charitable contributions to not-for-profit agencies
2 that submit proposals throughout the St. Louis area and
3 throughout the entire Missouri region.

4 Q. Just from observations, St. Louis is a
5 tough market.

6 A. It is.

7 Q. I think if you were to ride down Broadway
8 giving away dollars, I'm not sure people wouldn't complain
9 about that, but it's a tough market.

10 Do you feel that your company could do a
11 little bit more in St. Louis, as far as there's some
12 people in pretty bad shape in that city that uses your
13 electric and all that. And when I pick up the paper, and
14 this is no -- I'm the last guy that's going to be talking
15 about bonuses and all that, but you know that was
16 plastered on the front page of the paper this morning
17 about the bonus for your managers and Ameren, and then
18 people out there are not able to pay their bills.

19 And that's the point I come from, of being
20 able to help a little more. It's all about giving
21 something back to the people that are more unfortunate
22 than you and I and Ameren and other people. Is there
23 anything that you can think of, has anybody made any
24 suggestions to you out there in your travels in St. Louis
25 that your company do a little bit more?

1 A. Well, through our charitable trust, we try
2 to submit or we try to make donations to companies or
3 agencies, rather, and not-for-profits throughout the
4 community that submit applications. We have an
5 application process. We fund a wide range of charitable
6 organizations, and to the tune of -- I believe it's a
7 little over \$6 million a year that we provide to those
8 agencies in St. Louis.

9 And we -- like I said, I work closely with
10 the Ministerial Alliance in St. Louis, the Chairman of
11 that organization to try to identify areas and target --
12 when the July storms hit, we worked with the Salvation
13 Army, we worked with some neighborhood groups from the
14 St. Louis Board of Aldermen in north St. Louis,
15 Mr. Senior -- Freeman Bosley, Senior, and State
16 Representative Hubbard. We went out to the shelters and
17 provided food and water and ice when needed in the July
18 storms.

19 So we've tried to work on special projects
20 like that and providing dollars where needed to expand
21 programs. We're working with a group right now called
22 St. Louis for Kids that provides after-school programs and
23 programs for children who would go home to a home without
24 a parent necessarily. We provided some funding for them
25 to expand that program and to hire tutors.

1 We're working with the St. Louis Gateway
2 Classic that does a -- actually, I was there last week,
3 having -- we're sponsoring a noonday luncheon for homeless
4 people that Mr. Earl Wilson puts on there. We funded that
5 program for him. Myself and Otie Cowan, who is our
6 community relations manager, go out there and met with him
7 and have funded that program and actually had lunch out
8 there with some of his clients.

9 So we've tried to identify and work with
10 those types of agencies in the community because we know
11 there's a great need and we're trying to identify the best
12 way to address that need.

13 Q. Weatherization?

14 A. Weatherization.

15 Q. Is your total program administered through
16 Social Services?

17 A. Yes. Yes, it is.

18 Q. Describe for me just quickly how that
19 program works, and you-all funnel the money to -- and this
20 is -- this 1.\$2 million would go to Social Services and
21 they would administer the program; am I correct?

22 A. Correct. Right.

23 Q. How do you in your own estimate think that
24 program is working? Have you been in any of the houses
25 that's been weatherized and all that?

1 A. Not in these particular homes. I have been
2 in other homes that have been weatherized through these
3 types of programs. My previous career position, I
4 actually was director of a program that oversaw
5 weatherization programs and funding.

6 Weatherization programs I think are
7 important and they're needed, but they're difficult
8 because many of the homes that are being weatherized are
9 substandard and have a myriad of problems anyway. And so
10 you're providing some funding, and I think they're good to
11 try to -- as a stop gap to try to help the people that are
12 there.

13 I think my opinion is the long-term
14 solution is many of these homes that people are living in
15 are state and federally subsidized housing. The owners of
16 the housing usually put in the cheapest, most
17 least-energy-efficient appliances, everything from the
18 furnaces to air conditioners and stoves and that type of
19 thing.

20 And so it's tough to try to have a
21 weatherization program to really meet the total need of
22 the customer because of the -- all the other issues that
23 are involved. It's more than just trying to make the home
24 weather tight, which you would with weatherization,
25 because if you put -- if you try to caulk around the

1 windows and make them secure and you have a furnace that
2 is unefficient, you're still going to have a high energy
3 bill.

4 And so, you know, I think it's -- I have
5 always believed that there's got to be a more wholistic
6 approach to dealing with some of these social issues, and
7 the weatherization is a part of it, and it helps, and it
8 does help cut down the bills for those customers, but
9 their problems are usually much bigger.

10 Q. And this is my last question. During the
11 July storms and, of course, I kind of took a tour of
12 St. Louis myself. I was coming back from Chicago on the
13 19th. I think that was the last day of July when
14 everything hit there. In fact, my daughter lives in
15 St. Louis.

16 But anyway, the July storms and the ice
17 storms, I read about you and saw you out there taking a
18 few punches here and there as far as everything was
19 concerned. Has Ameren learned anything that you can use
20 if something similar to this comes along again?

21 A. I think what we've learned is that, you
22 know, I think that communication to the public is
23 extremely important. Myself, as well as several of my
24 managers, we -- right after that storm we've contacted a
25 number of other utilities around the country. I just

1 attended a reliability workshop in Atlanta with a number
2 of other utilities in the country and that had suffered
3 from storms last year to try to look at what they're doing
4 to improve our practice.

5 I think that after a storm like that, the
6 most important thing is communication. One of the things
7 that we found was a lot of misinformation and
8 miscommunication, and I think that points people in the
9 wrong way. I think it gives -- so we're trying to figure
10 out ways to get customers more information about what's
11 happening, why they have an outage, what's the restoration
12 time going to be, what's the current status. And that's a
13 very difficult project and complex project to try to work
14 out when you have a large number of outages as your
15 estimated restoration time.

16 Everyone wants to know how long it's going
17 to take to get back on. That's the No. 1 question that
18 they have. No. The first question customers ask is, do
19 you know I'm out? The second question is, when am I going
20 to get back on? And usually the third question is, why am
21 I out? And in a severe weather event, they usually know,
22 but they'll still ask that.

23 Restoration times are the hardest to deal
24 with, and that's something that we're trying to work on,
25 because when there's severe damage in the system, you

1 really don't know how long it will take until you actually
2 are out there and you visibly are able to do some
3 estimates. And that's -- that's one thing I think
4 utilities across the country are struggling with, but it's
5 something that we're putting a lot of time and research in
6 to try to figure out a better way to give customers more
7 accurate information.

8 We've tried a couple ways. Once we gave
9 information, and if you've give an estimated restoration
10 time and it was wrong, we had customers upset. So then we
11 stopped giving it and we had customers upset. So we're
12 trying to figure out a way that would meet the customers'
13 needs to give them what they want so they can make
14 personal decisions, and at the same time not give them a
15 false expectation. We want to try to be as honest with
16 the customers and tell them what the status is as much as
17 we can without leading them in the wrong direction.

18 So I think that communication is one of the
19 most important things we learned. After every storm we
20 have a briefing, and we get all the managers that were
21 involved in that storm, all the major participants, and we
22 go through what went well and what didn't go so well, and
23 we try to come up with recommendations of how we're going
24 to make it better next time, and we feel we learn
25 something from every storm.

1 Q. Well, I know you do, but there were some
2 really, really, really angry people out there, and they
3 was angry because they are couldn't talk to you, for one
4 thing.

5 A. Yes.

6 Q. And they was calling and asking and nobody
7 had an answer for them, and they -- I don't think I went
8 to one hearing that people was just not completely upset
9 with your communication, your customer service, and
10 everybody gets a little angry when the storms come. I
11 know that. But I -- the most disappointing thing there
12 was, and not that you didn't have representative there,
13 because I'm looking at a lady in the back that was with me
14 each and every one of them, but I didn't see any of the
15 top dogs out there.

16 And you-all need to learn something. If I
17 give you any recommendation, you've got to face people
18 straight on, and the best way to do that is for the top
19 dog to come out there and tell people, I'm working on it.
20 And I was disappointed on that. I have to be able to tell
21 you that, and one of these days when this is all over,
22 I'll show you my stripes, too.

23 Anyway, that's the lesson, if it's one that
24 I learned through all the things that I've done in life.
25 I'm not lecturing here. I'm just talking.

1 A. I understand.

2 Q. But the top dog has got to get out of
3 there, somebody that represents you that's high enough in
4 the market, and I know you were out there because I could
5 read it in the papers and see it on TV and all that. So
6 I'm going to leave at that. Okay?

7 Thank you for coming up here today. I'm
8 sure the Chair of this Commission has a few other
9 questions for you.

10 JUDGE WOODRUFF: Let me ask a question of
11 the parties. Is Mr. Mark going to be back for any other
12 issue or is this the only one?

13 MS. TATRO: He will not be back.

14 JUDGE WOODRUFF: All right. Chairman
15 Davis, do you have any questions?

16 CHAIRMAN DAVIS: Give me just a second.

17 QUESTIONS BY CHAIRMAN DAVIS:

18 Q. Mr. Mark, can you refresh for my
19 recollection, your title is Senior Vice President of
20 Missouri Energy Delivery; is that correct?

21 A. Correct.

22 Q. And can you refresh for my recollection
23 what all that entails?

24 A. Okay. In my business line, energy delivery
25 business line in Missouri, we have distribution, and vice

1 president of distribution is Ron Zdellar. I have
2 community relations manager is Otie Cowan. Customer
3 relations and customer service is the call center. Our
4 account -- key account executives, our credit and
5 collection, and that's under Mr. Bruce Fritz. And
6 recently I have just in the last months picked up the
7 corporate communications piece and I have a vice president
8 under that also.

9 CHAIRMAN DAVIS: Mr. Dottheim's not here.
10 Was that Exhibit -- what was 124, 125, the direct mail
11 piece?

12 MR. MILLS: Judge, it was 254.

13 CHAIRMAN DAVIS: Can I borrow that,
14 Mr. Mills?

15 MR. MILLS: Absolutely.

16 BY CHAIRMAN DAVIS:

17 Q. Mr. Mark, are familiar with what I'm
18 calling Exhibit 254?

19 MS. TATRO: Can we find a copy for the
20 witness?

21 Thank you.

22 BY CHAIRMAN DAVIS:

23 Q. Are you familiar with this mail piece, Mr.
24 Mark?

25 A. Yes.

1 Q. Okay. Did you authorize its production?

2 A. Yes.

3 Q. Okay. Was this strictly an in-house job or
4 did Fleishman-Hillard or somebody else say that this is a
5 good idea or --

6 A. It was an in-house.

7 Q. It was strictly an in-house.

8 Now, are all these pictures that are
9 contained in this mail piece, are they from -- they're not
10 from Missouri, are they?

11 A. Yes, they are.

12 Q. They are. So these are all -- these are
13 all from Missouri?

14 A. These are all Ameren pictures, yes.

15 Q. And so these are all from the Ameren
16 territory?

17 A. Correct, as far as -- I'm sure. I'm almost
18 positive.

19 Q. Okay.

20 A. Yeah.

21 Q. So you're positive that these pictures all
22 came from the Ameren territory?

23 A. Right.

24 Q. Okay. Now, none of the headlines on what I
25 would call page 2 of Exhibit 254, none of these newspaper

1 headlines are from Missouri, are they?

2 A. No. The source is cited.

3 Q. Right. You're in charge of customer
4 service, the call center too, right?

5 A. Correct.

6 Q. And have you had cause to see any of the
7 other Ameren testimony related to what rates are in other
8 states, compared to what rates are in Missouri?

9 A. I haven't seen testimony, but I've seen
10 comparisons and charts, yes.

11 Q. You've got a general idea?

12 A. Yes, sir.

13 Q. Based on your experiences as being in
14 charge of customer service there at Ameren, do you think
15 that Ameren customers really care what the rates are
16 anywhere else in the country or what storms are doing
17 anywhere else in the country, or do you think they're more
18 concerned with what's happening there locally?

19 A. I think most customers probably are
20 concerned what's happening to them personally, yes.

21 Q. So, Mr. Mark, if you could answer this
22 question for me, why does Ameren -- why does -- why do I
23 have the impression that Ameren management just
24 consistently tries to seem like it more or less muddies
25 the water with other issues about, well, things are worse

1 over here, things are worse over there? And I just don't
2 understand why anybody from Ameren management -- it just
3 doesn't seem to me that there's a general willingness to
4 accept responsibility for handling these problems.

5 How do you respond to that?

6 A. Well, I can respond to the reason for the
7 flyer, and that was -- or the mailer, and the media were
8 saying that storms like this doesn't happen anywhere else,
9 and what we were trying to relay, the message was that
10 when severe weather events happen, you're going to have
11 outages, and it's been happening all across the country.

12 And these were just examples of outages and
13 storms that had taken place about the same time we were
14 having our outages and storms, and so, you know, the media
15 had been -- you know, the media at the time, there was a
16 lot being said that this doesn't happen anywhere else, and
17 what we were trying to do is to say, it does happen and we
18 understand that it happens. We understand our customers
19 are frustrated. We're trying to do the best we can to get
20 it repaired and to get things back in order as quickly and
21 efficiently as possible. I mean, that was the intent.

22 Q. On page 1 of your direct testimony, I think
23 you said something to the nature or the effect that,
24 quote, I am responsible for AmerenUE's electric and
25 natural gas distribution and customer service operations?

1 A. Right.

2 Q. What does it mean to be, quote, responsible
3 for AmerenUE's electric and natural gas distribution?

4 A. Well, as I said, the distribution, electric
5 and gas distribution is -- the vice president that has
6 responsibility of that reports to me. The customer
7 service and customer relations, which is the call center,
8 credit and collection and our key account business
9 program, that division reports to me also.

10 So as the energy delivery center senior
11 vice president of energy delivery, which is the electric
12 and gas distribution, all of those -- that's a business
13 line, and all of those areas of responsibility are under
14 my business line and so those people report to me.

15 Q. So if there's one guy at Ameren that's
16 responsible, you're it?

17 A. For those areas, yes.

18 Q. For those areas?

19 A. I guess so.

20 Q. That's it. Okay. I think it was page 3,
21 line 8 of your direct testimony, you stated that the price
22 of transformers has risen by 57 percent since January of
23 2002 --

24 A. Correct.

25 Q. -- is that correct?

1 A. Yes.

2 Q. So what was the price that Ameren was
3 paying for transformers in 2002 and what was the price
4 that Ameren was paying for transformers when you filed
5 this testimony in July 2006?

6 A. I don't have the price with me right now,
7 but I would be glad to get it to you and give those prices
8 to you.

9 Q. Okay. Can you read lines -- do you have
10 your direct testimony there in front of you?

11 A. Yes.

12 Q. Can you go back and read lines 9 through 11
13 on page 3?

14 A. Okay.

15 Q. Beginning with the first full sentence on
16 line 9.

17 A. Since 2002 the cost of aluminum overhead
18 conductors has grown 93 percent and the cost of poles has
19 gone up 34 cost. The cost of copper and underground cable
20 has grown 147 percent. These capital expenditures are
21 expected to continue.

22 Q. Okay. So do you know what the prices were
23 for those items at the beginning of those periods and at
24 the end of that period?

25 A. Not off the top of my head, no.

1 Q. Ballpark?

2 A. No.

3 Q. Okay. So that's more data that you would
4 need to provide?

5 A. If you want the specifics of those, yes.

6 Q. Do you recall how many poles Ameren bought
7 over that period? I mean, just ballpark, how many poles
8 does Ameren buy in a year?

9 A. Well, I don't know. I would just be
10 guessing right now. And again, it depends on the storm.
11 Last year I'm sure we bought a lot more poles than we do
12 normally, but we don't -- we always keep a large supply of
13 poles on stock, and so -- in inventory, so we have an
14 inventory. Then when our inventory drops below a certain
15 level, we order more poles based on projects, storms, that
16 type of thing. We have an asset management department
17 that does our group purchasing and inventory control and
18 management. Basically that's what it is, asset management
19 for all materials and supplies we need.

