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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

November 20, 2008
Jefferson City, Missouri
Volume 13

In the Matter of Union Electric)
Company d/b/a AmerenUE's Tariffs)
To Increase Its Annual Revenues) Case No. ER-2008-0318
For Electric Service)

MORRIS L. WOODRUFF, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

JEFF DAVIS, Chairman,
CONNIE MURRAY,
ROBERT M. CLAYTON III,
TERRY JARRETT,
KEVIN GUNN,
COMMISSIONERS.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

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

2 JUDGE WOODRUFF: Welcome everyone. This is
3 the beginning of the rate case hearing for AmerenUE, Case
4 No. ER-2008-0318. My name is Morris Woodruff. I'm the
5 presiding officer today.

6 We'll start today by taking entries of
7 appearance, beginning with AmerenUE.

8 MR. BYRNE: Thank you, your Honor. I'm
9 Thomas M. Byrne, and Wendy K. Tatro is also with me,
10 attorneys for AmerenUE. Our address is 1901 Chouteau
11 Avenue, St. Louis, Missouri 63103.

12 JUDGE WOODRUFF: Thank you. I'm sorry. Go
13 ahead.

14 MR. LOWERY: Good morning, your Honor.
15 Also representing AmerenUE, James B. Lowery of the law
16 firm of Smith Lewis, LLP, 111 South 9th, Suite 200,
17 Columbia, Missouri 65201; and also James R. Fischer of the
18 law firm of Fischer & Dority, PC here in Jefferson City,
19 and his address is reflected on the written entry that we
20 have provided the court reporter.

21 JUDGE WOODRUFF: Very good. Office of the
22 Public Counsel.

23 MR. MILLS: On behalf of the Office of the
24 Public Counsel and the public, my name is Lewis Mills. My
25 address is Post Office Box 2230, Jefferson City, Missouri

1 65102. Thank you.

2 JUDGE WOODRUFF: Thank you. State of
3 Missouri.

4 MR. IVESON: Todd Iveson, the Attorney
5 General's Office for the State of Missouri. My address is
6 P.O. Box 899, Jefferson City, Missouri 65102.

7 JUDGE WOODRUFF: For the Department of
8 Natural Resources.

9 MS. WOODS: Shelley Ann Woods, Assistant
10 Attorney General, Post Office Box 899, Jefferson City,
11 Missouri 65102, appearing on behalf of the Missouri
12 Department of Natural Resources. Thank you.

13 JUDGE WOODRUFF: Missouri Industrial Energy
14 Consumers.

15 MS. VUYLSTEKE: For the MIEC, Diana M.
16 Vuylsteke, Bryan Cave law firm, 211 North Broadway,
17 Suite 3600, St. Louis, Missouri 63102.

18 JUDGE WOODRUFF: Missouri Energy Group.

19 MS. LANGENECKERT: Lisa K. Langeneckert
20 appearing on behalf of the Missouri Energy Group, law firm
21 of Sandberg, Phoenix & von Gontard, 515 North 6th Street,
22 St. Louis, Missouri 63101.

23 JUDGE WOODRUFF: Anyone here for the
24 Commercial Group? I got a phone call yesterday from Rick
25 Chamberlain, the attorney for the Commercial Group, who is

1 based out of Oklahoma City, requesting leave to avoid
2 coming up here today for this opening. He'll be here
3 later. He's excused for today.

4 For Noranda.

5 MR. CONRAD: On behalf of Noranda Aluminum
6 Company, Stuart W. Conrad of the law firm of Finnegan,
7 Conrad & Peterson, 3100 Broadway, Suite 1209, Kansas City
8 Missouri 64111. Your Honor, although he's not present
9 today, I'd also like to have the record show the
10 appearance of David L. Woodsmall of the same firm.

11 JUDGE WOODRUFF: All right. For AARP and
12 Consumers Council.

13 MR. COFFMAN: Appearing today on behalf of
14 AARP as well as the Consumers Council of Missouri, I'm
15 John B. Coffman, 871 Tuxedo Boulevard, St. Louis, Missouri
16 63119.

17 JUDGE WOODRUFF: For Missourians for Safe
18 Energy and Coalition For the Environment.

19 MR. ROBERTSON: Henry Robertson, Great
20 Rivers Environmental Law Center, 705 Olive Street, Suite
21 614, St. Louis, Missouri 63101.

22 JUDGE WOODRUFF: For Laclede Gas Company.

23 MR. DORITY: Thank you, Judge. Larry W.
24 DORITY. This morning I'm entering the appearance of
25 Michael C. Pendergast on behalf of Laclede Gas, 720 Olive

1 Street, St. Louis, Missouri 63101. I also left a written
2 entry with the court reporter. And Mr. Pendergast
3 requests that he be excused until the beginning of the
4 rate design portion of the hearing.

5 JUDGE WOODRUFF: Very good. He can appear
6 when he's ready.

7 MR. DORITY: Thank you.

8 JUDGE WOODRUFF: For the unions. Mr. Evans
9 or Ms. Schroeder, anyone here for the unions?

10 (No response.)

11 JUDGE WOODRUFF: For the Staff of the
12 Commission.

13 MR. DOTTHEIM: Kevin Thompson, Nathan
14 Williams, Sarah Kliethermes, Steven Reed, Eric Dearmont
15 and Steven Dottheim appearing on behalf of the Staff of
16 the Missouri Public Service Commission, Post Office
17 Box 360, Jefferson City, Missouri 65102.

18 JUDGE WOODRUFF: Thank you. I believe
19 that's all the parties. Are there any preliminary matters
20 that need to be resolved before we begin? I don't think
21 there's any outstanding motions out there.

22 MR. CONRAD: Judge?

23 JUDGE WOODRUFF: Yes, sir.

24 MR. CONRAD: A couple -- perhaps a couple
25 of things. Maybe one. In a conference call yesterday,

1 the counsel discussed the question of opening statements,
2 and perhaps you were going to bring that up, but it was
3 the suggestion, seemingly unopposed by any on the call, I
4 think most everybody including some who are not here today
5 were on that call, that by your leave, I would say, that
6 the parties might be permitted to give a short summary
7 statement of their view of the case, but then reserve for
8 particular issues until that issue came before your Honor.

9 And particularly in the case of the FAC and
10 rate design, those issues are well, well ahead of us,
11 perhaps a couple of weeks, and my concern is, although I'm
12 sure your Honor's memory is perfect, mine is not, and I
13 would probably not remember what I had said this morning
14 two weeks from now, and it would probably be better if we
15 could hold that.

16 That was one thing we discussed, and we, I
17 guess, seek confirmation or ruling, whatever you choose.

18 JUDGE WOODRUFF: Yes. Mr. Chamberlain had
19 mentioned that as a reason why he wasn't going to come up
20 from Oklahoma City. What we've done in the past in these
21 large rate cases is to do a general opening at the
22 beginning of the hearing and then do mini openings when we
23 get to the individual issues, and I would propose we go
24 ahead and do that again this time. This seems to work
25 very well. I believe that answers your question.

1 MR. CONRAD: The other thing, and this is
2 more particular to Noranda, we had at an earlier date, I
3 think, submitted to the parties a query if they had
4 questions for four of -- actually I think I had listed
5 five of our witnesses. They're not to be hit today, but
6 they are Mark Baker, Harvey Cooper, Steve Hodges, Robert
7 Mayer and Steve McPheeters.

8 Now, four of those are public witnesses in
9 the sense that they're not Noranda employees.
10 Mr. McPheeters is a Noranda employee, as a matter of fact
11 is here today. But I had asked parties if they would be
12 willing to waive as to the four or the five. As far as I
13 know, I haven't taken an absolute list, but I did not have
14 anyone come back and say, no, we want to talk to them.

15 So the question would be at this juncture
16 if your Honor would take up at an appropriate time with
17 the Commissioners if they had questions for any of those
18 four or five people.

19 JUDGE WOODRUFF: I will certainly do that.

20 MR. CONRAD: We'd be able to get them taken
21 care of at an earlier point.

22 JUDGE WOODRUFF: And I believe they're up
23 under class cost of service issues.

24 MR. CONRAD: I believe that's generally
25 correct, so we won't hit them today.

1 JUDGE WOODRUFF: All right. One other
2 question, general question I wanted to ask before we get
3 started. How quickly does everyone want the transcript
4 after the end of the hearing? Just some guidance for the
5 court reporter.

6 MR. LOWERY: Your Honor, I think that we
7 all would prefer that it be expedited. I don't know
8 exactly what's reasonable, although I know the transcript
9 can be prepared from various days as the court reporter
10 goes along. Given the briefing schedule and the holidays,
11 it would be very nice to have it much sooner rather than
12 later.

13 JUDGE WOODRUFF: As soon as possible?

14 MR. LOWERY: As soon as possible I think
15 would be preferred.

16 JUDGE WOODRUFF: I'll discuss that with the
17 court reporter.

18 Let's go ahead, then, and get started with
19 opening statements, and we'll begin with AmerenUE.

20 MR. LOWERY: Thank you, your Honor. Good
21 morning. May it please the Commission? My name is Jim
22 Lowery and I along with Tom Byrne, Wendy Tatro and Jim
23 Fischer will be representing AmerenUE in this rate case.

24 AmerenUE filed this rate case for a simple
25 reason. The company, like utilities across the country,

1 is continuing to face significant and continuing increases
2 in many, probably most of the costs that it takes to
3 provide service to its customers. The company is
4 continuing to see rapid increases in these costs due to
5 inflationary factors that are beyond its control.

6 We're seeing inflation in labor costs,
7 which is driven in part by the aging work force that we're
8 seeing in the utility industry, and the challenges of
9 attracting and training qualified personnel to replace
10 those folks who are retiring today and over the next few
11 years. We're seeing increases in material costs, things
12 like wood poles, aluminum wire for underground circuits,
13 copper, steel, just about all of the inputs that we need
14 to purchase to provide service.

15 And these costs are continuing to increase
16 at rates that far outstrip what we might think of as
17 normal inflation. This presents great challenges for the
18 company since the only way the company can recover
19 ever-increasing costs is to file a time-consuming rate
20 case, and rate cases with costs going up in one period and
21 rate cases being filed and processed in another period can
22 result in significant lags in recovery, 12, 15, 18, 20
23 months, even if the company is filing rate cases in fairly
24 rapid succession.

25 AmerenUE President and CEO Tom Voss talks

1 about these challenges in his testimony, and Dr. Kenneth
2 Gordon, who's a former state commission regulator and also
3 currently a special consultant to the National Economic
4 Research Associates, addresses how these kinds of
5 challenges are not unique to AmerenUE, they're challenges
6 that are being seen in the utility industry generally
7 today given the rising cost environment that we're seeing
8 in the industry.

9 Another cost that I know you certainly
10 heard a lot about in the company's last rate case that
11 you'll hear about in this rate case, which I think you
12 hear about in all electric rate cases today, is the cost
13 of fuel and purchased power. The company's fuel and
14 purchased power costs, which comprise almost 50 percent of
15 its operating and maintenance expenses, are relentlessly
16 increasing each year.

17 Given UE's substantial base load coal
18 fleet, delivered coal costs, which are addressed
19 particularly in the testimony of AmerenUE witness Bob
20 Neff, are by far the largest component of these fuel and
21 purchased power costs. As Mr. Neff's testimony shows,
22 between 2006 and 2007 those costs went up about
23 \$100 million. Since the last rate case was concluded only
24 about 18 months ago, those costs, just delivered coal
25 costs alone, irrespective of other fuel costs, have gone

1 up about another 12 percent. And while the numbers for
2 future periods are highly confidential, I don't want to
3 have to go in camera just to mention those, the evidence
4 in this case will show that those costs are going to go up
5 substantially in 2009, even more substantially in 2010,
6 and again in 2011.

7 These increases equate to hundreds of
8 millions of dollars of cost increases despite the
9 company's well-considered coal buying and hedging program.

10 Operating costs are not the only costs that
11 have gone up and that are continuing to increase at
12 AmerenUE. As Mr. Voss's testimonies show, AmerenUE's
13 capital costs are increasing for a number of reasons.
14 First, the company is investing to improve the reliability
15 of its system. Second, the company is investing
16 specifically to storm harden its system as its customers
17 have demanded.

18 The company is also investing to comply
19 with the Commission's new vegetation management and
20 infrastructure inspection and repair rules, which are
21 designed to relate to those first two investments that I
22 was talking about.

23 And finally, the overall cost of capital is
24 simply going up for the company and for utilities
25 generally. To put AmerenUE's capital investments in

1 context, if you take a look at Mr. Voss' Schedule TRV-E2
2 in his direct testimony, you'll see that five years ago in
3 2003 the company's capital investments were about
4 \$480 million. Just five years later, this year, the
5 company is investing approximately \$1 billion in its
6 system.

7 The average budgeted capital expenditures
8 over just the next few years exceed more than \$800 million
9 on average, which is about a 70 percent increase in where
10 those investments were just five years ago. And while
11 AmerenUE may be forced to slightly reduce that level next
12 year given extreme liquidity problems that we're seeing in
13 the credit markets, and this is something that utilities
14 and industry generally are facing, those dollars are going
15 to have to be spent in the intermediate terms.

16 The needs are not going away, and AmerenUE
17 is going to need the earnings and the cash flows necessary
18 to shore up its credit rating so that it can access the
19 capital markets at reasonable cost to pay for those
20 investments.

21 The evidence also demonstrates that despite
22 having completed a rate case just 19 months ago, the
23 company has been unable to earn the ROE that was
24 authorized by the Commission just about a year and a half
25 ago. And this is depicted on the chart that we've

1 reproduced from Mr. Voss' rebuttal testimony which shows
2 that the company on average since that last rate case has
3 fallen about 90 basis points short of the ROE that was
4 allowed in the last rate case.

5 Moreover, the evidence in this case will
6 demonstrate that if you look at what AmerenUE's current
7 cost of equity is, and Dr. Roger A. Morin, AmerenUE's
8 ROE expert, indicates that it's at least 10.9 percent, may
9 very well be more given the spreads that we're seeing
10 between corporate bonds and treasury bills and the
11 economic circumstances we're in, that AmerenUE is nearly
12 200 basis points below what its actual cost of equity is
13 today versus what it's been able to earn since the last
14 rate case.

15 This nearly 200 basis point shortfall also
16 fails to account for the fact that we set rates based upon
17 historic periods, and we're likely to face higher costs in
18 2009 that are going to put further pressure on the
19 company's earnings even if a 10.9 percent ROE were
20 awarded.

21 Failing to earn a fair return of course
22 impairs the company's ability to raise the capital it must
23 have to operate its business and to provide service and to
24 make all those investments that I spoke about a moment
25 ago. Doing those things depends in great part on the

1 ability to access borrowed funds at a reasonable cost, and
2 that is becoming increasingly challenging for the company.

3 As you can see from this next chart that's
4 reproduced from the rebuttal testimony of AmerenUE witness
5 Mike O'Bryan, UE's credit ratings sit near the bottom of
6 the investment grade categories by the major credit rating
7 agencies. Mr. O'Bryan will testify that AmerenUE has no
8 access whatsoever to the commercial paper market right now
9 and has very limited access to the corporate bond market
10 at this time.

11 These problems are not likely to be solved
12 unless and until the company is able to earn a fair return
13 and have the cash flows that it needs and avoid the
14 regulatory lag that is inherent in relying solely on a
15 series of time-consuming historic test year rate cases.

16 The record in this case will show that it's
17 not just the company that agrees that a rate increase for
18 the company is needed at this time. The Commission
19 Staff's reconciliation, subject of course to finalization
20 of the true-up phase of this case, indicates that Staff at
21 this time is recommending nearly a \$90 million increase.
22 The company's request at this time is \$217 million.

23 But the evidence demonstrates that if the
24 Staff simply were to have recommended in this case an ROE
25 similar to that recommended just a few months ago in the

1 Empire case, that recommendation would be substantially
2 higher than the recommendation that Staff has made. Even
3 that recommendation has to be put in context because it
4 assumed that an FAC would be granted, and Empire did get
5 an FAC, and it also was a recommendation before the
6 economic conditions that we're seeing today which are
7 putting upward pressure on the cost of capital and the
8 cost of equity.

9 Taken in total, I think the evidence in
10 this case will show three key points. First of all,
11 AmerenUE needs recovery of its legitimate operating
12 expenses. Second, AmerenUE needs sufficient opportunity
13 to earn a fair mainstream return on equity. And third,
14 AmerenUE needs a mainstream fuel adjustment clause to
15 address volatile and uncertain and at least historically
16 and in the near term rising fuel costs.

17 Those three items are absolutely critical
18 to providing the company the cash flows and financial
19 strength that it's going to need to continue to invest in
20 its system, and those three items I think can be viewed as
21 three legs to the stool that is needed to underpin
22 AmerenUE's financial health. That financial health is
23 simply going to have to be maintained if the company is
24 going to meet its customer service expectations and I
25 think this Commission's service expectations in the long

1 haul.

2 And I think the Commission has recognized
3 that very basic fact. The Commission in the Empire case a
4 few months ago said, and I quote, no one, including
5 ratepayers, benefits when a utility becomes financially
6 unhealthy.

7 Now, I'd like to address a little bit more
8 specifically the evidence relating to those three legs of
9 the stool. The first leg, recovery of the company's
10 legitimate operating expenses. If you look at the Staff's
11 case versus the company's case, what you're going to see
12 is their -- aside from ROE, ignore that issue, that the
13 parties are about \$60 million apart.

14 You're going to see that about two-thirds
15 of that is tied up in two or three issues, vegetation and
16 infrastructure inspection and repair, and in incentive
17 compensation. The evidence in this case will show that
18 the Commission's new vegetation management and
19 infrastructure inspection and repair rules are costing the
20 company more to comply -- to spend more to comply than it
21 has spent in the recent past.

22 The company supported those rules. We
23 think they're reasonable. We think those expenditures
24 need to be made, and we are making them. But as AmerenUE
25 witness Ron Zdellar indicates in his testimony, we need

1 full and timely cost recovery for those compliance costs.
2 The company will be able to do so if the Commission allows
3 the accounting treatment for the 2008 increased costs that
4 we've already incurred and if the company adopts a two-way
5 tracker that the company has proposed, which is
6 essentially the same tracker that was just approved by the
7 Commission for those costs in the Empire case.

8 Under this proposal, if it turned out --
9 and Mr. Zdellar's testimony indicates that this is
10 unlikely, but if it turned out that the company did spend
11 less than the base amount that's set in those trackers,
12 then a regulatory liability will be created. That
13 regulatory liability will be amortized back to customers
14 in the company's next rate case with interest.

15 We think that in the challenging rising
16 cost environment we're in, when the company has
17 demonstrably been unable to earn its authorized ROE let
18 alone its actual cost of capital since the last rate case,
19 when the higher costs are being driven by these new rules,
20 it doesn't make any sense to set the base level in these
21 trackers at a level that's below the level that's
22 reasonably expected to be incurred when rates in this case
23 are in effect.

24 Now, incentive compensation is the second
25 big area that I mentioned, and the evidence also supports

1 recovery in that area despite Staff's habitual and
2 consistent opposition to including incentive compensation
3 in rates.

4 The evidence in this case will show that
5 the company, in direct response to guidance from this
6 Commission, has revamped its incentive compensation
7 program. The company has decoupled those programs from
8 earnings, with the exception of officer incentive
9 compensation programs which remain coupled to earnings,
10 and we are not asking for a single penny of officer
11 related incentive compensation in this case.

12 The company -- the evidence will show that
13 incentive compensation is a fair, it's a mainstream, it is
14 a necessary component of attracting, retaining and
15 motivating the skilled employees that the company
16 obviously has to have if the company's going to operate a
17 utility business.

18 Also, incentive compensation benefits
19 customers by providing incentives to improve and maintain
20 reliability, safety, customer service, and to contain the
21 company's costs. Indeed, incentive compensation we
22 believe is no different than gasoline and diesel that runs
23 the service trucks, wood poles, aluminum wire, copper,
24 steel. It is an operating expense that, if we did not
25 have it, we wouldn't be able to retain and motivate and

1 attract those employees. It's legitimate operating
2 expense, and we believe it needs to be recognized and
3 included in our rates. And if we don't get recovery of
4 that, then one of the legs of stool, recovery of
5 legitimate operating expenses, is undermined.

6 It also undermines the second leg of the
7 school that I talk about, and that is the need for a fair
8 mainstream return on equity. Now, what does the evidence
9 show to be a fair and mainstream return on equity? We've
10 reproduced the schedule from Dr. Morin's testimony, and I
11 think it -- I think it speaks for itself.

12 A mainstream ROE is very much near where
13 the Commission has been recently and where Dr. Morin is in
14 this case. If you look at the averages and you look at
15 where the Commission's been, those awarded ROEs and that
16 recommendation is very much in line with a mainstream ROE.
17 And keep in mind that that 10.8 percent again for Empire
18 assumed that a fuel adjustment clause was granted and was
19 granted before the economic conditions that we're seeing
20 today.

21 What the company does not need and we don't
22 think the company or its customers can afford is a far out
23 of the mainstream and borderline ridiculous ROE like that
24 recommended by Staff witness Hill way down here, and
25 that's where Mr. Hill's recommendation falls in relation

1 to these other data points.

2 As the evidence will also show, the other
3 ROE recommendations in this case also don't reflect
4 AmerenUE's actual cost of equity. Mr. Gorman for MIEC
5 recently has done a 180 degree turn in how he applies the
6 DCF model, and now instead of using the constant growth
7 DCF, which has been used for a long time in utility
8 ratemaking, uses variations of that model which
9 artificially lower his ROE recommendation.

10 MEG witness LaConte, the only other ROE
11 witness in this case, doesn't use any analyses, any
12 accepted analyses of any kind, and her recommendation
13 amounts to really nothing more than pulling a number out
14 of the hat.

15 And that brings me to the last leg of the
16 stool, and that is the need for a fair mainstream fuel
17 adjustment clause. Mr. Lyons in particular discusses this
18 in his testimony. And the evidence in this case will show
19 that permitting AmerenUE to use an FAC is warranted and
20 indicated under both the statutory standard that this
21 Commission has used and, of course, must use in both the
22 Empire and Aquila cases and under the factors that the
23 Commission has previously examined when considering prior
24 FAC requests.

25 The evidence in this case, aside from some

1 parties' desire to focus on the last case, the evidence in
2 this case shows several important facts. First, it shows
3 that the company has faced and is continuing to face
4 relentlessly rising fuel costs, and most of those, many of
5 those are locked in. Consequently, we know they're going
6 to occur, and we know without a fuel adjustment clause
7 that we're not going to be able to recover those costs.
8 We know that they can cause significant swings in our
9 income and our cash flows if they are not tracked in a
10 fuel adjustment clause.

11 Now, how do we know that? Well, consider
12 what has actually happened. As I mentioned before, the
13 company had about a 100 million rate -- \$100 million fuel
14 cost increase for 2006-2007. The company optimally timed
15 that rate case so that you would be able to include those
16 fuel cost increases in the company's rates in the last
17 rate case, but despite that, because of the regulatory lag
18 that's just inherent in rate cases, the company failed to
19 recover \$42 million of that \$100 million in 2007. Those
20 dollars are gone forever. That's about 80 basis points of
21 ROE.

22 On 1/1/08, our fuel costs went up again,
23 and it's going to take 14 months for rates to go into
24 effect from this rate case, and the same thing is
25 happening, \$72 million of fuel cost increases because of

1 regulatory lag that are not going to be recovered at any
2 time, which is even higher, even more lost return on
3 equity.

4 This phenomenon, there's no reason to
5 believe it's not going to continue given the fuel costs
6 that AmerenUE is facing. This is real evidence of
7 significant costs the company has had no opportunity to
8 recover, and it shows why an FAC is needed if the company
9 is going to have a sufficient opportunity to earn a fair
10 return.

11 Moreover, looking at some of the other
12 factors that you've considered, all of the components of
13 the net fuel costs that would be tracked in AmerenUE's
14 FAC, a net fuel cost being fuel plus purchased power less
15 off-system sales, which are included in AmerenUE's FAC
16 proposal, all of those components are subject to volatile
17 international commodity markets over which the company
18 doesn't have any control. Those net fuel costs are
19 uncertain and volatile.

20 Now, can the company mitigate that to some
21 extent and does the company try to do that? Absolutely.
22 The company does the best job it can in doing that, but
23 there are substantial limits on how much of the company's
24 off-system sales can be hedged, can be fixed, because
25 we've got native load obligations we've got to make sure

1 we can meet. There's limits on how much you can hedge of
2 gas for generation. There's limits on how much you can
3 hedge and how much certainty you can bring to coal costs.

4 And when you put all those things together,
5 the company remains exposed to substantial uncertainty and
6 volatility in its net fuel costs. Now, we've presented
7 extensive analysis that demonstrates this, and you'll find
8 that in the testimony of AmerenUE witness Ajay Arora.

9 But at the end of the day, the Commission
10 doesn't need a lot of complicated statistical analysis to
11 reach the common sense conclusion that if every component
12 of your net fuel cost is subject to volatile markets you
13 can't control, you face uncertainty and volatility in your
14 net fuel costs.

15 Moreover, the proposal that we have is fair
16 because if for some reason our net fuel costs were to go
17 down, then 95 of that decrease is going to pass through,
18 and of course 95 percent of the increase is going to pass
19 through on the other side.

20 The evidence in this case will show that
21 when the Commission is considering this FAC request, the
22 Commission needs to do so in light of the fact that when
23 UE's credit ratings are examined, when utility bond
24 investors are deciding which utility bonds they want to
25 buy, when utility equity investors are deciding which

1 stocks to invest in, they are faced with the facts that
2 are depicted on this chart that's reproduced from
3 Mr. Lyon's testimony.

4 What this chart shows, if you were to add
5 up those dots and look at the green ones versus the rest
6 of them, 93 percent of utilities in this country in
7 non-restructured states where fuel adjustment causes
8 remain relevant, 93 percent have a fuel adjustment clause.

9 In the midwest where utilities --
10 midwestern utilities that have a heavy reliance on
11 coal-fired generation, like AmerenUE, every single one of
12 those utilities, with the exception of AmerenUE and Kansas
13 City Power & Light, which cannot request a fuel adjustment
14 clause because of the terms of its regulatory plan, every
15 single one of them have a fuel adjustment clause.

16 And every single midwestern utility in a
17 state where the commission in that state is not required
18 to grant a fuel adjustment clause but has discretion, like
19 in Missouri, every single one of those utilities has a
20 fuel adjustment clause. That's the reality that the
21 investors see when the investors are determining to whom
22 to provide capital and at what cost.

23 The Commission should adopt AmerenUE's FAC
24 proposal and should not adopt the extreme proposals of
25 others. Doing so is going to send the wrong signal to

1 those investors upon which the company depends for that
2 more than \$800 million a year of capital investment that
3 the company is going to have to make. Doing so is going
4 to fail to provide a solid third leg to that stool to
5 underpin Ameren's financial health.

6 Some in this case propose
7 out-of-the-mainstream sharing proposals. Now, the company
8 has included a 95/5 percent sharing mechanism like the
9 Commission has previously approved for other Missouri
10 utilities. Even that is out of the mainstream because the
11 vast majority of these utilities have no sharing in their
12 fuel adjustment clauses at all.

13 But the company respected the Commission's
14 opinion about that and has included it, but the company
15 should not move Missouri farther out of the mainstream by
16 expanding that as some advocate. And this is particularly
17 true when you consider the fact that Missouri's FAC rules
18 require that adjustments be made based on historic costs,
19 not projected costs. The vast majority of these utilities
20 are able to use projected costs when they make their FAC
21 adjustment, which reduces the regulatory lag associated
22 with reflecting fuel cost changes in their FAC.

23 As I close, I want to leave you with just a
24 couple of more concluding thoughts. The evidence in this
25 case will demonstrate that while no one ever likes to see

1 a utility come in and file a rate case, sometimes that's
2 necessary. In doing so, the company has worked very hard
3 and has endeavored to put a reasonable request before you.

4 That the company was reasonable is
5 demonstrated by the company's balanced mainstream fuel
6 adjustment clause proposal, which in fact has some
7 protections that are not particularly mainstream but they
8 favor the consumer. It's evidenced by the company's
9 request for a fully justified mainstream return on equity,
10 as we saw on the earlier chart. It's justified by the
11 company's request for recovery of its legitimate costs and
12 nothing more.

13 The evidence in this case shows the company
14 needs a substantial rate increase, and that fact is not
15 really disputed in this case. The company supported and
16 is complying with the Commission's new rules on vegetation
17 management and infrastructure. The company revamped its
18 incentive compensation programs to address concerns that
19 this Commission had.