20 And then we meet with them at the
21 beginning -- at the end of the year prior to the next year
22 when putting our budgets together and we tell them what
23 our expectations are, any large projects that are coming.
24 They talk to us about price increases, the availability of
25 certain materials, if there's going to be a shortage or if

1 there's going to be difficulty getting them, that type of
2 thing. And then we'll put in our orders toward the --
3 usually toward the third quarter of each year for the
4 following year.

5 Q. I believe later on in your testimony, I
6 think you stated that Ameren spends nearly \$2 million
7 annually for pole replacement and reinforcement. Do you
8 recall making that statement in your direct testimony?

9 A. Yes. Yes.

10 Q. And do you know -- I mean, do you have an
11 estimate on what it costs to replace one pole?

12 A. Approximate, just to replace a pole,
13 depends if the pole has a transformer on it or not and
14 where it's located, but anywhere from probably 2,500 to 7
15 or \$8,000.

16 Q. 2,500 to 7 or \$8,000. So if I wanted to
17 know the number of poles Ameren was replacing annually, I
18 could just divide 2 million by that number and get to
19 roughly the number of poles a year that Ameren is
20 replacing?

21 A. I don't know how close that formula gets
22 you, but if that's what you wanted to know, I could get
23 you the number that we replaced last year for you
24 specifically.

25 Q. And how many -- do you know off the top of

1 your head how many miles of above-ground line Ameren has,
2 AmerenUE has in Missouri?

3 A. Approximately 26,000.

4 Q. And do you have any idea roughly how many
5 poles per mile there are?

6 A. We have 700,000 poles in Missouri.

7 Q. Okay. Roughly 700,000 poles, and roughly
8 26,000 miles worth of above-ground lines?

9 A. Correct.

10 Q. So do you have a -- do you have a pole
11 replacement schedule?

12 A. We have a pole inspection program, and we
13 don't -- we do not do an age-based replacement program.
14 We do a needs-based replacement program.

15 Q. Okay. So if I were to ask you how many
16 poles in the AmerenUE system are more than 40 or more than
17 60 years old, could you tell me?

18 A. I have a report on it. I could give you
19 the exact number. I don't have the report in front of me,
20 but we do look at that, yes.

21 Q. And so has Ameren done any studies to
22 determine what the life span of a pole is?

23 A. Yes, we know what the industry studies is.
24 It's approximately 40 years, 45 to 50 years old, some
25 poles. But it's real -- that's the average from an

1 industry perspective. However, environment, climate, all
2 types of factors affect the age of a pole. So we've had
3 poles that are much younger, I guess, if that's the term
4 to use, that would need replacement, and we've had poles
5 much older than the average that didn't need replacement
6 whatsoever.

7 So you could have a 20, 25-year-old pole
8 that needs replacement and have a 60 or 70-year-old pole
9 that is in better shape because of how they were treated,
10 treatment of the pole and the type of wood at the time it
11 was made.

12 Q. And AmerenUE also uses the poles of AT&T;
13 is that correct?

14 A. I think there are certain parts of the
15 system where there are other utility -- the utility poles
16 that our lines are on are owned by the phone company, I
17 believe, yes.

18 Q. And do you have any idea how many of those
19 poles are out there?

20 A. I do not. No, I don't. I do know that
21 that question came up after one of the storm meetings, and
22 I know that one of my dispatch managers did -- is looking
23 into it and went out and looked at some poles that were
24 owned by the phone company.

25 Q. Are you sure that wasn't after my visit to

1 St. Louis where I went to Richmond Heights and found a
2 pole that was owned by AT&T that I could move with my
3 foot?

4 A. I think -- I think I stated it was after --
5 I thought it was during the storm, but I don't know when.
6 I think it -- I guess it was when you brought up that,
7 yes.

8 CHAIRMAN DAVIS: No further questions at
9 this time, Judge.

10 JUDGE WOODRUFF: All right. Thank you.
11 Does that anyone wish to recross based on questions from
12 the Bench?

13 COMMISSIONER GAW: Judge, actually, I might
14 have a few questions, but I don't want to take very long
15 here.

16 JUDGE WOODRUFF: Go ahead, Commissioner
17 Gaw. We'll come back to Commissioner Appling, if that's
18 all right.

19 COMMISSIONER GAW: Go ahead. Sorry.

20 FURTHER QUESTIONS BY COMMISSIONER APPLING:

21 Q. My final question. I'm sorry to come back
22 to you, but the perception of a lot of customers that I
23 sat in on the public hearing was very inquisitive and very
24 angry about Ameren's service. After you get two storms in
25 one year, you probably are going to get angry about your

1 electric, and I understand that. But, Mark, do you think
2 the people that work for you and the people that you work
3 for have a good feeling for the gravity of the expectation
4 that your customers have with this company?

5 A. Yes, I do. We take -- we understand our
6 customers are frustrated. I think, you know, it's
7 reflected in our customer surveys. We have worked over
8 the last few years very, very hard to improve our customer
9 satisfaction. Our goal when I took over this department
10 of three years ago, the customer service, our goal was set
11 a goal to be in the top quartile in customer satisfaction.

12 We were making progress and strides in that
13 direction. After the storms, it has hurt our customer
14 satisfaction in two regards; one in public perception
15 because sometimes when you do the surveys, especially the
16 University of Michigan surveys and JD Power surveys, those
17 are opinion surveys, and so only about 30 percent of the
18 customers that are surveyed in those have any contact with
19 the company usually. So it's really based a lot of
20 opinion.

21 So we've developed new programs that are
22 more transactional surveys where we actually contact the
23 customer right after they receive service from us to try
24 to identify areas of improvement. And so, yes, we do take
25 it very, very seriously. We have -- I have several

1 cross-functional teams that are working extremely hard to
2 try to identify customer issues, identify pockets in our
3 service system. We understand that there's areas that
4 serve -- that the reliability doesn't meet our
5 expectation, and we're working to try to make those
6 improvements.

7 COMMISSIONER APPLING: Thank you very much.

8 JUDGE WOODRUFF: Commissioner Gaw?

9 QUESTIONS BY COMMISSIONER GAW:

10 Q. Regarding the low-income assistance
11 programs, are those all proposed to continue to be Ameren
12 dollars and not ratepayer dollars?

13 A. I believe on the one question on the --
14 let me go back to the testimony. On the low-income
15 weatherization program, in my testimony I state that we --
16 as part of the agreement, the company was willing to adopt
17 the recommendations, and half would be -- 1.2 million per
18 year cost would be included in rates and the other half
19 would be paid by company shareholders.

20 Q. What about the Dollar More program?

21 A. The Dollar More program we have, those
22 would be paid by the company.

23 Q. Okay. And the Clean Slate program?

24 A. Those were out of company funds. That
25 was -- that is not a permanent program that we've done

1 regularly. We've conducted two of the Clean Slate
2 programs. They're more seasonal.

3 Q. It says that you -- you intend to repeat
4 the program. When?

5 A. Well, it was repeated when we -- right as
6 we were -- this testimony was submitted.

7 Q. So that was -- is it your intention to
8 repeat it again?

9 A. We have not made that decision,
10 Commissioner. What I'd like to do before we would -- our
11 thinking is before we would repeat it again, we would meet
12 again with the agencies that were involved in helping us
13 identify that program to kind of get feedback from them if
14 they felt that was the best way to handle meeting the
15 needs of the low-income customers.

16 Q. What method do you use to test the
17 effectiveness of these programs?

18 A. Well, on the low-income -- on the Clean
19 Slate program, we followed it up with a six months
20 telephone survey to the customers that were involved. We
21 used a test -- we used a sample group where half of the
22 customers we did not make any phone calls to. The other
23 half in the group we called on a monthly basis to try to
24 offer them assistance with, are you able to pay your bill
25 this month, do you need any other help?

1 What we were trying to do was refer them
2 back to other social service agencies, whether it was job
3 training, whether it was weatherization, whatever. And
4 so, you know, the bottom line after the survey was done,
5 we found that both groups actually ended up about the
6 same. We didn't see a significant improvement in the
7 group that we called versus the group that we didn't call
8 and their ability to pay in the future.

9 And that's why I said rather than just keep
10 doing the same thing, we would like to go back to those
11 groups and sit and talk with them before we would decide
12 if that's a program we'd want to revisit.

13 Q. And Dollar More, how is it evaluated?

14 A. Dollar More is evaluated through each of
15 the agencies, the 39 agencies that participate through the
16 United Way. We basically give the money to them, then the
17 United Way, and even of those agencies, we don't do an
18 overall evaluation of each agency.

19 Q. Is there any -- is there any kind of a
20 report that you supplied or someone else has supplied in
21 testimony about the effectiveness of that program?

22 A. I don't believe there is about the
23 effectiveness. I know that we do report and I believe I
24 state in my testimony they serve -- the Dollar More
25 agencies that we fund help about 8,000 customers annually

1 in paying -- in assistance in paying their utility bills.

2 Q. Can you tell me about the distribution of
3 the funds for weatherization in the Ameren territory?

4 A. I am not for sure about that.

5 Q. Do you have that information?

6 A. Yes, I do.

7 Q. Would you supply it, please, in some
8 fashion before the end of the case?

9 A. Sure. Yes, sir.

10 Q. Also, in regard to the Ameren Economic
11 Development Corporation?

12 A. Yes.

13 Q. The funds for that, are the list of
14 projects that were supported, are they -- are they listed
15 in your testimony or somewhere?

16 A. Each of the projects are not listed, but I
17 could get those to you.

18 Q. Would you do that?

19 A. Yes.

20 Q. And also just how the funds were
21 distributed in the Ameren territory?

22 A. Yes. I do have a graph of that, and it
23 shows it by territory. I could give that to you.

24 Q. In particular by community?

25 A. I think we have -- well, we could give it

1 to you by community. I think our graph is by region, kind
2 of a geographical region area, but we can get it to you
3 any way you would like.

4 Q. Communities would be a more specific level.
5 I'd appreciate that.

6 A. Okay.

7 Q. Also, the current list of names of people
8 who are on that board?

9 A. Sure.

10 JUDGE WOODRUFF: That information that's
11 being promised here so freely, will that be filed as a
12 late-filed exhibit or can you --

13 MS. TATRO: I can do that.

14 JUDGE WOODRUFF: Okay.

15 BY COMMISSIONER GAW:

16 Q. And the energy efficiency programs, Change
17 A Light program, has that been effective, in Ameren's
18 opinion?

19 A. I believe so. I think that was
20 extremely -- I thought it was extremely effective. We did
21 a program with the St. Louis Urban League with the light
22 bulbs and tried to talk about a number -- actually, I went
23 and talked to a number of senior citizens groups about
24 that, made the bulbs available to -- Ameren bought bulbs
25 themselves and we gave them away free to people who

1 participated in the overall discussions on energy
2 efficiency. I think that program did go very well.

3 Q. Is there any assessment, an independent
4 assessment that anyone has done about the energy
5 efficiency programs that Ameren's been engaged in that are
6 mentioned in your testimony?

7 A. Not that I know of, no.

8 Q. Is it --

9 A. Except for the Clean Slate. As I say, we
10 did follow up on that, and that I personally oversaw. The
11 others I do not know.

12 Q. I'm talking about energy efficiency
13 conservation programs now --

14 A. Yeah.

15 Q. -- exclusively.

16 There have been no evaluations
17 independently done to say, here's the amount of money that
18 was placed in, here was our goal, here's what was expended
19 and here's what actually occurred, here's the savings in
20 energy that we've generated as a result of these
21 expenditures. Any of those numbers available?

22 A. I know that we have the numbers over, you
23 know, what was given out, how it was spent, but an
24 evaluation of energy efficiency and savings of them, I do
25 not have. I do not believe that was done.

1 Q. It strikes me -- and I'm not necessarily
2 saying this is all Ameren's responsibility here. The
3 parties that are working on this energy efficiency
4 probably are familiar with the fact that I think these
5 programs are very important. It's also very important for
6 us to be able to evaluate the effectiveness of different
7 programs so that there's a learning experience going on at
8 the same time, so we can focus money in the programs that
9 are the most effective.

10 So I would like to hear a little bit more
11 about if there are some numbers that can be generated that
12 you already have that just haven't been put together,
13 No. 1. And secondly, if those programs are going to
14 continue, some sort of a proposal on measuring success
15 that would be presented to the Commission as a part of
16 this case. So if that's possible to do, and I'm not just
17 directing that again to Ameren, but it would be helpful to
18 hear some of that.

19 A. I can look and see if we have anything,
20 yes.

21 MR. BYRNE: Your Honor, Commissioner, I do
22 believe -- if I could, I do believe there was an
23 evaluation of the weatherization program a few years ago
24 and we can -- I believe that does exist, and if it does,
25 we'll submit that as well.

1 COMMISSIONER GAW: I think it would help,
2 rather than just throwing these programs out here again
3 for renewal, for us to be able to see whether or not some
4 of them are working better than others in order to make
5 decisions about things moving forward. I think all of us
6 share that.

7 THE WITNESS: I think a number of the
8 energy efficiency ones are funded in the collaborative. I
9 don't know if there's a structure there for evaluation or
10 not. I cannot say.

11 COMMISSIONER GAW: Well, there may be some
12 other witnesses that can address that, too, Mr. Mark.

13 And with that, I -- I have questions that I
14 will want to deal with in regard to the distribution
15 system and others, but, Mr. Mark, I'm going to reserve
16 those right now and I'll let you go for today. Thank you.

17 THE WITNESS: Thank you, sir.

18 JUDGE WOODRUFF: Any recross based on
19 questions from the Bench?

20 COMMISSIONER CLAYTON: Just one question.

21 QUESTIONS BY COMMISSIONER CLAYTON:

22 Q. Mr. Mark, what is your title? I know
23 you're a VP, aren't you?

24 A. Yes. I'm Senior Vice President - Missouri
25 Energy Delivery.

1 Q. And over what aspects of the business do
2 you supervise right now?

3 A. The energy delivery business line includes
4 the -- my portion of it is the electric and gas
5 distribution.

6 Q. So the actual physical infrastructure?

7 A. Yes. The distribution infrastructure, and
8 I have a VP that reports to me for that, vice president of
9 distribution, which is Ron Zdellar. I have the customer
10 relations and customer service, which is the call center,
11 credit and collections, and we have a director who reports
12 to me for that. His name is Bruce Fritz. I have
13 community relations, I have a manager who reports to me
14 for that department is Otie Cowan. And as I said, I
15 recently have a responsibility for the UE portion of
16 communications, and I have a vice president that reports
17 to me for that.

18 Q. I'm sorry. I didn't hear who that vice
19 president was.

20 A. We just hired her about two weeks ago.
21 Karen Foss is her name.

22 Q. Karen Foss, formerly of KSDK? Is that the
23 same Karen Foss?

24 A. Yes, sir.

25 Q. Okay. And she is a vice president?

1 A. Yes.

2 Q. Is that correct?

3 A. That's correct.

4 Q. And she'll report to you?

5 A. Yes.

6 Q. Is that a new position that was created?

7 A. Yes. There was a vice president that was
8 over communications a few years ago, and then it was
9 incorporated under -- for a while it was incorporated
10 under administration, and then -- the vice president of
11 administration and that moved to the person who was
12 over -- the vice president of HR.

13 And then we decided that we would break --
14 when we did segment reporting, now they have a person, a
15 vice president of communications for Missouri and there
16 will be a similar position, I believe, in Illinois.

17 Q. So there'll be a separate communications VP
18 for the Illinois properties; is that correct?

19 A. From what I understand, yes.

20 Q. Okay. So did Ms. Foss replace anyone?

21 A. No.

22 Q. Was someone moved out, Ms. Foss brought in?

23 A. No.

24 Q. Okay. It sounds -- and it's not clear to
25 me because of all the shuffling around whether or not this

1 is a new position or it's a position that was just located
2 somewhere else in the structure of the corporation.

3 A. Well, it was a position that was
4 eliminated, I believe, years ago and then it was just
5 kind of actually being run by a manager. And then there
6 is a -- then we decided to put a focus on it and went back
7 to the VP position.

8 Q. Okay. Does Ms. Foss have a -- is she going
9 to be -- was she hired by the business indefinitely or is
10 it for a set amount of time?

11 A. No. She was hired as a regular employee.
12 I mean, there's no set time.

13 Q. And were there -- well, I didn't know if it
14 was a contract or --

15 A. Oh, no.

16 Q. -- if it was just a regular hire.

17 A. It was a regular hire, yes.

18 Q. Okay. Was there a specific reason to bring
19 in such a -- I want to say a big gun. I mean, she's a
20 well-known personality, I think, in the metropolitan
21 St. Louis area. You didn't have a TV person before, did
22 you?

23 A. No, no.

24 Q. Okay. Can you explain the purpose behind
25 hiring such a well-known person?

1 A. The reasoning was that I was given the
2 responsibility earlier this year, in light of everything
3 else that was going on at my other responsibilities, I
4 thought I needed someone to help with communications.
5 Karen Foss and I have known each other for 20 years. We
6 attended Leadership St. Louis together. We'd remained
7 friends. She had just retired from KSDK. I called her in
8 Florida when she was vacationing and asked if she would
9 come and consider talking to me about joining Ameren.

10 Q. Okay. Now, can you tell me whether her
11 position is included in the cost structure for setting
12 rates in this case?

13 A. I guess it would be, as any other vice
14 president would be of AmerenUE, yes.

15 Q. How many vice presidents are there in
16 Ameren?

17 A. In Ameren total, I don't know. I believe
18 it's 20. I don't know. There's been a couple new ones.
19 I don't really know the total number amount. I couldn't
20 say. I could get that answer for you. I just don't know.

21 Q. I don't know if her -- was she hired during
22 the test year?

23 A. No, sir. She was just hired about two
24 weeks ago.

25 Q. I don't know if she'd be included in rates

1 or not.

2 A. No, she -- no. She was just hired I
3 believe February 9th. I believe.

4 Q. February 9th.

5 A. Yeah. I think she didn't start 'til the
6 15th of this year.

7 Q. Do you believe that a person working in an
8 improved public relations shop is going to solve all of
9 Ameren's difficulties that have occurred in recent years?

10 A. We did not hire her to solve our
11 difficulties or to do anything other than to help with the
12 communications department that was already there to
13 better -- you know, and I'm sure I don't have to say to
14 anyone here that the industry's very complicated and
15 sometimes people, I think, tend to put things -- our goal
16 was to communicate with our customers. We wanted to be
17 able to do that as effectively as possible. We felt that
18 we needed someone in there, in that position that could
19 help us effectively communicate to our customers.

20 Q. And do you think that Ameren has not been
21 effectively communicating with its customers, that the
22 difficulties it's faced have been based solely on poor
23 communication?

24 A. I don't think poor -- no, I'm not saying
25 that it's poor communication. I'm just saying we felt

1 that communication was important to our customers. As I
2 said earlier, we survey our customers regularly. They
3 want to know about numerous things. They want to know
4 about options on billing, on payments, on -- they want to
5 know about --

6 Q. Is she going to be answering the customer
7 service line when people call up, when you say people need
8 help with customer billing questions and things like that?

9 A. No, but I think she could help with the
10 wording and some of the language that is used to make it
11 more understandable to the customer and user friendly.

12 COMMISSIONER GAW: Okay. Mr. Mark, thank
13 you very much.

14 JUDGE WOODRUFF: Chairman Davis, did you
15 have something else?

16 FURTHER QUESTIONS BY CHAIRMAN DAVIS:

17 Q. I just had a couple more questions, because
18 Commissioner Clayton asked some questions that inspired me
19 to ask more questions.

20 Mr. Mark, did Ameren create your position?

21 A. My position that I currently have or when I
22 began at Ameren?

23 Q. When you began at Ameren, when they hired
24 you, there wasn't anybody in that position before?

25 A. I don't believe so, no.

1 Q. I mean, do you recall -- I mean, maybe
2 there was some discussion from a previous, I believe maybe
3 a Staff management audit that Ameren had an aging
4 management team or something like that. I can't remember
5 what -- it seemed like there was something that prompted
6 an expansion of the management team back then. But have
7 you ever heard any discussion about that or do you know
8 anything about that?

9 A. No, I don't.

10 Q. Okay. And is it fair to say that every
11 time that Ameren has a, quote, crisis, that the company
12 goes out and just hires somebody or a bunch of somebodies
13 to try to fix the problem?

14 A. Is it fair to say that?

15 Q. Uh-huh.

16 A. Is that the question?

17 Q. Uh-huh.

18 A. I don't --

19 Q. Can you see how people might get that
20 impression?

21 A. I don't know if -- when I was hired, I
22 don't know of any problem that Ameren had. I don't know
23 if I was -- I was not informed that I was hired because
24 there was a problem.

25 Q. Right. Okay. Well, let's just think back

1 to Ms. Foss's hiring or any of the other hirings here in
2 the last couple years.

3 A. Okay.

4 Q. Is that -- I mean, do you think that's a
5 fair conclusion to make?

6 Well, let's just talk about some of the
7 recent storm outages. And obviously I believe that there
8 has been some discussion about Ameren hiring an outside
9 consultant to do an independent review of Ameren's -- what
10 is it -- their vegetation management practices, their
11 reliability. Are you familiar with that at all?

12 A. Yes.

13 Q. Okay.

14 A. Somewhat, yes.

15 Q. Bring in an outside consultant to do that,
16 and as the senior vice president of distribution services,
17 do you think that's really necessary or do you think it's
18 more about more aggressive vegetation management
19 practices, about, you know, hiring more people to trim
20 trees, giving them the equipment to go do their job and
21 sending people out there to do it?

22 A. We hired -- we recommended hiring an
23 outside person to come in after the storms to do the
24 review. We felt that we were doing that in cooperation,
25 in conjunction with the Commission Staff, and we felt that

1 by working together collaboratively, we could better
2 understand what everyone was trying to accomplish here.

3 I didn't realize that it was seen as
4 something negative. And so we're not trying to hire
5 people to do anything other than to provide -- put people
6 in the position that we can provide the best service we
7 can. We do have a lot of -- we've hired more tree
8 trimmers. We have contracts on tree trimmers. I don't
9 know what else to say, Commissioner.

10 Q. Mr. Mark, are you aware of anyone at Ameren
11 ever making a mistake at anything at any time?

12 A. Sure. I'm sure everyone -- we all make
13 mistakes, yes.

14 Q. Can you give us an example?

15 A. I don't know. I can't think of anything
16 off the top of my head right now.

17 COMMISSIONER CLAYTON: Okay. No further
18 questions, your Honor.

19 JUDGE WOODRUFF: Any recross?

20 We've got several here. I believe let me
21 check the list here.

22 CHAIRMAN DAVIS: Judge, can I -- since
23 Mr. Iveson is standing up, in response to one of
24 Commissioner Gaw's questions, Mr. Iveson, I believe that
25 DNR had done some analysis on weatherization programs

1 either by NECAC or someone else, and I believe northeast
2 Missouri, and if you could furnish that information or
3 maybe put -- you know, I don't know, maybe put someone on
4 the stand at a later time, at least maybe discuss whoever
5 did that analysis if they're already here or provide it to
6 us in written form, I think that would be helpful.

7 MR. IVESON: When Brenda Wilbers is on the
8 stand, we can ask her about that and see what's available.
9 I think there may be an older study on the low-income
10 weatherization, and I know there's also a proposal by
11 Staff to do a study with the -- if, in fact, the
12 low-income weatherization is incorporated in the tariff in
13 this case to update the information.

14 JUDGE WOODRUFF: And it is your turn for
15 cross-examination.

16 MR. IVESON: Yeah, I just had one quick
17 question.

18 RE-CROSS-EXAMINATION BY MR. IVESON:

19 Q. Just a clarification, minor point, but it
20 involves my client. In response to a question from
21 Commissioner Appling, I think he asked you if you worked
22 with the social service agencies on the low-income
23 weatherization program. That, in fact, is administered by
24 the Department of Natural Resources, correct?

25 A. Right. Yeah.

1 Q. Rather than --

2 A. There's another social service agency in
3 St. Louis that we do some work with just on, you know,
4 other things, I guess.

5 Q. Right. I just wanted to clarify that the
6 low-income weatherization specifically --

7 A. Yes.

8 Q. -- is through the Department of Natural
9 Resources?

10 A. Correct.

11 MR. IVESON: That's all.

12 JUDGE WOODRUFF: Thank you. Public
13 Counsel?

14 RECROSS-EXAMINATION BY MR. MILLS:

15 Q. Good afternoon, Mr. Mark.

16 A. Good afternoon.

17 Q. In response to a question by Commissioner
18 Appling, I think you said that you tried two approaches to
19 address customer calls during outages about restoration
20 time, and first you gave the customers information that
21 turned out wrong, and second you gave no information on
22 restoration times?

23 A. Uh-huh.

24 Q. Are you planning to try a third approach in
25 the future?

1 A. Well, the difficulty with restoration times
2 when a storm hits and you have a number of outages at
3 once, the algorithm that we use for our normal estimate
4 restoration time programs, it's a mathematical formula
5 that we use. In normal circumstance it will give you a
6 time within a three-hour period 98 percent of the time.
7 However, when that number multiplies, the more outages you
8 have and it starts falling into there, once the outages
9 exceed a certain breaking point, the algorithm is no
10 longer useful.

11 And so you put the estimate -- if we leave
12 the estimated restoration time in process, it gives -- it
13 may give customers the estimated restoration time of
14 12 hours. Well, if you have a storm and a severe storm
15 outage with a lot of damage and you have to call people
16 in, it may be 24. So -- or it may be 4, but it's no
17 longer within what we feel is a reasonable expectation of
18 reliability.

19 So we're giving the customer information
20 that can be longer or shorter, and the customers then
21 become upset because they make decisions whether they're
22 going to get a hotel room or ice or whatever based on
23 that. And so what we -- so what we found in surveying
24 other companies in the event of a storm, what they did was
25 turn the restoration time off and tell the customers that,

1 right now we cannot give you an estimate of the
2 restoration time. So for the first 24 hours of an event,
3 24 to
4 48 hours, they do not give a time until you're able to
5 actually get people out in the field and to assess it.

6 So that's what we're studying right now,
7 trying to determine the best approach to that, so that
8 when we give the customer something, the information we
9 give them is going to be realistic.

10 Q. And which storm was it that first brought
11 to your attention the fact that your algorithm didn't work
12 when there were a significant number of outages?

13 A. I think probably in 2005.

14 Q. The summer 2005 storm?

15 A. Right.

16 Q. Okay. And did you immediately begin trying
17 to develop a better algorithm?

18 A. Yes.

19 Q. And how is that going?

20 A. It's not very well. We have not found an
21 algorithm that is reliable right now, and we have not
22 found any other company that has one that we think that
23 would be reliable in a large storm.

24 Q. So going back to my question, are you going
25 to try a different approach next major storm?

1 A. Well, I can't say next major storm. Right
2 now what we're trying to do is study and find out
3 something that's practical. We don't want to put
4 something in that doesn't work. We think -- it is our
5 feeling right now that to give customers the first 24
6 hours is say that we cannot give you an estimated
7 restoration time at this point, we think is the best
8 approach until we can find a way to actually put an hour
9 date on it.

10 Q. So if a huge windstorm hit next week, your
11 approach would be for 24 hours to not tell people any
12 restoration time, and then after 24 hours, what would you
13 tell them?

14 A. Then we would be able to -- once people are
15 out in the field and we can look at that section and
16 determine how widespread the damage is, we would be able
17 to actually give -- we would manually be able to get some
18 restoration times and manually be able to then give --
19 would give that information and we can put that into the
20 system for that particular event.

21 Q. And do you have a system in place that will
22 let you tell people in Spanish Lake that their restoration
23 time is three days and then tell people down in Ladue
24 their restoration time is going to be 22 hours?

25 A. Well, that's what we're working on, yes.

1 Q. Do you have that in place?

2 A. We have -- for right now on a normal day,
3 yes, we do. It's done by zip code.

4 Q. How about if next week you have an outage
5 that affected 200,000 customers?

6 A. There is not a program that we know of that
7 can do that accurately right now for that level of
8 customers.

9 Q. And again, I'm not talking about the first
10 24 hours. I'm talking about after the first 24 hours.

11 A. Oh, after the first -- if you can assess
12 the damage, if you can get -- if we can get our field
13 check out there and assess the damage, then yes, we can.

14 Q. And if you have --

15 A. And then once we get that -- what we've
16 done in the last storm is that once we get that area
17 assessed and we can get the field checkers out there and
18 know how much damage it is, then we can turn that system
19 on that will give the -- give it by just that region, by
20 that zip code. So that's the process we're trying to work
21 to refine. So, yes, but it is not fully developed yet.

22 Q. So if next week you had an outage that
23 affected 200,000 customers, are you saying that after
24 24 hours you'd be able to get this information into the
25 system?

1 A. We think so. We have not tested it yet, so
2 I cannot say 100 percent. We want to test it before we do
3 it.

4 Q. Okay. And is this sort of solely by zip
5 code?

6 A. Well, the first sort would be by what we
7 call our division regions. We have -- we divide each
8 region up into a grid, and so our internal sort would be
9 by that.

10 Q. Is that bigger than zip codes?

11 A. Not necessarily, no.

12 Q. Okay.

13 A. It would be actually our -- it's just a
14 grid that we lay over the divisions and how we're divided
15 geographically in our service territory.

16 So that division -- say if you have
17 St. Louis County, North County is divided into -- is one
18 division, but it may have seven or eight grids inside of
19 it. So what we'd be able to do is, we'd say, okay, this
20 part we think will be back on in 24 hours, this part it's
21 going to be 12 hours. So yes, that's what we're
22 attempting to try to finalize now.

23 Q. So you would sort the information
24 essentially based on the actual configuration of your
25 distribution system; is that correct?

1 A. Correct.

2 Q. And do you have a way to overlay that on --
3 it's my understanding that you frequently give out the
4 information based on zip codes; is that correct?

5 A. Correct.

6 Q. And those two won't necessarily overlay
7 each over perfectly; is that correct?

8 A. Exactly.

9 Q. Do you have a system whereby you can inform
10 customers based on their grid or do you inform customers
11 based on their zip code?

12 A. We would have to inform customers based on
13 their zip code because they wouldn't know what the grid
14 is. But the problem that you have is trying to match
15 those two systems up and to try to get it to try to match
16 the zip code to the grid, and that's where we're having
17 the difficulty from an automated standpoint.

18 Q. And you haven't resolved that difficulty
19 yet?

20 A. No.

21 Q. Bur you're still working on it?

22 A. We're working on it, yes. It's a top
23 priority of ours.

24 Q. Do you have any -- have you set any goals
25 for when that's going to be resolved? Do you have any

1 targets?

2 A. Our target is to hopefully have -- it's
3 just not getting the methodology, but then it's once we
4 get it, it's to put the systems in place, converting in
5 the system. Our goal is to have it done, our target is to
6 try to have it done I believe -- I believe it's sometime
7 this spring. I want to say May, but I may -- that may not
8 be exactly right, but I know it's this spring.

9 Q. And I believe you talked about one of the
10 goals of your department is to move customer satisfaction
11 to the top quartile. Is that how you described it?

12 A. Yes. That was one of our goals, yes.

13 Q. And where are you now?

14 A. Right now, we're at the -- we've actually
15 after the storms last year, we've fallen down to about
16 middle of the pack. I believe we're just a little bit
17 above the average for the midwest region.

18 Q. This is the average of utility companies in
19 the midwest?

20 A. That's with the JD Powers survey.

21 Q. And this is just for utility companies in
22 the midwest?

23 A. Yes.

24 Q. Is something --

25 A. Actually, I can -- the average for the

1 midwest is -- well, we're right at the average for -- the
2 average for the midwest is a score, a JD Powers score of
3 about 663. We're at 668. So we're little bit above the
4 average for the midwest. The industry is 668. So we're
5 about right in the average for the industry.