20 All we ask is that those legitimate costs
21 be recognized, that the company be given reasonable
22 treatment for its proposals in light of the larger need,
23 as this Commission has recognized as important, to keep
24 AmerenUE a financially healthy utility with the long-term
25 wherewithal to meet our customers' service expectations

1 and we would expect your service expectations.

2 Appreciate your patience. Thank you for
3 your time. We look forward to presenting the case to you.

4 JUDGE WOODRUFF: Thank you. Opening for
5 Staff.

6 MR. THOMPSON: Thank you, your Honor. May
7 it please the Commission?

8 This is a very, very important case that is
9 beginning before you today. Every case that this
10 Commission hears is important, of course, but this one is
11 particularly important because of the impact that it's
12 going to have on a lot of citizens of this state.

13 We're here to set the electric service
14 rates for Union Electric Company, which does business as
15 AmerenUE. UE is Missouri's largest electric utility.
16 According to its website, which I visited last night, UE
17 serves some 1.2 million electric customers in the eastern
18 and central parts of this state, 57 Missouri counties, 500
19 Missouri towns. Many of those 1.2 million customers are
20 families, are households, so that number is actually
21 larger. Many more than 1.2 million people depend on UE
22 for electricity.

23 I don't know if you follow comedy, but they
24 say that timing is everything, and timing is everything
25 with rate cases, too. The company decides when it's going

1 to file its tariffs, when it's going to initiate its rate
2 case, and the company decided when to initiate this rate
3 case, and that timing was no accident. UE initiated this
4 case by filing its tariffs on April 4, 2008, seeking an
5 annual revenue increase of \$251 million. The Commission
6 suspended those tariffs and must now reach a decision by
7 March 1st, 2009, because on that date those tariffs will
8 go into operation by operation of law, unless you reject
9 them sooner.

10 Your duty in this case is to set just and
11 reasonable rates. Your duty is to be fair. Your duty is
12 to balance the interests of the owners of AmerenUE, the
13 investors, and to balance also the interests of those
14 1.2 million customers that I mentioned.

15 It has been said that just and reasonable
16 rates are no more than is sufficient to keep public
17 utility plants in proper repair for effective public
18 service and to ensure to the investors a reasonable return
19 upon the funds invested. The courts of Missouri have
20 instructed you that your guiding purpose must be to
21 protect the public.

22 I don't have charts like they do, but I
23 have one here for you. This is the revenue requirement
24 equation. A rate case falls into two halves. In the
25 first half you decide the revenue requirement, how much

1 money does the utility need to operate on an annual basis.
2 In Missouri, that determination is done based on a
3 historical test year. A year that is completed, whose
4 books are closed, where the costs and the revenues are
5 known, is selected. That year is normalized and
6 annualized and used to project costs into the future.
7 Those costs are trued up and increased to reflect known
8 and measurable changes that are going to occur in the
9 future. It is a predictive exercise.

10 And as Mr. Lowery told you, there's two
11 halves to that revenue requirement, as the equation shows.
12 One half, represented by C in the equation, are the
13 prudent operating costs, including depreciation expense
14 and taxes. The other half is the return. It's said that
15 the owners of a utility are due both a return of and a
16 return on their investment.

17 The investment, of course, is the
18 incredible amount of money they have spent to create the
19 assets that the utility uses to create the energy and
20 distribute the energy to its customers. That is all
21 incredibly expensive. That is called the rate base. And
22 in ratemaking you use the net rate base. You subtract
23 from the original cost of those assets accumulated
24 depreciation, and you multiply that net rate base by the
25 return, the rate of return.

1 Rate of return is the biggest single issue
2 you're going to face. Rate of return is based on capital
3 structure. Capital structure shows who owns those assets.
4 As you know, there's long-term debt, there's sort-term
5 debt, there are preferred shares, and finally there's
6 common equity, common stock.

7 Now, the proportion of all of those things
8 are well known from the books of the company, and the cost
9 of three of those four components are also well known from
10 the books of the company and from the instruments that
11 define them. Those are called embedded or historical
12 costs.

13 What you're called upon to do, the
14 difficult thing you must do is determine the cost of
15 common equity, the return on equity. Mr. Lowery talked
16 about it quite a bit during his opening statement. That
17 issue is worth almost \$70 million.

18 I have another chart for you. This is the
19 reconciliation. I hope you each have a copy of it. You
20 can tell this is a case that originated on the eastern
21 side of the state because on the western side they call it
22 the reconcilment, and you always have to remember which
23 group of auditors you're working with. This is an eastern
24 case, so it's a reconciliation.

25 The reconciliation shows the value of each

1 issue. It shows it in a curious way. At the very top, in
2 the column labeled Staff, you will see the value of the
3 company's case as of right now. It's actually a little
4 lower than Mr. Lowery mentioned. He said 217 million. In
5 fact, it's gone down to 202 million. This is the
6 reconciliation they handed me just this morning.
7 It's hot off the press, and I'm told it's still just a
8 snapshot, that it's still an evolving document.

9 Staff's case is down at the bottom, and I
10 can't see that far, but it's about \$68 million. Maybe I
11 can focus this thing a little bit.

12 To get to the company's case of 202 million
13 down to Staff's case of 68 million, you subtract. For
14 each issue where there is an argument between Staff and
15 the company, you subtract the value of that issue. If you
16 accept all of Staff's issues, you will give AmerenUE a
17 rate increase of almost \$70 million. Staff agrees they
18 deserve and need a rate increase, \$70 million. Staff
19 hotly disputes that they need a rate increase of
20 \$202 million.

21 Each of the issues you're going to hear is
22 set out on there. Notice there are columns for the other
23 parties as well. If the other parties have a dispute with
24 Ameren, then the value of their dispute with Ameren is
25 also shown on there as a subtraction from the company's

1 some others has also defined three other factors. Are the
2 fuel costs so substantial as to have a material impact on
3 the utility's revenue requirement and financial
4 performance between rate cases? Are fuel costs beyond the
5 control of management? Are fuel costs volatile in amount,
6 causing significant swings in income and cash flows?

7 Well, Staff has applied these very
8 standards that this Commission has fashioned and has
9 determined that AmerenUE does not qualify for a fuel
10 adjustment clause, and that is the position that you will
11 hear from Staff's witnesses on that point.

12 Turning to return on equity, an issue dear
13 to my heart. You heard Mr. Lowery define Mr. Hill's
14 position, Staff's expert, Steven Hill, of 9.5 percent as
15 being, I think he called it ridiculous. I believe he
16 called it ridiculous. Well, it provides over four times
17 the interest coverage. It would maintain UE's current
18 credit rating.

19 And if you will think about the Supreme
20 Court cases that define how you go about setting a return
21 on equity, you will recall that maintaining
22 creditworthiness is one of those factors. There's nothing
23 in there about increasing that credit rating.

24 You know, we are in difficult, difficult
25 times financially in this nation. That's why I mentioned

1 timing earlier. Many of the households represented by
2 those 1.2 million electric customers of Ameren's are
3 facing difficult times, challenged by job loss, by rising
4 costs of food. Now, gas prices have recently fallen, but
5 who knows what they're going to do in the near future.
6 Families are having a hard time paying the bills.

7 And we all know, being engaged in this
8 business as we are, that electric is a rising cost
9 utility. That's what Mr. Lowery told you, and it's true.
10 Every year it costs more to produce the same kilowatt.
11 Every year. That means inevitably that there is a class
12 of customers who are being priced out of the market.

13 Now, that's not an issue that this
14 Commission can solve. That is a legislative issue. But
15 it does mean that you must be all the more careful in not
16 giving this company one penny more than it needs to
17 operate and to earn a fair return on the value of the
18 investment, not one penny more. And Staff suggests that
19 the right number is a rate increase of \$68 million and a
20 return on common equity of 9.5 percent.

21 Thank you very much.

22 JUDGE WOODRUFF: Thank you. Opening for
23 Public Counsel.

24 CHAIRMAN DAVIS: Judge, could you have
25 Mr. Thompson furnish us all with copies of the new

1 reconciliation that was filed?

2 MR. THOMPSON: I will do that.

3 MR. BYRNE: We would like one, too,
4 Mr. Thompson.

5 MR. MILLS: I think we all would.

6 MR. LOWERY: Your Honor, just for the
7 record, the company has not seen that reconciliation. So
8 whether or not it's correct from our perspective, it may
9 be, it may not, but we haven't seen it, so I'd just like
10 the record to reflect we can't endorse that number at this
11 point.

12 MR. THOMPSON: I ensure you it is just a
13 lucky chance that I got it myself.

14 JUDGE WOODRUFF: Mr. Mills.

15 MR. MILLS: Good morning. May it please
16 the Commission?

17 I will be relatively brief. Like
18 Mr. Thompson and Mr. Lowery, I plan to make more detailed
19 openings before we get to each issue, but I'd like to
20 touch this morning on -- partly on a brief overview of the
21 case, very brief, and then a few of the more important
22 issues that I think you're going to hear a lot of
23 testimony about and that you'll discover are the most
24 contested issues in the case.

25 One of the things that I'd like to talk

1 about that Mr. Thompson touched on is the concept that we
2 are in difficult times, and I agree with that.

3 Mr. Thompson pointed out that this is difficult times for
4 households, and it's not just for households. It's for
5 businesses as well, businesses big and small.

6 And the consequence of that is that in the
7 event that this Commission awards too much of an increase
8 to AmerenUE, some of those households that Mr. Thompson
9 talked about, some of those people that are priced at the
10 margin will no longer be in households. They won't be
11 able to afford electricity. Some of those businesses that
12 are at the margin will no longer be able to afford to pay
13 for electricity and will be out of business.

14 If the Commission awards too high of an
15 increase in here, what is the remedy? A complaint case.
16 As we all know, the prospects of filing a complaint
17 against a utility the size of AmerenUE are difficult and
18 daunting, and only -- the last time a complaint case was
19 filed was in 2000 -- I believe it was 2002, I'm sorry,
20 2002-1, which took the Staff many, many, many hundreds of
21 thousands of man -- hundreds and thousands of man hours to
22 prosecute and ultimately bring to a settlement.

23 If the Commission errs on the wrong side
24 and awards AmerenUE a rate increase that's perhaps not
25 quite as much as they would have liked, what's AmerenUE's

1 remedy? They can file another rate increase case. The
2 indications that I think many people are expecting is that
3 if the Sioux scrubber goes in within the next year, then
4 they will be filing a rate increase anyway. The
5 Commission will have a chance to reset rates.

6 I think that's an important perspective to
7 keep on this case when you look at trying to decide on
8 each individual issue, when you try to decide on return on
9 equity, when you're trying to decide on overall revenue
10 requirement, exactly how this is going to affect people
11 and how it's going to affect the utility and what happens
12 when, as is inevitably the case, the Commission doesn't
13 get it exactly right.

14 Now, with respect to some of the particular
15 issues in the case, as Mr. Thompson pointed out and as you
16 can see from the reconciliation and the list of issues,
17 there are at least a couple of dozen depending on how you
18 count issues and subissues. I'm going to talk about just
19 half a dozen of them.

20 The first one that you're going to be
21 hearing, I assume we will probably get to it today or
22 possibly tomorrow, is return on equity. And both
23 Mr. Lowery and Mr. Thompson talked about this at some
24 length, so I will just touch on it.

25 I will point out that in this case you are

1 fortunate to have the testimony of witness Michael Gorman,
2 who's testifying in this case on behalf of the MIEC. The
3 Commission in any number of recent rate cases has heard
4 testimony from Mr. Gorman and has uniformly found him to
5 be a credible witness, frequently the most credible
6 witness, and I think you will find that to be the case in
7 this case as well. Mr. Gorman has testified to a return
8 on equity of 10.2, which is squarely in line with national
9 averages, with recent awards by this Commission to this
10 utility as well as to other electric utilities.

11 The other issue that Mr. Thompson talked
12 about and that I would also like to talk about that's
13 perhaps one of the biggest issues in this case because it
14 is not an issue of first impression but an issue of second
15 impression for this Commission and still a relatively new
16 issue, it's no longer a routine issue, but it's the
17 question of the fuel adjustment clause.

18 In the last case, which Mr. Lowery
19 apparently doesn't want you to think about too much, the
20 Commission considered whether or not to award a fuel
21 adjustment clause to AmerenUE and decided not to. I think
22 in this case it is incumbent upon UE to prove that things
23 have changed so drastically with respect to the three
24 factors that the Commission enunciated in the last
25 AmerenUE case, that things have changed so drastically

1 you've got Public Counsel, the Staff of the Commission and
2 AmerenUE all recommending that any increase in this case
3 be parceled out to the various rate classes on an equal
4 percentage basis. Some of the other groups recommend that
5 there ought to be revenue neutral shifts before an equal
6 percentage is applied.

7 I think if you look at the cost studies in
8 this case, you will see that Staff and Public Counsel have
9 cost studies that look fairly similar to each other, and
10 that the MIEC study and the Ameren study look fairly
11 similar to each other.

12 But those two groups are very different,
13 and if you try to sort of average out the Public Counsel
14 and Staff studies on one side and MIEC/Ameren studies on
15 the other side, you'll discover that the shifts are not
16 uniform at all and that there is not really any consensus
17 on where shifts ought to be made.

18 And as a result -- and I should say, in
19 addition there's not anywhere near consensus on the
20 magnitude of any shifts that should be made or that are
21 indicated by cost studies. As a result, many of the
22 parties in this case have recommended that an increase be
23 given on an equal percentage basis, and that's Public
24 Counsel's recommendation as well.

25 Another very important issue is the

1 recovery of the COLA cost. COLA is the combined
2 construction and operating license application that Ameren
3 has filed with the Nuclear Regulatory Commission for the
4 construction of a second unit at Callaway 2. I think when
5 you get through the true-up numbers, you'll discover this
6 issue is about a \$50 million issue.

7 Public Counsel opposes inclusion of COLA
8 costs in this case, and there's two reasons. One is a
9 legal question, which you won't really be hearing evidence
10 about but you'll learn about in briefs, and that's whether
11 393.135 prevents recovery of these dollars in this case.

12 The issue you will be hearing testimony
13 about is whether or not, even if recovery were allowed,
14 whether at this point in the decision-making process and
15 this point on the line towards putting Callaway 2 into
16 service, whether it's appropriate to recover these dollars
17 from current Missouri ratepayers.

18 The last two issues I want to talk about,
19 and I'll talk about them very briefly, are the off-system
20 sales issue. As Mr. Thompson pointed out and as you can
21 see from the reconciliation, Public Counsel has some
22 issues with the level of off-system sales and the way
23 off-system sales have been calculated by AmerenUE.

24 We believe that the current level that can
25 be expected for off-system sales and that level that is

1 likely to increase -- likely to occur during the period in
2 which rates in this case are in effect is considerably
3 higher than the level that AmerenUE proposes and even at
4 the level that the Staff proposes.

5 And finally, Pure Power. There has been an
6 issue with respect to the Pure Power program going back to
7 even before it was called Pure Power, when it was the
8 Voluntary Green Power Program. Public Counsel has
9 supported the testimony of Staff witness Michael Ensrud.
10 We believe that this program offers customers too little
11 bang for their buck. It has been misleadingly marketed
12 and does not really inform customers of what they're
13 getting and should be discontinued in its current form.

14 Thank you very much.

15 JUDGE WOODRUFF: Thank you. Opening for
16 the State.

17 MR. IVESON: Thank you, Judge Woodruff and
18 Commissioners.

19 Mr. Thompson and Mr. Mills spoke about some
20 of the customers that would be affected by this rate
21 increase, and they left out my client, the State of
22 Missouri, who obviously when the State of Missouri pays
23 increased rates, the citizens of the state of Missouri pay
24 increased rates. So you need to take that into
25 consideration, as well as local governments. This rate

1 increase will affect everybody in the state.

2 Both the Staff and Public Counsel have
3 addressed many of the issues that I intended to address,
4 so I'll keep it very brief. With respect to the return on
5 equity, I think you will find that Mr. Gorman's testimony
6 is very credible, and I think you'll find that the
7 company's expert, whenever faced with a choice between two
8 relatively reasonable alternatives, made the choice that
9 would increase the recommended return on equity.

10 And I think it's also important in this
11 context to keep in mind the general principle of
12 ratemaking. Ratemaking has to take the long view, not the
13 short view. I think Mr. Lowery used the word
14 unprecedented when he was referring to the increases in
15 costs over the last 18 months, two years. And that, in
16 fact, is true.

17 The last two years our economy has seen
18 things it hasn't seen for ages, increases in costs and, in
19 the last couple of months, decreases in costs. Not that
20 it's directly relevant here, but you'll remember we were
21 talking about a \$150 barrel of oil not too long ago. The
22 price now is down around \$50. Commodity prices are
23 falling.

24 So we need to take the long view, not look
25 at what's happened in the last 18 months, except insofar

1 as it's part of the test year, not look at what's happened
2 in the last two months and say, the sky is falling, we
3 need to address this. Market irregularities work out over
4 time. When this rate increase goes in, it may be a short
5 period of time to the next rate case. It may be 20 years,
6 like it was between the last two rate cases. So we need
7 to take the long view. You need to take the long view
8 when determining what the proper return on equity is.

9 The other issue I'll address briefly is the
10 fuel adjustment clause. The way the company reads that,
11 the three-part test the Commission has put in place is
12 that the costs have to be substantial so they materially
13 affect the company. Nobody disputes that. Their fuel
14 costs are substantial. But then it also has to be
15 sufficiently volatile. Volatile. Not uncertain, but
16 volatile, so that the price goes up and down and there are
17 swings -- swings means back and forth -- in cash flow or
18 income. They have not met their burden on that issue in
19 this case.

20 They also claim they don't have substantial
21 control over the costs because they don't control the
22 commodity markets. Well, I would like you to think for a
23 moment about what they're suggesting here. They're
24 suggesting that any vertically integrated utility must get
25 a fuel adjustment clause. They're saying the Commission

1 doesn't have any discretion. Why is that? Well, costs
2 will be substantial. Nobody controls the commodity
3 markets even though they have substantial hedging in place
4 to exercise substantial control over it, which is our
5 position. And costs are always uncertain looking to the
6 future. You never know what your costs are going to be.

7 Now, they equate uncertainty and volatility
8 in this case. Their witnesses do that time and again.
9 They talk -- the evidence relates to uncertainty, but they
10 always say it's uncertain and volatile because it's
11 uncertain. So they've never addressed the issue of
12 volatility.

13 So our position in this case is that
14 AmerenUE does not need a fuel adjustment clause at this
15 time in order to earn a fair and reasonable return. Thank
16 you.

17 JUDGE WOODRUFF: Thank you. Opening for
18 DNR.

19 MS. WOODS: Good morning, Mr. Chairman,
20 Commissioners, Judge Woodruff. May it please the
21 Commission?

22 My name is Shelley Ann Woods, and I do
23 represent the Missouri Department of Natural Resources, in
24 particular its Energy Center, in this case before you.
25 The Department has offered testimony on one issue, which

1 is No. 14 on the list of issues that Staff has filed in
2 this case. That issue is -- has a few subparts, but
3 predominantly it revolves around low income
4 weatherization.

5 The Department is asking that AmerenUE
6 provide \$1.2 million in funding for a low income
7 weatherization program to be implemented in the counties
8 being served by AmerenUE.

9 I believe the issue of low income
10 weatherization is scheduled to come before the Commission
11 on November 25th, which is a Tuesday, and I will reserve a
12 more detailed opening for that time. Thank you.

13 JUDGE WOODRUFF: Thank you. For MIEC.

14 MS. VUYLSTEKE: Good morning. May it
15 please the Commission?

16 I think it's extremely important for the
17 Commission to bear in mind in this case that Missouri's
18 economy is in a precarious position. The Commission is
19 part of the Department of Economic Development, and our
20 former director and the Governor have recognized that
21 reasonable utility rates are an essential part of DED's
22 mission in promoting job growth in our state.

23 And if you look at the situation, I think
24 everyone knows that industry in Missouri has suffered
25 greatly. We have lost 25 percent of our manufacturing

1 sector in the last ten years. Missouri has lost 15,000
2 jobs in 2008 alone. Missouri's economy is suffering more
3 even than the national average. And the impact of the
4 Commission's decision in this case is not an exaggeration
5 to say that it could make a difference in whether a
6 Missouri manufacturing plant stays open or closes.

7 Wholesome has announced that it's closing
8 its Clarksville plant. Chrysler has announced that it's
9 cutting 2,400 jobs. It's reducing production so much that
10 the ripple effect could be 8,000 jobs and a loss of
11 \$25 million in state revenues and a billion dollars in
12 production in our state overall.

13 I think that the Commission should keep
14 this in mind in the sense that you will hear arguments
15 that economic uncertainty is a reason to perhaps err on
16 the side of providing AmerenUE with a higher return, for
17 shifting risk to customers. We think this is absolutely
18 the wrong direction to go in because the Commission's
19 order could be in effect for some length of time. It
20 could be longer than several years. As the State pointed
21 out, it could be in place for many years.

22 And while Ameren can come back to the
23 Commission if it feels it needs additional revenue to
24 cover its cost, if the Commission errs on the side of
25 granting Ameren too much of a rate increase, anything more

1 than that is absolutely necessary, the damage to our
2 economy could be irreparable.

3 So we will address the specific issues of
4 concern to MIEC that we've presented testimony on as those
5 issues are addressed in the hearing. We have testimony on
6 return on equity. We have testimony on off-system sales,
7 fuel adjustment clause and rate design. We will address
8 those issues individually.

9 But from the perspective of industry that's
10 in a very precarious position in our state, we just urge
11 the Commission to keep in mind the impact that its
12 decision in this case will have for many years to come.
13 Thank you.

14 JUDGE WOODRUFF: For MEG.

15 MS. LANGENECKERT: I will reserve my
16 opening statement until the issues for which we have
17 testimony.

18 JUDGE WOODRUFF: Commercial Group is up
19 next and they're not here today. Noranda.

20 MR. CONRAD: Good morning, your Honor, and
21 may it please the Commission? Good morning, Mr. Chairman
22 and Commissioners.

23 My name is Stu Conrad, and I'm here on
24 behalf of Noranda Aluminum. And in that capacity, I'd
25 like to plant a couple of numbers in your minds, 34 and

1 14. Now, that's not a football score, certainly not one
2 that involves the Kansas City Chiefs. 20 years ago there
3 were 34 primary aluminum plants, smelters, in the United
4 States. Today, as of this morning, there are 14.

5 Noranda, this state's largest retail load,
6 intends to do everything that it can to remain standing.
7 It is struggling with the fragile economic conditions that
8 seem to be spiraling almost out of apparent control in
9 this country. Yesterday the market was down 471 points
10 and dropped below 8,000. I believe that's the lowest
11 close in five years and appears to be headed on down.
12 Warren Buffet's stock now can be bought for \$84,000 a
13 share, down from 151,000 about six months ago, a
14 77 percent drop in his company's earnings.

15 So Noranda is not an isolated example. Far
16 from it. But it is located in southeast Missouri, and
17 southeast Missouri, your Honors, has not been privileged
18 to be part of much of the economic upswing in this country
19 and in this state. Indeed, one only need to pick up the
20 newspaper or watch this morning's television to see what
21 is going on in this country and its financial situation.

22 But with cooperation, with cooperation
23 Noranda can remain standing and continue to be one of
24 those surviving companies. Primary aluminum is a
25 commodity. It is traded on what is called the LME, or

1 London Metal Exchange. That is a worldwide market.
2 Noranda cannot control that market, but it must sell its
3 product into it. In the past three months there has been
4 a 44 percent decline in the LME commodity price for
5 aluminum. Now, you heard counsel for UE state that his
6 company was increasing its costs for aluminum wire.
7 That's not going to last very long.

8 You heard him talk about timing and others
9 talk about timing. Your Honors, this is not a good time
10 from Noranda's perspective to be dealing with a major rate
11 increase. We have put forward evidence in this case to
12 show you that Noranda is doing everything that it can do
13 to manage its costs, to control them, to increase its
14 efficiency within the confines of existing technology.

15 Those of you who have been to the plant in
16 New Madrid, to the smelter, can appreciate not only the
17 extent of the investment but the extent of the investment
18 that is made on efficiency and being able to use
19 electrical power in the most efficient way that it can.

20 And we believe we've put forward a
21 compelling case to show you Noranda's economic impact on
22 southeast Missouri. We've put forward evidence of
23 Noranda's impact on the community, including without
24 limitation \$2.6 million to the local schools. Suppliers
25 are dependent on Noranda, including without limitation one

1 major supplier, AmerenUE. Test year revenues paid by
2 Noranda for electrical power were in the range of
3 \$130 million.

4 Noranda has an impact on local businesses,
5 local employees, and even many of its shareholders who are
6 local. We really don't think that impact is subject to
7 dispute.

8 Now, we understand that Ameren argues that
9 it needs \$250 million more in rate relief. Let's be
10 clear. Noranda is willing to pay the cost of providing
11 our service, but not more. And I'll speak more about this
12 when we get to the class cost of service issues that are
13 on schedule for a couple of weeks from now.

14 But at a very high level you should know
15 that AmerenUE's own cost of service study shows that
16 Noranda is presently, presently paying 6 percent more than
17 its costs. Accordingly, it follows that Ameren could
18 receive a 6 percent rate increase, which is well above
19 where Staff's number is. And Noranda under that cost of
20 service study should see no cost increase at all, zero.
21 And yet Ameren seems unwilling to recommend following the
22 results of its own cost of service study.

23 Now, I mentioned that cooperation is the
24 key to maintaining an economically viable platform at the
25 Noranda smelter near New Madrid. These economic times,

1 somebody used the term unprecedented. And I've been in
2 practice a little bit longer than your General Counsel,
3 but I cannot recall in the 30-plus years that I've been in
4 practice any time that we have faced the circumstances
5 economically that we are in this country today. I don't
6 need to overdramatize it. It's out there.

7 But Noranda's model is to continue economic
8 growth for all and preserving the economic benefits of its
9 operations, not only for its owners, not only for its
10 employees, not only for its suppliers, but for the state
11 of Missouri. But that takes cooperation.

12 Now, Ameren has made a major component of
13 this case its request for an FAC, fuel adjustment clause.
14 When we started this case, we did not favor that. We have
15 moved our position, and we have done so not reluctantly
16 but in some degree of expectation that it will result in a
17 lower overall cost structure for Ameren. We have moved
18 our position to a conditional support for the FAC.

19 Those conditions we will get into at a
20 later time. They are intended to increase the degree of
21 consumer protection that's built into that and to help to
22 assure that the result of implementing an FAC for this
23 company, for this utility company results in a lower cost.
24 But I'd like to -- and we'll develop that more when we get
25 to that point.

1 But I'd like to suggest to you that what
2 seems to have been forgotten in all of this is that a
3 public utility is in my book a public trustee. It cannot
4 operate like some island kingdom that is separate and
5 independent of the people and the businesses that it
6 serves.

7 Now, Ameren wants to argue, and you've
8 already heard the terminology, that you should regulate in
9 the mainstream of public utility regulation. Well, I'd
10 suggest to you that while that might or might not be
11 possible in normal economic times, what needs to concern
12 this Commission in this case is not the mainstream but
13 rather Main Street.

14 When Ameren or its witnesses want to talk
15 to you about mainstream, I'd like for you to think about
16 Main Street, Missouri. When they want to talk to you
17 about mainstream rates of return, think of the rates of
18 return that Main Street is earning on its investments in
19 banks, in stocks, in retirement savings. When Ameren or
20 its witnesses want to talk to you about mainstream
21 approaches to cost recovery, think instead about Main
22 Street and whether Main Street is able to pass its costs
23 to someone else or whether they just have to absorb them.

24 So when Ameren talks to you about
25 mainstream, think of the impacts on the Main Streets of

1 Cooter, the Main Streets of Haiti, the Main Streets of
2 Caruthersville and new Madrid, of Deering, of Steele, of
3 Shade and Marston, Main Streets filled, your Honors, with
4 ordinary Missouri folk who are profoundly concerned about
5 what is happening and watching helplessly as their
6 savings, investments and their employments are decimated.
7 It's Main Street folks, not mainstream, that we need to be
8 concerned about.

9 34 and now 14. This Commission has within
10 its hands the ability to adjust those numbers. I thank
11 you for your attention, but I would thank you more if you
12 would choose to be attentive to my client's earnest plea.
13 34 and 14.

14 JUDGE WOODRUFF: Thank you, Mr. Conrad.
15 For AARP and Consumer Council.

16 MR. COFFMAN: Good morning. May it please
17 the Commission?

18 I'm John Coffman. I'm representing today
19 both the AARP and the Consumers Council of Missouri, two
20 independent organizations concerned about residential
21 ratepayers, here today with the same positions, though, on
22 all the issues I'm going to speak to.