6 Q. And is this something that you track
7 regularly?

8 A. Yes.

9 Q. How often do those surveys come out?

10 A. Well, there are three surveys. There's
11 three components of the survey, of a JD -- well, we use a
12 number of different surveys. The JD Powers survey,
13 there's a component that comes out in August. There's a
14 survey that's conducted in the spring. There's a survey
15 that's conducted mid summer, which is the gas survey, and
16 then there's the business survey that is done in August.
17 Those reports come out the following year.

18 And in addition to that, there is a
19 University of Michigan survey that we also track, and that
20 comes out quarterly. We get those reports also. And then
21 we do what we call transactional surveys and focus --
22 those are two surveys that we do, one is a CCI, which is
23 called -- which is a customer contact index. It's a
24 survey that's done of our customers at the end of each
25 month, customers that have received service that prior

1 month. And then we have a focus survey, and those are --
2 basically those are surveys that are done after a specific
3 type of service is provided, and there's a follow-up
4 survey. That -- we do about 900 of those a month also.

5 Q. Going back to the JD Powers survey that you
6 have a score of 668 on --

7 A. Right.

8 Q. -- where were you three years ago in that
9 survey?

10 A. I don't have the three-year survey. I have
11 it at -- I didn't know I was talking on it today.

12 Q. Was it higher than the mid point?

13 A. Yes.

14 Q. Was it in the top quartile?

15 A. No. We've been -- usually we were at the
16 top, but kind of toward the top of the second quartile,
17 and our goal was to move to the top quartile, and you
18 know, after the '05-'06 storms, obviously we've fallen
19 down to about the median.

20 Q. Now, in your surrebuttal testimony, you
21 talk about the contribution to Dollar More. Is that
22 conditioned on the PSC adopting Union Electric's FAC and
23 off-system sales proposals?

24 MS. TATRO: Your Honor, I have to object.

25 I think this is supposed to be cross based on the

1 Commissioner questions. I don't think there were any
2 questions on this.

3 MR. MILLS: Actually, there were several
4 questions.

5 JUDGE WOODRUFF: What was the question
6 again?

7 MR. MILLS: The contributions that are
8 proposed in Mr. Mark's surrebuttal testimony for Dollar
9 More.

10 JUDGE WOODRUFF: Yes, there were questions
11 from Commissioner Gaw about that.

12 MR. MILLS: And for weatherization.

13 MS. TATRO: If I may, your Honor, those
14 questions were if they were shareholder or ratepayer
15 dollars. He asked nothing about conditions or
16 limitations. Those were asked by DNR when they were first
17 up.

18 JUDGE WOODRUFF: Well, I'll go ahead and
19 allow the question.

20 But let me get into something else here.
21 We've been going since two o'clock, so we're way past due
22 for a break. Are you almost finished?

23 MR. MILLS: I've got this and one more
24 question. Actually, this question has two parts, and then
25 there's one more question.

1 JUDGE WOODRUFF: Okay. We'll go off the
2 record for just a moment.

3 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

4 BY MR. MILLS:

5 Q. In your surrebuttal testimony, you talk
6 about making contributions to Dollar More. Are those
7 contributions conditioned on the Commission accepting your
8 FAC proposal and your off-systems sales proposal?

9 A. I believe in my -- in my testimony, I state
10 if the company's proposal is adopted by the Commission,
11 the donations would be made on June 30th for each year in
12 the amount of \$2 million annually, so yes, sir.

13 Q. Okay. So the answer to my question is yes.
14 Your testimony says that in one direction. It says, if
15 you win, you will make those contributions. You don't
16 say, if we don't win, we will not.

17 A. Correct.

18 Q. So my question is, is that the case, if you
19 don't win those issues, you will not make those
20 contributions?

21 A. That decision has not been made.

22 Q. So that's you don't know yet?

23 A. That decision has not been made, correct.

24 Q. Same question about the low-income
25 weatherization funding?

1 A. Right.

2 Q. Okay. Now, did you commit to these funding
3 proposals in recognition of the merits of other parties'
4 concerns about the company's FAC and OSS positions?

5 A. Yes, I believe so.

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

8 JUDGE WOODRUFF: Then for Staff?

9 RE-CROSS-EXAMINATION BY MR. BAKER:

10 Q. In response to a question by Commissioner
11 Gaw, you said that half of the \$1.2 million cost for the
12 weatherization program will be recovered from rates?

13 A. Yes.

14 Q. So you mean, then, that the cost will be
15 recovered by including it in the DSM regulatory account?

16 A. I think my statement in my testimony says
17 that as part of the revised FAC/OSS proposal, the company
18 is willing to adopt the recommendation of Staff witness
19 Lena Mantle, who recommended that the company fund the
20 low-income weatherization program at a level 1.2 million
21 per year. Ms. Mantle recommended that half of the
22 1.2 million per year cost be included in rates and the
23 other half be paid for by company shareholders.

24 Q. Okay.

25 A. And that's what I agreed to.

1 Q. Okay. But what I'm asking is, the half
2 that will be recovered in rates, will you recover that
3 cost by including it in the DSM regulatory account or will
4 you recover that cost by putting it directly into the
5 customers' rates?

6 A. I'm not -- I have not -- I have not thought
7 of that. I'm not for sure.

8 MR. BAKER: That's all I have.

9 JUDGE WOODRUFF: Any redirect?

10 MS. TATRO: No.

11 JUDGE WOODRUFF: All right. Thank you.
12 Then, Mr. Mark, you can step down. And do we need to
13 offer his testimony?

14 MS. TATRO: Yes, I do. Mr. Mark's not
15 coming back, so I offer -- I think it's premarked as
16 Exhibit No. 38 and 39, the direct testimony and
17 surrebuttal testimony of Richard J. Mark.

18 JUDGE WOODRUFF: 38 and 39 have been
19 offered. is there any objections to their receipt?

20 (No response.)

21 JUDGE WOODRUFF: Hearing none, they will be
22 received into evidence.

23 (EXHIBIT NOS. 38 AND 39 WERE MARKED FOR
24 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

25 JUDGE WOODRUFF: Now, as I indicated, we

1 are due for a break. Before we go on break, I just want
2 to ask the parties, I'd like to be able to finish this
3 tonight. It is already 4:30, so we're not going to finish
4 before 5. How long do you think this might take? Did we
5 want to take a dinner break and come back at six or do you
6 want to just push on at five?

7 MR. IVESON: We don't have a lot of cross
8 for any of the witnesses.

9 JUDGE WOODRUFF: That was my inclination as
10 well, but I don't want to screw up anybody's plans.

11 MS. TATRO: I think UE agrees. I think we
12 have people that might be wanting to go home after the end
13 of the day.

14 JUDGE WOODRUFF: I thought that might be
15 the case.

16 All right. We're on break. Let's come
17 back in ten minutes at 4:40.

18 (A BREAK WAS TAKEN.)

19 JUDGE WOODRUFF: Welcome back from the
20 break. While we were off the record, we had a discussion.
21 I believe we're going to have Mr. Barbieri for Ameren come
22 up first. And are you William Barbieri?

23 THE WITNESS: Yes.

24 (Witness sworn.)

25 WILLIAM BARBIERI testified as follows:

1 QUESTIONS BY COMMISSIONER CLAYTON:

2 Q. Would you state your name.

3 A. William Barbieri.

4 Q. Barbieri?

5 A. We kind of Americanized it.

6 Q. I understand. And are you affiliated with
7 Ameren or one of the affiliates?

8 A. Yes, I'm with Ameren Energy Fuel and
9 Services Company.

10 Q. What is your title?

11 A. My title is managing executive, renewables.

12 Q. And are you an engineer by trade, an
13 accountant or --

14 A. I'm an accountant.

15 Q. You're an accountant?

16 A. Uh-huh. I'm not CPA, though.

17 Q. Okay. Is there -- and I don't mean to
18 discount the importance of an accountant, but I didn't
19 know if there was an engineering component to Ameren's
20 testimony on these generation issues.

21 A. Not to my knowledge.

22 Q. You're the man, then?

23 A. I'm him.

24 Q. Okay. Your testimony, which I've got
25 around here somewhere -- I've lost it. You're to testify

1 about green energy or renewables?

2 A. The voluntary green program, correct.

3 Q. Could you summarize that for me?

4 A. The voluntary program is one where
5 customers would voluntarily decide to participate, and in
6 that program, we would provide them with renewable energy
7 credits through a third-party marketer.

8 Q. And so basically you sell -- you're selling
9 a product that you would satisfy on the other side about
10 buying on the market or do you actually have the
11 generation to sell to them?

12 A. No, it's not an energy delivery program.
13 This is a program that's similar to a lot of other
14 programs across the country. As I said, it's a voluntary
15 program where you buy the renewable energy credit and you
16 can separate -- when you have renewable energy that's
17 generated, you have both energy and the renewable energy
18 component of that. The positive attribute, the
19 environmental attribute. So that's classified as the
20 renewable energy credit. A lot of states that have the
21 renewable portfolio standards, the mandates to provide
22 renewable energy allow the --

23 Q. I understand that. So if someone buys a
24 credit, are they planning -- are you planting a tree
25 somewhere or are you actually buying some electrons that

1 are generated by windmills or hydro or something?

2 A. The generation actually occurred somewhere
3 in the system.

4 Q. I understand. I know you may not own it,
5 but you find it in the market and supply that to them?

6 A. Correct.

7 Q. Okay. So to supply these credits, how much
8 generation does Ameren have with regard to renewables or
9 green power?

10 A. We have a very limited amount. You could
11 classify some of the hydro facilities that operate, Taum
12 Sauk and -- or not Taum Sauk -- Keokuk and the Osage
13 facilities could be classified, but we have no wind
14 development yet.

15 Q. So you basically buy that from either an
16 IPP or another utility that's got some power out there?

17 A. We would be buying the RECs through a
18 program or through a third-party supplier that we have
19 called Three Phases Energy, and Three Phrases would
20 contract with developers across the Missouri, Illinois and
21 the MISO area and they would buy the renewable energy
22 credits to satisfy the program.

23 Q. And Three Phases Energy, that is the name
24 of the third party?

25 A. That's the third party. They're a major

1 third-party marketing firm. They won the U.S. EPA Green
2 Energy Provider of the Year in 2005. They're very active
3 in that market.

4 Q. Okay. I don't think the questions that I
5 was going to ask are going to be applicable to you, unless
6 you can talk to me about the physics of hydro generation
7 on the Mississippi River.

8 A. I'm not your man there.

9 Q. I didn't think you were going to be the
10 man. You-all don't have anyone who's -- I thought for
11 some reason -- and I haven't reviewed his testimony, so I
12 apologize for that. You don't have anyone that that can
13 talk been that tonight, do you?

14 MR. BYRNE: No, Commissioner.

15 COMMISSIONER CLAYTON: I've never seen
16 anyone look so relieved to be an accountant. I
17 understand, so I'll just pass for another time. Thank you
18 very much for coming out of turn.

19 JUDGE WOODRUFF: Thank you. Go ahead.

20 MS. TATRO: Are we going to leave him up
21 and --

22 JUDGE WOODRUFF: We'll leave him up and
23 take care of him. We'll actually go back to direct at
24 this point. I assume there's no direct, but --

25 COMMISSIONER CLAYTON: Do you want me to

1 lay the foundation, Judge? I can do all that.

2 JUDGE WOODRUFF: But I will go to cross.

3 Are there any parties that wish to cross?

4 MR. IVESON: Yes, your Honor.

5 JUDGE WOODRUFF: We'll start with DNR.

6 CROSS-EXAMINATION BY MR. IVESON:

7 Q. Now I'm confused. I thought I knew how to
8 pronounce your last name, but once he clarified it, now
9 it's gone out of my head. Could you do it for me?

10 A. Barbieri.

11 Q. Barbieri?

12 A. Uh-huh.

13 Q. Okay. Thank you. Good evening -- or
14 afternoon, I guess still. Just a few questions. You are
15 familiar with the conditions that were presented by
16 Mr. Anderson in his surrebuttal testimony, are you not?

17 A. Correct.

18 Q. And your understanding of those conditions
19 were suggestions that Mr. Anderson had to improve the
20 voluntary green program purchase program if, in fact, it
21 was approved, correct?

22 A. Uh-huh.

23 Q. And is it the company's intention to
24 include those changes in its tariff?

25 A. We actually have a revised draft tariff

1 that encompasses all of Mr. Anderson's suggestions,
2 correct.

3 Q. Did you review Mr. Anderson's direct
4 testimony regarding wind power?

5 A. I did, yes.

6 Q. And in Mr. Anderson's direct testimony, he
7 identified certain resources that he anticipated Ameren
8 should use in its evaluation -- among others in its
9 evaluation of wind power. Do you recall that?

10 A. Correct. Yes.

11 Q. And are those all resources that Ameren has
12 committed to use in its evaluation of wind power?

13 A. What we have done basically is we went out
14 for the recent RFP for wind, so we got actual proposals
15 back in from developers for the region. The information I
16 believe that Mr. Anderson is referring to is, if Ameren
17 were to basically go off on its own to do a project of
18 their own, that they would utilize those resources.

19 But what we're relying on, at least in this
20 first case, would be the actual projects that are proposed
21 by developers in the region. So they have already done
22 their own wind analysis and studies, so we will have to
23 then verify that based on the proposals that were given to
24 us.

25 Q. You don't intend to limit the commitment to

1 wind based on what the RFPs come back with, do you?

2 A. At the current time, what we're looking at
3 is just these particular proposals.

4 Q. Do you consider that a first step?

5 A. That's a first step, correct.

6 Q. Okay. And then perhaps in second and third
7 steps, you'd look at the resources that Mr. Anderson has
8 suggested would be appropriate?

9 A. Yes. If we were going to develop a project
10 on our own, but what we're looking at right now with the
11 proposals that we got in were basically build to transfer,
12 where the developers would go ahead and develop the
13 project in their entirety, and then basically Ameren would
14 acquire that specific project from them after it's been
15 evaluated, or through power purchase agreements.

16 So again that would be based on projects
17 that the developers themselves who are the experts in the
18 industry and have had great experience at that, they would
19 put these projects in place and then we would participate
20 based on that.

21 Q. So that's the first stage, and I guess
22 you've indicated in your testimony that Ameren is
23 committed to add 100 megawatts of wind power by 2010?

24 A. Correct.

25 Q. Is Ameren willing to make a commitment

1 beyond 2010 or beyond the 100 megawatts?

2 A. I can't address that at my level. My
3 understanding is that the company is definitely looking at
4 that. We are evaluating things along those lines, that is
5 true, to look at how we would integrate additional wind,
6 and primarily would be based on a lot of information that
7 we're gathering currently.

8 Q. So you consider that to be important for
9 the future of Ameren, correct?

10 A. I do personally, yes.

11 MR. IVESON: Okay. Thank you.

12 JUDGE WOODRUFF: Thank you, sir. Public
13 Counsel?

14 CROSS-EXAMINATION BY MR. MILLS:

15 Q. Good afternoon, Mr. Barbieri.

16 A. Good afternoon.

17 MR. MILLS: Let me -- are we doing direct
18 and then we're going to go back to the Bench, or should I
19 do questions from the Bench as well?

20 JUDGE WOODRUFF: You might at well do it
21 all at one time.

22 BY MR. MILLS:

23 Q. Commissioner Clayton and you had an
24 exchange, and you were sort of talking at the same time,
25 but I think his question went something along the lines

1 of, you find that in the market and you supply that to
2 them, and you said yes. Do you recall that question?

3 A. I do, yes.

4 Q. What do you think the "that" in
5 Commissioner Clayton's questions is referring to?

6 A. The renewable energy credits.

7 Q. You don't believe that he was talking about
8 renewable electrons generated from renewable energy
9 sources in his question?

10 A. No. I would -- at least I was focused on
11 the REC. So if that's what he meant, I misunderstood him.

12 JUDGE WOODRUFF: I agree. There might have
13 been a disconnect there. So thank you, Mr. Mills, for
14 clarifying that.