23 I won't belabor most of them, but I will
24 start off, as others have, and ask that you in considering
25 the financial situation of AmerenUE for whom you have

1 clause, if you feel compelled, despite all of the
2 well-reasoned arguments against it, please consider
3 transferring no more than 50 percent of the fuel costs in
4 the base rates and consider putting no more than 50
5 percent into the fuel clause. My clients support the
6 position on fuel adjustment clause that has been taken by
7 the Office of Public Counsel.

8 I won't go into any other issue other than
9 one that is kind of novel. I suppose it's out of the
10 mainstream, and it's an idea that AARP has been working on
11 for several years, and this is the idea of a hot weather
12 safety program. What this would do is provide a modest
13 financial incentive to low income senior citizens in order
14 to encourage them to turn on their air conditioners during
15 the very hottest days of the summer in order to protect
16 their health and safety.

17 There is increasing concern about this
18 public health issue. If you look at the mortality rates,
19 heat waves are very serious. In fact, if you consider a
20 heat wave a natural disaster, it is the deadliest natural
21 disaster of them all, having more deaths than floods and
22 earthquakes and other disasters combined.

23 Every year in Missouri we have deaths from
24 hyperthermia and they are recognized, but there are recent
25 studies now suggesting that the reporting of deaths as a

1 result of extreme heat are underreporting the problem, and
2 that injury and death is severe. And we now have as of
3 this year in Missouri a hot weather rule by statute, which
4 thankfully -- and recognizing that hot weather is as
5 important as cold weather safety.

6 However, one of the tragedies are that many
7 of these deaths that occur are of individuals who still
8 have their electricity. They're still hooked up and, in
9 fact, have air conditioners and are simply not running
10 them. And we suspect that a great number of those are not
11 turning on their air conditioning because of the fear of
12 how high their electric bills might be. And AmerenUE has
13 participated in a survey that confirms this. We think
14 that we could -- that perhaps more research needs to be
15 done.

16 So without going into too much detail,
17 we'll do that more on December 1st, let me just tell you
18 basically what the program would do. We would like to see
19 every household with an individual over 65 that is a
20 household that is at 175 percent of the federal poverty
21 level be able to receive a couple of bill credits that
22 would be targeted as enough to encourage them to run their
23 air conditioner where they otherwise might not.

24 You'll see that in the reconciliation as
25 about a \$1.4 million program. AmerenUE is not yet

1 convinced, although we've been talking with them for
2 several months, and we believe we've worked out many of
3 the operational details of how this program would work,
4 they are not convinced and don't believe that it's
5 worthwhile. Although we have -- we are now modifying our
6 proposal to a pilot program, one that would cost \$470,000
7 essentially, and would be designed to cover St. Louis and
8 one other community in Ameren's service territory. We
9 don't really care, but we think that this is at least
10 worth studying.

11 There's significant interest in this
12 statewide in at least getting some data. If you don't
13 think that this program will work to save lives, we ask
14 that you at least order a pilot program to be done. We
15 think that we can do a good pilot and that we can study
16 it, and that this cost includes the cost for
17 administrative cost and for study.

18 And just again in conclusion, I would
19 remind you how much money we already spend in this state,
20 and the public understands it's important to protect
21 families during the cold wether. We spend tens of
22 millions of dollars, federal LIHEAP money and UtiliCare,
23 protecting families from the cold weather, and yet we have
24 virtually no deaths each year from hypothermia.

25 But the health risk is clear from

1 hyperthermia. We know who's affected. It's primarily
2 older individuals primarily who live alone, and we think
3 that this program can be narrowly targeted to those
4 specific low income seniors, and we believe it can be
5 targeted to the time period when they are most at risk,
6 and we believe that it can encourage safe behavior.

7 And we look forward to presenting the
8 testimony of John Howat of the National Consumer Law
9 Center and getting into more details of that program.
10 That's all I have. Thank you.

11 JUDGE WOODRUFF: Thank you. Next up is
12 unions, and I don't believe they're here. Missourians for
13 Safe Energy.

14 MR. ROBERTSON: May it please the
15 Commission and your Honor? Henry Robertson on behalf
16 Missourians for Safety Energy and Missouri Coalition for
17 the Environment.

18 Our intervention is limited to the
19 Callaway 2 COLA issue. Suffice it to say at this time
20 that allowing shifting those costs from CWIP into cost of
21 service would violate the plain and broad language of the
22 no-CWIP law. I also raise the issue of whether these
23 costs can be recovered when there's been no determination
24 of convenience and necessity for the new unit. And while
25 I realize that that is a subject of a separate proceeding,

1 I think Ameren has made it relevant by seeking recovery at
2 this time.

3 So I think that before you consider
4 allowing recovery of these COLA costs, that the Commission
5 could and should direct Ameren to seek a determination of
6 convenience and necessity. Thank you.

7 JUDGE WOODRUFF: Thank you. The last party
8 on the opening statement list is Laclede. Does Laclede
9 wish to make an opening? Not here, I guess.

10 All right. Well, then, that concludes the
11 opening statements. At this time we'll go ahead and take
12 a break. We'll come back at 10:15 with the overview and
13 policy issues.

14 (A BREAK WAS TAKEN.)

15 JUDGE WOODRUFF: Let's go ahead and get
16 started. I believe the first issue is the overview and
17 policy issue. And do any of the parties wish to make a
18 mini opening on this issue or should we go ahead and just
19 get started with the witness?

20 MR. BYRNE: Just go ahead.

21 JUDGE WOODRUFF: Call the first witness,
22 then, which would be Mr. Voss.

23 MR. BYRNE: Your Honor, I call Thomas R.
24 Voss to the witness stand.

25 JUDGE WOODRUFF: Good morning, Mr. Voss.

1 Please raise your right hand.

2 (Witness sworn.)

3 JUDGE WOODRUFF: Thank you very much. You
4 may inquire.

5 THOMAS R. VOSS testified as follows:

6 DIRECT EXAMINATION BY MR. BYRNE:

7 Q. Good morning, Mr. Voss. Can you please
8 state your name and business address for the record.

9 A. Thomas R. Voss, 1901 Chouteau Street,
10 St. Louis, Missouri.

11 Q. And by whom are you employed, Mr. Voss?

12 A. I'm employed by AmerenUE.

13 Q. And what's your title?

14 A. I am Chairman, President and Chief
15 Executive Officer of AmerenUE.

16 Q. And Mr. Voss, are you the same Thomas R.
17 Voss who caused to be filed in this case direct testimony
18 that has been marked Exhibit No. 1 with HC, highly
19 confidential and NP versions, and rebuttal testimony
20 that's been marked Exhibit 2?

21 A. Yes, I am.

22 Q. And is the information contained in that
23 prefiled testimony true and correct to the best of your
24 knowledge and belief?

25 A. Yes, it is.

1 Q. And do you have any corrections you'd like
2 to make to that testimony at this point?

3 A. I do not have any corrections.

4 Q. Okay. And if I was to ask you those same
5 questions contained in that prefiled testimony today when
6 you're here under oath, would your answers be the same?

7 A. Yes, they would.

8 MR. VOSS: Okay. And I guess with that,
9 your Honor, I'd like to offer Exhibit No. 1, HC and NP
10 versions, and Exhibit No. 2, and tender Mr. Voss for
11 cross-examination.

12 JUDGE WOODRUFF: Actually, according to the
13 schedule, it's -- exhibits that your company filed, 1 is
14 the HC direct, 2 is the NP direct and 3 is rebuttal.

15 MR. BYRNE: Oh, okay. That's not what I
16 have on my list, but I'll offer Exhibits 1, 2 and 3, then.

17 JUDGE WOODRUFF: All right. Thank you.
18 Exhibits 1, 2 and 3 have been offered into evidence. Are
19 there any objections to their receipt?

20 (No response.)

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

23 (EXHIBIT NOS. 1HC, 1NP AND 2 WERE MARKED
24 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

25 (REPORTER'S NOTE: See page 177 of the

1 transcript regarding change in numbering.)

2 JUDGE WOODRUFF: All right. For
3 cross-examination, then, beginning -- Laclede's not here.
4 The union's not here. Safe Energy?

5 MR. ROBERTSON: No questions, your Honor.

6 JUDGE WOODRUFF: DNR? She's not here
7 either. Commercial Group's not here. MEG?

8 MS. LANGENECKERT: No questions.

9 JUDGE WOODRUFF: AARP and Consumer Council?
10 Noranda?

11 CROSS-EXAMINATION BY MR. CONRAD:

12 Q. Good morning, Mr. Voss.

13 A. Good morning.

14 Q. Let's go right to one of the issues that
15 seems to be key. I see, Mr. Voss, from your testimony
16 that you cite two reasons for an FAC. One is the
17 existence of something that's termed regulatory lag, and
18 the second is volatility of fuel prices; am I correct?

19 A. Yes, those are two reasons.

20 Q. Now, the regulatory lag problem that you
21 mentioned results from an 11-month -- actually a 10-month
22 period roughly that's specified by Missouri law and the
23 use of an historical test year; isn't that correct?

24 A. Yes. It's the effect of when you actually
25 do the true-up until the time the actual rates go into

1 effect, there could be substantial portions of your fuel
2 costs that you're not able to recover ever, forever.

3 Q. Let's look at those costs for just a
4 moment. Would you agree with me that to solve the
5 regulatory lag problem for fuel prices, that you need to
6 raise prices to consumers sooner when prices are going up?

7 A. Yes. That's correct.

8 Q. Correspondingly, you would need to reduce
9 them more quickly if and when we again got to a declining
10 cost environment?

11 A. That is correct.

12 Q. Then you would agree, I take it, that the
13 reason you need and want a fuel rider is to raise prices
14 sooner so you can recover the legitimate costs of doing
15 business; isn't that correct?

16 A. In a rising cost environment, that's
17 correct.

18 Q. And I take it from that that the rates of a
19 utility should collect the legitimately -- legitimate
20 prudently incurred costs of the utility; am I correct?

21 A. Yes, that's correct.

22 Q. Should you collect more than that?

23 A. No. We're not -- we're asking for
24 mainstream treatment. We want to be -- this case we think
25 is very simple. We think we've asked for what we've

1 actually needed, and we think that it will help us prepare
2 for the future and ensure our energy security in the
3 future.

4 Q. You doubtless agree with me that the rates
5 should include a provision for a reasonable profit for the
6 utility, shouldn't they?

7 A. We should have an adequate rate of return
8 in our rates, yes.

9 Q. And I take it you would agree that even a
10 reasonable profit margin is treated as a cost for these
11 purposes, isn't it?

12 A. It is a cost that's passed on to our
13 customers, that's correct.

14 Q. Now, should customers of a utility be asked
15 to pay something yet in addition to this? Should they be
16 asked to pay an excess profit for the utility?

17 A. We're not asking for excess profits.

18 Q. Should they be asked to pay one?

19 A. No. We feel like customers should pay what
20 their tariffed rates are, which we think is a fair rate of
21 return, one that's set by the Commission.

22 Q. But not something that's -- returns an
23 excessive profit to the utility; is that correct?

24 A. We don't think that's possible.

25 Q. You don't think it's possible, sir, because

1 it would be in your view impossible for a utility ever to
2 return an excess profit?

3 A. Excessive profits I think would be very
4 unlikely in this environment and in this state and with
5 the regulatory schemes that we have here.

6 Q. Now, you understand that I'm here on behalf
7 of Noranda, correct?

8 A. I understand that.

9 Q. And would you agree with me that the
10 smelter, which I believe is your largest retail consumer
11 in this state, ought to pay its fair share of your costs?

12 A. Yes, I believe that's true.

13 Q. And to that end, Ameren has supplied a cost
14 of service study in this proceeding, has it not?

15 A. Ameren has filed a cost of service study,
16 that is correct. I think Mr. Cooper is going to be
17 explaining that in detail later on in the proceedings.

18 Q. And as we discussed earlier, your company
19 should have the opportunity for a fair return based on
20 costs incurred to serve Noranda, right?

21 A. That's correct.

22 Q. And has the Noranda technical witness
23 testified in conditional support for a fuel rider that
24 will help AmerenUE earn a fair overall return on equity?

25 A. There has been testimony filed by Noranda

1 that would support a fuel adjustment, but it was well
2 outside of mainstream.

3 Q. Let me ask you again. Has he testified in
4 conditional support for a fuel rider?

5 A. There was -- yes, he has testified.

6 Q. Now, is it your position that a customer
7 such as Noranda who has paid all of the costs and has
8 offered to support an FAC upon reasonable conditions that
9 it considers to be reasonable to enhance your ability to
10 earn an allowed return should then be asked to pay rates
11 higher than the cost of service that you are providing?

12 A. No, you should not have to pay rates higher
13 than what is embedded in our tariffs and that's set by our
14 commission.

15 Q. Let me ask you again. Should they be asked
16 to pay rates higher than the cost of service that you are
17 providing?

18 A. It could be. Our cost of service is just
19 one way of looking at the data and determination of how
20 the cost of service should be allocated, and there's many,
21 many factors that are involved in actually how that turns
22 into a tariff, and that's really up to the Commissioners
23 to decide.

24 I believe our recommendation was across the
25 board increases this time, and I believe that was based on

1 the fact that that was an agreed-upon principle at the
2 last rate case, and really it was something that the
3 Commission accepted at that point in time. So once again,
4 you know, I believe there's a number of factors that
5 determine how you calculate costs, and there's a number of
6 ways you can do the studies, but I think that will be up
7 to the Commissioners to decide.

8 Q. Are you asking, based on your
9 recommendation as compared to your cost of service study,
10 Noranda to pay more than its cost as defined by that
11 study?

12 A. Yes, we are.

13 Q. Do you take the position that it would be
14 unreasonable for Noranda to suggest that you take a second
15 look at that testimony you mentioned by Mr. Cooper that
16 would perpetuate an above cost rate for Noranda under your
17 own cost study?

18 A. As I said, you know, we certainly are open
19 to relooking at that issue. We think there was a
20 consensus already established that the way the rates are
21 designed now, it's fair and equitable, and we're -- you
22 know, we would support the current arrangement of how the
23 costs are allocated.

24 Once again, if that would want to be
25 brought up, we're willing to engage in that discussion to

1 see if there should be some adjustments made. Noranda is
2 paying some very, very low rates right now, and certainly
3 well below market rates, and I can see how some people
4 would think that those rates are fair and justifiable.

5 Q. Have you made any directions to Mr. Cooper
6 in response to Noranda's suggestions that a second look at
7 that recommendation be taken?

8 A. I have asked Mr. Cooper to look over his
9 position on that issue. I think he's pretty comfortable
10 with the position that he's already established in this
11 case, but you can certainly ask him later on in this
12 proceedings and clarify that position.

13 Q. And we'll do so, sir. Do you or Mr. Cooper
14 at this time have any changes to the AmerenUE
15 recommendations for the rates you've proposed to charge to
16 the Noranda smelter to bring them in line with your own
17 cost of service study?

18 A. No, I do not.

19 Q. Mr. Voss, I take it that you believe that
20 most AmerenUE employees are good, faithful and efficient,
21 right?

22 A. Yes, I do.

23 Q. And they give full value of work for their
24 pay, don't they?

25 A. Most employees work very hard.

1 Q. You're not aware of any slackers out there?

2 A. I'm not aware of any, no.

3 Q. Let's look at page 14 of your rebuttal
4 testimony. I believe that's marked as Exhibit 3. Let me
5 know when you're there, please, sir.

6 A. Okay.

7 Q. I'd like to focus you on lines 2, 4, where
8 you characterize the incentive pay program as being, read
9 along with me here, specifically designed to put a portion
10 of the employee's market-based pay at risk each year in
11 order to create a greater incentive for the employee to
12 produce value for customers and shareholders. Did I read
13 that correctly?

14 A. Yes, you did.

15 Q. Now, I read this portion of your testimony
16 to suggest that you redesigned these programs following
17 the last rate case. Is that correct?

18 A. Yes, we did.

19 Q. And if you look now at line 7, same page --
20 by the way, you were here when your counsel made his
21 opening statement, were you not?

22 A. Yes, I was.

23 Q. And you heard him say that the programs
24 have been modified to decouple them from earnings?

25 A. Yes.

1 Q. You agree with that?

2 A. Yes.

3 Q. Then help me understand, then, on line 7
4 how the word substantially decouple relates and how that
5 distinguishes what you did from a complete decoupling.

6 A. Well, there's a -- originally the trigger,
7 the funding mechanism for earnings, for the pay at risk
8 was based on the company's earnings per share. We took
9 that trigger off so that it's based directly on the
10 employee's performance in key performance areas. Those
11 key performance areas are issues like safety, customer
12 satisfaction, reliability, emissions, plant availability,
13 and controls, budget controls.

14 Some people could interpret the budget
15 controls eventually relate to earnings, but we think
16 budget controls are very important for us to keep our
17 rates where they are now, which is substantially 40
18 percent below the national average. We work hard at that,
19 and we drive the point home with our employees that they
20 need to be good stewards of the budgets that they're
21 entrusted with.

22 Q. Why did you feel it necessary to insert the
23 word substantially rather than adopt the language that
24 your counsel used?

25 A. Well, again, substantially is -- we have

1 decoupled it completely from earnings per share, but there
2 is some related influence when you look at budget
3 adherence. Obviously if you did not keep your budgets in
4 line, it would eventually affect earnings, but only in an
5 indirect way.

6 Q. Let's move back to the forest from the
7 trees for a moment. Would you agree with me that unless
8 some behavior is being encouraged or incented or
9 incentivized -- I'm not sure how to make a verb out of
10 that noun -- such pay isn't needed?

11 A. I'm sorry. Could you repeat that?

12 Q. Well, would you need the pay if you weren't
13 trying to incentivize something?

14 A. You know, the pay is --

15 Q. No. Just try to answer my question,
16 Mr. Voss.

17 A. I'm sorry.

18 Q. Would you need the pay if you were not
19 trying to incentivize something?

20 A. I'm not sure what pay you're referring to.

21 Q. Incentive pay that you're characterizing
22 here on your rebuttal testimony that you're defending.

23 A. You know, we need to pay our employees
24 market-based rates.

25 Q. I understand that. Let's work on my

1 question, please, sir.

2 A. Okay. I'm trying to understand it. That's
3 all.

4 Q. All right. Would you need to pay incentive
5 pay if you weren't trying to incentivize something?

6 A. I think we would need to make those
7 payments to our employees one way or another, but the best
8 way would be to give them something to work on that would
9 be better off for the customers and better off for the
10 shareholders.

11 Q. Well, then why do you -- no. You
12 characterize this as incentive pay, correct?

13 A. It is part of their pay, part of their
14 market-based pay, and that is putting at risk. That's how
15 I would refer to it as.

16 Q. And if I look again at page 14, line 13,
17 you characterize this as being necessary to attract,
18 retain, and then I see there the word motivate skilled
19 employees. What is it you're trying to motivate them to
20 do by this payment?

21 A. Look for ways for continuous improvement.
22 We think that if you -- you have to pay mainstream rates,
23 otherwise you'll lose the best employees. Then when you
24 give them what is market-based rates and pay, then you
25 want to also encourage them to continue to do the right

1 thing and find ways to continue to improve the operations
2 of the company, which improve our ways of giving service
3 to our customers.

4 Q. And again, you were here when your counsel
5 made an opening statement, correct?

6 A. Yes, I was here.

7 Q. And did you hear him characterize the
8 incentive compensation as a means of encouraging the
9 employees to contain costs?

10 A. Yes, I did.

11 Q. You agree with that?

12 A. It is part of the component of it. Budget
13 compliance is usually one of the five or six key
14 performance indicators that the employees are evaluated
15 on.

16 Q. So are you suggesting that AmerenUE
17 employees would produce the same value for customers and
18 shareholders if these incentive pays did not exist?

19 A. I would say if incentive pays were not
20 there, they would not produce the same values that they
21 are now.

22 Q. So your testimony then with respect to that
23 incentive is that establishing an incentive does, in fact,
24 encourage them to produce value for customers and
25 shareholders that otherwise would not exist, correct?

1 A. I would agree with that.

2 Q. So now turning to the structure of the fuel
3 clause, are you stating to me that incentives no longer
4 matter?

5 A. No, I'm not saying that. I've never said
6 that.

7 Q. Indeed, isn't it true that you're
8 suggesting that there are already some incentives in the
9 form of regulatory lag and so no more incentives are
10 needed?

11 A. That's not true. There's plenty of other
12 incentives. We have incentives in individual performance
13 indicators with individual employees. We have incentives
14 involved with our coal pulling program. We have
15 incentives involved with the fact that our employees are
16 supposed to live Ameren's values, and part of those values
17 is to deliver good service to our customers at our lowest
18 cost, something that we've been doing for over 100 years
19 and aren't likely to change in the near future.

20 Q. Now, Mr. Voss, the people who do the
21 purchasing of fuel for your company and the people that
22 monitor how off-system sales are handled, are they on the
23 incentive program?

24 A. All of our employees are on an incentive
25 program.

1 Q. So the people who do the purchasing --
2 excuse me. Strike that.

3 So you have a setup, then, where employees
4 apparently need this incentive as encouragement to produce
5 value for customers and shareholders, but at the same time
6 Ameren isn't willing to accept a meaningful financial
7 incentive to encourage it as a company to keep its net
8 fuel costs low; isn't that correct?

9 A. That's not correct. I think we feel we
10 have plenty of financial incentives even with the proposed
11 fuel adjustment rider as we proposed it to ensure that we
12 still do a very good job of serving our customers. In
13 fact, if you look at our PGA analysis in gas, we really
14 have no particular financial incentives involved for the
15 employees over and above their own individual key
16 performance indicators.

17 I think everybody would recognize that
18 those employees have done an outstanding job over many,
19 many years that we've had a gas adjustment mechanism
20 without any other kind of adjustments needed, and that's
21 just 100 percent plan.

22 Q. Let's focus for a moment back on that
23 phrase on lines 2 and 3 on page 14. Are you with me?

24 A. Yes, I am.

25 Q. And there you indicate that a portion of

1 the market-based pay is put at risk each year through the
2 program, correct?

3 A. That is correct.

4 Q. What is the portion that is put at risk?

5 A. The part that's the incentive compensation.

6 Q. Well, that's circular. What is the portion
7 of the employees' pay that is put at risk that you're
8 referring to here?

9 A. It's the portion of their pay that's based
10 on -- you know, that's being judged, and they get it based
11 on their performance on key performance indicators. It
12 varies. If you're looking for percentage, it varies from
13 the type of employee, and -- and I don't have those exact
14 breakdowns what it is, but it ranges from I believe
15 something like 6 percent to as much as 60 percent
16 depending on where they are in the corporation.

17 Q. Okay. Taking that example for a moment,
18 and all other things being equal, which of two employees
19 is going to be more highly motivated, one whose 6 percent
20 pay is at risk or the one whose pay is 60 percent at risk?

21 A. Well, you know, there's certainly incentive
22 for 60 percent to be more motivated than 6 percent, but
23 I'm not saying employees are only motivated by pay,
24 though. There's certainly a lot of other things that
25 motivate our employees. Just the fact that they come out

1 to work on a moment's notice without --

2 Q. Thank you, Mr. Voss.

3 A. Thank you.

4 Q. Now, if an employee does not get an
5 incentive pay boost in a given year, that portion of their
6 market-based pay, as you've characterized it, is lost to
7 them, right?

8 A. Yes, it is.

9 Q. So they don't get a chance to recover that
10 at a later period if they do superlative work, do they?

11 A. Not -- not for the -- it's based on the
12 past performance. Certainly they can recover the next
13 year, and certainly if they do superlative, they will be
14 rewarded that following year.

15 Q. What they lost in year one, if you will,
16 that's gone?

17 A. That is gone, although there's plenty of
18 flexibility in the plan to overcompensate one the
19 following year.

20 Q. We'll -- maybe some else can go into the
21 instances when employees are overcompensated, but I'm glad
22 to know that's a potential. No option for them to recover
23 that, I guess. That wouldn't really be true, though, with
24 respect to a portion of the fuel costs that wasn't passed
25 through immediately through the FAC, would it?

1 A. The fuel costs that aren't passed through
2 the FAC, right now we don't have an FAC, is that what
3 you're saying? Without an FAC, we permanently lose those
4 fuel costs.

5 Q. In your view, you'd permanently lose them,
6 is that your testimony?

7 A. The current situation, without a fuel
8 adjustment clause, every year there is the increased cost
9 of fuel that we lose just because of the lag in the rate
10 case proceedings, and as Mr. Lowry pointed out, it was
11 something like 42 million I think in the last rate case
12 just because of the fact that it was trued up 'til January
13 and then the rates didn't go in effect until June.

14 Q. Filing a rate case would you agree with me
15 is something that's done at UE's option?

16 A. Yes, it is our option. Of course, it's
17 also up to the Commission to file a complaint case, the
18 Commission Staff, should they see fit, which they did in
19 2002.

20 Q. And that's -- that topic has come up a
21 couple of times. What was the result of that complaint
22 filing?

23 A. The result was a settlement that reduced --

24 Q. Resulted in what?

25 A. Reduced rates four different times in

1 UE's --

2 Q. How much in total?

3 A. I'm not familiar with the exact amount.

4 Q. Okay. I think we had established that the
5 filing of a rate case would be at UE's option, except for
6 this complaint exception that you mentioned; is that
7 right?

8 A. That's correct.

9 Q. Now, you'd agree with me that UE might be
10 able to offset some of those base fuel costs with some
11 other cost savings in other areas, correct?

12 A. It's very unlikely since it's such a high
13 component of our costs.

14 Q. You want to characterize it as unlikely.
15 The question was, would it be possible?

16 A. Sure.

17 Q. And that could include efficiencies that
18 might be gained by employees who were working to try to
19 gain their own incentive boost, right?

20 A. Sure. Yes. That's possible.

21 Q. Including those employees who missed out
22 the prior year and were now working superlatively?

23 A. Yes. Unlikely but possible, I guess. I
24 haven't done the analysis to see if with the employee
25 incentive compensation numbers are anywhere close to the

1 fuel adjustment numbers, but I guess theoretically it's
2 possible.

3 Q. Mr. Voss, I'm perfectly happy to let your
4 counsel redirect you and let him prompt you as to what
5 speeches you'd like to give, but if you're going to do
6 that after each question that I ask, we're going to be
7 here a long time.

8 A. I understand.

9 Q. So I would encourage you, as the judge has
10 chastened us all to do, to control the witness. I'm
11 seeking to control you, but you're going to have to
12 cooperate.

13 MR. BYRNE: Your Honor, if Mr. Voss needs
14 to explain his answer to properly answer the question, he
15 ought to be entitled to.

16 JUDGE WOODRUFF: We'll deal with it when
17 specific matters come up.

18 BY MR. CONRAD:

19 Q. Do I have it then correct from your
20 testimony, Mr. Voss, that having an FAC or not having an
21 FAC will have an impact on your company's ability to
22 compete -- to compete rather for available financing?

23 A. Yes, that's correct.

24 Q. Now, you've been in the public utility
25 business for something 30 years?

1 A. Almost 40.

2 Q. Almost 40. In Missouri?

3 A. Yes.

4 Q. We've not had a fuel adjustment clause in
5 this state since roughly 1979 or 1980; isn't that correct?

6 A. I'm not familiar when that was or was
7 not --

8 Q. You'd agree with me that for a number of
9 years prior to the passage of Senate Bill 179 there was no
10 fuel adjustment clause, don't you?

11 A. I actually --

12 MR. BYRNE: Your Honor, could Mr. Voss be
13 allowed to answer the question before Mr. Conrad
14 interrupts him with another question?

15 MR. CONRAD: I'd like to have him answer
16 the question, counsel.

17 JUDGE WOODRUFF: I'll caution both of you
18 to make sure you're not talking over each other for the
19 benefit of the record.

20 THE WITNESS: Could you repeat the
21 question? I'm sorry. I didn't understand.

22 BY MR. CONRAD:

23 Q. You seem to indicate you didn't have
24 knowledge about the 1979 or 1980 period despite having
25 indicated previously that you've worked in the public

1 utility area for 40 years in Missouri?