15 BY MR. MILLS:

16 Q. If, in fact, he was talking about actual
17 renewable energy electrons, if I can use that phrase,
18 would your answer still be yes?

19 A. No, we are not -- we are not actually
20 buying the electricity that is generated.

21 Q. Do you suppose that Public Service
22 Commission Commissioners are a little more sophisticated
23 than your average customers about the difference between
24 renewable energy and renewable energy credits?

25 A. Not necessarily. We're finding that

1 education is a key piece of this. We've had a lot of
2 conversations with people who have been confused. That's
3 why a key part of our program is the product content
4 label, which is also why we're utilizing Green E for
5 certification. So it's to educate people exactly what the
6 program is.

7 The program is not an energy delivery
8 program. It is specifically that we are buying the
9 environmental attributes based on the energy that has
10 already been generated somewhere else.

11 Q. Now, I think in response to a question by
12 Mr. Iveson, is it my understanding your current RFP you're
13 seeking what, if you understand the phrase, what amounts
14 to a turnkey developer?

15 A. We received proposals for that, correct.

16 Q. Did you -- were most of your proposals
17 fashioned along that manner from wind developers, where
18 they would develop the project completely and then say,
19 here you go, it's yours now?

20 A. I guess, you know, we haven't started any
21 negotiations with them. I guess I'm a little concerned on
22 the public record as to how many we got in that regard. I
23 don't want to damage our negotiating position, so I mean,
24 I can --

25 Q. I don't want to have you releasing highly

1 confidential information on the record, so we can talk
2 offline about a way to address that if we need to.

3 A. We could.

4 Q. That will be fine. Now, do you know Chuck
5 Naslund?

6 A. Yes.

7 Q. When I talked to Mr. Naslund, he's had a
8 long career on the nuclear side of this. He calls himself
9 a nuclear guy, and he allows as much as he thinks
10 Mr. Rainwater is a nuclear guy. Based on your career,
11 would you consider yourself a coal guy?

12 A. Yes, I would.

13 MR. MILLS: That's all the questions I
14 have. Thank you.

15 JUDGE WOODRUFF: Thank you. Staff?

16 MS. HEINTZ: Just a couple questions, your
17 Honor.

18 CROSS-EXAMINATION BY MS. HEINTZ:

19 Q. You have to forgive me if I'm making this
20 point clear, I hope, by asking this question. A customer
21 who purchases a REC is not actually purchasing renewable
22 energy?

23 A. That is correct.

24 Q. And purchasing a REC by an AmerenUE
25 customer does not obligate or require Ameren to in any way

1 produce renewable energy itself?

2 A. Not in this program, correct.

3 MS. HEINTZ: That's all the questions I
4 have. Thank you.

5 JUDGE WOODRUFF: Thank you. Commissioner
6 Appling, do you have any questions?

7 COMMISSIONER APPLING: No. Since he's
8 negotiating, I probably should stay away from it. I was
9 trying to find out whether he was going to drive things in
10 the ground, but --

11 THE WITNESS: That's part of what we're
12 doing with the RFP is to actually -- in order to meet the
13 2010 recommended date, we knew we needed to start the
14 process right away. So that process we think, if
15 everything goes very smoothly with negotiations with
16 project developers, by the time we negotiate contracts and
17 everything, we are in hopes that we can actually see
18 physical generation from these particular projects no
19 later than the fall of '09, is what we're really kind of
20 targeting right now.

21 COMMISSIONER APPLING: Thank you very much.
22 Have a good weekend.

23 THE WITNESS: Thank you, sir.

24 JUDGE WOODRUFF: Any recross?

25 Any redirect?

1 MS. TATRO: No.

2 JUDGE WOODRUFF: All right. You may step
3 down. And I assume you need to offer his evidence also,
4 his testimony?

5 MS. TATRO: Yes. He will not be
6 reappearing, so I believe it's been premarked UE
7 Exhibit 43, the surrebuttal testimony of William J.
8 Barbieri.

9 JUDGE WOODRUFF: Exhibit 43 has been
10 offered into evidence. Are there any objections to its
11 receipt?

12 (No response.)

13 JUDGE WOODRUFF: Hearing none, it will be
14 received into evidence.

15 (EXHIBIT NO. 43 WAS MARKED FOR
16 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

17 JUDGE WOODRUFF: And it looks like
18 Mr. Moehn has come back up to the stand.

19 (Witness sworn.)

20 JUDGE WOODRUFF: And you are Michael Moehn?

21 THE WITNESS: Michael Moehn.

22 JUDGE WOODRUFF: M-o-e-h-n?

23 THE WITNESS: Correct.

24 MS. TATRO: And I don't believe he has any
25 corrections to his testimony, so I offer him for cross.

1 JUDGE WOODRUFF: And looks like DNR's ready
2 to go.

3 MICHAEL MOEHN testified as follows:

4 CROSS-EXAMINATION BY MR. IVESON:

5 Q. Mr. Moehn, do you have your direct
6 testimony available?

7 A. I sure do.

8 Q. Actually, I'm sorry, surrebuttal testimony.
9 Let's look at that.

10 A. Got that.

11 Q. If you would turn to page 28.

12 A. Yes, sir.

13 Q. Beginning at line 10, the question is, you
14 indicate support for a reasonable minimum spending
15 level. Can you suggest what that minimum level should be
16 in your justification? And your answer begins, the ACEEE.
17 That stands for the American Council for Energy Efficient
18 Economy, correct?

19 A. Correct.

20 Q. You go on to say that it indicates that the
21 nationwide average for electric energy program spending is
22 0.52 percent, correct?

23 A. Correct.

24 Q. Could you tell us what your understanding
25 of the term electric energy efficiency program is?

1 A. I believe it to mean both energy efficiency
2 and demand response.

3 Q. All right. You've got this information in
4 your testimony. There is a footnote that indicates this
5 came from the National -- the Third National Score Card on
6 Utility and Public Benefits Energy Efficiency Programs,
7 correct?

8 A. Correct.

9 MR. IVESON: May I approach?

10 JUDGE WOODRUFF: You may.

11 MR. IVESON: I'd like to mark this -- I
12 think the next one is 654.

13 JUDGE WOODRUFF: That is correct.

14 (EXHIBIT NO. 654 WAS MARKED FOR
15 IDENTIFICATION BY THE REPORTER.)

16 BY MR. IVESON:

17 Q. Do you have Exhibit 654 in front of you?

18 A. I do not.

19 Q. Oh, sorry. Would you take a look at
20 Exhibit 654 and tell us if that is the report on which you
21 relied for your surrebuttal testimony?

22 A. I believe this is correct.

23 Q. Okay. I'd ask you to turn to page 3 of
24 that report, the actual Arabic 3, not the Roman, and in
25 Footnote 3, there's a footnote there. Can you read that

1 footnote for us, please?

2 A. Load management programs primarily target
3 peak demand reductions. Energy efficiency programs target
4 improvements that result in saving energy at all -- KWH at
5 all times an end use technology is used.

6 Q. So an energy efficiency program in that
7 case, would that include a demand response program?

8 A. No. I think the DR programs would be
9 included in these load management programs, the ones that
10 target peak demand.

11 Q. Okay. So this report is drawing a
12 distinction between a demand response program and an
13 energy efficiency program; is that correct?

14 A. That is correct.

15 Q. Now, if you would turn back to page -- this
16 is the Roman numeral this time, the two little I Roman
17 numeral.

18 A. What page?

19 Q. It's two little I. Small Roman numeral 2.

20 A. Got you.

21 Q. The second paragraph there, it indicates
22 the nationwide average for electric energy efficiency
23 program spending is a percentage of total utility revenues
24 as
25 0.52 percent?

1 A. Correct.

2 Q. Okay. Now, there they specified electric
3 energy efficiency programs. After reviewing that
4 footnote, do you think they're also referring to demand
5 response when they use that term?

6 A. No, I don't. You're correct.

7 Q. Now, I note your testimony, if you'd return
8 to your surrebuttal testimony --

9 A. Yes.

10 Q. -- on page 28, same page, the next line,
11 line 13 through 14, it says, the top 13 states spend
12 between 1 and 2 percent of annual revenues on DSM
13 programs. Is DSM program -- in light of the way this
14 report is using the term, is DSM program synonymous with
15 energy efficiency program?

16 A. I think it would be.

17 Q. In the report?

18 A. I thought what you meant was, is DSM
19 synonymous with energy.

20 Q. Is DSM -- let me ask it another way. Maybe
21 I'm not being clear. Does DSM include both demand
22 response and energy efficiency?

23 A. It does when I think about it typically,
24 correct. But in terms of this report, I would say it's
25 just energy efficiency.

1 Q. Okay. So based on what you've read in the
2 report, would you like to correct your testimony that
3 perhaps what they're referring to is the top 13 states
4 spend between 1 and 2 percent on energy efficiency
5 programs?

6 A. I think that would be correct.

7 Q. And the same thing on the next sentence,
8 the next top 16 states spend between 0.1 percent to
9 1 percent of annual revenues on DSM programs. Would that
10 also be more accurate if it said energy efficiency
11 programs?

12 A. Yes.

13 Q. Now, the next paragraph, can you read that
14 for us, please?

15 MS. TATRO: I'm sorry. Where are you at?

16 MR. IVESON: Page 28, line 16.

17 MS. TATRO: Thank you.

18 THE WITNESS: I suggested a reasonable
19 minimum DSM budget goal for AmerenUE should start at the
20 national average of .52 percent of annual revenues for
21 AmerenUE, which has annual electric revenues in the
22 2.5 billion range. 5.2 times 2.5 billion equates to a
23 beginning DSM budget goal of approximately 13 million.
24 Furthermore, I suggest that a minimum annual budget goal
25 ramp up to 20 million or .8 percent of annual AmerenUE

1 revenues by 2010.

2 BY MR. IVESON:

3 Q. Okay. And in that paragraph, do you intend
4 DSM to mean both demand response and energy efficiency
5 programs, as those terms were used in the report?

6 A. I did.

7 Q. And, in fact, if you were to fund at those
8 percentage levels, that would be considerably less,
9 wouldn't it, for energy efficiency because you'd also be
10 including demand response costs?

11 A. I don't know if it would be considerably
12 less.

13 Q. But it would be less?

14 A. It would be less.

15 MR. IVESON: No further questions.

16 JUDGE WOODRUFF: Thank you. Any other
17 cross-examination for Mr. Moehn?

18 MR. MILLS: I don't have any questions for
19 Mr. Moehn on this topic.

20 JUDGE WOODRUFF: He is actually up on both
21 of his areas at the moment, Mr. Mills.

22 MR. MILLS: Actually, I don't have any
23 questions for him on either of these.

24 JUDGE WOODRUFF: Okay. You'll come after
25 him on Monday, right?

1 Okay. Did Staff have any cross?

2 MS. HEINTZ: Just one.

3 CROSS-EXAMINATION BY MS. HEINTZ:

4 Q. At the beginning of Mr. Iveson's exchange
5 with you, you testified that you agreed that there should
6 be a minimum dollar amount spent, and I just wanted to
7 clarify that that dollar amount that you were talking
8 about was a floor, not a ceiling?

9 A. That is correct.

10 MS. HEINTZ: Thank you. That's my only
11 question.

12 JUDGE WOODRUFF: We'll come to questions
13 from the Bench. Commissioner Gaw, do you have any
14 questions?

15 COMMISSIONER GAW: I do, but does
16 Commissioner Appling have any?

17 COMMISSIONER APPLING: I have no questions.

18 QUESTIONS BY COMMISSIONER GAW:

19 Q. I'm going to have to apologize. I have not
20 had time to look at your testimony, sir. Tell me what you
21 do, just generally.

22 A. Sure. I'm vice president of corporate
23 planning.

24 Q. All right. And you're here to testify
25 about wind and demand response?

1 A. Correct. DSM, uh-huh.

2 Q. Demand side management?

3 A. Correct.

4 Q. But when you testify about demand side
5 management, does that include demand response?

6 A. It does.

7 Q. Okay. That's helpful. I want to focus in
8 on demand side management, but in particular demand
9 response right now. What is Ameren's current policy in
10 regard to demand response? Is it done on a case-by-case
11 basis or is it tariffed or both?

12 A. I believe the history that it's at, it's
13 part of the 2002 stipulation, they did a pilot program
14 around real-time pricing and critical peak pricing.

15 Q. Is that for residential, commercial or
16 commercial or industrial or what?

17 A. I believe just residential.

18 Q. And I suppose you probably report in your
19 testimony what that -- what the results of that were?

20 A. I don't believe I actually have the result
21 in my testimony.

22 Q. Do you have the information about what
23 happened?

24 A. I'd be happy to provide it. I don't have
25 it here with me.

1 Q. Okay. Was there -- you don't have any
2 ballpark about how many consumers signed up or how long
3 they stayed on or anything of that sort?

4 A. Give me one second. I'll check and see if
5 I brought anything with me.

6 Q. Were the consumers offered a price on
7 the -- while you're looking, were they offered a price
8 under that program that was a percentage of a certain
9 hourly price or on the wholesale market or how was that
10 done?

11 A. I think they offered them basically just
12 three different price signals --

13 Q. Okay.

14 A. -- to make decisions throughout the day.
15 And there were also some smart meters involved, not
16 meters, thermostats.

17 Q. Yes. That makes sense. Were they
18 controlled remotely, those thermostats, or not?

19 A. No. We controlled them.

20 Q. That's what I mean.

21 A. Yes. Uh-huh. Sorry. I'm sorry. I don't
22 have the information. On average, I think -- and I
23 certainly can provide it to you, the typical 6KW customer
24 I think was seeing about half a KW in reduction, so it was
25 fairly significant.

1 Q. Okay. Is that overall, a half a KW for
2 what period of time again?

3 A. Uh-huh.

4 Q. For what period of time?

5 A. Throughout the program, I believe.

6 Q. A 6 kilowatt customer is a measurement of
7 what period of time, first of all?

8 A. I believe it was during the summer peak.

9 Q. Okay. Is -- that's not helping me, but
10 maybe if you can get some information for me in writing.

11 A. I'll be happy to do that.

12 Q. I would probably have questions for you
13 about it after you bring it back.

14 A. Okay.

15 JUDGE WOODRUFF: Mr. Moehn will be back
16 several times in the next two weeks, I believe.

17 COMMISSIONER GAW: Why don't we do that, if
18 you could bring it back. Let's see what else I want to
19 hear from you, so you can make a list. Okay?

20 I want to know about the -- on the
21 industrial and commercial side, I want to know what kind
22 of demand response incentives or pricing exists. I want
23 to know whether it's -- I want to know about the
24 interruptibles. I want to know about whether or not there
25 are price signals sent on an hourly basis, real-time

1 pricing on the industrial and commercial side.

2 I want to know whether or not there are --
3 whether or not those price signals on the wholesale market
4 are transparent in any way, so that an industrial customer
5 could, in effect, choose to cut back because of the price.
6 I'm looking for that kind of -- I want to know how
7 sophisticated those programs are, and in particular, if
8 you have any of those programs that exist, I'd like to
9 know how they effective they are.

10 THE WITNESS: Sure.

11 COMMISSIONER GAW: If there's anything else
12 that's going on in regard to demand -- to demand response
13 itself, any other tariffs or contracts that you have in
14 effect that are cutting edge, I'd like to know about that,
15 and I'd like to know if you're looking at any additional
16 kind of programs that we could discuss. Okay?

17 THE WITNESS: Okay. I can do that.

18 COMMISSIONER GAW: I want to know also
19 whether or not Ameren is participating and has a
20 representative in the MISO demand response workgroup. Do
21 you know that?

22 THE WITNESS: Rick Voytas from my group
23 attends those.

24 COMMISSIONER GAW: Okay. Is he testifying?

25 JUDGE WOODRUFF: Mr. Voytas is testifying

1 later also.

2 COMMISSIONER GAW: Okay.

3 BY COMMISSIONER GAW:

4 Q. So I could ask him some of those questions?

5 A. Absolutely. He is the one that is in
6 charge of those programs.

7 Q. Would you rather him just answer these
8 questions instead of you?

9 A. That might be better.

10 Q. I don't care. I don't --

11 A. Let me speak to Mr. Voytas and we'll make a
12 decision on that.

13 Q. You-all decide who has the best
14 information.

15 A. Rick is certainly the most knowledgeable.
16 I'll discuss it with him.

17 Q. Okay. And then on the rest of your demand
18 side management programs, what else do you have out there
19 currently?

20 A. The programs, again, that came out as part
21 of the 2002 Stip & Agreement, there was -- which we just
22 talked about, the low-income weatherization, there was a
23 Change A Light rebates. There was refrigerator recycling
24 rebates, the online energy savings tool kits, commercial
25 energy audit upgrade rebates.

1 Q. So basically the things that Mr. Mark was
2 testifying to earlier?

3 A. That is correct.

4 Q. Is there anything else that you're aware of
5 that Ameren has been looking at in regard to conservation
6 or efficiency?

7 A. We're involved in the Leadership Energy
8 Environmental Design, the LEAD group, in helping come up
9 with green designs, et cetera. Missouri Schools Going
10 Solar educational program, been involved in that as well.

11 Q. Has Ameren ever looked at having a
12 different tariffed rate for consumers who meet certain
13 efficiency or conservation standards in their residence or
14 in their commercial buildings?

15 A. Yeah. Not that I'm aware of.

16 Q. Is that something that you would have any
17 expertise in or Mr. Voytas?

18 A. Mr. Voytas would.

19 Q. Okay. Just give him a heads up if you
20 wouldn't mind. And then let's talk about wind for just a
21 few minutes, and then I'll let you go. If you have --
22 give me an idea of -- and if any of this gets into IRP, HC
23 stuff, just say. Give me an idea about what the
24 impediments are that you consider impediments to getting
25 wind or other renewables in your portfolio.

1756

5 Q. If you were looking at access to wind,
6 would you be looking at going at it coming from the east
7 or the west or some other direction?

8 A. I think both, really, and we are in the
9 process. We did select -- Black & Veatch issued an RFP
10 for us. We sent that RFP out January 31st, I believe, and
11 we have just received all the results back from the RFP.
12 I think we had about nine or ten different developers
13 respond. They're -- they range from build to transfer
14 through just also PPAs.

15 Q. Okay. And you have -- you say you have
16 transmission congestion issues. Is that true in both
17 directions?

18 A. I believe it is, yes.

19 0. Who would know the details about that?

20 A. The gentleman who just testified before me.

21 Q. Mr. Mark?

22 A. No, Barbieri.

23 COMMISSIONER GAW: I missed him. I had to
24 run. He's still back there. He's so glad he stayed.

25 Okay. Maybe before we get done, could I

1 ask him a few questions about that? Well, if you're going
2 to come back, I'll stop there, and I'll have a chance to
3 look at your testimony before then.

4 Thank you, Judge. Thank you, sir.

5 JUDGE WOODRUFF: Anyone wish to recross
6 based on questions from the Bench?

7 Any redirect?

8 REDIRECT EXAMINATION BY MS. TATRO:

9 Q. I just want to follow up on a couple of the
10 questions that were asked to you by the Department of
11 Natural Resources when they asked about the .52 percent.
12 Do you remember those questions?

13 A. Yes.

14 Q. The amount that's proposed in your -- I
15 believe you've already testified the amount proposed in
16 your testimony is a floor?

17 A. That is correct.

18 Q. How is the actual amount spent on energy
19 efficiency programs and demand response programs going to
20 be determined?

21 A. Through the 2008 -- through the IRP process
22 we're going through currently for the 2008 filing.

23 Q. Can you provide a bit of detail about that
24 for the Commissioners?

25 A. Sure. Absolutely. We agreed -- as there

1 were deficiencies in our 2005 filing, we agreed to a Stip
2 & Agreement with all parties. We're taking a little
3 different approach this time around. It didn't seem to be
4 overly constructive last time. And then there's fair
5 criticism on the AmerenUE part of that.

6 And so what we recommended to do was engage
7 in this participatory process, basically hold various
8 workshops all throughout 2007 with all stakeholders.
9 We've agreed to hire a consultant to facilitate each
10 section, DSM, the environmental uncertainty, et cetera,
11 trying to come up with waivers collectively with the
12 group. We're deciding on what these waivers will be.

13 And then the hope is that when we do the
14 2008 filing, I think there will be much more agreement on
15 it and we won't have to go through this process of all
16 these deficiencies

17 MS. TATRO: Thank you. That's all I have.

18 JUDGE WOODRUFF: All right. Thank you.

19 Then, Mr. Moehn, you can step down.

20 Commissioner, did you want to bring
21 Mr. Barbieri back up?

22 COMMISSIONER GAW: I have an issue on
23 timing here where I'm going to have to be gone and come
24 back, and I know that I've got about maybe four minutes
25 before I have to leave to take care of a situation with my

1 child.

2 JUDGE WOODRUFF: Why don't you come on back
3 up, Mr. Barbieri?

4 COMMISSIONER GAW: I apologize for the
5 inconvenience. I'm having to juggle child care, too.

6 JUDGE WOODRUFF: Welcome back,
7 Mr. Barbieri.

8 THE WITNESS: Thank you.

9 WILLIAM BARBIERI testified as follows:

10 QUESTIONS BY COMMISSIONER GAW:

11 Q. How are you, sir?

12 A. I'm fine, sir.

13 Q. Just generally, what's your testimony
14 about?

15 A. My testimony is predominantly on the
16 voluntary green program.

17 Q. All right. Do you have some idea about the
18 transmission constraints that are in existence regarding
19 access to wind energy?

20 A. We do, because my group is responsible for
21 the overall wind procurement. So what we have found out
22 through discussions with developers predominantly, as well
23 as other utilities who have implemented wind, based on our
24 lay -- our service territory, the predominant wind
25 resources in the state of Missouri appear to be more in

1 the northeast and northwest corners of the state where we
2 do not have transmission access.

3 What we've basically been told by
4 developers, as well as people in the transmission
5 business, that if we can't get someone who is at least in
6 our regional transmission organization, the RTO, it's
7 going to be virtually impossible to get the physical
8 energy delivered to our customer base.

9 Q. And that's because the transmission is
10 already subscribed?

11 A. My understanding is some of it is
12 subscription. Some of it has to do with the rules between
13 the RTOs and those organizations that are not members of
14 the RTOs, but I don't have the real specifics on that.

15 Q. Who knows that, do you know?

16 A. That would probably be people in our --
17 specifically in our transmission area.

18 Q. Are any of them testifying?

19 A. That, I'm not sure. There's certain FERC
20 rules that prohibit us from even find --

21 Q. You're on the generation side, aren't you?

22 A. I'm on the non-regulated side, but there
23 are still certain FERC rules that apply to our knowledge
24 of transmission. So what we're doing, we simply base this
25 on our conversations with other utilities and developers

1 in the region.

2 Q. Is your inquiry at this point mainly
3 dealing with access to Missouri wind energy?

4 A. We would prefer to have Missouri winds --

5 Q. Yes. I understand.

6 A. -- for this particular RFP, but we're
7 looking at --

8 Q. So would I.

9 A. -- at -- the response that we got back
10 represented responses within the state of Missouri, within
11 the state of Illinois, and I believe we got a couple from
12 Iowa.

13 Q. Okay. Your issues, you say there is some
14 wind availability in northeast Missouri?

15 A. In the northeast corner of Missouri, the
16 wind maps indicate -- the wind maps indicate a pretty good
17 wind regime. Now, obviously you have to look at the local
18 and put up your anemometers to actually meter it.

19 Q. Don't you-all have some transmission up
20 that direction?

21 A. I'm not aware what we have in that specific
22 area. I haven't been -- I've been led to believe that we
23 don't have anything in that particular area that came up
24 on that wind map.

25 Q. That's interesting. Okay. I was thinking

1 that there was some transmission that you had going,
2 cutting across that northeast tip of Missouri. But in any
3 event, so how does that problem get addressed? What's the
4 solution to that problem and who's looking into it?

5 A. Well, predominantly what we'll do is we'll
6 analyze the responses that we got in right now and
7 determine whether or not there is deliverability with all
8 the proposals that we got in. And hopefully we will be
9 able to determine that there is deliverability at least in
10 projects.

11 It may simply limit us overall to the
12 amount of wind that we could eventually implement into the
13 generation mix. I believe that's really more of a
14 long-term problem for the nation as a whole as far as how
15 we upgrade the system. That's one of the things, based on
16 some of the associations that we belong to and participate
17 with, that's a -- that is a nationwide problem in trying
18 to get the wind delivered to the load centers themselves.
19 So most of the windy areas don't have transmission access.

20 Q. Well, are you dealing -- you're dealing
21 with a non-RTO area, as you set out earlier, that doesn't
22 necessarily have any cost allocation methodologies adopted
23 yet that would be helpful to that end result?

24 A. That I can't address. I don't know.

25 COMMISSIONER GAW: Okay. I think that's

1 all I have. Thank you, sir.

2 JUDGE WOODRUFF: Anyone wish to recross
3 based on those questions?

4 Redirect?

5 MS. TATRO: I don't have any redirect, but
6 I would like to offer to Commissioner Gaw that Maureen
7 Borkowski is testifying later, and --

8 COMMISSIONER GAW: Maureen will know the
9 answer to all of these. That's perfect. Thank you.

10 JUDGE WOODRUFF: All right. You can step
11 down.

12 Who's the next witnesses, then?

13 MR. IVESON: Before it gets lost in the
14 shuffle, Judge, Mr. Moehn's testimony in connection with
15 that, I would like to offer Exhibit 654 into evidence.

16 JUDGE WOODRUFF: That slipped by me also.
17 All right. 654, the ACEEE score card has been offered
18 into evidence. Are there any objections to its receipt?

19 (No response.)

20 JUDGE WOODRUFF: Hearing none, it will be
21 received into evidence.

22 (EXHIBIT NO. 654 WAS RECEIVED INTO
23 EVIDENCE.)

24 JUDGE WOODRUFF: All right. Who's next,
25 then?

1 MS. TATRO: I think the remaining UE
2 witness is Robert Mill.

3 (Witness sworn.)

4 JUDGE WOODRUFF: Thank you. And you are
5 Robert J. Mill?

6 THE WITNESS: Yes, I am.

7 JUDGE WOODRUFF: All right. Thank you.

8 MS. TATRO: Mr. Mill does not have any
9 corrections, so I offer him for cross.

10 JUDGE WOODRUFF: Okay. And does anyone
11 wish to cross?

12 MR. IVESON: I have nothing.

13 JUDGE WOODRUFF: All right. Public
14 Counsel?

15 ROBERT J. MILL testified as follows:

16 CROSS-EXAMINATION BY MR. MILLS:

17 Q. Good evening, Mr. Mill.

18 A. Good evening.

19 Q. I want to talk to you briefly about your
20 rebuttal testimony, and specifically pages 1 and 2. And I
21 believe the last question on page 1 and then the following
22 answer that's on page 1, continuing on to page 2, you're
23 talking about customer education?

24 A. Correct.

25 Q. You see that passage of your testimony?

1 Why will it be necessary to educate customers on this
2 topic?

3 A. I think it's important that consumers
4 understand what this program is all about and what this
5 product is so there's no confusion.

6 Q. And what would the confusion be without the
7 education?

8 A. Well, first of all, there will be a charge
9 appearing on their bill, so they have to understand what
10 they have signed up for and what that charge represents.
11 As Mr. Barbieri testified earlier, there are a lot of
12 customers very knowledgeable about RECs, and again, there
13 probably are many customers that aren't knowledgeable
14 about RECs but understand something about green power or
15 would like to participate somehow in a green power
16 initiative. So we would like to reach out to customers,
17 make sure they understand what this program is all about.

18 Q. So you think there may be some confusion on
19 the customers' part between the difference between a REC
20 and green power itself? Is that part of the concern?

21 A. I don't know how they might be confused,
22 but, you know, I like to use a test of thinking about
23 explaining this to my mother, and, you know, I speak to
24 her all the time about different aspects of bills she
25 receives. We've had conversations, what is a customer

1 charge on her electric bill? She doesn't understand
2 things like that.

3 So I presume it would be expected that we
4 should have an education program about what this product
5 represents, what it's all about, what are they purchasing.

6 Q. Do you think that customers if given a
7 choice would prefer to buy actual electrons generated from
8 green power facilities or RECs?

9 A. I would think they're indifferent because
10 you can't generate a REC without also having generated
11 electricity. A REC cannot exist without the fact that a
12 kilowatt hour of energy has also been generated.

13 Q. Have you done any studies to demonstrate
14 that customers are indifferent to the choice between
15 buying a REC and buying actual electrons generated from
16 renewable facilities?

17 A. I have not.

18 Q. What do you base your opinion that they're
19 indifferent?

20 A. I think it's just probably coming from
21 discussing this concept with friends over the years about
22 RECs and attending conferences where this subject is
23 discussed and, you know, there's a lot of emphasis on
24 RECs. There's many programs around the country. In fact,
25 Mr. Barbieri, who's more of an expert in this area than I,

1 has studied programs around the country, and there's
2 dozens and dozens of these programs. So they're quite
3 popular.

4 Q. Has UE done any focus groups among its own
5 customers on that question?

6 A. I am aware that there was -- there were
7 some focus groups conducted some time ago. I was not a
8 part of that. But I believe Mr. Barbieri's group, which
9 really is the group that developed this particular
10 program -- I'm merely sponsoring the tariff -- they
11 conducted, I believe, a focus group in Illinois and one in
12 Missouri.

13 Q. Now, with regard to your agreement with
14 Three Phases that you discuss here on pages 1 and 2 of
15 your rebuttal testimony, is Three Phases compensated based
16 on -- let me put it this way: Do they receive more
17 compensation if more customers participate in the
18 programs?

19 A. I would think that would make sense. The
20 way it essentially works, Three Phases will go out and
21 contract with wind farms for the RECs.

22 Q. Let me stop you there because I want the
23 record to be clear. I didn't ask you whether you think
24 that makes sense. I asked you whether you knew if that
25 was the case.

1 A. For each REC they sell, they are
2 compensated. So as they sell additional RECs, then it
3 would make sense that their compensation would grow.

4 Q. So their compensation does, in fact, grow
5 with each REC that they sell? I'm not trying to quibble
6 with you. You keep saying that it makes sense that it
7 would happen. I'm trying to find out will it happen or
8 are you just saying, well, that should happen?

9 A. Well, the reason I say it should happen is
10 because we're not privileged to what Three Phases'
11 contract with REC suppliers, the terms of those contracts.
12 We don't know what they're buying RECs for. We know what
13 we're paying them for the RECs by contract, but we don't
14 know what their cost of the RECs are. One can assume that
15 they wouldn't be in business if they were not making a
16 margin on the RECs they're buying.

17 Q. So as least as far as you're concerned,
18 your contract has you paying Three Phases more money the
19 more RECs they sell?

20 A. No. We actually pay them \$14 for every REC
21 they provide us.

22 Q. Okay.

23 A. So if they provide us ten, they get \$140,
24 and obviously if they provide 100, they get 1,400. So
25 they have more compensation.

1 Q. And that's the point I'm trying to get to.
2 The more RECs they sell, the more compensation they get
3 from you?

4 A. Yes.

5 Q. Okay. And does their contract also provide
6 that they are the ones that will be doing the customer
7 education about the benefits of the REC program?

8 A. Yes.

9 MR. MILLS: Okay. That's all the questions
10 I have. Thank you.

11 JUDGE WOODRUFF: Thank you. Any other
12 cross? Commissioner Appling, do you have any questions
13 for this witness?

14 COMMISSIONER APPLING: I don't think so.

15 JUDGE WOODRUFF: And I have no questions.
16 Any redirect?

17 MS. TATRO: No, thank you.

18 JUDGE WOODRUFF: Then, Mr. Mill, you can
19 step down.

20 THE WITNESS: Thank you.

21 JUDGE WOODRUFF: And do we want to do the
22 DNR witnesses then or where are we going next?

23 MR. IVESON: I thought the normal course
24 was Staff next.

25 JUDGE WOODRUFF: That's fine. Makes no

1 difference to me. I'm just looking to get the next
2 witness up.