2 A. That is correct.

3 Q. Do you recall having a fuel adjustment
4 clause in this state prior to Senate Bill 179?

5 A. I am not familiar with that.

6 Q. Do you have one now?

7 A. We do not have a fuel adjustment at the
8 present time for electric. We do for gas.

9 Q. Well, I think the record will know when
10 Senate Bill 179 was passed and when the UCCM decision came
11 down.

12 Has UE been unable to borrow to finance its
13 operation since 1980?

14 A. UE has been able to.

15 Q. You have been able to borrow?

16 A. Yes.

17 Q. So it would be safe to conclude from those
18 facts that UE has been able to find financing as needed,
19 correct?

20 A. Yes, it has.

21 Q. But isn't it your point that such financing
22 has been at a higher cost?

23 A. Yes, it is.

24 Q. How much higher?

25 A. I can't quantify that. I would refer to

1 our witnesses, Mr. O'Bryan, to maybe help with that issue.
2 All I know is that costs continue going up for borrowing
3 as our credit rating has gone down, and recently Illinois
4 Power had a 10 percent issuance. And we haven't had one
5 recently, but we would expect that it would be
6 considerably higher than it was in the past.

7 Q. Mr. Voss, did I ask you anything about
8 Illinois Power?

9 A. No, you did not. You did ask me, though,
10 about borrowing costs. I thought it was helpful.

11 Q. Your company here before this Commission is
12 not Illinois Power; is that correct?

13 A. That's correct.

14 Q. Well, if it's not obvious to you, when I'm
15 talking to you about these issues, I'm talking to you
16 about the company that's before this Commission seeking
17 \$250 million of rate relief. Is that clear?

18 A. Yes, it is.

19 MR. BYRNE: Your Honor, I'm going to
20 object. He's arguing with the witness. The witness
21 answered his question, and obviously Mr. Conrad doesn't
22 like the answer he's getting, but that's no reason to
23 argue with the witness.

24 JUDGE WOODRUFF: That's not really a
25 specific objection. I'll overrule the objection.

1 Mr. Conrad's entitled to ask his questions as he sees fit.

2 BY MR. CONRAD:

3 Q. Are you familiar with rating agencies,
4 Mr. Voss?

5 A. Yes, I am.

6 Q. You talk to folks at Moody's and Standard &
7 Poor's once in a while?

8 A. I do not talk to them, no.

9 Q. You don't talk to them?

10 A. I do not.

11 Q. Who does?

12 A. Our financial department.

13 Q. Could you state for me your understanding
14 of the service that these rating agencies provide to the
15 investing public?

16 A. My understanding is that they do an
17 independent evaluation of the company's financial position
18 and then they issue a rating that is their reflection
19 about the risk involved with this company of acquiring and
20 dealing in the capital markets.

21 Q. And you'd agree with me that they consider,
22 to your knowledge, whether or not a utility has a fuel
23 adjustment clause, right?

24 A. I believe that's part of their
25 considerations, yes.

1 Q. And that's kind of a yes/no question for
2 them, isn't it?

3 A. Whether we have one or don't have one is a
4 yes/no for them, yes.

5 MR. CONRAD: Okay. That's all.

6 JUDGE WOODRUFF: Thank you. Then for MIEC?
7 I need to have a mirror posted so I can see around the
8 corner there.

9 CROSS-EXAMINATION BY MS. VUYLSTEKE:

10 Q. Good morning, Mr. Voss.

11 A. Good morning.

12 Q. I'm Diana Vuylsteke. I represent the
13 Missouri Industrial Energy Consumers.

14 Has UE recently announced a reduction in
15 its capital expenditure plan?

16 A. It hasn't actually been a reduction, but
17 it's been an effort to find projects that we could reduce
18 should the financial crisis continue.

19 Q. Does this include a postponement in the
20 Sioux scrubbers?

21 A. That is one of the projects that is being
22 considered right now, yes. That's correct.

23 Q. Is UE under a legal obligation to install
24 the scrubbers at Sioux?

25 A. No. There is no legal obligation to do

1 that at this time. We've had kind of a history of trying
2 to overcomply a bit with our environmental issues, and
3 it's really been at the response of our customers who
4 would like cleaner air, and we thought that was an
5 opportunity to do it.

6 Q. So there's no statutory legal obligation
7 there to do that?

8 A. There is not at this time.

9 Q. Is there a date by which UE must install
10 scrubbers at Sioux?

11 A. Not at the present time, no.

12 Q. Is UE cutting out or delaying capital
13 expenditures in general?

14 A. We're looking at gathering what projects
15 that we could delay or postpone, but no final decision has
16 been made on any of those projects at this point in time.

17 Q. Does this mean, given the fact that you're
18 considering these delays, that AmerenUE would be going
19 less often to the capital markets for debt and equity than
20 originally planned, than initially planned?

21 A. Should we decide not to do those projects
22 for sure, then we would be going less than if we had been
23 doing those projects, yes, that's correct.

24 Q. Would this mean that UE's net asset base
25 would be growing at a slower rate than originally

1 projected?

2 A. Well, I'm not sure originally. Than what
3 we had projected previously but still substantially more
4 than what historically it has grown.

5 Q. But at a slower rate?

6 A. Less than what we had projected, but still
7 at a fairly high rate of expenditures. We're still
8 talking about expenditures that -- should we make these
9 reductions, which we're still not sure, we would still be
10 in the \$800 million range, which just a few years ago we
11 were spending 6 to 700 million.

12 Q. But it would be a slower rate than
13 originally initially projected?

14 A. Yes. That's correct.

15 Q. And in response to the recent drastic
16 changes in the economy, what steps is UE taking to reduce
17 its expenses?

18 A. Well, as I stated, as we've looked at
19 the -- it's about cash right now, whether we'll be able to
20 access. We're not thinking that we will be able to access
21 the financial markets for quite some time now. We don't
22 have access to commercial paper, and so in order -- until
23 we can see how that settles down, we think it was prudent
24 to come up with a list of projects that we could postpone
25 without breaking any kind of regulatory or legal compact.

1 We still intend to honor all of our
2 reliability commitments and our tree trimming and things
3 that we're committed to do. But things like, like you
4 mentioned, the Sioux scrubber project where it was
5 discretionary, we thought it would be prudent to put that
6 on hold. Now, still a lot of work will be continuing
7 there. We'll probably still be spending 50 million next
8 year. It's just we won't be spending 90 million maybe.
9 That's the kind of relative position we're taking.

10 Q. Well, could you give me -- just to get for
11 a few specific examples other than the Sioux scrubbers,
12 could you describe some steps that you would be taking to
13 reduce management labor expenses, for example, supervisory
14 labor?

15 A. Well, you know, all these projects involve,
16 you know, the project management, and some of those
17 expenses will be lessened also as you don't do the
18 projects. So a lot of that had been contracted out, so
19 yeah, there will be a significant reduction in the
20 contract -- for certainly the contracted out expenditures,
21 both at a management and at a labor level.

22 Q. Is it true that prices for copper and
23 aluminum and steel have fallen significantly in the last
24 six months?

25 A. We haven't seen that, and I haven't -- I am

1 not aware of that.

2 Q. You're not aware of commodity prices for
3 those items going down?

4 A. I am not. What we paid for them as far as
5 they relate into our price for cable and wire and
6 transformers, we have not seen a reduction in cost in
7 those areas, that I am aware of.

8 Q. If there were a reduction to those costs,
9 would that lead to a reduction in cost for items that UE
10 purchases, transformers, trucks, wires, automobiles? If
11 those prices went down, the prices that you were paying,
12 then the prices for these items that you purchase would
13 also go down?

14 A. It could happen. I'm not -- I don't know
15 how that directly relates, but it could possibly happen.
16 We haven't seen that yet, though. At least I'm not aware
17 that we've seen any of that happening at all.

18 Q. What about prices for gasoline and oil and
19 related goods?

20 A. Gasoline has gone down in price, yes,
21 that's for sure, but the related goods like transformers
22 still seems to be affected by the world market as far as
23 electrical steel issues and the growth that's going on for
24 electrical projects in China and India, and we're seeing a
25 lot of exports in that area, and so far that hasn't

1 related to lower prices for us at this point in time.

2 Q. Do you believe that electricity prices
3 matter to your customers?

4 A. Oh, yes. I think they -- we've been
5 focusing on electricity prices for a long time I've been
6 here at Union Electric, and we know it's important to our
7 customers to keep rates low, and we focused on that.
8 That's why the rates are as low as they are today.

9 Q. And do you believe that the price of
10 electricity affects how much electricity that your
11 customers buy?

12 A. I haven't seen that relationship
13 demonstrated very well. I mean, we didn't see a reduction
14 when our rates went up last time. So I'm not sure there's
15 a direct correlation there at this point in time.

16 MS. VUYLSTEKE: Thank you.

17 JUDGE WOODRUFF: Cross for the State?

18 MR. IVESON: I have nothing, your Honor.

19 JUDGE WOODRUFF: For Public Counsel?

20 MR. MILLS: Thank you.

21 CROSS-EXAMINATION BY MR. MILLS:

22 Q. Good morning, Mr. Voss.

23 A. Good morning.

24 Q. Mr. Voss, are you aware that one of the
25 issues in this case has to do with a recovery of the costs

1 of the COLA at the NRC?

2 A. Yes, I am.

3 Q. Has UE decided to build the plant that is
4 the subject of that application?

5 A. No, it has not.

6 Q. Would you agree that the Commission has a
7 policy decision to make as to whether the costs of the
8 COLA should be recovered in this case?

9 A. Yes.

10 Q. Should one of the considerations going into
11 that decision be the likelihood that the plant will
12 eventually be built?

13 A. You know, the -- I'm not sure. The -- I'm
14 not sure how that decision will be made by the
15 Commissioners. But the COLA itself we feel is a prudently
16 incurred cost to keep an option open, that if you did not
17 file it you wouldn't have that option in the future when
18 you might want it. It's kind of like planning ahead. I
19 look upon it as a planning option and a planning exercise,
20 and it's a stand-alone product, something that could be
21 sold. It could be kept for 15 years. Could be similar to
22 real estate that you would buy ahead of time before you
23 actually develop it.

24 Q. What is the market for the COLA that you
25 already filed?

1 A. Oh, there's a market for it. There's a
2 foreign market for it and a domestic market for it, that
3 people are looking right now for sites. I've had a number
4 of inquiries of people that said -- merchants that would
5 like to build a nuclear plant on our site.

6 Q. What will that COLA be worth in five years?

7 A. I have no idea.

8 Q. UE spends money every day on exploring
9 possibilities that never come to fruition; is that not
10 true?

11 A. That is true.

12 Q. Are all of those monies recovered in rates?

13 A. Yes, I believe they are.

14 Q. Regardless of whether they're prudent or
15 not?

16 A. I believe they're all prudent. If they're
17 not prudent, they wouldn't be recovered in rates.

18 Q. Isn't a determination of prudence
19 necessarily dependent on the likelihood that the project
20 for which those monies are expended is going to come to
21 fruition?

22 A. I think that would be one of the factors,
23 but I think there's other factors for prudence as would
24 you -- is it an opportunity, is it worth keeping an option
25 open? A lot of times you pay for options just because

1 you're hedging. We do that in purchases, and there's a
2 lot of reasons for why you would make an expenditure or do
3 an analysis or do a study.

4 Q. Does UE ever do anything on a speculative
5 basis?

6 A. We do have some trading that we do which
7 people would call speculative.

8 Q. And should the cost of those speculative
9 ventures be passed on to ratepayers?

10 A. It could be prudent costs, but for the
11 present time we have not passed those on to ratepayers,
12 those costs or benefits.

13 Q. So would you say that as a general rule
14 speculative ventures should not be -- the cost of
15 speculative ventures should not be recovered from
16 ratepayers?

17 A. No, I wouldn't say that as a general rule.
18 Specifically in trading, we have eliminated that from the
19 costs and the benefits. But there's things that we're
20 concerned about all the time. We make judgments on
21 whether a load will increase on a feeder or not to decide
22 to reinforce that feeder or substation. It could turn out
23 that the substation does not increase its load or a
24 manufacturing facility closes and you have plenty of
25 capacity there, but those kind of decisions are made every

1 day. I think those are prudent planning decisions that we
2 make, and we viewed the COLA application as another
3 prudent planning decision.

4 Q. Now, with respect to aspects of the
5 decision that will eventually be made in terms of whether
6 Callaway 2 is to be built, is one of those the approval of
7 the NRC of the EPR design that you plan to use?

8 A. Yes.

9 Q. Is another one the need for additional
10 capacity in years to come on the UE system?

11 A. Absolutely. And very critically right now,
12 depending what happens with our load growth, there will be
13 a determination whether we need a new base load plant or
14 not.

15 Q. Is another one the ability to finance
16 construction?

17 A. Yes, that will be a factor.

18 Q. And related to that is the repeal or
19 amendment of Section 393.135?

20 A. I'm sorry. I don't know about the numbers.

21 Q. The anti-CWIP provision.

22 A. Oh, I understand.

23 Q. Is that a necessary precondition for UE to
24 build that plant?

25 A. At the present time, I think our management

1 feels, yes, that is a necessary condition.

2 Q. I'm asking you.

3 A. Yes, I feel it's certainly a necessary
4 condition.

5 Q. So regardless of what else happens in the
6 world, if that statute is not repealed or amended, you
7 will not build Callaway 2; is that your testimony?

8 A. It is my opinion that we would not be
9 capable of financing it unless it's repealed.

10 Q. Was that a yes?

11 A. Yes, that is a yes.

12 Q. Now, with respect to the decision on
13 building Callaway 2, is that going to be UE's decision or
14 Ameren's decision?

15 A. Well, certainly it will be UE's
16 recommendation to our board of directors and they'll have
17 to approve it.

18 Q. When you say our board of directors --

19 A. Ameren's board of directors.

20 Q. Okay. UE has a board of directors, too,
21 doesn't it?

22 A. Yes, it does.

23 Q. When you say our board of directors, you
24 mean Ameren's board of directors?

25 A. I meant in that context Ameren's board of

1 directors. UE's board of directors will also have to
2 approve it.

3 Q. If UE's board of directors approves it but
4 Ameren's board does not, will the plant be built?

5 A. I would say no.

6 Q. Now, are you familiar with the Ameren
7 executive leadership team?

8 A. Yes, I am.

9 Q. And are you a member of that team?

10 A. Yes, I am.

11 Q. Is there a similar group at UE, a Union
12 Electric executive leadership team?

13 A. Yes, there is.

14 Q. Are you a member of that team?

15 A. Yes, I am.

16 Q. Which of those two groups will make the
17 ultimate decision about whether Callaway 2 is to be built?

18 A. Well, the UE executive leadership team will
19 make the recommendation to or not to build it, and then
20 there will be a review by the Ameren executive leadership
21 team and the Ameren board of directors.

22 Q. And ultimately all of those groups will
23 have to agree that there's a need to go forward; is that
24 true?

25 A. Yes, I would believe that's true.

1 Q. Now, are you familiar with the Nuclear
2 Oversight Committee?

3 A. Yes, I am.

4 Q. Is that a subcommittee of the Ameren board?

5 A. Yes, it is.

6 Q. Is there a similar subcommittee of the
7 Union Electric board?

8 A. No. The Union Electric does not have
9 subcommittees, although there is a project oversight
10 committee at Union Electric for the Callaway 2 proposal,
11 project.

12 Q. Is that a group that reports to the UE
13 board or is that within UE management?

14 A. That group is a team that I formed that
15 reports to me.

16 MR. MILLS: Judge, I don't know how you
17 want to proceed with this. I have some questions that are
18 going to involve highly confidential information. I don't
19 know if you want to go on to other parties'
20 cross-examination and then come back to that or if you
21 want to break now.

22 JUDGE WOODRUFF: Let's go ahead and go to
23 in-camera now. I'll let you know when we're ready to go.

24 We're going to go into our in-camera
25 session now, so if anyone can't be here for that, if you'd

1 please leave.

2 (REPORTER'S NOTE: At this point, an
3 in-camera session was held, which is contained in
4 Volume 14, pages 136 through 145 of the transcript.)

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1 MR. MILLS: Judge, I'm going to distribute,
2 and I don't plan to mark this as an exhibit, but just for
3 convenience of the parties and the Bench, roughly the
4 first 13 pages of UE's COLA at the NRC. I'm going to ask
5 Mr. Voss some questions about that.

6 JUDGE WOODRUFF: And at this point we are
7 back in regular session.

8 BY MR. MILLS:

9 Q. Mr. Voss, I've handed you what's -- what I
10 will represent to you I printed off yesterday from the NRC
11 website, and it is the beginning of the general
12 information section of your COLA. Do you recognize this
13 document?

14 A. Actually, I haven't reviewed this document,
15 but I understand what it is.

16 Q. Please explain to me, then, your role in
17 the submission of a -- of the COLA. And do you understand
18 what I mean by COLA, when I say COLA?

19 A. Yes, I do.

20 Q. Can you please explain to me your role in
21 the submission of a COLA to the NRC?

22 A. My individual role?

23 Q. Yes.

24 A. Actually, I didn't do any of the
25 preparation or submit any data that was used in this COLA

1 preparation. My role was to ensure that we got a COLA
2 submitted by the timelines that we had decided on by
3 hopefully by -- we think it was by July of 2008 was our
4 goal.

5 Q. And when you say we have decided on, who do
6 you mean by we in that sentence?

7 A. Union Electric.

8 Q. So in a broader sense than just you, was
9 Union Electric responsible for filing the COLA at NRC?

10 A. Yes, it was.

11 Q. And it's your testimony that you are not
12 familiar with any of the documentation that was submitted
13 with that COLA; is that correct?

14 A. I'm not technically familiar with the data
15 that was submitted. I think it was 8,000 pages. I'm just
16 not familiar with it all.

17 Q. Well, are you familiar with the general
18 section?

19 A. I'm familiar with some of it.

20 Q. Let me just ask you a couple of questions
21 and we'll see if that's -- if it's within the part that
22 you're familiar with.

23 A. Okay.

24 Q. If you can turn to the -- page 1-12 of this
25 document, and this is under a heading that's -- a section

1 that's headed Disclosure of Cost Estimates. Do you see
2 that heading?

3 A. Yes, I see that heading.

4 Q. If I can get you to turn to the last full
5 paragraph where it's talking about CWIP.

6 A. Yes.

7 Q. The application states that it is the
8 position of AmerenUE that AmerenUE can effectively work
9 with the Missouri Legislature and the citizens of Missouri
10 to exempt Callaway Plant Unit 2 and its associated
11 facilities from this regulation. Are you familiar with
12 that statement or statements like that?

13 A. I am familiar with that statement.

14 Q. And do you concur in that statement?

15 A. Yes.

16 Q. What steps has Union Electric taken to work
17 with the citizens of Missouri to exempt Callaway 2 from
18 the anti-CWIP legislation?

19 A. It's mostly been informal town hall
20 meetings, Rotary Club, you know, type presentations,
21 Chamber of Commerce, labor groups. We've been talking
22 about the planning for the future, and this has been part
23 of those discussions, and the deci -- and the comments
24 that we would not proceed to build it unless this was
25 changed. We would pursue other options.

1 Q. And have you been involved in any of those
2 efforts?

3 A. Yes, I have.

4 Q. And is that the way you have presented the
5 choices to your audiences that it's stark, if this
6 legislation is not repealed, you will not proceed?

7 A. Yes. In fact, I made a presentation at an
8 investor conference last January and said we would not
9 build Callaway 2 without a change in the legislation.

10 Q. And has AmerenUE explored any other options
11 for financing Callaway 2?

12 A. Ameren's looked at a lot of options
13 including, yes, the ones you just mentioned as far as
14 looking at federal loan guarantees, yes.

15 Q. Are federal loan guaranties and recovering
16 CWIP in rate base in Missouri two separate options in your
17 mind?

18 A. Yes, they are.

19 Q. So you --

20 A. I mean two options. I think they --
21 whether -- I think CWIP would be necessary. I don't know
22 if federal loan guarantees would be necessary, but that's
23 certainly financing options that we're looking at.

24 Q. Let me ask it this way. Are those two
25 alternatives or are they complimentary?

1 A. I'd say they're -- you know, like I said
2 before, I think CWIP is necessary. I think the loan
3 guarantees would be helpful.

4 Q. Have you looked into Chapter 100 financing?

5 A. I'm not -- I don't know what that is.

6 Q. Have you looked into securitization?

7 A. We haven't looked into it in depth, no.

8 Q. Have you looked into a regulatory plan
9 similar to the one that KCPL operates under?

10 A. I'm not aware of that we've done any
11 detailed work in those areas. I think there's been
12 cursory looks at those, some of those options, but I
13 haven't been made aware of any results from any of those
14 studies.

15 Q. And you haven't mentioned any of those
16 studies to the audiences that you've addressed in terms
17 of the choice of proceeding or not proceeding with
18 Callaway 2?

19 A. I haven't mentioned any of the other
20 options, no.

21 Q. Now, can you tell me -- well, let's -- if I
22 can get you to turn to the next page in the document I
23 just handed you, page 1-13. And if I can get you to --
24 there's a heading at the top of the page called
25 Construction Cost Funding Plan. If I can get you to look

1 at the last paragraph under that heading, in the last
2 sentence of that last paragraph says, AmerenUE will obtain
3 necessary approvals for the financing of Callaway Plant
4 Unit 2 construction from the appropriate regulatory
5 authorities at the appropriate time.

6 If you have any, what is your understanding
7 of what the appropriate regulatory -- regulatory
8 authorities are and what the appropriate time is?

9 A. Well, you know, first of all, we have to
10 decide to build the plant, which we haven't decided yet
11 and won't for a couple years. But when we do decide to
12 build, we would certainly present the financing plan or
13 what our plan would be as we -- and get regulatory
14 approval both for what we need regulatory approval for
15 construction both from the federal government and from the
16 state government, and then we would need approval from the
17 Public Service Commission.

18 Q. Now, let me construct a hypothetical for
19 you. Assume that you have heard sort of through the
20 utility grapevine that the former St. Joe Light & Power
21 Company assets may be put up for sale over the next few
22 years. Okay? Are you okay with that assumption?

23 A. Uh-huh.

24 Q. And assume with me that UE believes it may
25 be interested in that, and so UE buys a piece of property

1 in St. Joe, Missouri and builds a customer service center.

2 Are you clear on those assumptions?

3 A. Yes.

4 Q. Okay. Would it be your testimony that it
5 would be appropriate to recover the cost of that service
6 center in rates currently for Missouri ratepayers before
7 that purchase has been announced or consummated or even
8 really become possible?

9 A. Honestly, I'd have to think through all the
10 repercussions of that before I can make a decision on
11 that.

12 Q. Go ahead.

13 A. Okay. I just -- I think we'd have to
14 analyze what would be the intent of that service center,
15 whether it would be useful for other purposes or not,
16 whether it was a hedge against some future needs or
17 whether that was being bought just as a merchant plant or
18 whether that was bought as a regulated plant. It just
19 seems there's a lot of factors that would be involved in
20 that decision that I can't answer with just that kind of
21 scenario.

22 Q. But you have answers to all those kinds of
23 considerations when you're talking about recovery of the
24 Callaway 2 COLA costs?

25 A. I think the COLA costs are quite different.

1 I think it's planning -- we're under a regulatory
2 requirement to plan for the future. Under our IRP
3 planning, the nuclear option was the No. 1 choice, along
4 with energy efficiency and renewables, and to not pursue
5 that we think would be imprudent in view of the huge tax
6 savings that would go right to our customers, and also
7 possibly just real savings if there's carbon taxes in the
8 future, which again should be more clear in the next few
9 years.

10 Q. Well, let --

11 A. So I think it would really -- I'm sorry.

12 Q. No. Go ahead.

13 A. I just think it would be very imprudent not
14 to have kept that option open, and for that reason we
15 think that was a valid planning process that we submitted.

16 Q. Now, assume with me -- well, let me go back
17 and ask you about that last answer. You said the nuclear
18 option was the No. 1 choice. What did you mean by that?

19 A. Well, there was -- our IRP planning process
20 had a number of scenarios. Looked at various types of new
21 base load plants that we could put online in the 2020 --
22 2018 to 2020 time frame. Those included nuclear, included
23 pulverized coal, included I believe IGCC, which is a type
24 of gasification plant, included renewables, wind. It
25 included, I believe some other options, oh, combined

1 It's a public document available on the NRC website.
2 There are -- I haven't counted how many pages are
3 available. This particular document I think runs to 185
4 or 186 pages. There are many other documents that are
5 much longer than that. I've only printed out here the
6 first 13 pages.

7 JUDGE WOODRUFF: We'll mark it as 411.

8 (EXHIBIT NO. 411 WAS MARKED FOR
9 IDENTIFICATION BY THE REPORTER.)

10 JUDGE WOODRUFF: Mr. Mills, did you want to
11 offer it?

12 MR. MILLS: Judge, I don't have any need to
13 offer that.

14 JUDGE WOODRUFF: All right. Then we'll
15 move to cross-examination from the Staff.

16 MR. THOMPSON: Thank you, your Honor.

17 CROSS-EXAMINATION BY MR. THOMPSON:

18 Q. Good morning, Mr. Voss.

19 A. Good morning.

20 Q. My name is Kevin Thompson. I'm the General
21 Counsel of the Commission, and I'm here representing the
22 Commission Staff. I have a few questions for you, and I
23 appreciate your being down here to answer them for me.

24 A. Thank you.

25 Q. Now, I think you indicated that you are the

1 President or Chief Executive Officer of AmerenUE?

2 A. That is correct.

3 Q. Okay.

4 A. And AmerenUE is a subsidiary, is it not, of
5 Ameren Corporation?

6 A. Yes, it is.

7 Q. And how many subsidiaries are there of
8 Ameren Corporation, if you know?

9 A. I actually don't know.

10 Q. Do you think it's more than ten?

11 A. You know, there's four main operating --
12 four main subsidiaries, but there's a large number of
13 other ones.

14 Q. Okay. And when you say four main ones, are
15 you referring to AmerenUE and the other regulated utility
16 operations?

17 A. No.

18 Q. What are you referring to?

19 A. There's AmerenUE is one of the main
20 operating subsidiaries, and I was thinking there is
21 several Illinois operating subsidiaries that are regulated
22 that are operating as kind of one unit. So I was
23 referring to them. I was thinking of them as one unit.

24 Q. As one unit?

25 A. Yes.

1 Q. Okay.

2 A. And then there's an unregulated operating
3 subsidiary that's the merchant generation subsidiary, and
4 then there's the Ameren Services, which provides corporate
5 services to all of the operating subsidiaries.

6 Q. If you know, is there a subsidiary known as
7 Ameren Energy Resources?

8 A. Yes, there is.

9 Q. And is that the unregulated generation unit
10 that you referred to?

11 A. I believe that is substantially that, yes.

12 Q. Okay. Now, what about AmerenUE, does
13 AmerenUE have any subsidiaries?

14 A. I don't believe so at this time.

15 Q. So it has had some in the past?

16 A. Yes.

17 Q. Okay. Are you aware specifically that any
18 subsidiaries have been sold or otherwise divested
19 recently?

20 A. I believe we closed down the AmerenUE
21 Development Agency, which was a subsidiary, recently.

22 Q. Okay.

23 A. Stopped. I think it just went out of
24 existence. I think that was the most recent one.

25 Q. Very good. Now, you filed two pieces of

1 prepared testimony in this case, correct?

2 A. Yes, that's correct.

3 Q. Okay. Let me get back to my previous line
4 for a moment. With respect to Ameren Corporation, do you
5 hold any positions in that corporation?

6 A. Yes, I do.

7 Q. I apologize if this has already been
8 covered. What position do you hold with Ameren
9 Corporation?

10 A. Executive Vice President and Chief
11 Operating Officer.

12 Q. Now, are you a member of the board of
13 Ameren Corporation?

14 A. I am not.

15 Q. You are not. Are you a member of the board
16 of AmerenUE?

17 A. Yes, I am. I'm chairman of the board.

18 Q. Chairman of the board, okay, as well as
19 Chief Executive Officer?

20 A. Yes, I am.

21 Q. Okay. Now with respect to AmerenUE, do you
22 in your position have a fiduciary duty and, if so, to
23 whom?

24 A. To AmerenUE.

25 Q. So you have a fiduciary duty to AmerenUE?

1 A. Yes.

2 Q. Now, as a member of the board, do you have
3 any duty to the investors, the shareholders?

4 A. Yes.

5 Q. And --

6 A. I'm not a member of the board of Ameren.

7 Q. But of AmerenUE?

8 A. Yes. AmerenUE doesn't have any
9 shareholders.

10 Q. So there are no common shares at all?

11 A. No, there's not. It's all held by Ameren
12 Corp.

13 Q. So there are shares, but they're all owned
14 by Ameren Corp?

15 A. Yes. Ameren Corp is the shareholder of
16 AmerenUE.

17 Q. Okay. I just wanted to make sure. There
18 are shares, they're all held by the parent?

19 A. Yes.

20 Q. So I couldn't go out and buy a share of
21 AmerenUE if I wanted to?

22 A. Could not.

23 Q. I could go buy a share of Ameren Corp?

24 A. Hopefully you would.

25 Q. Actually, by law I can't, but a person

1 could?