3 (Witness sworn.)

4 JUDGE WOODRUFF: And you are Lena Mantle
5 for the Staff?

6 THE WITNESS: Yes, I am.

7 LENA MANTLE testified as follows:

8 DIRECT EXAMINATION BY MS. HEINTZ:

9 Q. Ms. Mantle, I believe you had a couple of
10 corrections to testimony you offered in this case?

11 A. Yes, I did. Starting with my direct
12 testimony, the issue says DMS cost recovery. That should
13 be DSM cost recovery.

14 Then the rebuttal testimony that I filed on
15 January 31st also states as an issue DMS. Should be DSM.
16 Then in that testimony, on page 3, line 13, it starts,
17 evaluated an integrated recourse planning screening model.
18 That should be a resource planning screening model.

19 And one last correction on my rebuttal
20 testimony that was filed February 5th. Page 1, line 28
21 should read, AmerenUE should show tangible support.
22 That's all.

23 MS. HEINTZ: All right. Thank you. I
24 tender the witness for cross-examination.

25 JUDGE WOODRUFF: Thank you. Does anyone

1 wish to cross-examine this witness?

2 MR. IVESON: Yes, your Honor.

3 JUDGE WOODRUFF: Go ahead.

4 CROSS-EXAMINATION BY MR. IVESON:

5 Q. Good evening, Ms. Mantle.

6 A. Good evening.

7 Q. In your rebuttal testimony filed -- just
8 make sure I've got the right one -- filed in January, the
9 January rebuttal testimony, you indicated that you
10 supported the DSM goals regarding peak demand and energy
11 reductions that had been proposed by DNR in the testimony
12 of Brenda Wilbers, correct? Specifically on page 2 you
13 discuss that.

14 A. I said that I find these goals to be
15 reasonable.

16 Q. In fact, you said they might be
17 unreasonably low but not unreasonably high, correct?

18 A. That is correct.

19 Q. Now, have you read the surrebuttal
20 testimony that was filed by Ms. Wilbers in this case?

21 A. Yes, I have.

22 Q. And in that she clarified that the goals
23 that she was proposing were based on energy efficiency
24 alone and not in DSM generally. Do you recall that?

25 A. Yes, I recall that.

1 Q. And do you still think that those goals are
2 reasonable?

3 A. I don't know. I mean, the evaluation of
4 DSM energy efficiency and demand response that was put
5 into the 2005 IRP was so lacking that it's hard to get a
6 good feel. Union Electric is such a big utility, it
7 should be able to do that, but I really don't have a feel
8 other than that.

9 Q. And just to clarify, make sure I
10 understand, what you're saying is that the company's prior
11 IRP filing lacked sufficient information to judge whether
12 the goals could be higher or lower or whatever?

13 A. That is correct.

14 Q. How would you characterize Ameren's
15 commitment to DSM in the past?

16 A. Well, I've been with the Commission since
17 1983, so I have -- working in the area, so I have quite a
18 background with them. The first resource plans were filed
19 in '93. There was a lot of pilot programs implemented,
20 but that was just about it. They were pilot programs.
21 They never went forward from there. They did have a --
22 did you ask energy efficiency or demand response?

23 Q. I was asking demand response generally.

24 A. All right. DSM generally?

25 Q. Yes.

1 A. Okay. They did have a load control program
2 for residential customers. I believe that was actually
3 before my time in the '70s. So they've got some history,
4 but it was never fully -- demand side management was never
5 fully implemented on a full scale at UE or AmerenUE.

6 Q. And when you use the term demand side
7 management, that's including both efficiency and demand
8 response, correct?

9 A. That is correct.

10 Q. Would it be fair to say that while they
11 made some starts back in the '80s and '90s, that they've
12 never really fulfilled on the promise of those starts?

13 A. That's fair to say.

14 Q. Would you agree that it would be useful to
15 have some sort of a goal to provide accountability for
16 them in the IRP process?

17 A. I believe a goal would be good, but I think
18 it needs to be set off some information from the AmerenUE
19 service territory specifically.

20 Q. So would you object to a goal if it was
21 subject to review of and adjustment by the IRP group
22 that's working on that?

23 A. I believe that's what I said in my
24 testimony.

25 MR. IVESON: I have nothing further.

1 JUDGE WOODRUFF: Okay. Anyone else wishing
2 to cross? Were you about to say something?

3 MS. TATRO: Oh, I have some cross. I'm
4 sorry.

5 JUDGE WOODRUFF: Go ahead.

6 MS. TATRO: I wasn't sure if you were
7 looking back there.

8 JUDGE WOODRUFF: I was looking at you.

9 MS. TATRO: Okay. Sorry.

10 CROSS-EXAMINATION BY MS. TATRO:

11 Q. I want to start with the issue that
12 Mr. Iveson just brought up, and that was DSM programs and
13 the goals that he talked about. Do you remember those
14 questions?

15 A. Yes.

16 Q. Can you tell me how -- what process would
17 you -- would need to be gone through in order to set a
18 correct goal?

19 A. I believe there would need to be some
20 screening of some demand or energy efficiency measures,
21 some demand response programs based on what other
22 utilities have seen and what UE customers, it's forecasted
23 that they could do. I believe a goal should be high
24 enough that it's not easy to obtain but it is obtainable.
25 And until you've got some idea of what's out there, a goal

1 is not really a good, you know, thing to try to reach for
2 because you don't know if it's realistic or stretching
3 anybody or not.

4 Q. And are you familiar with AmerenUE's -- the
5 settlement agreement that came out of the 2005 IRP filing?

6 A. Yes, I am.

7 Q. And are you familiar with the workshops
8 that came out of that settlement agreement?

9 A. Yes. I attended most of them.

10 Q. Can you -- do you know how many workshops
11 there's been?

12 A. I'd say seven or eight.

13 Q. Okay. Do you know what those workshops
14 have covered?

15 A. They've covered demand side management
16 screening, load analysis and forecasting, and risk and
17 environmental concerns.

18 Q. And has the company and Staff and the other
19 parties in the IRP case had occasion to meet outside of
20 even those workshops?

21 A. Not since the agreement.

22 Q. How about when the consultant was selected,
23 was that done jointly?

24 A. They did ask -- AmerenUE did ask that we
25 review the bids that were sent in. It's my belief that

1 these are AmerenUE's decisions, not the group. Appreciate
2 being able to contribute. So I can't say that the group
3 chose.

4 Q. Fair enough. Did you have an opportunity
5 to interview the finalists?

6 A. I believe we had a staff person available
7 at that.

8 Q. UE brought those people to St. Louis?

9 A. Yes, and we drove up.

10 Q. And I don't remember who the representative
11 was, but Staff was able to ask that person questions as
12 part of the interview process?

13 A. Yes.

14 Q. Do you know if at the -- after that process
15 was over, was there an additional meeting to talk about
16 who the parties thought might be selected?

17 A. Yes, there was.

18 Q. Do you know if a vote was taken?

19 A. No. I remember that our opinion was asked,
20 but I don't know.

21 Q. Did your opinion concur with who was hired?

22 A. Because I had not sat in on the interview,
23 I -- I think Staff agreed, but I base that off the other
24 Staff person that was there. I did not.

25 Q. Okay. So in the workshops that you've

1 attended, do you believe that there was progress towards
2 appropriate evaluation of the types of programs that
3 are -- and I'm talking here about -- obviously the IRP's
4 much broader. I'm talking here about the DSM, which I
5 mean demand response and/or energy efficiency.

6 A. Now, what was the question that was at the
7 beginning of all that?

8 Q. Given what's happened in the workshops thus
9 far, are you more comfortable that positive progress is
10 starting?

11 A. I know that there's been more stakeholder
12 input. I'm not real comfortable with almost the lack of
13 input of AmerenUE. Seems to be whatever the stakeholders
14 want and not necessarily AmerenUE driving.

15 Q. And is it fair that your criticism of the
16 2005 filing included that stakeholders weren't able to
17 participate?

18 A. That was not the Staff's criticism.

19 Q. Is that fair that it was a criticism
20 leveled against AmerenUE?

21 A. Yes, that is fair.

22 Q. Let's turn to your testimony. I am looking
23 at your rebuttal testimony filed on January 31st, page 4,
24 lines 21 through 23.

25 A. Okay.

1 Q. I just want to have a little clarification
2 here. When you recommend that 50 percent be recovered
3 from shareholders and 50 percent be covered from rate
4 holders, are you talking about putting that 50 percent
5 directly in rates or are you talking about the regulatory
6 asset that you talked about in your other testimony?

7 A. At this point when I was writing this, I
8 really wasn't clear, and weatherization program, all the
9 money is always spent. So to put it in -- it really just
10 needs to make sure that it's only accounted for in one
11 way.

12 MS. TATRO: Okay. Thank you.

13 JUDGE WOODRUFF: Anything else?

14 MS. TATRO: No. That's it. Thank you.

15 JUDGE WOODRUFF: Commissioner Appling, do
16 you have any questions from the Bench?

17 COMMISSIONER APPLING: Have a good weekend.

18 THE WITNESS: Thank you.

19 JUDGE WOODRUFF: And Commissioner Gaw has
20 joined us in the background there. Did you have any
21 questions, Commissioner?

22 COMMISSIONER GAW: If Lena needs to go, and
23 I may, but if she can wait just a little bit, I'll have
24 her come back.

25 THE WITNESS: I will stay and wait for you

1 to come back.

2 JUDGE WOODRUFF: We'll go ahead with any --
3 if there's any -- well, there should be no recross for
4 questions from the Bench at this point. Any redirect?

5 MS. HEINTZ: No, thank you, your Honor.

6 JUDGE WOODRUFF: For the moment, then,
7 Ms. Mantle, you can step down, and we'll recall you.

8 MS. HEINTZ: Would you like me to offer
9 Ms. Mantle's testimony now or wait until she gets
10 recalled?

11 JUDGE WOODRUFF: Is this the only she's
12 going to testify?

13 MS. HEINTZ: Yes.

14 JUDGE WOODRUFF: Let's go ahead and offer
15 her testimony.

16 MS. HEINTZ: I will offer what previously
17 has previously been marked as Exhibits 219, 220, 221HC and
18 221NP.

19 JUDGE WOODRUFF: 219, 220 and 221 have been
20 offered into evidence. Is there any objections to its
21 receipt?

22 (No response.)

23 JUDGE WOODRUFF: Hearing none, it will be
24 received into evidence.

25 (EXHIBIT NOS. 219, 220 AND 221NP AND HC

1 WERE RECEIVED INTO EVIDENCE.)

2 MS. TATRO: Your Honor, I failed to offer
3 the testimony of Robert J. Mill into the record, I
4 believe.

5 JUDGE WOODRUFF: I was looking at that. I
6 believe he comes up again later, does he not? He's
7 giving an emphatic yes back there.

8 MS. TATRO: He informs me he does.

9 JUDGE WOODRUFF: We will be seeing him
10 again later. All right. Then we're up to the DNR
11 witnesses, I guess.

12 (EXHIBIT NOS. 650 AND 651 WERE MARKED FOR
13 IDENTIFICATION BY THE REPORTER.)

14 (Witness sworn.)

15 JUDGE WOODRUFF: You are Brenda Wilbers?

16 THE WITNESS: Yes, I am.

17 MR. IVESON: You don't have any corrections
18 in your testimony, do you?

19 THE WITNESS: No, I do not.

20 MR. IVESON: I tender her for cross.

21 JUDGE WOODRUFF: And would anyone like to
22 cross Ms. Wilbers on any of these issues that she's up on?
23 Ameren?

24 MS. TATRO: No questions.

25 JUDGE WOODRUFF: All right. Commissioner

1 Appling, do you have any questions?

2 COMMISSIONER APPLING: I hate to pass this
3 one up, but have a good weekend.

4 THE WITNESS: Thank you.

5 JUDGE WOODRUFF: And, Commissioner Gaw, do
6 you know if you had any questions for --

7 COMMISSIONER GAW: I'll pass. Thank you.

8 JUDGE WOODRUFF: For the record,
9 Commissioner Gaw indicated he would pass on this witness.
10 And I don't have any questions, so there's no need for
11 recross or redirect. And, Ms. Wilbers, you can step down.
12 Thank you for coming.

13 MR. IVESON: Your Honor, at this time I'd
14 offer Wilbers direct HC and NP as 650HC and NP
15 respectively, and Wilbers surrebuttal testimony as
16 Exhibit 651.

17 JUDGE WOODRUFF: Exhibit 650 and 651 have
18 been offered into evidence. Are there any objections to
19 their receipt?

20 (No response.)

21 JUDGE WOODRUFF: Hearing none, they will be
22 received into evidence.

23 (EXHIBIT NOS. 650 AND 651 WERE RECEIVED
24 INTO EVIDENCE.)

25 (EXHIBIT NOS. 652 AND 653 WERE MARKED FOR

1 IDENTIFICATION BY THE REPORTER.)

2 (Witness sworn.)

3 JUDGE WOODRUFF: And you are Richard
4 Anderson?

5 THE WITNESS: That is correct.

6 MR. IVESON: I tender him for
7 cross-examination.

8 JUDGE WOODRUFF: Any of the parties wish to
9 cross-examine Mr. Anderson?

10 MS. TATRO: AmerenUE has no questions.

11 JUDGE WOODRUFF: All right. Commissioner
12 Applling? Back to you again, Commissioner Gaw.

13 COMMISSIONER GAW: That's okay. I'll pass.

14 JUDGE WOODRUFF: For the record,
15 Commissioner Gaw indicated he would have no questions
16 either. So there's no recross or redirect, and
17 Mr. Anderson, you can step down.

18 MR. IVESON: I would offer Anderson direct
19 as Exhibit 652 and Anderson surrebuttal as Exhibit 653
20 into evidence.

21 JUDGE WOODRUFF: All right. 652 and 653
22 have been offered into evidence. Are there any objections
23 to their receipt?

24 (No response.)

25 JUDGE WOODRUFF: Hearing none, they will be

1 received into evidence.

2 (EXHIBIT NO. 652 AND 653 WERE RECEIVED INTO
3 EVIDENCE.)

4 JUDGE WOODRUFF: And I believe that's all
5 the witnesses for today. Commissioner, if you want to
6 come forward and bring Skylar with you, it would be all
7 right.

8 LENA MANTLE testified as follows:

9 QUESTIONS BY COMMISSIONER GAW:

10 Q. Ms. Mantle, I want to talk to you a little
11 bit about demand response.

12 A. Okay.

13 Q. All right. And I want -- mainly I'm trying
14 to understand. Do you know what kinds of programs
15 currently Ameren has on demand response that are available
16 to nonresidential customers?

17 A. They do have an interruptible tariff for
18 large customers, and in that tariff they get paid. I'm
19 not sure whether they get an amount paid, by anyway their
20 bill is reduced so that they can call to reduce their
21 usage at critical times.

22 Q. Okay.

23 A. And that may not just be peak, when the
24 peak drives up, but also when the prices on the market go
25 up.

1 Q. So if it's in those -- in those tariffs,
2 are there significant numbers of entities that are under
3 that tariff? Do you know?

4 A. There are some, but there's probably more
5 under their, I think it's voluntary load curtailment
6 program.

7 Q. Okay.

8 A. Where they do send out a price to customers
9 that have signed up ahead of time, and if the customer is
10 willing during a certain period of time to cut back their
11 usage, then that customer receives a credit on their bill.

12 Q. Okay. Do they have -- let me ask you, in
13 regard to the way this is priced, and I'm not looking
14 necessarily for the price, but on a -- on an interruptible
15 load, is that -- is that price a price that's just a
16 year-round price that has no other price signal other than
17 it's a better rate than if it's non-interruptible?

18 A. On the interruptible rate, I believe that's
19 right, but on the voluntary curtailment rate --

20 Q. Yes.

21 A. -- there's different levels of payment that
22 the customers may receive, and based on that, they can
23 make the decision whether it's more cost effective for
24 them to reduce or to keep on at their normal level.

25 Q. Is that price signal one -- how is that

1 price signal delivered to the end use customer?

2 A. It's my understanding that UE sends that to
3 them, either faxes it to them or sends it electronically
4 through e-mail.

5 Q. Is that done all of the time on a regular
6 basis or just certain times when Ameren chooses to say, we
7 think that there's benefit from curtailing some load,
8 let's send these messages out and see if there are any
9 takers? How does it work?

10 A. There may be a limit on how many times a
11 year it occurs, but it is up to UE to decide whether or
12 not they want to issue a request for power.

13 Q. Okay. And then under that tariff, it's
14 also up to the end use customer to decide whether they
15 want to curtail their load based upon the price signal?

16 A. That is correct.

17 Q. Are there any tariffs currently in
18 existence that are -- where there's a consistent time of
19 use price with the ability to then respond to that price
20 signal as the load?

21 A. I don't believe there is for AmerenUE's
22 commercial/industrial customers.

23 Q. Do you know if there are other programs by
24 other utilities in the state that have that kind of a
25 characteristic?

1 A. I know that Aquila's Light & Power large
2 customers have hourly -- their bill is based off their
3 hourly loads with different prices at different hours.

4 Q. Is that one of the tariffs that those
5 customers can choose? I assume they can choose a normal
6 flat rate?

7 A. Actually, for the Light & Power large
8 customers, that is their only rate.

9 Q. That's interesting. Okay. Now, in regard
10 to how the marketplace is run on the wholesale side, is
11 there a way or is there -- is there a study that's under
12 way, let me say that, that would help -- that would help
13 us to get to a more sophisticated demand response program
14 with Ameren and its customers, either as a part of the IRP
15 process or a part of other discussions ongoing?

16 A. Well, the IRP process, the rules do require
17 them to look at such rates, rates that would change how a
18 customer uses electricity, but I'm not aware -- I take
19 that back. In their 2005 IRP filing, they did look at
20 some pricing programs. They did do a considerable amount
21 of work in that area.

22 Q. At the present time when we're talking
23 about moving forward on this, is there -- is there a way
24 that we could move toward a discussion of incorporating
25 demand response into the mix regarding dispatch of

1 generation or in a similar way to what happens with
2 dispatch or generation, and is that being discussed?

3 A. I'm not for sure. I don't remember whether
4 a distributed generation of the type that could be
5 dispatched was looked at by AmerenUE in their 2005 filing.

6 Q. When we're talking about demand response,
7 one of the ways that you can -- that a load can respond --
8 one of the ways that a load can respond is by curtailing
9 its load, correct?

10 A. That's the way a customer can respond, yes.

11 Q. Cutting back. If it has onsite generation,
12 it's possible that it could just simply flip over some of
13 its load or all of its load onto its distributed
14 generation system, correct?

15 A. That is correct.

16 Q. The effect is the same?

17 A. Yes.

18 Q. So are the signals currently in existence
19 in Ameren's tariffs creating sufficient incentive to
20 encourage distributed generation at the commercial and
21 industrial level? Have you looked at that?

22 A. The current rates for AmerenUE's large
23 customers do have a demand component, and so that would
24 make a difference for distributed generation. I don't
25 know that there's been a concerted -- I know they've

1 looked at what they think is out there. The concern is
2 with some places that have their backup generation, that
3 for one you can't run it real long, and then for another
4 point is, once you run it, then you have to do maintenance
5 on it. So some customers are reluctant to do -- to use
6 their backup generator except for when there is an outage.

7 Q. Is there a difference between the treatment
8 of entities that have that type of generation and
9 industrial consumers that may have cogeneration onsite in
10 the Ameren territory?

11 A. I don't know.

12 Q. Okay. Do you know who at Ameren that might
13 be testifying that would have information of that sort, or
14 if it's easier for Ameren to answer that?

15 MR. BYRNE: Maybe Rick Voytas. That would
16 be my thought. Does that sound right, Lena?

17 THE WITNESS: That sounds correct.

18 COMMISSIONER GAW: All right. Why don't we
19 stop there? Thank you very much.

20 THE WITNESS: No problem.

21 JUDGE WOODRUFF: Well, let me ask if
22 there's any recross based on those questions? Any
23 redirect? All right. With that, then you can step down.

24 And that brings us back on schedule.

25 Congratulations. I know we had talked about dealing with

1 the depositions, getting those onto the record, but since
2 many of the parties have left for the day, I don't know
3 that we need to necessarily do anything with that tonight.

4 MR. BYRNE: That might be a better time to
5 do it.

6 JUDGE WOODRUFF: I know Mr. Conrad wanted
7 to make an objection. I don't want to -- I know some of
8 them perhaps are down here already. Mr. Dottheim had some
9 down here before.

10 MR. BYRNE: We've got all ours over there,
11 and we can offer them.

12 JUDGE WOODRUFF: You can go ahead and offer
13 them. I'm mostly concerned about getting them to the
14 Commissioners. So we won't rule on their admissibility at
15 this point.

16 MR. BYRNE: You can at least give them to
17 them. Okay. Let me get them for you.

18 JUDGE WOODRUFF: You don't need to
19 physically deliver them on the record. Let's just deal
20 with them, then we can go off the record and figure out
21 where to put them. What numbers are we talking about?

22 MR. BYRNE: We've got 94 through looks like
23 103. 94 through 103 of our exhibit numbers were all
24 depositions.

25 JUDGE WOODRUFF: And they're offered at

1 this time?

2 MR. BYRNE: Yes, your Honor.

3 JUDGE WOODRUFF: And we'll deal with
4 whether to admit them or not when all the parties are
5 here, more of the parties are here anyway.

6 Did Staff have depositions they were going
7 to put in also?

8 MR. BAKER: I think we did. Jennifer just
9 went up to find Steve Dottheim.

10 MR. BYRNE: I'm sure Staff does, your
11 Honor.

12 MR. BAKER: I'm sure as well.

13 JUDGE WOODRUFF: Do you know if they were
14 premarked?

15 MR. MILLS: I don't think they were. It's
16 my understanding that Staff is planning to offer the
17 deposition of Michael Moehn, David Svanda, Robert Downs,
18 Gary Rainwater, Charles Naslund. I believe that's the
19 whole list, those five.

20 MR. BYRNE: Yeah. That sounds right.

21 JUDGE WOODRUFF: I know Mr. Dottheim had a
22 trolly down here. Let's go off the record for a moment
23 while we figure all this out.

24 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

25 (EXHIBIT NOS. 94 THROUGH 99 AND 101 THROUGH

1 103 AND 258 THROUGH 262 WERE MARKED FOR IDENTIFICATION BY
2 THE REPORTER.)

3 JUDGE WOODRUFF: We're back on the record.
4 While we were off the record, we marked and numbered a
5 number of depositions. 258 was Rainwater deposition. 259
6 was the Downs deposition. 260 was the Moehn deposition.
7 261 was Svanda's deposition, 262 was the Naslund
8 deposition. I'm assuming Staff will offer all those at
9 this point, and we'll defer ruling on them until Monday.

10 MR. DOTTHEIM: Yes. The Staff offers the
11 depositions of Mr. Rainwater, 258, Mr. Downs, 259,
12 Mr. Moehn, 260, Mr. Svanda, 261, and Mr. Naslund, 262.
13 The Staff on Monday will also have correction sheets for
14 each of those depositions and exhibits in particular for
15 Mr. Naslund's deposition.

16 JUDGE WOODRUFF: Very good. Anything else
17 we need to do while we're on the record?

18 With that, we're adjourned until 8:30
19 Monday morning.

20 WHEREUPON, the hearing of this case was
21 recessed until March 19, 2007.

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1	I N D E X	
2	OFF-SYSTEM SALES	
3	STAFF'S EVIDENCE:	
4	MICHAEL PROCTOR	
	Direct Examination by Mr. Frey	1449
5	Cross-Examination by Mr. Lowery	1450
	Questions by Commissioner Murray	1495
6	Questions by Commissioner Appling	1508
	Questions by Chairman Davis	1512
7	Questions by Commissioner Clayton	1522
	Questions by Commissioner Gaw	1546
8	Recross-Examination by Mr. Mills	1580
	Recross-Examination by Ms. Vuylsteke	1590
9	Recross-Examination by Mr. Lowery	1592
	Redirect Examination by Mr. Frey	1616
10	MICHAEL PROCTOR (In-Camera Session - Volume 22)	
11	Redirect Examination by Mr. Frey	1623
12	MIEC'S EVIDENCE:	
13	MAURICE BRUBAKER	
	Cross-Examination by Mr. Lowery	1631
14	Questions by Commissioner Gaw	1632
15	JAMES DAUPHINAIS	
	Direct Examination by Ms. Vuylsteke	1638
16	Questions by Commissioner Gaw	1642
17	AMERENUE'S EVIDENCE:	
18	MARTIN J. LYONS, JR.	
	Direct Examination by Mr. Byrne	1649
19	Cross-Examination by Mr. Conrad	1649
	Cross-Examination by Mr. Mills	1656
20	OPC'S EVIDENCE:	
21	RYAN KIND	
22	Direct Examination by Mr. Mills	1659
23	MIEC'S EVIDENCE:	
24	JAMES DAUPHINAIS (RECALLED)	
	Direct Examination by Ms. Vuylsteke	1666
25		

1 DEMAND SIDE MANAGEMENT, LOW-INCOME PROGRAMS, VOLUNTARY
2 GREEN, WIND POWER

3 AMERENUE'S EVIDENCE:

4 RICHARD J. MARK

4	Cross-Examination by Mr. Iveson	1668
	Cross-Examination by Mr. Baker	1672
5	Questions by Commissioner Appling	1673
	Questions by Chairman Davis	1684
6	Further Questions by Commissioner Appling	1695
	Questions by Commissioner Gaw	1697
7	Questions by Commissioner Clayton	1704
	Further Questions by Chairman Davis	1710
8	Recross-Examination by Mr. Iveson	1714
	Recross-Examination by Mr. Mills	1715
9	Recross-Examination by Mr. Baker	1727

10 MICHAEL MOEHN

	Cross-Examination by Mr. Iveson	1743
11	Cross-Examination by Ms. Heintz	1749
	Questions by Commissioner Gaw	1749
12	Redirect Examination by Ms. Tatro	1757

13 ROBERT J. MILL

	Cross-Examination by Mr. Mills	1764
--	--------------------------------	------

14 MIEC'S EVIDENCE:

15 WILLIAM BARBIERI

16	Questions by Commissioner Clayton	1730
	Cross-Examination by Mr. Iveson	1734
17	Cross-Examination by Mr. Mills	1737
	Cross-Examination by Ms. Heintz	1740

18 WILLIAM BARBIERI (RECALLED)

19	Questions by Commissioner Gaw	1759
----	-------------------------------	------

20 STAFF'S EVIDENCE:

21 LENA MANTLE

	Direct Examination by Ms. Heintz	1770
22	Cross-Examination by Mr. Iveson	1771
	Cross-Examination by Ms. Tatro	1774
23	Questions by Commissioner Gaw	1783

24

25

1	EXHIBITS INDEX		
2		MARKED	RECEIVED
3	EXHIBIT NO. 19		
3	Direct Testimony of Martin Lyons		1658
4	EXHIBIT NO. 20		
4	Rebuttal Testimony of Martin Lyons		1658
5	EXHIBIT NO. 21		
6	Surrebuttal Testimony of Martin Lyons		1658
7	EXHIBIT NO. 38		
7	Direct Testimony of Richard J. Mark	1728	1728
8	EXHIBIT NO. 39		
9	Surrebuttal Testimony of Richard J. Mark	1728	1728
10	EXHIBIT NO. 43		
11	Surrebuttal Testimony of William Barbieri	1742	1742
12	EXHIBIT NO. 94		
13	Deposition of Edward F. Began	1790	
14	EXHIBIT NO. 95		
14	Deposition of Michael Brosch	1790	
15	EXHIBIT NO. 96		
16	Deposition of Jeremy Hagamayer	1790	
17	EXHIBIT NO. 97		
17	Deposition of Lisa K. Hanneken	1790	
18	EXHIBIT NO. 98		
19	Deposition of Ryan Kind	1790	
20	EXHIBIT NO. 99		
20	Deposition of Greg Meyer	1790	
21	EXHIBIT NO. 100		
22	Deposition of Michael Proctor	1615	1615
23	EXHIBIT NO. 101		
23	Deposition of Steve Rackers	1790	
24	EXHIBIT NO. 102		
25	Deposition of Michael Rahrer	1790	

1	EXHIBIT NO. 103		
2	Deposition of Robert E. Schallenberg	1790	
3	EXHIBIT NO. 104		
4	FAC Tariff		1659
5	EXHIBIT NO. 107		
6	Detrended Natural Gas Prices by Month	1467	1468
7	EXHIBIT NO. 108		
8	Ln Ln Correlation	1474	1475
9	EXHIBIT NO. 109		
10	2006 Average of Natural Gas Prices	1485	1485
11	EXHIBIT NO. 110		
12	Reproduction of Figures on Easel done by Mr. Lowery	1627	1490
13	EXHIBIT NO. 219		
14	Direct Testimony of Lena Mantle		1779
15	EXHIBIT NO. 220		
16	Rebuttal Testimony of Lena Mantle		1779
17	EXHIBIT NO. 221		
18	Surrebuttal Testimony of Lena Mantle		1779
19	EXHIBIT NO. 227		
20	Direct Testimony of Michael Proctor		1448
21	EXHIBIT NO. 228		
22	Rebuttal Testimony of Michael Proctor		1448
23	EXHIBIT NO. 229		
24	Surrebuttal Testimony of Michael Proctor		1448
25	EXHIBIT NO. 258		
26	Deposition of Gary Rainwater	1790	
27	EXHIBIT NO. 259		
28	Deposition of Robert Downs	1790	
29	EXHIBIT NO. 260		
30	Deposition of Michael Moehn	1790	
31	EXHIBIT NO. 261		
32	Deposition of David A. Svanda	1790	

1	EXHIBIT NO. 262		
2	Deposition of Charles D. Naslund	1790	
3	EXHIBIT NO. 650NP/HC		
4	Direct Testimony of Brenda Wilbers	1780	1781
5	EXHIBIT NO. 651		
6	Surrebuttal Testimony of Brenda Wilbers	1780	1781
7	EXHIBIT NO. 652		
8	Direct Testimony of Rick Anderson	1781	1783
9	EXHIBIT NO. 653		
10	Surrebuttal Testimony of Rick Anderson	1781	1783
11	EXHIBIT NO. 654		
12	ACEEE's 3rd National Scorecard on		
13	Utility and Public Benefits Energy		
14	Efficiency Programs: A National Review		
15	and update of State-Level Activity	1744	1763
16	EXHIBIT NO. 710		
17	Direct Testimony of James Dauphinais		1647
18	EXHIBIT NO. 711		
19	Rebuttal Testimony of James Dauphinais		1647
20	EXHIBIT NO. 712		
21	Surrebuttal Testimony of James Dauphinais		1647
22			
23			
24			
25			

1 C E R T I F I C A T E

2 STATE OF MISSOURI)
) ss.
3 COUNTY OF COLE)

4 I, Kellene K. Feddersen, Certified
5 Shorthand Reporter with the firm of Midwest Litigation
6 Services, and Notary Public within and for the State of
7 Missouri, do hereby certify that I was personally present
8 at the proceedings had in the above-entitled cause at the
9 time and place set forth in the caption sheet thereof;
10 that I then and there took down in Stenotype the
11 proceedings had; and that the foregoing is a full, true
12 and correct transcript of such Stenotype notes so made at
13 such time and place.

14 Given at my office in the City of
15 Jefferson, County of Cole, State of Missouri.

16

17 Kellene K. Feddersen, RPR, CSR, CCR
18 Notary Public (County of Cole)
My commission expires March 28, 2009.

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