2 A. Yes.

3 Q. Okay. A person not employed by this
4 Commission. Now, if AmerenUE were to issue any shares,
5 would you know about that in your position as Chief
6 Executive Officer and chairman of the board?

7 A. Yes.

8 Q. Okay. Would that, in fact, be your
9 decision?

10 A. Yes.

11 Q. Now, during the test year in this case, do
12 you know whether or not AmerenUE issued any common shares?

13 A. I'm not aware of it.

14 Q. Okay. Now, in the issuance of common
15 shares, there are costs involved; isn't that true?

16 A. I believe so.

17 Q. Well, are there not costs that are referred
18 to as flotation costs that are incurred when a corporation
19 issues shares?

20 A. I'm not familiar with that term.

21 Q. You're not familiar with that term?

22 A. I grew up on the operating side of our
23 company, not the financial side.

24 Q. So you know how to run a generating plant,
25 but maybe not how to issue shares?

1 A. Exactly.

2 Q. All right. If you know, is there anyone
3 who's going to testify on behalf of Ameren that would be
4 able to answer that question?

5 A. I think Mr. O'Bryan's going to talk about
6 the corporate's financing areas.

7 Q. Okay. Thank you. Now, you indicated
8 you're also an officer of Ameren Corporation, correct?

9 A. Yes, I am.

10 Q. And in that position, do you have any
11 fiduciary duties, and if so, to whom?

12 A. To Ameren shareholders.

13 Q. Now, I think you told me those are shares
14 that are publicly available?

15 A. Yes, they are.

16 Q. They're traded, are they not, on the
17 various stock exchanges?

18 A. New York Stock Exchange, yes.

19 Q. On the New York Stock Exchange. You can
20 see I don't know anything about stocks myself.

21 A. I think you reached my limit that time.

22 Q. But my mom, God bless her, 92 years old as
23 she is, could buy shares of Ameren Corporation if she
24 wanted to?

25 A. Yes.

1 Q. Okay. Now, are there ever any conflicts
2 between your duty, your fiduciary duty to AmerenUE's
3 owners and your fiduciary duties to Ameren Corporation's
4 owners?

5 A. I haven't had any conflicts.

6 Q. Okay. So in your experience so far, what's
7 good for Ameren Corporation is good for AmerenUE?

8 A. Or vice versa, yes.

9 Q. Okay. Now, isn't it true that AmerenUE has
10 recently divested itself of its 40 percent ownership
11 interest in EEI?

12 A. I believe that's true.

13 Q. Okay. And do you know where that
14 40 percent ownership interest went?

15 A. To a different Ameren subsidiary.

16 Q. Okay. In fact, to an Ameren subsidiary
17 that owned another 40 percent; isn't that correct?

18 A. I believe that's correct.

19 Q. Okay. Now, my question is just this:
20 What, if anything, did AmerenUE receive in exchange for
21 the transfer of that 40 percent interest?

22 A. I'm not familiar with what we received.

23 Q. Okay. And if you know, is there anyone
24 that is going to testify in this case on behalf of
25 AmerenUE that would know the answer to that question?

1 A. I don't know.

2 Q. You don't know. Okay. Now, Mr. Mills
3 marked this thing as OPC Exhibit 411. Do you still have
4 that up there?

5 A. Yes, I do.

6 MR. THOMPSON: Okay. He didn't offer that.
7 I'm going to go ahead and offer this now, Judge, if I may.

8 JUDGE WOODRUFF: We'll go ahead and leave
9 it as 411.

10 MR. THOMPSON: Absolutely.

11 JUDGE WOODRUFF: I'll mark that as offered
12 by Staff. 411 has been offered by Staff. Is there any
13 objections to its receipt?

14 MR. BYRNE: Your Honor, I'd just note that
15 it's part of an 8,000 page document. I won't ask to offer
16 the other 8,000 pages for completeness, but I would like
17 to note that it's part of a larger packet.

18 JUDGE WOODRUFF: Mr. Mills had indicated
19 that also during his portion. All right. 411 has been
20 offered by Staff. It will be received.

21 (EXHIBIT NO. 411 WAS RECEIVED INTO
22 EVIDENCE.)

23 MR. THOMPSON: I don't want to see the
24 other 7,000 pages.

25 BY MR. THOMPSON:

1 Q. Let me direct your attention, if I may,
2 Mr. Voss, to the top of page 1-12 which has a chart headed
3 Credit Ratings. Do you see that?

4 A. Yes, I do.

5 Q. And these are credit ratings of AmerenUE of
6 which you are the chairman of the board and Chief
7 Operating Officer, correct?

8 A. Yes, I am.

9 Q. Or Chief Executive Officer?

10 A. Chief Executive Officer, yes. That's
11 correct.

12 Q. I apologize. As far as you know, are these
13 ratings correct as of today?

14 A. I believe they are.

15 Q. Okay. Thank you.

16 CHAIRMAN DAVIS: Where were you at?

17 MR. THOMPSON: Page 1-12 at the top.

18 CHAIRMAN DAVIS: Got it.

19 MR. THOMPSON: There's a chart, credit
20 ratings.

21 CHAIRMAN DAVIS: Got it.

22 BY MR. THOMPSON:

23 Q. Now, there were some questions earlier
24 about scrubbers at the Sioux plant. Do you recall that?

25 A. Yes, I do.

1 Q. And I think you indicated that a decision
2 has not yet been made as to whether or not those
3 expenditures are going to be made; is that correct?

4 A. Well, you know, there's been -- the project
5 is under review is what I would characterize it at the
6 present time.

7 Q. What does that mean, under review?

8 A. Well, we were planning on a certain pace of
9 construction base and reevaluating to see if that pace
10 should be slower in order to preserve some cash in case we
11 would have difficulties raising cash next year.

12 Q. Okay. And, in fact, would you agree with
13 me that the national economy is experiencing difficulties
14 right now?

15 A. Yes, I would agree with that.

16 Q. And would you agree that Ameren, in fact,
17 faces some significant financial difficulties because of
18 the current national economic crisis?

19 A. Yes, I would agree with that.

20 Q. Now, if you know, how long do you expect
21 the current national economic crisis to last?

22 A. I wish I knew that. I wish I'd be a
23 genius. I don't have any idea.

24 Q. Okay. Do you think it's going to last
25 longer than a year?

1 A. I really have no idea how long it will
2 last. I think it could start showing signs of recovery
3 within a couple months or it could be a couple years. I
4 really don't know. Or it could be forever.

5 Q. Is this the sort of thing that the officers
6 of a corporation like AmerenUE consider and discuss and
7 analyze?

8 A. Yes, it is.

9 Q. And, in fact, have you and your management
10 team, have you done so?

11 A. Yes, we have.

12 Q. And what conclusion have you reached?

13 A. That it could be a couple months or it
14 could be a couple years.

15 Q. So that's as close as you've been able to
16 pin it down?

17 A. Yes.

18 Q. And would you agree with me that during
19 this period of financial crisis, that Ameren will have a
20 difficult time obtaining cash that it needs?

21 A. Well, I think you can -- yes and no. I
22 believe that there will be difficulty obtaining cash
23 during this period of time. You probably will be able to
24 always get it. It's just what you would have to pay for
25 it. But I'm not certain -- entirely certain of that

1 position.

2 Q. Okay.

3 A. Again, Mr. O'Bryan might be better to
4 discuss that issue than I am.

5 Q. But this is the sort of thing that you as
6 the chief executive officer have to consider every day,
7 isn't it?

8 A. Access to cash is a concern, and that's why
9 we have a contingency plan, so -- that we're working on to
10 see if we need to revise our previous construction
11 schedule.

12 Q. What other impacts do you expect or foresee
13 from the current economic crisis?

14 A. Well, right now we see severe inability to
15 get cash, which could lead to some businesses and some
16 individuals going out of business.

17 Q. What about for AmerenUE, though, are there
18 any other impacts that you foresee or fear other than
19 increased difficulty obtaining cash?

20 A. Yes. I believe that, you know, we could
21 have some collateral calls on some positions that we have.
22 We could -- some of our creditors or some people we do
23 business with could demand some higher lines of credit.
24 It could be more difficult to do business with them.

25 Trading activities have been disrupted

1 tremendously in the power markets. Again, mostly through
2 collateral issues and whether you have creditworthy
3 counter parties. A lot of people have gone away that used
4 to trade in the markets, and they're not there to help
5 establish liquidity at a -- a number of power market
6 locations. So it's various innuendoes that are related to
7 this crisis, yes.

8 Q. And you would agree with me that this
9 crisis is a significant departure from the normal order of
10 things, would you not?

11 A. Yes. I would say it's a significant issue
12 that came up. Significant issues come up all the time.
13 Yeah, this is a significant one.

14 Q. Okay. And you -- you are aware, are you
15 not, that the national government, in fact, is taking
16 steps to try to correct the problem, correct?

17 A. Yes, I am aware of that.

18 Q. And the jury's still out on whether they're
19 going to work; isn't that true?

20 A. I would think so. This is unprecedented,
21 so how it actually all works out remains to be seen.

22 Q. Okay. Well, the reason I'm asking these
23 questions, in your testimony you refer to a temporary or
24 interim rate increase as a device that this Commission has
25 not much used; isn't that correct?

1 A. Could you refer me to that?

2 Q. I was afraid you were going to ask me to
3 find it for you. Well, I can't find it, of course, now
4 that I need it. Here it is. Look at page 14 of your
5 direct testimony, and I'm looking at a sentence that
6 starts online 15 with the word Missouri, Missouri also
7 with rare exceptions. Could you read that sentence for
8 me, please?

9 A. Missouri also, with rare exceptions, does
10 not allow temporary or interim rates that would be subject
11 to refund pending final resolution of rate increase
12 requests --

13 Q. Keep going.

14 A. -- which as noted above results in many
15 months of delay in implementing necessary rate increases.

16 Q. Thank you. Now, if you know, has AmerenUE
17 asked for an interim or temporary rate increase in this
18 case?

19 A. I don't believe we have.

20 Q. Have you asked for an interim or temporary
21 rate increase from this Commission outside of this case in
22 perhaps another case?

23 A. I don't believe so.

24 Q. Okay.

25 A. Possibly in -- if you consider a

1 PGA increase.

2 Q. Okay. But a PGA is a different process,
3 isn't it?

4 A. Yes.

5 Q. Doesn't that have to do with passing the
6 commodity cost of natural gas on to consumers?

7 A. Yes.

8 Q. Okay. So if you assume that the current
9 troubled financial condition is temporary, even if of
10 unknown duration, wouldn't you agree with me that a
11 temporary or interim rate increase subject to refund might
12 be an appropriate mechanism to request to deal with a
13 temporary condition?

14 A. It could be.

15 Q. Okay. I mean, are you familiar with the
16 testimony that's been filed by Dr. Morin in this case?

17 A. Somewhat.

18 Q. Okay. And are you aware that he suggests a
19 25 basis point increase in return on equity to reflect the
20 current financial crisis?

21 A. Yes.

22 Q. Okay. Now, if the Commission takes his
23 advice and grants that, that increase intended to meet
24 this particular crisis would, in fact, remain in effect
25 until the next rate proceeding, however instituted,

1 correct?

2 A. That's correct.

3 Q. Now, prior to your most recent rate case,
4 do you know how long it had been since Ameren came in for
5 a rate case?

6 A. Not counting the complaint case?

7 Q. Not counting the complaint case.

8 A. Probably 20 years.

9 Q. 20 years. So it's possible, is it not,
10 that that adjustment proposed by Dr. Morin could, in fact,
11 remain in effect for 20 years?

12 A. If we'd not granted a fuel adjustment it's
13 possible. Fuel adjustments are required to file rate
14 increases, I believe.

15 Q. Okay.

16 A. I mean file hearings.

17 Q. I'm not asking you to say it's likely, just
18 that it's possible.

19 A. Yes.

20 Q. Thank you, sir. Now, in your rebuttal
21 testimony, you've summarized some key points starting at
22 the bottom of page 1 and continuing to the top of page 3.
23 Do you see that?

24 A. Yes.

25 Q. At the top of page 2, the top bullet point

1 there, you talk about a reasonable return on equity?

2 A. Yes.

3 Q. In your opinion, is the return on equity
4 recommendation of Staff's expert witness reasonable?

5 A. It is not, in my opinion.

6 Q. And what do you base that on?

7 A. I believe it's out of the mainstream. It's
8 not something that, you know, in order for us to compete
9 for capital and even before this latest crisis, the rating
10 agencies kept moving us down because they didn't feel like
11 we were in a progressive or at least a mainstream
12 regulatory environment, and we would need a better ROE in
13 order to maintain our credit ratings in order to keep
14 doing projects that we feel are necessary for our
15 customers.

16 Q. Now, this is a page in your rebuttal
17 testimony, is it not, page 10? And it's a chart. See
18 that?

19 A. Yes, I do.

20 Q. Okay. And there's five columns, and I
21 believe the column most to the right, in fact, shows the
22 actual return on equity that AmerenUE experienced for the
23 time period indicated; is that correct?

24 A. 12 months lag.

25 Q. And at the bottom there's an average,

1 right, that's an average of those months that are
2 displayed there, correct?

3 A. Yes.

4 Q. And what is that average?

5 A. 9.31.

6 Q. Okay. And at the time, during the months
7 that that was the average that you actually realized, do
8 you know what the authorized return on equity was?

9 A. It was 10.2.

10 Q. 10.2. Okay. And, in fact, it's one of the
11 points made by Ameren's witnesses, is it not, that what
12 you actually realized was about 100 basis points less than
13 what was authorized?

14 A. That's correct.

15 Q. Now, here's my question to you as the chief
16 executive officer. Why, why is it that Union Electric did
17 not realize a return at the authorized level?

18 A. It's basically a regulatory lag. We were
19 increasing the costs that we can't recover until we get
20 through another rate proceeding. Significant was the fuel
21 costs, but also significant is the invested -- investments
22 we're making in capital for improvements that can take as
23 much as 18 months or two years even if you do rate cases
24 on a regular basis. In other words, the transformers
25 we're putting in service today we will not earn a rate of

1 return until we have another rate case, which could be 20
2 years from now as you mentioned earlier.

3 Q. Thanks for bringing that up. That, in
4 fact, is statutory, though, right? I mean, you can't
5 recover until they're actually online; is that correct?

6 A. That's correct. That is causing
7 significant erosion of our ROE.

8 Q. Okay. So from the minute the Commission
9 issues its decision setting your return on equity, the
10 cost pattern, in fact, changes, does it not?

11 A. Well, cost pattern is changing
12 continuously.

13 Q. Every day?

14 A. Yes.

15 Q. Okay. And so the costs that the Commission
16 sets rates on are not necessarily the costs that, in fact,
17 the company is experiencing?

18 A. That's true. They were based during a test
19 year generally and a true-up period and not necessarily
20 the costs we're currently experiencing or -- well, even in
21 the last case, when the fuel adjustments or the fuel costs
22 really weren't -- we were experiencing weren't recovered
23 for several months later, even though they were trued up
24 in the rate case.

25 Q. Now, do you have any reason to disagree

1 with the interest coverage ratio that was calculated by
2 Mr. Hill?

3 A. I'm sorry. Would you clarify that
4 question, please?

5 Q. Sure. You know what interest coverage is,
6 right?

7 A. I'm not sure in what context. I know
8 interest I pay and I receive in my bank account, but I'm
9 not sure what you're referring to.

10 Q. Well, if you know, do the credit rating
11 agencies like Moody's and Fitches and Standard & Poor's,
12 do they not use certain ratios in calculating the
13 appropriate credit rating to assign to a company like
14 AmerenUE?

15 A. They look at ratios, yes, and if you're
16 looking at some kind of interest coverage ratio, yes, they
17 do look at those. I don't believe any single metric is
18 the determination of what you're going to eventually get
19 as a rating, but I think they take into effect a large
20 number of issues in deciding, including interest coverage.

21 Q. And as far as you know, are those ratios
22 public or are they secret that the different rating
23 agencies use?

24 A. I think they -- I think we know what their
25 rate -- their -- their -- how they calculate those ratios,

1 and I think those are public, but I think how they apply
2 them and determine your credit rating really is up to the
3 individual rating agencies.

4 Q. So an analyst, to the extent those ratios
5 are public and are known, an analyst can plug data in and
6 calculate and predict what the credit rating agency will
7 do in a given situation?

8 A. No, that's not correct.

9 Q. That's not correct? Why is that not
10 correct?

11 A. You can do all the calculation, come up
12 with all the ratios, know where you stand, and you still
13 won't know what they're going to decide to do because they
14 take other factors into consideration besides those
15 ratios.

16 Q. Okay.

17 A. I don't think anybody's been able to
18 predict ever what a credit -- what a rating agency is
19 actually going to do.

20 JUDGE WOODRUFF: We can break now if you
21 want to. I'll let you finish your cross-examination if
22 you will be moving along fairly quickly. You can make the
23 call.

24 MR. THOMPSON: I don't think I'm going to
25 be able to finish all that quickly.

1 JUDGE WOODRUFF: All right. Let's go ahead
2 and break for lunch, then, and we will come back at one
3 o'clock.

4 (A BREAK WAS TAKEN.)

5 JUDGE WOODRUFF: Before we get started back
6 with Mr. Thompson, Mr. Lowery, I believe you had a matter
7 you wanted to bring up.

8 MR. LOWERY: Yes. Your Honor, on Tuesday
9 we had sent out a corrected exhibit list because we had
10 accidentally numbered the one we sent out Monday
11 incorrectly. I think all of the counsel have that, but if
12 they don't, I have additional copies.

13 But Mr. Voss' testimony, instead of being
14 1HC, 2NP, et cetera, those three pieces of testimony
15 should be designated as 1HC, 1NP and 2, to correspond with
16 the direct testimony HC and direct testimony public and
17 rebuttal testimony, and we'd ask that the record so
18 reflect.

19 JUDGE WOODRUFF: Yes. The record will be
20 corrected to reflect that change, and I do apologize for
21 that. I went back and checked my records and, in fact, I
22 did receive that e-mail message and deleted it without
23 reading it.

24 MR. BYRNE: Your Honor, could I just offer
25 Exhibit 1HC and Exhibit 1NP and Exhibit 2 right now?

1 JUDGE WOODRUFF: Yes. So it will be clear,
2 those exhibits will be ruled into evidence.

3 MR. CONRAD: And the earlier ruling with
4 respect to Exhibit 3, whatever that may be, is no longer
5 applicable?

6 JUDGE WOODRUFF: That would be
7 Mr. Morin's direct. It is not yet admitted. All right.
8 Mr. Thompson, you may proceed.

9 MR. THOMPSON: Thank you, Judge.

10 BY MR. THOMPSON:

11 Q. Let me direct your attention to page 4 of
12 your rebuttal testimony. I wonder if you could read the
13 sentence that begins on line 7 with the words, I also
14 understand.

15 A. I also understand that the results these
16 experts reached can vary considerably depending on the
17 specific analysis they choose to rely, the weight they
18 choose to assign to each analysis and the input they
19 choose for each analysis.

20 Q. Now, you are speaking in that sentence, are
21 you not, about return on equity analyses?

22 A. Yes.

23 Q. Cost of common equity?

24 A. Yes.

25 Q. And you stand by that sentence today, don't

1 you?

2 A. Yes.

3 Q. Okay. And shifting gears a little bit now,
4 you filed this case on April 4 of 2008; is that correct?

5 A. Yes. It was in April.

6 Q. Who made that decision to file on that
7 particular day?

8 A. I think I made the final decision.

9 Q. Okay. Who else participated in making that
10 decision?

11 A. My staff. My immediate staff.

12 Q. Okay. Is there any particular reason you
13 chose to file in April of 2008?

14 A. Well, we were just seeing declining return
15 on equity position, and when we looked out further, we
16 thought it was going to get continually worse and we were
17 afraid our credit metrics would change and even get worse
18 than what they really were. So we felt like we had to
19 file sooner rather than later in order to get an adequate
20 return.

21 Q. Looking at page 6, I believe, of your
22 direct testimony -- yeah. Do you have your direct
23 testimony there, sir?

24 A. Yes, I do.

25 Q. I wonder if you would read the sentence

1 that begins on line 6 with the words additional fuel cost.

2 A. Additional fuel cost, is that --

3 Q. Yes, sir.

4 A. Additional fuel cost increases will occur
5 later in 2008, and the company will face yet another
6 substantial fuel cost increase effective January 1st,
7 2009, months before rates in this case will likely take
8 effect, which will further erode AmerenUE's return.

9 Q. And in the current case, if you know, the
10 test year is 12 months ending March 31, 2008; isn't that
11 correct?

12 A. Yes.

13 Q. And the true-up period ends September 30th,
14 2008, does it not?

15 A. Yes.

16 Q. So the significant or substantial fuel cost
17 increases you're referring to in that testimony on line 7,
18 page 6 of your direct testimony, that will be outside of
19 both the test year and the true-up period, correct?

20 A. That is correct. I think it was in the
21 context of asking for a fuel adjustment and justification
22 for why that was needed, not to try and change the
23 parameters that were in the test year, but to show that
24 that's a regulatory lag position is hurting us
25 substantially.

1 Q. Yes, sir. But the timing of the case was
2 totally under the company's control, was it not?

3 A. Yes, it was.

4 Q. And you could have timed the case so that
5 those late 2008/January 2009, fuel cost increases would
6 have been within either the test year or the true-up
7 period, could you not have?

8 A. Yes, but that doesn't solve the problem of
9 recovering those fuel costs because then the case wouldn't
10 be decided until later in the year. So you lose more from
11 January until the case is decided, versus now you only
12 lose up until, if the rates go into effect in March, if
13 you'd waited and delayed six months, then the rates
14 wouldn't have gone in effect until maybe July, and then
15 you'd lose six months of those, which I think that was
16 part of the consideration of when we filed the case.

17 Q. Thank you. If you know, has there been a
18 general austerity program adopted at AmerenUE in response
19 to the present economic climate?

20 A. To some extent. I mean, we certainly are
21 not -- we're looking very carefully at any new hires.
22 We're looking carefully at any excess expenditures, you
23 know. Again, we're looking for ways to preserve cash to
24 see if we can get through this crisis without serious
25 consequences to the company.

1 Q. Now, there's already been talk of scrubbers
2 at the Sioux plant which might be delayed because of that,
3 correct?

4 A. Yes, that is a consideration.

5 Q. If you know, are there any other capital
6 expenditures like that that are likely to be delayed?

7 A. Yes, there's several.

8 Q. Okay. Can you name any of them?

9 A. We're looking at should we delay some
10 digital control applications at the Callaway plant, should
11 we delay some upgrades to unit transformers at a couple of
12 the plants, you know, generally should -- is there a
13 possibility to delay some kind of modifications possibly
14 to ash handling, things like that that we don't think will
15 directly affect the reliability of the plant but that
16 could possibly be delayed for a year or so without serious
17 harm.

18 Q. Okay. Now, in your direct testimony, you
19 talk about the challenge that Ameren faced with respect to
20 certain storms. Do you see that starting on page 6?

21 A. Yes.

22 Q. Okay. You mentioned storms on July 19,
23 July 21, November 30th and December 1 of 2006 and
24 January 13 of 2007; is that correct?

25 A. Yes. That's correct.

1 Q. Okay. Now, there were also severe storms,
2 were there not, in January of 2002?

3 A. I'm not familiar --

4 Q. You're not sure?

5 A. -- with those dates.

6 Q. How about July of 2004?

7 A. Again, I'm not familiar with the dates.

8 We've never had storms like we had in 2006 and January of
9 2007. I mean, I shouldn't say never, but I've been
10 with -- in that area of the business for 30, 40 years, and
11 I've never seen storms that severe.

12 Q. Okay. Now, I wonder, isn't it true that
13 it's been AmerenUE's policy since 2002 to trim suburban
14 distribution lines on a four-year cycle?

15 A. No, that's not true.

16 Q. What is the cycle, if you know?

17 A. The present cycle is, urban is four years,
18 but that wasn't our policy in 2002.

19 Q. What was the policy in 2002?

20 A. It was three or five, three years for 12 KV
21 circuits, five years for 4 KV circuits, and then in the
22 rural areas were out -- extended. They were somewhere
23 between six and ten years actually depending on the
24 locations.

25 MR. THOMPSON: That's all I have. Thank

1 you very much.

2 JUDGE WOODRUFF: Thank you, Mr. Thompson.

3 Then we'll come up for questions from the Bench.

4 Commissioner Gunn?

5 COMMISSIONER GUNN: I do have a couple
6 questions.

7 QUESTIONS BY COMMISSIONER GUNN:

8 Q. Thank you very much for your time. What in
9 your opinion is the most volatile fuel cost? What segment
10 of fuel that you use would you consider the most volatile?

11 A. Well, the most volatile that's incorporated
12 in our fuel adjustment aspect, of course, is off-system
13 sales. I mean, there's tremendous volatility in that
14 aspect. The other fuels, they will have all been fairly
15 volatile in the last year. I'd say gas has gone from \$6
16 to, you know, 13, \$14 a million BTU. Coal's gone from
17 something like 12, \$13 up to 20, then back to about 14 or
18 15. Nuclear fuel is volatile. It's gone from \$78 a pond
19 uranium up to \$140, and now it's around 90.

20 So those aspects have been -- diesel fuel,
21 of course, went up to 4.25, which is part of our
22 transportation costs, and now is back down to like 2.50.
23 So those costs have all been, I'd say, fairly volatile in
24 the last 18 months; certainly off-system sales has gone
25 from, you know, 40, \$45 up to \$65 for a wrap back down to

1 45 again.

2 So it's been fairly volatile.

3 Q. Over the last -- projecting forward, the
4 costs have pretty steadily declined over the last two
5 months, most of it in relation to the U.S. economy?

6 A. Yes.

7 Q. And that's true for coal and petroleum and
8 gasoline?

9 A. Yes. Not necessarily transportation.
10 That's pretty well stayed the same, except for the fuel
11 cost, the diesel fuel cost part of it. The gas has
12 definitely come off. Coal actually, Powder River coal has
13 not declined considerably in the last -- at least that I'm
14 not aware of, in the last couple months. And it seems
15 like Illinois coal actually went from like \$30 in -- a ton
16 in June up to \$80 in September and October, and it may be
17 down to 60 now, but it's nowhere near 30 where it was just
18 six months ago.

19 Q. Yeah. I'm looking at a chart from the FERC
20 that bears that out. That Illinois coal's kind of spiked
21 up, but Powder River Basin, although because it's less,
22 it's -- it has increased but it's stayed relatively flat
23 for the past year and a half.

24 A. I think our embedded cost has been
25 continuing increasing because as we put on contracts, it's

1 been -- they've generally been more than we had
2 historically four or five years ago. So we're still
3 seeing -- at our -- our coal pool continues to rise in
4 cost as time goes on basically. Even the Powder River
5 Basin, a small change when you multiply it by 40 million
6 tons turns out to be a lot of money.

7 Q. Has the nuclear fuel seen the similar,
8 under the current market conditions, the similar decline
9 as some of the other commodities?

10 A. You know, we haven't seen that decline in
11 nuclear -- well, it declined back down to 90. It was up
12 to 140, but I don't -- we don't see any indication that
13 it's going to go lower than that just because of the
14 demand, and actually the enrichment costs have actually
15 either stayed the same or gone higher because of the
16 pressure on the enrichment process.

17 Q. Thank you. I want to go back to your COLA
18 application for a second, only for the purposes of the --
19 on page 111 and 112, which are your credit ratings, you
20 stated earlier that those are -- they haven't changed and
21 they are accurate. Is that still correct?

22 A. Yes. To the best of my knowledge, those
23 are still the same, because the application was done in
24 July, and actually our ratings were changed back in May
25 where they went down, and they put us on -- I think

1 there's been some negative watches in here, but the actual
2 rating itself hasn't changed.

3 Q. What was the reason for the previous
4 downgrade, do you know?

5 A. Well, actually, it was -- to be very
6 straightforward, it was the fact that we didn't have a
7 fuel adjustment that was -- at all, and the fact that our
8 regulatory process has this lag where there's no
9 opportunity. A lot of states have interim rates so you
10 can put it in subject to refund, or they use projected
11 test years, and the view was that it was kind of a
12 negative regulatory environment.

13 Q. Do you agree with the credit ratings?

14 A. You know, credit ratings are, I think we --
15 it's hard to disagree with where they are. I just am not
16 that good of a financial person to tell you what our
17 ratings, whether they should be higher or lower, but it
18 certainly would be better for Union Electric and its
19 customers if our credit ratings were higher.

20 We have no access to commercial paper now
21 because of our ratings, but we used to be an A rated
22 company just a couple years ago and they've eroded
23 substantially. Part of it is due to the fact that, you
24 know, we're really into this building program and we're
25 really doing the things that we thought the customers and

1 the Commission wanted us to do, and that buildout is
2 putting real pressure on our rating.

3 Q. But your customer base hasn't substantially
4 declined since you were an A rating?

5 A. No.

6 Q. Demand hasn't substantially decreased?

7 A. No. It's gone up.

8 Q. It's gone up. The company hasn't had
9 substantial changes in direction or management or
10 philosophy?

11 A. No. It's just been the projects to --
12 reinvestment and infrastructure, those costs have all gone
13 up, and the environmental costs have gone up to meet the
14 environmental requirements.

15 Q. But all those would have been -- would at
16 some point be appropriately recovered through increased
17 rates down the line?

18 A. Yes. I think the credit metrics are
19 pushing it down because of the lag, and they feel there's
20 a greater risk with us now than there was in the past
21 because of those expenditures.

22 Q. Do you think you're any riskier than other
23 utility companies?

24 A. I'm not familiar with all the utilities,
25 but our free cash flow is, because of our buildout is --

1 you know, I can understand why there would be some
2 concerns, and the fact that, you know, there's no -- if we
3 continue to lose these chunks of fuel adjustment costs,
4 and if we're just depending on the market to happen to go
5 up to save us, I don't think investors are going to feel
6 very comfortable about that.

7 Q. Do you think that utility stocks are any
8 more volatile than, say, financial stocks or -- or
9 automotive stocks today?

10 A. Well, you know, utility stocks were pretty
11 solid for a long time, but we certainly saw our stock,
12 which is -- you know, went down from in the 50s now down
13 into the -- well, actually it went below 30s, well below
14 book value. So I don't know what other people are selling
15 at, but it's really a bad -- difficult position now with
16 our stock being as low as it is.

17 Q. And that's part of what I'm trying to get
18 at. What market -- other than the general decline in the
19 economy, the general decline in the stock market and bond
20 ratings by whoever, are there any other market conditions
21 that you could identify that are the cause of that decline
22 in stock value for your company?

23 A. Well, no. I think it's basically that
24 we're a very capital intensive business, and they know
25 that we're going to be going out and trying to raise

1 capital on a regular basis, and right now that's kind of a
2 risky business, because people look at things, because
3 there's been defaults, and they know we're in now for
4 substantial amounts.

5 So as I said, our construction program went
6 from 5, 600 million a year up to over a billion a year
7 this year, and when you increase that with no guarantees
8 and long regulatory lags, it just doesn't look good.
9 Investors aren't comfortable loaning us that kind of
10 money. And I think people that buy our stock then get
11 nervous.

12 Q. Right. Now, as a general proposition, the
13 market conditions from the last rate case where you were
14 denied the fuel adjustment clause, there has been a swing,
15 we would agree with that?

16 A. Yes, definitely.

17 Q. But right now, the swing is downward?

18 A. Well, it looks like the swing for the fuel
19 commodities is going to decline for some period of time.
20 I'm not sure, though, that that's in -- also, the other
21 side of that is off-system sales is declining, too, and
22 they're not compensating for it. There's a concept called
23 a dark spread where actually the margin is being
24 compressed right now, and so it has a -- it has a bigger
25 effect than just the fact that if commodity's going down,

1 it doesn't mean we're going to be healthier from a fuel
2 point of view if you relate the off-system sales and
3 railroads. Railroads haven't seen any interest in
4 lowering their charges to us at all.

5 Q. And your -- the company's actively involved
6 in hedging programs which would mitigate some of those
7 swings, although not eliminate them entirely?

8 A. Yes. You know, we hedge as much as we can
9 to try and limit that volatility and get more stability
10 into those things, but even small amounts, burn changes
11 during the year, how the generator is run, if they run
12 better and you're selling more, you're buying more fuel
13 and you increase your costs, again, you decrease your
14 margins, and it's just a lot of factors that go into it.

15 COMMISSIONER GUNN: I don't think I have
16 any other questions, Judge. Thank you very much.

17 JUDGE WOODRUFF: Commissioner Murray?

18 QUESTIONS BY COMMISSIONER MURRAY:

19 Q. We got to questions from the Bench much
20 sooner than I thought. Good afternoon, Mr. Voss.

21 A. Good afternoon.

22 Q. I've just got a mishmash of questions here,
23 so excuse the fact that they're all over the place. I'm
24 going to start with the question about Noranda because you
25 were questioned some about that. And I'd like to know,

1 are the current -- if you know, are the current rates for
2 Noranda below the national average for industrials?

3 A. Yes. Our tariffed rate to Noranda, I think
4 all it ends up being somewhere around \$33 a megawatt hour
5 to them, 33, 34, I believe, and I think the national
6 average for around the clock customers would be somewhere
7 around 45 to 50, and, of course, this last year was as
8 high as 65 at some times.

9 Q. And if your rate case, rate request were
10 granted in full, including the rate design that the
11 company has proposed, would the rates still be below the
12 national average?

13 A. To Noranda?

14 Q. Yes.

15 A. Yes, they would.

16 Q. And how about other industrials?

17 A. Yes. In general, our industrial rates are
18 extremely low compared to -- overall rates are about
19 40 percent below the national average. So a 12 percent
20 increase isn't going to push us anywhere close to the
21 national average.

22 Q. Do you agree, however, that with the class
23 cost of service and rate design that is proposed, that
24 certain customers will be paying more than the actual cost
25 of serving them?

1 A. Yes. Certain customers will pay more and
2 some will pay less according to what our picture of our
3 view of that world is, and -- but that's been, you know,
4 that's probably been true since rates have been in effect,
5 that there's always some customers who are paying more or
6 less. But the rate design is always subject to a lot of
7 other considerations, I think, rather than just cost of
8 service study.

9 But we certainly would have no objections
10 to relining it -- our cost of service more closely with --
11 our rates more closely with our cost of service studies.
12 We always think it's a bad policy to subsidize one class
13 of customers for another. I know there's a lot that goes
14 into the rate design besides just those hard numbers.

15 Q. Ms. Vuylsteke asked a couple of the
16 questions that I was wanting to focus on. She asked you
17 about reduction of expenses, and I read an article that
18 was, I believe, November 14th in the paper, the Harold
19 Review, where it indicated that Ameren was responding to
20 the economic situation by hitting the kill switch on
21 expenses, is the way they characterized it.

22 And I was wondering, what are -- have you
23 enumerated all of the areas in which UE is looking at
24 cutting expenses in at least the short term and charging
25 -- shoring up its cash reserves?

1 A. Sure. I mean, I can elaborate a little bit
2 on that if you would like.

3 Q. Would you please?

4 A. First of all, our first criteria was to
5 look at anything that would involve any kind of safety
6 issue. We weren't going to cut out anything that would
7 either have process safety or industrial safety affected.
8 And the next was, of course, that we won't break any
9 Commission rules or any laws in our corporation by cutting
10 back on any programs.

11 After that, though, our unregulated
12 subsidiary did some substantial reductions, I think up
13 into something like a half a billion dollars of reductions
14 that they were going to do in environmental upgrades at
15 the plants that are merchant plants in Illinois. Also,
16 the Illinois utility had some reductions.

17 And then AmerenUE's part of this was to
18 again look at our capital projects pretty much, seeing if
19 we could defer those, like the Sioux scrubber where we
20 didn't have an obligation to serve there -- I mean an
21 obligation to put that in service, and defer some of these
22 other projects that were more long range improvements and
23 see if we could defer them for six months or a year.

24 Our Power On program with the
25 undergrounding portion of that was 100 million spend over

1 three years, and we decided to trim that back to 50
2 million over six years, but again, with the prospect,
3 though, that if it turns around, we could put that back in
4 again and ramp back up again. So it's kind of been across
5 the board.

6 Q. Have those projected reductions been
7 included in your calculations for this rate case?

8 A. No. They're almost all capital, and they
9 really don't have any effect on this particular rate case.
10 And the O&M reductions that would be related to those
11 capital projects, even with those our O&M expenditures are
12 going to be more than what they are in the test year next
13 year. So it's no -- we're going to have increase in costs
14 in the O&M area even with those reductions.

15 Q. Okay. Are you familiar with a recent
16 report that was issued by the Brattle Group called
17 Transforming Missouri's Power Industries, the Investment
18 Challenge 2010 to 2030?

19 A. No, I'm sorry, I haven't seen that.

20 Q. One of the things that that report
21 indicated was that there is a large potential reduction in
22 the need for new generation capacity in the electric
23 industry due to the faster than previously estimated
24 implementation of energy efficiency and demand response
25 programs.

1 Do you think that with increasing or
2 speeding up the implementation of energy efficiency and
3 demand response programs, that the need for new generation
4 can be significantly reduced?

5 A. You know, in our IRP filing we looked at
6 that and felt that if we took a very aggressive, the most
7 aggressive position we think we can take on energy
8 efficiency and demand response, that we could save an
9 equivalent of a large generating unit by 2025. We're
10 looking at the 500 megawatt unit to be saved by that point
11 in time.

12 We don't think that will offset the need
13 for a new base load plant in the 2020 time frame. But
14 that is part of the reason why we haven't pulled the
15 trigger on it, though, we want to see what happens with
16 the energy efficiency. If we can get more than what we
17 had in the next couple years, that will lead us to believe
18 we can push off that decision on building a new base load
19 plant further.

20 But there are other compensating factors
21 that are coming in to play, and one of them is the Federal
22 Government's carbon legislation which could substan --
23 could put some coal plants really out of business, and
24 some of our -- particularly one of our main base load
25 plants right now, our Meramec plant will be 70 years old

1 in 2020 and it's not highly efficient. It's not as
2 efficient as the other plants, and that is exactly the
3 type of plant that the Federal Government's targeting.

4 So it may not -- demand may not push the
5 need for a base load, but the environmental regulations
6 may push the need for a new base load plant. But all that
7 said, we're still seeing demand growth, though.

8 Q. Even with the economic situation the way it
9 is today, you've not noticed a difference in demand
10 growth?

11 A. We have not to date. We have gone back and
12 looked at some previous recessionary periods, and the best
13 we've ever seen historically was a zero growth for six
14 months to a year, but then again picking right back up
15 again and actually catching up very quickly. So we just
16 don't know how this will correspond to how it did
17 traditionally.

18 Q. And what historic period were you looking
19 at?

20 A. You know, we were looking at some -- what
21 we thought were previous recessionary periods, I think it
22 was in the '90s, and there was -- I believe it was in the
23 '90s when we were looking at it. I'm not sure of the
24 date.

25 Q. On page 10 of your rebuttal testimony, you

1 have a chart there that was referenced earlier, and on
2 that chart you show the months of June through the
3 following August, through August of the next year, and the
4 return on equity column, you see that there's a
5 significant variation in that ROE column, is there not --

6 A. Yes, there is.

7 Q. -- from month to month?

8 And to what would you attribute that
9 variability from month to month?

10 A. Basically, it varies on off-system sales as
11 the market and the price, the market of off-system sales,
12 and then as you get longer from the time the last rate
13 true-up rate case where actually we started recovering the
14 capital investments, then that deteriorates.

15 As I was saying today, the transformer we
16 put in service today actually won't get into our rate base
17 until the next rate case is decided and we won't earn on
18 that. When you're investing at high levels, like a
19 billion dollars a year, that has a pretty negative effect
20 on ROE as time goes on.

21 So I would expect if this went up through
22 August of this year, that by the time these rates go into
23 effect in March next year, that you'll see that thing well
24 below those numbers that are shown in this chart, probably
25 at 8 or below 8 percent.

1 Q. Okay. So mostly attributable to off-system
2 sales variability and to regulatory lag?

3 A. Yes, and the capital investments,
4 especially when you're investing so much higher than
5 depreciation, which is what we are.

6 Q. And with the Callaway 2 application and
7 what you're requesting in this rate case, is it correct
8 that neither Callaway 1 nor Wolf Creek was given the type
9 of treatment that you're requesting for their
10 applications?

11 A. I really don't know when that application
12 was submitted, and I could not tell you when it went into
13 rates, that cost of that application, although times are
14 very different. There were two applications you had to
15 submit, one when you -- before you built the plant, and
16 then one later on when you actually wanted to put the
17 plant into operation. So there were two. It was a
18 totally different regulatory scheme than it is now where
19 you just have one basically.

20 And again, the real pressure for doing it
21 at the point in time we did it on was basically to
22 preserve those federal tax credits that are worth 50 to
23 100 million a year for our customers that we would lose if
24 we decided to not submit it in 2008, but say we waited
25 until 2011 and then decided to go ahead with the plant,

1 you just gave away, you know, substantial amounts of money
2 that we think we -- it was a prudent thing to do.

3 Q. And you're wanting us to consider that
4 it's -- should be treated differently than other property
5 that is invested in prior to its becoming used and useful
6 because it is an asset that is salable? I don't know how
7 you distinguish that from an asset that would be like a --
8 a piece of equipment, a large piece of equipment that
9 would go into a new generation plant that you purchased
10 but it's still not used and useful.

11 A. Well, there's -- you know, this has nothing
12 to do with construction. This is all about planning and
13 keeping options open. You do that sometimes when you buy
14 spare capacity, spare equipment, you do that sometimes,
15 you buy spare land.

16 And also, you know, just our planning, our
17 IRP planning process is a cost that is in rates, and
18 again, it's to study options and keep options open, and we
19 think this is part of that process. It is a -- it is a
20 defined development. You get a license. It's yours. You
21 can sell it. You can keep it. You can -- you don't have
22 to act on it in the next year or two. Doesn't really have
23 a time frame. Well, it has a time frame, but I think it's
24 like 20 years. So it's just something, it's an asset that
25 you can pull the chain on or sell it or keep it.

1 Q. The -- back to the company's under-earning,
2 was there -- in determining what the earnings were, was
3 the proposed imputation of the Taum Sauk off-system sales,
4 was that calculated in --

5 A. Yes.

6 Q. -- the whole earnings calculation?

7 A. Yes, it is. It's a modeling, because you
8 can't experience it, but the modeling was put in to
9 account for -- it's been an offset that was placed into
10 the analysis of what we would get. So there is no -- all
11 the effects of the Taum Sauk have been taken out of this
12 case.

13 COMMISSIONER MURRAY: I think that's all I
14 have. Thank you.

15 JUDGE WOODRUFF: Commissioner Jarrett?

16 COMMISSIONER JARRETT: Thank you, Judge.

17 QUESTIONS BY COMMISSIONER JARRETT:

18 Q. Good afternoon, Mr. Voss. How are you?

19 A. Good afternoon.

20 Q. I had several questions I wanted to ask,
21 and I realize you're speaking on sort of the overview, so
22 I'm trying to limit my questions to sort of the 30,000
23 feet level.

24 A. Thank you. I appreciate that.

25 Q. I'll try not to delve into too many

1 details. Try not to delve into too many details. The
2 first area I wanted to talk about was public relations. I
3 think it's -- you would agree that due to events that have
4 occurred over the last two or three years, AmerenUE's
5 taken a pretty good public relations hit in Missouri?

6 A. Yes, that's true.

7 Q. With the Taum Sauk issue and the storms
8 and --

9 A. Yes.

10 Q. -- outages and so forth.

11 I wanted to ask you, what has the company
12 done to sort of restore public confidence and -- well,
13 I'll just leave it at that. What steps has the company
14 taken to restore public confidence in Ameren?

15 A. I appreciate that. As you know, with the
16 Taum Sauk hearings we went through a lot of discussion
17 about what really went wrong and what didn't, and the
18 storms we put our customers through was a difficult time
19 for them. We understand that they would be upset and lose
20 some confidence in us.

21 We believe that those -- as you look now,
22 as you look back, there's been a lot of storms that have
23 occurred throughout the country that were similar to ours
24 and had consequences that were certainly as bad or worse
25 than the ones our customers experienced. But we don't

1 think that takes us off the hook, and we know we have to
2 do some makeup to our customers.

3 So we -- you know, the challenge I heard
4 from the Commissioners at that time, I remember in
5 December of 2006, and we came up with the -- with our
6 hardening program. We're taking our system and we're
7 building it to higher standards than we had before.
8 We're putting these circuits underground, this 300 million
9 undergrounding, the ones that we haven't been able to
10 solve any other way.

11 We took a pretty aggressive approach with
12 helping design the vegetation management and circuit
13 inspection rules. Tried to take a leadership position in
14 that because we thought that was something that would help
15 the customers' reliability.

16 We started communicating more. I think I
17 heard from the Commission many times was communicate,
18 communicate, communicate, both during storms and after
19 storms, tell people what you're doing. And we've been out
20 there telling them about our Power On, undergrounding,
21 telling them about tree trimming. We had something like
22 600 community meetings that we had, town hall meetings
23 with -- over the last -- since the last rate case with our
24 customers.

25 We were pretty -- I thought we were fairly

1 proactive in the public hearings related to this case. We
2 had people there with computers that could answer
3 questions about their rates, questions about projected
4 rates, questions about their reliability. So we try to do
5 those things also.

6 We, you know, we've done some other things,
7 I think, in response to that, but I think those are the
8 main ones, just trying to be more approachable, a lot of
9 stuff on tree trimming, putting the right tree in the
10 right spot, helping communities do that, encouraging
11 municipalities to put in undergrounding ordinances. We
12 changed some of those tariffs that allow if people want to
13 put in underground service to us, we'll pull it in.

14 In other words, our whole focus,
15 interaction with customers. We've done a lot on polling
16 customers that have interaction with us, both in the call
17 center and in the field, and is there ways we can improve
18 that interaction. And we've taken a lot of steps on
19 improving those, like giving our linemen cell phones and
20 saying, hey, I just fixed your light, or saying I couldn't
21 fix your light because we don't own that light, somebody
22 else does, the city or somebody like that. So we give
23 feedback to our customers about what's going on.

24 So -- and then just generally being a good
25 community citizen is also we've -- we've been very active

1 in the community, both our employees helping out in
2 service roles and corporate gifts and just trying to be a
3 good neighbor.

4 Q. In speaking directly to the customer
5 relations, have you done any surveys or received any
6 feedback? Is the perception improving from your
7 standpoint as far as customers?

8 A. Yes. We've done a couple things. One, of
9 course, we're always involved in JD Powers surveys, and
10 they only did it once a year historically, and it was in
11 April, so that was always a good time frame with us with
12 the rate case announcement in April. But the results of
13 that was they said that was the largest improvement
14 they've ever seen in one year in any utility company ever
15 since they've been taking those surveys.

16 We also -- they switched from a one-year
17 phone interview to an Internet based that they do
18 quarterly, and in the last quarterly results we actually
19 moved up from the fourth quartile to almost exactly to the
20 median number, which again during a rate case we thought
21 was pretty significant.

22 And on top of that, on this interaction we
23 have with customers, when a customer meets one of our
24 employees either for like a light or service or an upgrade
25 or something, we poll those customers, and we also ask

1 them a general question about their overall, what they
2 think of our company. And it actually -- it's back now to
3 where it was pre-storm levels. So we're getting
4 indications that we're doing the right things, and we
5 intend to keep doing those things.

6 Q. The next area I wanted to explore a little
7 bit was in your testimony and some of the questions you
8 talked about the IRP process, specifically relating to
9 some of the, you know, exploring a possible second plant
10 at Callaway. Are you aware of -- excuse me. Are you
11 aware of Mr. Kidwell's article that appeared in the
12 St. Louis Post Dispatch this morning?

13 A. Yes, I am.

14 Q. And he specifically addressed one area that
15 I want to explore with you, and let me just kind of read
16 the portion that I want to get your thoughts on and maybe
17 ask you some questions about. He says, second, UE has
18 committed to consult regularly with the PSC, the state's
19 Office of Public Counsel and environmental groups. As we
20 developed our current plan, we met with stakeholders 30
21 times over more than a year. We will do the same as we
22 prepare our next plan, and we have made that commitment
23 publicly before the PSC. The talks will include all
24 options for financing a new plant, if one is needed, and
25 they will occur more than a year before any financial

1 decision is reached. End quote.

2 And I believe from my recollection
3 Ms. Tatro made some comments that are last -- at the
4 recent IRP hearing about the same thing, that this
5 collaborative process with all the stakeholders, PSC
6 Staff, Office of Public Counsel, environmental groups,
7 industrials, all interested parties, would be ongoing, up
8 until the time that you-all make a decision; is that
9 correct?

10 A. Yes. The next -- we owe everybody another
11 IRP filing, and I believe it's in 2011, early 2011, and
12 we're going to be in talking with people for a year or so
13 before that about the best approach to this. And we've
14 agreed to not make a final decision on whether to build or
15 not until at least six months after that IRP filing.

16 And I -- I think I mischaracterized the
17 decision date as being in 2010, and it's really 2011. I
18 was just used to being -- people were asking me when you
19 were going to do a decision and I said 2010 to 2012.
20 That's what I've been telling people. But it will be late
21 in 2011 before a final decision is made.

22 Q. Right. So are you planning this
23 collaborative process, are you planning regular meetings
24 between now and that time? I mean, is that going to be an
25 ongoing process? You planned several meetings for 2009,

1 to bring the folks in and keep everybody up to date on
2 what's going on?

3 A. I'm not sure it's ongoing as we speak. I
4 think we think we need to be a little closer to
5 decision-making time, because we may -- part of the
6 decision may just be not to do it, that we don't need it.
7 We think there needs to be a little more time before we
8 actually reengage everyone. But I think that process is
9 start -- and I'm not sure of exact dates, but sometime in
10 late 2009, or I think that's about when it restarts, but
11 I'm not positive on that.

12 Q. Right. But you are aware there are a lot
13 of folks very interested in finding out what you guys are
14 doing and how you're going to go about it?

15 A. Yeah. We're not doing anything -- all
16 we're doing right now is just keeping the nuclear option
17 open, is what we did, and we're just studying all the
18 other options and looking at our load growth and
19 determining what's the best way to do this. If we get a
20 huge effect from energy efficiency initiatives we'll be
21 kicking off, then we really won't need it for quite some
22 time. So those are all -- all factors that will be taken
23 into effect when a decision is finally made.

24 Q. I mean, would you-all be willing to have
25 sort of regular round tables, you know, even starting

1 early 2009, even to say there's really nothing much to
2 report but we just wanted to get together and let you know
3 we're still heading down the scope, again, because there's
4 a lot of people interested. And it seems to me the more
5 you-all get together and talk about these things, the
6 better it is for everyone.

7 A. You know, we certainly can get together,
8 but we really don't have any information to put out at
9 this point in time. We need to -- we need to do a lot
10 more work at looking, we think, so we can meaningful
11 discussions.

12 I think it would be much better if it was
13 put off until the latter part of 2009 rather than start
14 having meetings and not discussing anything. We want to
15 see -- we want to do some more analysis of what kind of
16 financing options there are available and we'll go through
17 that, but it's going to be still a long way before
18 decision-making which is going to be late and now in 2011.
19 Even if we start in late 2009 or '10, there will be plenty
20 of time for people to have input into the decision.

21 Q. All right. My next area that I wanted to
22 explore just a little bit is -- is on page 24 of Ameren's
23 position statement that was filed, and I don't know if you
24 have it in front of you. You don't necessarily need it.
25 I just -- it relates to incentive compensation, and that

1 was one of the --

2 A. Okay.

3 Q. I believe you had -- several questions were
4 asked of you about incentive compensation?

5 A. Yes.

6 Q. And in the position paper, it says that
7 industry surveys indicate that the vast majority of
8 Ameren's peer companies offer long and/or short-term
9 incentive compensation to their employees?

10 A. Yes.

11 Q. Are you aware of what surveys that's
12 talking about, or is that going to be answered by some of
13 your other witnesses?

14 A. Krista Bauer can answer you better on that
15 when she testifies. We -- we do -- we work with Tylus
16 Peron, and our board is always looking at what's
17 mainstream and what is proper compensation policies for
18 our employees. So we're constantly looking and comparing
19 ourselves against the industry, both at what's market and
20 then what are people doing.

21 And we want to -- the reason we want to
22 stay mainstream in that area is that we certainly want to
23 attract the better talent. We think we've attracted the
24 better talent in the past with the processes that we've
25 used in the past. We want to continue to do that.

1 Q. And do you know or will the other witness
2 be able to talk about whether, you know, those utilities
3 in other jurisdictions recover their costs for those
4 incentive compensation packages?

5 A. I really don't know, and I don't really
6 know if she'll know for sure, but that would certainly be
7 a question to ask her, I would think.

8 Q. Thank you. And really the final area I
9 wanted to delve into is the economic development angle. I
10 think Ms. Vuylsteke in her opening statement -- were you
11 here for her opening statement?

12 A. Yes, I was.

13 Q. And heard her talk about economic
14 development being I think a legitimate area for us to
15 consider. Would you agree with that?

16 A. Yes. And I don't think we're at odds with
17 that. I think a healthy, you know, AmerenUE is healthy
18 for our economy and it's good for us in the long term. I
19 think if we have limited -- if we keep getting our credit
20 ratings lower and we have limited access to get capital,
21 then our borrowing costs are going to go up, our rates are
22 going to go up and services are going to go down because
23 we won't be able to afford to do all the things we need to
24 do.

25 So I think we're in alignment that it's in

1 the best interests of the economy, local economy for us to
2 be healthy, and it's not in the best long-term interests
3 for the people in our service territory and our customers
4 to be having trouble with a utility that's serving them.

5 And I think that's what made our rates look
6 so good in the past. These industrial rates we have now
7 are some of the best in the country, and I think that's
8 because we have been healthy in the past and we have been
9 able to make the investments when we needed to make them.

10 Q. And I kind of want to go, I guess, down a
11 different path and ask, has AmerenUE done any studies or
12 surveys on the economic development impact in Missouri if
13 a nuclear plant is built as far as jobs created, how much
14 -- how much more revenues that would create for the state
15 of Missouri, those types of things?

16 A. Yes, we have done that. It's a huge
17 benefit. Of course we're going to be adding -- it'll be
18 the single largest construction project ever in the
19 history of the state of Missouri, and when you put on
20 3,000 permanent workers, I mean temporary workers for a
21 period of five or six years, I think that results in about
22 a 12,000 total worker increase because of the spinoff
23 effects of all those, because they'll be eating in
24 restaurants and staying in hotels and buying houses and
25 all the different things they do.

1 And then the permanent impact is huge, too,
2 because we'll have 4 or 500 more permanent high paid
3 employees there, you know, nuclear engineers and radiation
4 scientists and people like that, and their spinoff effects
5 is huge, too. And I don't have those numbers real handy,
6 but it's a huge economic boon to the city, to the state of
7 Missouri.

8 And you know, it's not just a -- it's not a
9 project that we're likely to do alone, you know, a new
10 nuclear plant. We'd probably look for partners, and
11 certainly the cooperatives have been very interested in
12 joining with us in this adventure -- venture, and so have
13 the municipals. And so I truly see this as something that
14 will stabilize electricity rates in Missouri for a long
15 time and give it a really good economic boost that it
16 could use right in the center of the state. But again,
17 we're not going to do that unless it's the right thing to
18 do.

19 Q. Right. Well, thank you. I don't have any
20 more questions, but the only other comment I would have is
21 going back to the collaborative process. I would
22 encourage your company to meet as frequently as possible
23 with all the other stakeholders, keep everybody in the
24 loop, and the more communication and information that's
25 out there I think is better for everyone.

1 COMMISSIONER JARRETT: So with that, I
2 thank you for your testimony.

3 THE WITNESS: Thank you.

4 JUDGE WOODRUFF: Chairman Davis, do you
5 have questions?

6 CHAIRMAN DAVIS: Yes.

7 QUESTIONS BY CHAIRMAN DAVIS:

8 Q. Good afternoon, Mr. Voss.

9 A. Good afternoon.

10 Q. Mr. Voss, when did you arrive in town to --
11 for your -- to arrive for your testimony today?

12 A. I was here yesterday afternoon.

13 Q. Did you fly or you drive?

14 A. I drove my Ford Escort, which is made in
15 Missouri, by the way.

16 Q. Okay. So --

17 A. By myself, by the way.

18 Q. Coming to the Capitol to ask for money, you
19 didn't exercise the same liberties that the respective
20 CEOs of Ford and GM exercised, flying here?

21 A. No.

22 Q. Does Ameren even own a corporate jet?

23 A. We do not.

24 Q. You do not?

25 A. We all drive wherever we need to go, or we

1 fly commercial if we need to fly somewhere, and we fly --
2 you know, we don't fly first class. Nobody in our company
3 flies first class. Nobody flies business class. We just
4 fly regular.

5 Q. All right. Thank you, Mr. Voss.

6 A. It's been our corporate policy for a long
7 time.

8 Q. Do you recall some questions from
9 Mr. Thompson about ROE and that it could be possible for
10 AmerenUE to go another 20 years without a rate increase?
11 Do you recall those questions?

12 A. I recall those questions.

13 Q. Okay. Would you agree that it's also
14 possible for donkeys to fly?

15 A. No.

16 Q. No. So you're saying that it's not even
17 possible to put a donkey on an airplane and fly it?

18 A. I guess they can fly that way. I'm sorry.
19 I had to do that. But it is highly unlikely that we would
20 not go in for a rate increase, especially with our
21 environmental buildup that we're doing now at Sioux where
22 we're going to have to be in here for recovering those
23 costs.

24 Q. So is it fair to say that the circumstances
25 from, say, the mid 1980s through the mid 2000s that led to

1 AmerenUE and its predecessors actually decreasing their
2 rates, possibly at gunpoint from the Commission, that
3 those circumstances were fairly unique and not likely to
4 be repeated?

5 A. Yes. I talked to our employees many times
6 about the declining cost environment that we had for those
7 20 years, and it changed around in 2005 partly because of
8 the economic conditions in the world. We're competing
9 with China and India for commodities now. Our plants
10 are -- we've squeezed about, I think about almost
11 everything you can get out those plants that we built in
12 the '70s, those coal plants, converting them to lower fuel
13 cost. I don't see a fuel on the horizon that we'd be able
14 to convert those to in order to again reduce rates
15 further.

16 And just general infrastructure needs
17 throughout the company as things are getting older now.
18 We had a big buildout in the '50s and '60s in the
19 distribution system as people put in air conditioning, and
20 we built substations, and all those things are now coming
21 to a time when they're going to need some attention,
22 including the trees that grow all around those lines.

23 Q. Is it fair to say that, you know, AmerenUE
24 overbuilt generation in say the late '70s and early '80s
25 and that one of the primary factors that you were able to

1 go for 20 years is because you had all this depreciation
2 combined with off-system sales?

3 A. Yes. I think that's true, mostly true. We
4 did overbuild probably in base load generation, and those
5 particular plants had an opportunity, you know, they were
6 all built to run to burn Illinois coal, and then we made
7 the switch to burning the Wyoming coal, which people at
8 the time really didn't think was possible, but we managed
9 to make it work, and that has a substantial benefit for
10 the position we're in today.

11 Q. And it was cheaper?

12 A. It was a lot cheaper, yes, it was. Yes,
13 tremendously cheaper and --

14 Q. In fact, we've had coal mines here in
15 Missouri that actually closed, didn't we?

16 A. Yes. I don't know and I'm not -- haven't
17 been in that area of the business long enough to know if
18 AmerenUE ever bought from those mines, but I know
19 Associated did. They had Minemouth Plant and Thomas Hill,
20 and they're now burning Powder River Basin coal there and
21 that mine closed down.

22 Q. Is it fair to say today that Ameren's
23 customers' rates are subsidized by off-system sales?

24 A. Definitely. You know, to the extent the
25 off-system sales are helping keep rates as low as they

1 are, and that's kind of a declining business for us as
2 this in the money generation you might say is eaten up by
3 our load growth every year, and so that's a situation
4 where more and more every year now we have to burn gas-
5 fired generation more and more, and that's not in the
6 money. So the idea of being able to rely on off-system
7 sales to offset other costs is ending as time goes on.

8 Q. So if all the off-system sales went away
9 today and your customers would actually be looking at a 10
10 percent or more rate increase just to cover your existing
11 costs that are in rates right now; is that a fair
12 statement?

13 A. I couldn't give you exact number. It would
14 be substantial, yes, and particularly we don't -- we don't
15 sell a lot on peak during summer anymore, but we're
16 still -- we still have some room on the off peaks on the
17 edges, and we try to make the most of that.

18 Q. Do you recall being questioned about
19 AmerenUE's desire to repeal the CWIP statute?

20 A. Yes, I do.

21 Q. To the best of your knowledge, is there any
22 other vertically integrated utility in the United States
23 that is trying to build a nuclear power plant that does
24 not have some form of construction work in progress?

25 A. We're the only one that has announced for a

1 COLA that doesn't have some kind of construction work in
2 progress, and that we're also the only one that doesn't
3 have a fuel adjustment also --

4 Q. Okay.

5 A. -- to my knowledge.

6 Q. Are you familiar with Johan Pfeifenberger?

7 A. No, I'm not.

8 CHAIRMAN DAVIS: No further questions,
9 Judge.

10 JUDGE WOODRUFF: All right. Then we'll go
11 to questions -- for recross based on questions from the
12 bench; beginning with MEG?

13 MS. LANGENECKERT: No.

14 JUDGE WOODRUFF: AARP?

15 MR. COFFMAN: Yes, I have a couple.

16 RECROSS-EXAMINATION BY MR. COFFMAN:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. In -- when you were listing the
20 stakeholders that AmerenUE would be willing to meet to
21 discuss potential financing of a nuclear power plant, you
22 listed the Office of the Public Counsel, industrial
23 groups, environmental groups. Would you also be willing
24 to commit to meet with consumer groups, such as my
25 clients?

1 A. You know, actually, I didn't list that.
2 That was the list that was in the paper today. But yes,
3 we met with the Sierra Club, and we're open to and we did
4 ask for -- we had some low income assistance people in our
5 last process. I don't remember who it was exactly that
6 was involved.

7 Q. I'm talking about consumer groups.

8 A. Yes.

9 Q. Specifically AARP and Consumers Council of
10 Missouri, would you include those in the stakeholder?

11 A. Yes, absolutely.

12 Q. Would you be willing to meet with those
13 groups prior to any legislation being filed regarding
14 repeal of the anti-CWIP statute?

15 A. You know, I'm always open, and I haven't
16 turned anybody down with a meeting with me personally. I
17 don't see that what our legislative processes are
18 necessarily have to be coordinated with everyone else, but
19 we're always open to talk to people.

20 Q. Do you think it's important to have the
21 stakeholder process engaged prior to a legislative debate
22 on the issue?

23 A. No. I think it is important that we have
24 this process involved before we do our IRP filing, our
25 next filing, and decide as a group what we're going to

1 build in the next generation. As far as legislative,
2 there'll be plenty of time. The legislators are elected.
3 We'll be talking to them. Other people will be talking to
4 them. There will be plenty of time for debate on the
5 issue, I believe, but we're always open to talk.

6 Q. You don't think it might be important to
7 engage the public and work with the public, as you've
8 committed to do, particularly when you are asking that
9 a -- a law passed by the public through initiative be
10 repealed?

11 A. No. I very much -- I have been talking to
12 the public. I've been doing community meetings. I've
13 been talking -- I just -- I -- I don't think any one
14 particular organization represents the public particularly
15 in the state here. So we've been talking to people that
16 are -- we've been talking to unions. We've been talking
17 to construction trades. We've been talking to commerce.
18 We've been talking to all kinds of people and will
19 continue to talk to people that want to hear us and will
20 schedule us.

21 Q. I want to ask one other thing, and that is
22 in response to a question from the Commission you had,
23 from a Commissioner, you stated that other states have the
24 option of asking for an interim rate subject to refund.
25 Are you aware of what Missouri law -- that Missouri law

1 permits you as an electric utility to request interim
2 rates subject to refund if you can justify it?

3 A. I don't think I responded to that to a
4 Commission question. The question was do other ones have
5 a CWIP.

6 Q. I thought I heard you state that other
7 states have a procedure whereby you could request interim
8 rates subject to refund to mitigate regulatory lag.

9 A. What I --

10 Q. I just wondered if you were aware that
11 Missouri law permits a request for interim rates subject
12 to refund?

13 A. I don't remember talking about interim rate
14 requests. I think I was talking about whether
15 construction work in progress would be repealed or was
16 available or not to the companies that are going to build
17 nuclear plants. And there hasn't been -- nobody's filed
18 an application that I know of in this country for a new
19 nuclear plant that isn't allowed to get construction work
20 in progress treatment.

21 Q. Are you aware of the interim rate options
22 you have in Missouri?

23 A. I am not aware.

24 MR. COFFMAN: Never mind. Thanks.

25 JUDGE WOODRUFF: Noranda?

1 MR. CONRAD: Judge, by your leave, I'll
2 just remain here if that's all right.

3 JUDGE WOODRUFF: That's fine.

4 RE-CROSS-EXAMINATION BY MR. CONRAD:

5 Q. Mr. Voss, Commissioner Gunn asked you a
6 question about the COLA, and I believe he cited you to the
7 portion that was marked and admitted as Exhibit 411. Do
8 you recall that?

9 A. Is that the one that's Callaway Plant
10 Unit 2?

11 Q. (Indicating.)

12 A. Yes. Yes. I have that exhibit.

13 Q. 1 through 13. I guess 14 is a blank page.
14 13. We're looking at the same thing?

15 A. Yes, I am.

16 Q. Now, you indicated that was part of a
17 larger package?

18 A. I believe our counsel said it was part of
19 an 8,000 page document.

20 Q. Is there any reason why since -- well, let
21 me strike that.

22 You are -- if I understand, you, Union
23 Electric, are requesting inclusion or recovery of the
24 costs of this kind in this case, correct?

25 A. That's correct.

1 Q. Is there any objection that you would have
2 to making available to any party that requested it a
3 complete copy of this? I presume it would fit on a CD?

4 A. You know, the whole COLA application is on
5 file at the NRC website. You can download it. You can
6 download it at any time. Anybody in the public can.

7 Q. Is it redacted there?

8 A. Yes.

9 Q. Okay. Is there a problem with providing
10 any requesting party in this case a complete unredacted
11 copy of the COLA on CD?

12 A. I don't know. I think there could be. I'd
13 have to consult.

14 Q. What would that problem be?

15 A. If there's proprietary nonpublic
16 information on there.

17 Q. Well, we have -- the Commission has a rule,
18 you know, about dealing with highly confidential and
19 proprietary information, doesn't it?

20 A. Yes, I know. Yes.

21 Q. So we could accommodate that, couldn't we?

22 A. I'm not sure I can. I'd have to talk with
23 my counsel. I'm not a legal expert, so I just have to
24 find out about that.

25 Q. When would you do that?

1 A. I can do that at the next break.

2 Q. That would be great. And we would request
3 a copy of that just so you have something on record.

4 Commissioner Murray, I believe, asked you a
5 series of questions about some items that you were working
6 on that could save some money. Do you recall that
7 question?

8 A. I recall her asking me about projects that
9 could be possibly deferred to save some cash.

10 Q. Did you associate dollars with any of
11 those?

12 A. I didn't in my conversation.

13 Q. Could you do that?

14 A. Yes. I think we've looked at capital
15 projects somewhere between 300 million and 400 million.

16 Q. Now, that's in the aggregate for all the
17 ones you mentioned?

18 A. Yes, it is.

19 Q. Okay. Let's see if we can take them. You
20 mentioned the Sioux scrubbers. What's the dollars
21 associated with deferring that?

22 A. I'm not familiar with the details. I think
23 it was somewhere around possibility of 80 million and as
24 little as 20 million.

25 Q. Now, you mentioned -- all right. You

1 mentioned some personnel savings, I believe hiring freeze
2 or something like that?

3 A. Yes. We've put a hiring freeze on, but
4 there's more personnel savings in eliminating projects.

5 Q. What are the dollars associated with
6 personnel savings there?

7 A. Again, those are all embedded in the
8 project cost. So like the 80 million, they would be part
9 of that. There would be a personnel savings in there,
10 because we're not going to be hiring the project managers
11 or the construction people. So those are embedded in the
12 project cost savings, not independent items.

13 Q. You had listed them as though they were
14 independent, so if I misunderstood, I apologize.

15 You mentioned, I believe, some digital
16 control items at Callaway 1?

17 A. Yes.

18 Q. What was the savings there?

19 A. I'm not familiar. It was in the millions,
20 but I'm not -- I'm not sure of the magnitude of it.

21 Q. You also mentioned, I think, some
22 transformer upgrades that have been postponed?

23 A. Yes.

24 Q. What's the savings there?

25 A. Again, it's the millions, but I don't have

1 details on that.

2 Q. Who would?

3 A. Actually, you know, we're still combining
4 the list, so it kind of goes up and down, depending on
5 whether we think that we have to put it in or have them
6 taken out, and we haven't made the final decision yet on
7 exactly what's in those numbers at this point in time.

8 Q. And I believe you also mentioned something
9 about ash handling at -- would that be at Labadie or
10 somewhere else?

11 A. Yes. Again, I don't have the number.
12 There are ash handling projects at a number of the plants
13 looking at the future need for ash disposal, especially as
14 you put mercury controls on our plants in the future. So
15 we're looking at whether we should buy property ahead of
16 time to be ready for new ash locations and things like
17 that.

18 So again, we're looking to see if we
19 defer those for a year or if that would seriously
20 jeopardize those projects or not. And again, those
21 projects are all under review, and it's a moving target at
22 this point in time.

23 Q. And were there any -- we talked about
24 personnel a moment ago, and you responded in the context
25 of the personnel that was wrapped up in projects. Were

1 there any O&M personnel positions that would be put on
2 hold or deferred or whatever?

3 A. You know, we're looking in general all --
4 all AmerenUE positions that are open right now have to
5 seek my approval for filling them. So that will result in
6 obviously less than we would have had before.

7 Q. So the motivation, if I understood the
8 exchange, the motivation to do that is -- is found in the
9 current financial situations?

10 A. Motivation is to whether we'll have capital
11 or not in the next six months to a year, cash. I'm sorry.
12 Whether we'll have cash or not in the next year.

13 No. You didn't ask me a question. I'm not
14 going to answer any.

15 Q. Okay. Yeah. That's probably a good
16 policy. Commissioner Jarrett asked you about some costs
17 and some things you were doing to restore public
18 confidence. Do you recall that exchange?

19 A. Yes, I do.

20 Q. And you talked about trees and
21 undergrounding and some metering expenses, tree trimming
22 and all those things. Do you recall that?

23 A. I recall that discussion, yes.

24 Q. Okay. Are those distribution costs?

25 A. Yes.

1 Q. So the savings that would occur there that
2 you talked about would be lined up under the distribution
3 area, right?

4 A. Yes.

5 Q. Does the company incur any distribution
6 costs to provide service to Noranda?

7 A. No, it does not.

8 Q. And you know, if you know -- if you don't,
9 just say you don't know -- what voltage level Noranda
10 takes service at?

11 A. It's transmission load. I think it's 345,
12 but I'm not positive. 345,000 volts.

13 Q. 345 KV, is that an accepted --

14 A. Yes.

15 Q. Your background's an engineer, isn't it?

16 A. Yes. 345,000 volts is 345 KV. That's the
17 same thing.

18 Q. Those big numbers for us lawyers get kind
19 of treacherous.

20 Commissioner Jarrett also asked you about
21 the IRP process and was encouraging you to have some
22 discussions on an ongoing basis. Do you recall that?

23 A. I recall that question.

24 Q. I think you indicated to him that you were
25 happy to have meaningful discussions. I think that was

1 the quote that I caught. Do you recall that one?

2 A. Yes.

3 Q. What does a meaningful discussion mean?

4 A. It means having an open dialog and open
5 discussion about what other parameters that we think
6 should be included in the discussion about a next base
7 load generation plant. I can give some examples if you
8 prefer.

9 Q. So if we were to ask you to have a
10 discussion about some particular topic that was related to
11 that and you said, well, no, we're not going to have that
12 because that wouldn't be meaningful, you would not have
13 precluded in your definition a meaningful discussion; am I
14 correct?

15 A. I'm sorry. Could you clarify? I just
16 don't understand that question. I'm sorry.

17 Q. Well, isn't -- isn't your definition of a
18 meaningful discussion somewhat in your discretion to
19 define?

20 A. No. I think what we're talking about is
21 that as part of this IRP process we'll have open meetings
22 and open discussions, and people will be free to bring up
23 what they want to bring up at those discussions as long as
24 it's related to the IRP process itself.

25 Q. So then if I understand your clarification,

1 meaningful discussions equates in your mind to open
2 discussions, correct?

3 A. People can -- yes.

4 Q. Now, also in connection with that
5 discussion about the IRP process, I believe he brought up
6 the question -- Commissioner Jarrett brought up the
7 question and you had a response about when the decision to
8 construct would be made, and there was some confusion
9 about that, and I would at least like to initially get
10 that clarified. Is it 2010, 2011, 2012, when?

11 A. I believe in our IRP filing we said we
12 would -- we would not make a final decision until six
13 months after we filed the next IRP document, which is in
14 the spring of 2011, is my understanding of those dates.

15 Q. Now, you placed emphasis on the word final.
16 Is there a preliminary decision?

17 A. There'll be -- no. I think there's always
18 thoughts, though, about what goes into a decision and
19 where you feel like and where you are on the whole
20 process. But we may have some preliminary decisions that
21 we think it's either a good thing or a bad thing, but the
22 final decision will not be made until six months after the
23 IRP is filed.

24 Q. Did you still have before you, Mr. Voss, a
25 copy of what was marked and admitted as Exhibit 409HC?

1 A. I'm not familiar with the number.

2 Q. Has a pretty little chart on it.

3 MR. CONRAD: Judge, I'm going to endeavor
4 to avoid asking anything that's HC.

5 MR. BYRNE: Well, your Honor, none of the
6 Commission asked anything about that exhibit, so I'm not
7 sure that's --

8 MR. CONRAD: The Commissioner -- excuse me,
9 counselor. The Commissioner asked about the IRP process,
10 and that's going to come up.

11 JUDGE WOODRUFF: You can proceed.

12 BY MR. CONRAD:

13 Q. Do you have a copy of that document before
14 you, sir?

15 A. I have a copy. Is this the document you're
16 referring to (indicating).

17 Q. Yes.

18 A. Okay.

19 Q. Don't hold it up too high. We don't want
20 the camera to get it. Want to play secret squirrel here.
21 Down toward the bottom of that chart that you so
22 generously were displaying, there's a range of numbers
23 starting in, well, let's just say a year on the left-hand
24 side and a year on the right-hand side, right?

25 A. Yes, along the bottom is years listed.

1 Q. Now, along the bottom there are also little
2 hatch marks that appear to be between the years. Do you
3 see those?

4 A. I do see those.

5 Q. Now, would those to you indicate the
6 demarcations between, for instance, a year that was there
7 and the next year?

8 A. I think those hatch marks have no meaning
9 in this document.

10 Q. So we can't be guided by the markings on
11 the chart, but would you agree with me that there is a
12 mark on that that appears to be -- and counsel, I'm going
13 to ask him --

14 MR. BYRNE: Fine.

15 BY MR. CONRAD:

16 Q. Do you see on that chart a little box and
17 an arrow that says something about IRP filing? I'm not
18 going to ask you where that is because I don't want to
19 trespass here. Do you see that?

20 A. Yes, I see that.

21 Q. Would you agree with me that the -- and I
22 believe it is a number or a line that is different color
23 than anything else on that chart, and that is sloping up,
24 intersects with that at a point probably somewhere a
25 little bit above halfway or perhaps near two-thirds of the

1 left hand scale? I'm not going to mention the numbers.

2 A. Yes. I don't think that arrow has any
3 meaning to those numbers.

4 Q. You'd agree with me that the -- that blue
5 or that line seems to suggest something of an upward
6 sloping level of expenditures?

7 MR. BYRNE: Your Honor, I'm going to
8 object. You know, this is a highly confidential exhibit.

9 MR. CONRAD: Let's go in HC.

10 MR. BYRNE: We now have learned all kinds
11 of things about it, and if he's going to keep asking about
12 a highly confidential exhibit, I want to go in camera.

13 MR. CONRAD: I don't have any objection to
14 that.

15 JUDGE WOODRUFF: All right. Let's go
16 in-camera then. Anyone who can't be here needs to leave
17 the room. Is everyone okay?

18 All right. Let me take this in-camera.

19 (REPORTER'S NOTE: At this point, an
20 in-camera session was held, which is contained in
21 Volume 14, pages 235 through 237 of the transcript.)

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1 JUDGE WOODRUFF: And we're back in regular
2 session. MIEC?

3 MS. VUYLSTEKE: Just a few questions.

4 RE-CROSS-EXAMINATION BY MS. VUYLSTEKE:

5 Q. Mr. Voss, I'm going to follow up on
6 Commissioner Jarrett's questions also regarding Callaway
7 2. You had stated in response to Commissioner Jarrett, I
8 believe, that you were willing to sit down with your
9 stakeholders, you've been asked about that several times,
10 for an open discussion.

11 Would you be willing to engage with your
12 stakeholders now to share data with them, and that would
13 include your customers and the Commission Staff, the
14 Office of the Public Counsel, to sit down with your
15 customers and share data regarding financing options?

16 A. You know, at some point in time we probably
17 would, but at this point in time, we don't have anything
18 to share right now.

19 Q. Do you agree that it would be useful for
20 customers and other stakeholders to have data so they
21 could potentially provide you input on their views of
22 financing options?

23 A. Yes, and we intend to seek that as time
24 goes on, but there's plenty of time between now and 2011
25 for that exchange to happen.

1 Q. Do you agree that such discussions with
2 your customers would facilitate AmerenUE's decision-making
3 regarding whether to build Callaway 2?

4 A. I think we've said that, that for the next
5 IRP filing we'll have substantial discussions with people
6 that are interested in talking, and that will all be part
7 of the decision-making process, and we will not make that
8 decision until after that document is filed.

9 Q. And I believe you testified earlier that
10 you have not looked at all financing options. I believe
11 that you were -- there were a number of financing options
12 noted to you earlier, and you said that those had not been
13 evaluated in detail at this time?

14 A. That is correct. It's -- it's a long way
15 off, and that effort has not been accelerated at this
16 point in time.

17 Q. Do you think that providing data to your
18 customers and parties that would be affected and the
19 Commission Staff and getting their views on financing
20 options would facilitate decision-making by legislators
21 regarding what to do with the law pertaining to CWIP?

22 A. I don't think that's particularly relevant.

23 Q. You don't think that legislators would be
24 interested in knowing the views of affected parties on the
25 information that you're providing?

1 A. No. I think you'll have plenty of
2 opportunity and probably have. I think it's an open
3 process. The legislative process, these are elected
4 officials. People have plenty of time to talk to them.
5 They have representatives that lobby for them, and there
6 will be plenty of opportunity to exchange views and have a
7 thorough discussion. We're not doing this behind closed
8 doors. This is going to be an open process.

9 Q. So just to clarify, Mr. Voss, you would be
10 willing to share data with customers and affected parties,
11 but you would not be willing to share data until a year
12 from now?

13 A. Well, at least then, and you know, we'll
14 share data when we have data made available that we think
15 will be helpful in this process, but right now we do not
16 have data available that I know of that would particularly
17 be helpful, in my opinion.

18 Q. Would you be willing to produce data that
19 parties asked you for --

20 A. You know, I --

21 Q. -- to develop?

22 A. The -- I don't know of any data that we
23 have that would be -- that we could produce at this point
24 in time that would be helpful.

25 MS. VUYLSTEKE: I don't have any other

1 questions. Thank you.

2 JUDGE WOODRUFF: From the State?

3 MR. IVESON: I have nothing.

4 JUDGE WOODRUFF: Public Counsel?

5 BY MR. MILLS: Thank you. I think I do
6 have a few questions.

7 RE-CROSS-EXAMINATION BY MR. MILLS:

8 Q. Just to sort of follow up where
9 Ms. Vuylsteke left off, are you aware that UE has so far
10 refused to confirm or deny to Public Counsel whether or
11 not it's done any financial analysis?

12 A. I'm not aware of the requests that you've
13 made and how you've made them. I'm not aware of that.

14 Q. Would you have any objection to confirming
15 or denying whether or not you have done any financial
16 analysis?

17 A. I personally haven't seen any financial
18 analysis that's been done, ultimate finance -- any
19 financial analysis that's been done on the Callaway 2
20 situation, if that's what you're referring to. I haven't
21 seen it, so I certainly don't think it's anything that
22 could go public at this point in time if there's something
23 being done by somebody in the company.

24 Q. So you're fairly confident that because you
25 haven't seen it, it hasn't been done?

1 A. Well, I don't know that it hasn't been
2 done. I just said it's certainly not ready for public
3 discussion if I haven't seen it.

4 Q. Do you believe that legislators would be
5 interested in your reaction to alternative financing
6 schemes?

7 A. I can't speak for legislators or what
8 they'd be interested in or not. I think they're
9 interested in a unit being built. I think they're
10 interested in energy security for Missouri, and I think
11 they've heard my comments that said we wouldn't build it
12 without a CWIP legislation. So I think they're interested
13 in that, but a lot of them are going to have opinions,
14 they're not going to want it or they are going to want it,
15 and I can't tell you what will influence them or what
16 won't.

17 Q. Now, when you talked about collaboration
18 with Commissioner Jarrett, can you define how you -- how
19 you were using that term? Were you using it solely in the
20 context of the next IRP filing?

21 A. Yes, I was.

22 Q. So you don't see any need to collaborate
23 with Public Counsel or other interested parties outside of
24 that process; is that correct?

25 A. If there was an issue to collaborate on, I

1 certainly would be open to discussions about whether we
2 should or not, but I'm not sure in what area you'd want to
3 collaborate on. If it's about rate design and things like
4 that, there's always opportunities to talk to our people.

5 Q. Wouldn't you think a good place to start
6 would be answering data requests from Public Counsel?

7 A. I'm not familiar with how the Data Requests
8 have been answered or not been answered. I assumed we
9 were answering Data Requests properly.

10 Q. If it were your choice, would you have
11 answered Data Requests?

12 A. I wouldn't answer every Data Request that
13 everybody sent in. I would see if they're proper or, you
14 know, they're reasonable and they make sense, they're
15 legal and all those kind of things.

16 Q. And what would your analysis go into in
17 determining whether they were proper or not?

18 MR. BYRNE: I'm going to object. It calls
19 for legal conclusion. We did object to the Public
20 Counsel's's Data Requests for legal reasons, but Mr. Voss
21 is not a lawyer.

22 JUDGE WOODRUFF: I'm going to sustain that
23 objection. His opinions on that aren't particularly
24 relevant.

25 MR. MILLS: His opinion on what's proper is

1 not relevant? I believe he listed a whole list of
2 criteria, one of which was legal, but the first of which
3 was proper. I didn't ask him about whether they were
4 legal or not. I asked him about what he meant by saying
5 he would answer --

6 MR. BYRNE: The whole line of questions
7 is --

8 JUDGE WOODRUFF: I've made the ruling.
9 I'll stick with it.

10 BY MR. MILLS:

11 Q. Is UE trying to build a nuclear power
12 plant?

13 A. UE is only trying to keep an option open so
14 that you could build one in the future. We are not
15 building a plant. We are not allowed to build a plant.
16 We need NRC approval. We need the state of Missouri
17 approval, and we're not building a nuclear plant.

18 Q. Are the other utilities that have filed
19 COLAs trying to build a nuclear power plant?

20 A. I have no idea what they're doing, why
21 they've filed COLAs. I have not had any discussion with
22 any other utility that has filed for a COLA.

23 Q. Are you familiar with the UE press release
24 that went out when the COLA was filed in July?

25 A. Not so I could quote it or speak to it at

1 this point in time. I know there was a press release that
2 went out.

3 Q. Are you aware that it talked about a
4 potential new nuclear power plant in Callaway County,
5 Missouri?

6 A. I would think it would refer to that, yes.

7 Q. Is anywhere in the COLA itself the power
8 plant referred to as a potential power plant?

9 A. You know, I'm not -- I'm not aware of how
10 it's portrayed in the COLA.

11 Q. Do you know of any document or any
12 communication that UE has had with the NRC in which UE has
13 informed the NRC that they're simply keeping an option
14 open?

15 A. I believe they totally understand that.
16 We've had a lot of discussions with them, and they
17 understand it's just an option at this point in time. And
18 specifically there was even listed criteria about the CWIP
19 being in there. I think they understand that.

20 Q. And there's -- when you say there's the
21 CWIP in there, do --

22 A. Comments about the COLA application,
23 there's comments about the CWIP in that COLA application.
24 NRC fully understands that if we feel like we can't
25 finance it, we won't build it, and it's purely -- right

1 now at this point in time, it's just to keep an option
2 open.

3 Q. And other than the language in the -- in
4 the COLA itself about CWIP, what other communications do
5 you know of personally that the NRC -- in which the NRC
6 has been informed that you're simply keeping the option
7 open?

8 A. I wasn't at any of the conversations, but
9 some of my people have said they've had conversations with
10 them where they explained to them that it's just an
11 option.

12 Q. Now, and you may not know the answer to
13 this, but I think there's been some confusion in the
14 record. Do you know when the next IRP will be filed?

15 A. I believe it's in the spring of 2011.

16 Q. And it's your understanding that UE will
17 not make a decision to proceed with Callaway 2 or not
18 proceed with Callaway 2 until six months after that?

19 A. Yes.

20 Q. That's correct?

21 A. That's correct.

22 MR. MILLS: Judge, I'd like to get an
23 exhibit marked.

24 JUDGE WOODRUFF: All right. You're up to
25 412.

1 MR. MILLS: And this will be highly
2 confidential.

3 JUDGE WOODRUFF: Do we need to go into
4 in-camera?

5 MR. MILLS: I may be able to ask questions
6 without going in-camera.

7 (EXHIBIT NO. 412HC WAS MARKED FOR
8 IDENTIFICATION BY THE REPORTER.)

9 MR. MILLS: Judge, I'm ready when you are.

10 JUDGE WOODRUFF: Go ahead.

11 BY MR. MILLS:

12 Q. This is highly confidential.

13 A. So it's off camera?

14 Q. Right now we're in public session. I'm
15 going to be very careful not to reveal highly confidential
16 information, and if we need to, we can go in camera. And
17 we may need to. First let me see if I can just get you to
18 identify this document. Do you recognize the cover sheet
19 as the cover sheet to a response from Public Counsel Data
20 Request, specifically OPC 2207?

21 MR. BYRNE: Your Honor, I'm going to
22 object. This is beyond the scope of any questions that
23 were asked by any Commissioners. It's a whole new exhibit
24 on a whole another topic. I object.

25 MR. MILLS: It's not a whole new -- it not

1 a whole another topic. It goes squarely to the question
2 of when a decision will be made as to Callaway 2 and how
3 that fits in with the whole IRP filing, and there were
4 questions from the Bench about that.

5 JUDGE WOODRUFF: I'll overrule the
6 objection.

7 BY MR. MILLS:

8 Q. Do you recall the question that was pending
9 before the objection?

10 A. I do not.

11 Q. Do you recognize the cover sheet to this
12 three-page exhibit as the cover sheet to the response to a
13 Data Request from -- Public Counsel Data Request,
14 specifically 2207?

15 A. I've never seen it before, but I recognize
16 what it is, yes.

17 Q. And attached -- and I think I can say this
18 date without it being highly confidential. Is that
19 correct?

20 MR. BYRNE: Sure. Go ahead.

21 BY MR. MILLS:

22 Q. Attached is the cover sheet and a page from
23 a presentation to the Nuclear Oversight Committee dated
24 August 7, 2008; is that correct?

25 A. I recognize that, yes.

1 MR. MILLS: And Judge, I think I will have
2 to go in camera to ask a couple of questions here.

3 JUDGE WOODRUFF: We will go in camera,
4 then. Is there anyone in the room that needs to leave
5 now?

6 (REPORTER'S NOTE: At this point, an
7 in-camera session was held, which is contained in
8 Volume 14, pages 250 through 251 of the transcript.)

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1 JUDGE WOODRUFF: All right. We're
2 back in regular session.

3 BY MR. MILLS:

4 Q. And Mr. Voss, just so I'm clear, you
5 believe the date was wrong that you gave me earlier today
6 when you said the decision may be made as early as mid
7 2010?

8 A. That is correct.

9 Q. And I believe that when you answered a
10 question to Commissioner Davis about that particular
11 date -- I'm sorry, to Chairman Davis about that particular
12 date, you said, I've been telling people the decision will
13 be made from 2010 to 2012; is that correct?

14 A. Yes.

15 Q. And if it's not going to be made in 2010,
16 why have you been telling people that it would be?

17 A. Because I've been talking about this for
18 about two years, and it's only been recently that we
19 decided a decision would be put off until late 2011. I
20 was just -- I thought that one point in time several years
21 ago that we would be making this decision, you know, in
22 the 2010 to 2012 time frame. Now we'll be making it in
23 the 2011 to '12 time frame. I was just incorrect.

24 Q. Now, getting back to some questions that
25 Commissioner Murray asked you about -- about plant and

1 plant going in service, if UE were to go out and purchase
2 a couple of hundred megawatt gas turbines, install them at
3 a site but hook up to neither gas coming in nor
4 transmission going out, would it be your testimony that
5 AmerenUE should be recovering a profit on that investment?

6 A. It would be my feeling that they would not
7 be included in a rate base.

8 Q. But nonetheless, it's your position in this
9 case that the COLA costs should be included in a rate
10 base?

11 A. Yes, that is my position.

12 Q. Now, with respect to the recovery of COLA
13 costs, is it your understanding that if those costs that
14 you've accumulated to date are not recovered in this case,
15 that they will never be recovered?

16 A. That's not my opinion.

17 Q. So even if the Commission doesn't allow you
18 to recover them as a return on them in rate base in this
19 case, you can continue to accumulate those costs and ask
20 for recovery later; is that true?

21 A. Well, yes. Hopefully you at least get to
22 recover those costs when it went in service at some point
23 in time if not before, you know. no, I wouldn't say these
24 costs would never be recovered.

25 Q. Now, in response to a question --

1 A. Of course, you know, it could be that some
2 other direction could be determined that, you know, if you
3 may not want to have recovered costs, you may just -- you
4 know, it could be that the COLA would -- application
5 would -- the whole issue could go away. I'm not saying
6 either way about whether we're going to include it or not.
7 But certainly if we build the plant at some point in time
8 in 2020, I would assume those costs would be included, if
9 not before.

10 Q. Or if you ultimately reach a decision
11 sometime two or three years from now not to proceed, then
12 you could again ask for recovery of costs invested at that
13 point; is that not true?

14 A. I couldn't speculate on what we would do.
15 Well, we could probably. I don't know what we would
16 actually do.

17 Q. My question was could you.

18 A. Yes.

19 Q. Okay. Now, just sort of a clarifying
20 question. I think in response to a question, I believe it
21 was from Chairman Davis, you used the phrase \$65 for a
22 wrap. What exactly did you mean by that, by a wrap?

23 A. Kind of an all-in price, year round.

24 Q. And when you were talking about subsidies,
25 can you define the way you used the term subsidize in

1 relation to off-system sales in your conversation with
2 Chairman Davis? I believe you agreed that off-system
3 sales subsidize ratepayers. Do you recall that?

4 A. Yes, I recall that. I meant in the context
5 that those revenues are included in our total revenue
6 requirement.

7 Q. And that's the only way you meant
8 subsidize?

9 A. Yes.

10 MR. MILLS: Judge, that's all the questions
11 I have.

12 JUDGE WOODRUFF: Questions from Staff?

13 MR. THOMPSON: Thank you, your Honor.

14 RE-CROSS-EXAMINATION BY MR. THOMPSON:

15 Q. In response to a question from Commissioner
16 Gunn, you referred to dark spread. Could you tell me what
17 dark spread is?

18 A. It's just the margin compression between
19 increasing the fuel cost and decreasing off-system sale
20 price.

21 Q. Okay. And in response to a question -- or
22 should I say you were asked a question by Commissioner
23 Murray about a study by the Brattle Group. Do you recall
24 that?

25 A. I recall the question.

1 Q. Now, isn't it true that the Brattle Group,
2 in fact, is a consultant to AmerenUE?

3 A. I'm not aware if they are or not.

4 Q. Okay. And you also, in response to
5 questions from Commissioner Murray, referred to the COLA
6 as an asset; isn't that correct?

7 A. Yes.

8 Q. In fact, it has not yet been accepted by
9 the Nuclear Regulatory Commission, has it?

10 A. I don't believe it's been docketed yet.

11 Q. So is it an asset as of today?

12 A. I believe it's an asset as of today.

13 Q. You could sell it to somebody else?

14 A. I believe we could sell what we've done so
15 far to someone else.

16 Q. Okay. Now, in response to a question from
17 Commissioner Davis, you mentioned UE had overbuilt base
18 load generation at one time; is that correct?

19 A. I said we had -- yes.

20 Q. So far as you know, was all of that
21 overbuilt generation placed into rate base?

22 A. Yes.

23 MR. THOMPSON: Okay. Thank you. No
24 further questions.

25 JUDGE WOODRUFF: Mr. Mills, going back to

1 you, you had a document. Did you wish to offer that?

2 MR. MILLS: I do. I'd like to offer
3 Exhibit 412HC.

4 JUDGE WOODRUFF: 412HC has been offered
5 into evidence; any objection to its receipt?

6 MR. BYRNE: No objection.

7 JUDGE WOODRUFF: It will be received into
8 evidence.

9 (EXHIBIT NO. 412HC WAS RECEIVED INTO
10 EVIDENCE.)

11 JUDGE WOODRUFF: And that completes the
12 recross, so we'll go to redirect.

13 MR. BYRNE: Thank you, your Honor.

14 REDIRECT EXAMINATION BY MR. BYRNE:

15 Q. Mr. Voss, do you have your rebuttal
16 testimony with you?

17 A. Yes, I do.

18 Q. I think earlier today Mr. Conrad was asking
19 you about a provision of that that's on page 14, line 7,
20 and it was related to the incentive compensation, and he
21 focused your -- your attention on the word substantially
22 there on page 14, line 7.

23 A. Yes.

24 Q. And I guess in what way -- what did you
25 mean by that word?

1 A. Well, you know, there also is -- incentive
2 compensation is broken into different categories, and
3 there's people are incented with these KPIs, but there's a
4 small group of our employees that we call part of our
5 Ameren leadership team that have 25 percent of their
6 incentive compensation based on Ameren's earnings per
7 share. So that's why you couldn't say it's been totally
8 decoupled. And there's also some long-term compensation
9 for those same people that's also tied into earnings per
10 share performances.

11 Q. Okay.

12 A. Some are on total shareholder return
13 performance.

14 Q. Okay.

15 A. You were being asked a question by
16 Mr. Conrad, and I think he kind of cut you off on your
17 answer and said your attorney can ask you on redirect, so
18 I think I will. His question was, what -- it was about
19 what motivates employees other than pay, and are there
20 things that motivate employees other than pay?

21 A. Absolutely. You know, if you're talking
22 for a lineman to come out on a night when it's five
23 degrees out and it's snowing and ask him to change a
24 transformer, he's not doing that for overtime pay. And
25 the same thing if an engineer is working during a storm in

1 backyards, looking for downed lines. Well, first of all,
2 he's not getting any compensation for that at all. He's
3 doing that because people that work for our company have
4 this long history of obligation to serve and are very
5 dedicated employees, both from the unions and the
6 engineers and -- and the supervisors, and they put in
7 countless hours that are uncompensated.

8 So I don't believe it's all about
9 compensation, but I think if they ever would feel like
10 they were being mistreated or they were being paid
11 something that was not at market, then they would -- they
12 would feel then that they were being taken advantage of.
13 But I believe our employees respond out of basic impulse
14 of wanting to serve.

15 Q. Okay. Would it -- you were also asked by
16 Mr. Conrad if it might be possible, and I think he used
17 the word possible, to -- for other cost savings to offset
18 increase in fuel costs. Do you remember that?

19 A. I remember that.

20 Q. And you agreed that it would be possible?

21 A. I said it was possible, but I think it's
22 extremely unlikely because all the other costs are
23 increasing at this point in time and will continue to
24 increase.

25 Q. Do you see anything that would be of a

1 magnitude that could conceivably offset increasing fuel
2 costs?

3 A. I do not. You know, the breakthroughs we
4 made, we already have rates that are well below 40 percent
5 below the national average. We've driven cost
6 efficiencies into our operations like almost like no other
7 company has done in the country, and I don't see any big
8 numbers out there that we're going to be able to pull out
9 in the future. We do see as long as we incentivize our
10 employees with these compensation things, then we'll still
11 see continual improvement, but I don't think that's going
12 to offset anything like fuel cost.

13 Q. Mr. Conrad also asked you, has UE been able
14 to borrow money since 1980. Do you remember that
15 question?

16 A. Yes.

17 Q. And I think you said yes. My question is,
18 currently, is UE experiencing difficulties borrowing
19 money?

20 A. You know, we have no access to the
21 commercial paper market, and our line of credit is
22 slipping as the banks that we had this line of credit with
23 go out of business. So we're under a constant concern
24 right now about availability of money, and we haven't been
25 able to get off a long-term bond issue. We don't think

1 we've been able to get off. Our discussions are that
2 there's no interest in a B rated company at this point in
3 time to get off that kind of a financial instrument.

4 Q. Just in case people don't know, what is
5 commercial paper?

6 A. Commercial paper is like short-term
7 borrowing where you could actually, you know, very easy to
8 get type of borrowing that would offset some of our daily
9 cash needs. We don't have access to that market and
10 haven't since we became a non-A-rated company.

11 Q. Is it an important source of short-term
12 borrowing?

13 A. It's key right now. It's the only thing
14 people are getting, and companies -- the utility companies
15 that are A rated companies are the ones that are doing
16 that right now, and that's been the only access, real
17 access to the market at this present time.

18 Q. Why aren't we an A rated company that has
19 access to that paper?

20 MR. CONRAD: Your Honor, that's beyond the
21 scope of what I asked him.

22 JUDGE WOODRUFF: It's probably speculative
23 as well. I'll sustain the objection.

24 BY MR. BYRNE:

25 Q. What about access to long-term debt,

1 Mr. Voss? I think you touched on that a minute ago.

2 A. You know, our feeling is that we don't have
3 access at the present time. We've been looking at the
4 utilities that have been getting access to it. We felt
5 extremely fortunate, Ameren Corp did, that they were able
6 to get off an IP filing, but again that was something like
7 10 percent interest. And if we start doing that kind of
8 thing, that has long-term repercussions for our customers
9 for 20 or 30 years, 10 to 30 years depending on type of
10 instrument that we put off. So we don't want to go there
11 if we can avoid it.

12 Q. What's IP, by the way?

13 A. Illinois Power.

14 Q. And that's what -- what is that? That's
15 our sister utility?

16 A. It's one of the Ameren utility companies.

17 Q. Okay. Mr. Conrad also asked you, I
18 believe, whether having an FAC, or fuel adjustment clause,
19 is a yes or no question for rating agencies. Do you
20 remember that question?

21 A. I remember that question.

22 Q. And my -- so my question is, do the rating
23 agencies care about the terms of the FAC that a utility
24 has?

25 A. Absolutely. It's -- they want to know --

1 just like they care about whether you get a return on
2 equity or not, they are concerned about what that number
3 is. And if you get a fuel adjustment, they want to know
4 if it's mainstream and if it's effective and if it's going
5 to actually offset the risks that are involved in fuel.

6 Q. Does it matter to rating agencies whether
7 you have to share 50 percent of the costs under the fuel
8 adjustment clause?

9 A. Absolutely. As I was saying earlier about
10 the rating agency metrics, there is no formula for that.
11 What they're looking at is quality of the investment and
12 quality of the earnings, and the better the earnings, the
13 higher quality, the better they will give you a rating and
14 the less your borrowing costs will be in the future and
15 less customers will have to pay in the future in the long
16 run.

17 Q. Earlier today Ms. Vuylsteke and I think
18 other people have asked about the budget cuts at AmerenUE,
19 and what's the magnitude of the budget cuts for the
20 capital budget that you are considering right now?

21 A. Our capital cuts that we're looking at
22 deferring, it's really not an elimination, it's just a
23 deferral of somewhere between 300 and 400 million, but
24 that changes almost every day as we decide to -- how well
25 these -- whether we can really defer that much or not.

1 Q. Out of a total capital budget for 2009 of
2 what?

3 A. Well, our 2008 is over a billion dollars.
4 Our 2009 was going to be over a billion dollars, and it
5 will still be over 700 million.

6 Q. And that's still larger than it's been in
7 the recent past?

8 A. Larger than it was a couple years ago.

9 Q. And do these budget cuts to the capital
10 budget have any impact on the out years of our capital
11 budgeting process beyond 2009?

12 A. It does not. We haven't reduced any of the
13 expected expenditure levels. In fact, it may actually
14 increase in the out years as some of these deferrals may
15 become more expensive in the future years.

16 Q. You were also asked about O&M expenses.
17 Are O&M expenses going to go down next year?

18 A. O&M expenses are not going to be less than
19 what they were this year. They may be less than what we
20 budgeted, but even that is highly unlikely. We're looking
21 at adding boiler outages and things, cleaning outages,
22 things to make sure that the plants run that we were going
23 to do during some of these capital upgrades. So I think
24 it's extremely unlikely that it will even be less than we
25 budgeted, but certainly it's not going to be less than

1 what we spent this year.

2 Q. Mr. Thompson asked you, I believe, will
3 AmerenUE have difficulty accessing capital during this
4 financial crisis. Do you remember that question?

5 A. Yes, I do.

6 Q. And let me ask you, what might improve
7 AmerenUE's ability to access capital during this financial
8 crisis?

9 A. Well, you know, the easiest way to access
10 capital would be is we can put out commercial paper, which
11 we can't do unless we're an A rated company. So one of
12 the things we're looking at is ways that we can get our
13 credit ratings up, and to get our credit ratings up, you
14 can spend less, but we've been under a lot of pressure
15 from our public and the Commission in order to do those
16 capital projects and do those infrastructure improvements
17 because people really value the reliability in clean air.

18 The other way to get it up is to get a
19 better regulatory treatment. A FAC will help, and
20 certainly a good return on equity would go a long way
21 towards improving our credit rating.

22 Q. And FAC means a fuel adjustment clause?

23 A. Yes.

24 Q. Mr. Thompson suggested we do not need to
25 raise our credit rating in this rate case, that we only

1 needed to leave it where it is. Do you agree with that?

2 A. No. You know, the credit rating, like I
3 say, is expended from an A rated company. You know, the
4 utilities that are getting access to cash are the ones
5 that have A ratings right now. And it's important for us
6 to get back to an A rating. It will help us keep costs
7 lower in the long term for our customers, which is -- we
8 enjoyed many, many years of being an A rated utility and
9 that's why our rates -- part of the reason why our rates
10 are as low as they are today, and we'd like to continue
11 that.

12 Q. Commissioner Gunn asked you a question
13 about fuel rates declining in the last two months. Do you
14 remember that question?

15 A. Yes, I do.

16 Q. Do AmerenUE's fuel costs follow the market
17 and the day-to-day increases and declines are reflected in
18 our actual full costs?

19 A. No. Actually, they're put on in layers,
20 and especially coal, we layer it in over a period of five
21 years, and we do major, you know, solicitations for
22 proposals for how we should purchase those coal, and none
23 of those -- we haven't gone out on any of those in the
24 last couple months. Same thing with gas, we put it on
25 during the year at different points in time in the year,

1 but I don't think we've gone to the market recently.

2 Q. And do you see any prospect of AmerenUE's
3 fuel costs going down in the near future?

4 A. I don't see that happening, especially --
5 we've seen no interest from the railroads about ever
6 lowering fuel costs. Could be the diesel component of our
7 rail charges may go down in the future, but I think that's
8 the only one that's going to go down.

9 Q. Is transportation costs, like rail costs, a
10 significant part of AmerenUE's delivered coal costs?

11 A. Yes, but transportation costs are --

12 Q. Don't say a percentage because it's highly
13 confidential.

14 A. Yes.

15 Q. Okay. Commissioner Jarrett asked about
16 incentive compensation and whether other -- I think he
17 asked you a question about whether other jurisdictions
18 allowed the recovery of incentive compensation costs. Do
19 you remember that question?

20 A. Yes, I do.

21 Q. And I think you said generally you don't
22 know. My question is, do you know whether Illinois has
23 allowed Ameren to recover the incentive compensation
24 costs?

25 A. There was in the recent rate case for the

1 Illinois utilities that Ameren owns, there was incentive
2 compensation, there was some allowance for incentive
3 compensation costs.

4 MR. BYRNE: Thank you, Mr. Voss. I have no
5 other questions.

6 JUDGE WOODRUFF: Mr. Voss, you can step
7 down. And we're due for a break. We'll come back at 3:15
8 with Mr. Rackers.

9 (A BREAK WAS TAKEN.)

10 JUDGE WOODRUFF: We're back from break, and
11 during the break I had a request from MEG to allow their
12 witness, Billie Sue LaConte, to testify out of order.
13 Assuming there's no objection from any of the parties,
14 we'll go ahead and do that. As she is actually a return
15 on equity issue witness, I don't think we need to do mini
16 openings. We'll do the mini openings when we go back and
17 get to the main part of that testimony. We'll just put
18 Ms. LaConte on the stand now. So if you want to go ahead
19 and call her.

20 THE WITNESS: Thank you.

21 JUDGE WOODRUFF: You're welcome. If you'd
22 please raise your right hand.

23 (Witness sworn.)

24 JUDGE WOODRUFF: You may inquire.

25 BILLIE SUE LACONTE testified as follows:

1 DIRECT EXAMINATION BY MS. LANGENECKERT:

2 Q. Ms. LaConte, could you please state your
3 name and business address for the record.

4 A. Billie Sue LaConte, Drazen Consulting
5 Group, 8000 Maryland Avenue, Suite 1210, Clayton, Missouri
6 63105.

7 Q. And you said that you're employed by Drazen
8 Consulting Group. In what capacity are you employed by
9 them?

10 A. As a consultant.

11 Q. And that's your title?

12 A. Yes.

13 Q. Are you the same Billie Sue LaConte who has
14 submitted testimony in this case numbered 650, 651 and
15 652?

16 A. Yes, that's correct.

17 Q. And was this prepared by you or under your
18 direction?

19 A. Yes, it was.

20 Q. And do you have any corrections to your
21 testimony?

22 A. Yes, I do. I'm sorry. I have two.

23 Q. Is it to your direct or to your
24 surrebuttal?

25 A. I'm sorry. It was to my direct testimony.

1 It is page 12, line 17. The correct reading is AmerenUE's
2 parent company is not planning to issue stock.

3 Q. Small detail. Do you have any other
4 corrections to your testimony?

5 A. No, I do not.

6 MS. LANGENECKERT: At this time I'd like to
7 offer Exhibit 650, 651 and 652 into evidence.

8 JUDGE WOODRUFF: Exhibit 650, 651 and 652
9 have been offered into evidence. Are there any objections
10 to the receipt?

11 (No response.)

12 JUDGE WOODRUFF: Hearing none, they will be
13 received into evidence.

14 (EXHIBIT NOS. 650, 651 AND 652 WERE MARKED
15 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

16 JUDGE WOODRUFF: And for cross-examination
17 we begin with MIEC.

18 MS. VUYLSTEKE: No questions.

19 JUDGE WOODRUFF: Noranda?

20 MR. CONRAD: Yes, your Honor, just a couple
21 of things.

22 CROSS-EXAMINATION BY MR. CONRAD:

23 Q. Good afternoon, Ms. LaConte.

24 A. Good afternoon.

25 Q. Forgive me for not having gone far enough

1 ahead to have gone through all of your testimony again.

2 In your recommendation, do you or do you not include a
3 consideration for an FAC?

4 A. My recommendation is 10.2 percent without
5 an FAC. If an FAC is approved, I recommended 10 percent.

6 Q. May I infer from that that you would
7 assign, I think the phrase you folks use is 20 basis
8 points --

9 A. Yes.

10 Q. -- to the presence or the absence of an
11 FAC?

12 A. Yes. That's correct.

13 Q. Are you able to translate that into --
14 well, let me rephrase that.

15 What does that translate into at 20 basis
16 points for cost of service purposes? In other words,
17 what's the rate impact for customers, if you know?

18 A. Well, 100 basis points difference is
19 roughly \$50 million, so 20 percent of that is roughly
20 \$10 million , before tax. No. No. I'm sorry. That's
21 correct.

22 Q. Is that right?

23 A. It is. Subject to check.

24 Q. Okay. You guys are the financial geniuses.
25 Just since this is obviously your only appearance, do you

1 have any inside information as to when this mess in -- on
2 Wall Street or wherever it happens to be, it's all over I
3 guess, when it's going to end?

4 A. No, I do not have any insight into that.
5 According to my broker, it's going to end sometime next
6 June.

7 Q. Is your broker giving you buying --

8 A. Well, and so was Warren Buffet.

9 Q. He was for a while. Thank you,
10 Ms. LaConte.

11 A. You're welcome.

12 JUDGE WOODRUFF: For the State?

13 MR. IVESON: I have nothing for

14 Ms. LaConte.

15 JUDGE WOODRUFF: Public Counsel?

16 MR. MILLS: No questions.

17 JUDGE WOODRUFF: Staff?

18 MR. THOMPSON: Why, thank you, Judge.

19 CROSS-EXAMINATION BY MR. THOMPSON:

20 Q. Good afternoon, Ms. LaConte.

21 A. Good afternoon.

22 Q. My name is Kevin Thompson. I'm the General
23 Counsel of the Commission. I'm representing Staff in this
24 proceeding.

25 I've got a chart. Would you agree with me,

1 Ms. LaConte, that that chart represents the return on
2 equity recommendations that have been made in this case?

3 A. I would agree that it represents the
4 recommendations made by UE, MEG, MIEC and Staff. I wasn't
5 aware that State of Missouri or Public Counsel suggested
6 any ROE recommendations.

7 Q. Well, they didn't file testimony, but in
8 their position statements they took positions. I don't
9 know if you were familiar with those.

10 A. I do remember looking at State of
11 Missouri's, yes. I'm sorry. I didn't read Public
12 Counsel's.

13 Q. Does that chart accurately reflect the
14 recommendations that you made?

15 A. Yes, it does.

16 Q. Okay. And with respect to Dr. Morin's
17 recommendations, are you aware that he has suggested an
18 additional 25 basis point upward adjustment to reflect the
19 current economic crisis?

20 A. Yes, I am aware of that.

21 Q. So that means his with FAC figure would go
22 from 11.9 -- or excuse me, 10.9 to 11.15, would it not,
23 adding 25 basis points?

24 A. The with FAC?

25 Q. Yes, ma'am.

1 A. Yes. That's correct.

2 Q. And his without FAC figure would go from
3 11.15 to 11.4?

4 A. Yes. I agree.

5 Q. Okay. And based on your answer to
6 Mr. Conrad's questions, am I correct in understanding that
7 each basis point is worth about half a million dollars?

8 A. Yes.

9 Q. Now --

10 A. No. I'm sorry. 100 basis points, not each
11 basis point.

12 Q. 100 basis points is worth half a million
13 dollars?

14 A. Oh, no. I'm sorry. You're right. I
15 thought you were saying 50. You're correct.

16 Q. Well, this is important, and I want to get
17 it straight. Let me turn to another chart.

18 A. Okay. That would be helpful.

19 Q. This is that reconciliation we were talking
20 about earlier, or reconciliation. It shows the value of
21 each issue. And do you see that it shows on line 13 in
22 the Staff column that the return on equity issue is worth
23 \$68.9 million?

24 A. That's the difference between the company's
25 recommendation and the Staff's recommendation.

1 Q. That's exactly right. And, in fact, it's
2 the difference between Staff's recommendation of
3 9.5 percent without a FAC and the company's
4 recommendation, original recommendation of 10.9 percent
5 with a FAC. Would you be surprised if I told you that's
6 how that was calculated?

7 A. No.

8 Q. Wouldn't have any reason to doubt it?

9 A. No.

10 Q. And so that's a spread from 9.5 to 10.9,
11 that's a spread of 140 basis points, is it not?

12 A. Yes.

13 Q. So if we divide 68.9 million by 140, we
14 will find out exactly what each basis point is worth?

15 A. Yes.

16 Q. And I've actually done that math, with
17 help, with assistance, and would you agree with me it
18 comes out to about \$492,000 per basis point?

19 A. I'll take your word for it that that's
20 correct.

21 Q. Okay. And you're right to doubt my math.
22 Let me just assure you of that. Let me put my other chart
23 back up there.

24 Now, the position that you have taken, the
25 recommendations that you have made are significantly

1 higher than the recommendations made by Staff's expert
2 witness, Mr. Hill; isn't that correct?

3 A. Yes.

4 Q. In fact, your recommendations form kind of
5 a median point between Mr. Hill's recommendations and
6 those of Dr. Morin, and I'm referring to Dr. Morin's
7 original recommendations, not the ones that are even
8 higher.

9 A. That's correct.

10 Q. Okay. Well, in your expert -- in your
11 expert opinion, do you consider Mr. Hill's recommendations
12 to be outrageously low?

13 A. Based on the assumptions he's made, no.

14 Q. And you've read his testimony; is that
15 correct?

16 A. Yes.

17 Q. And you have seen his calculations?

18 A. Yes.

19 Q. And as far as you know, did he -- did he do
20 those calculations correctly?

21 A. Yes.

22 Q. Did he use standard financial analytical
23 tools?

24 A. Yes.

25 Q. Did he use them in any bizarre or unusual

1 way?

2 A. Not that I'm aware of, and not that I'm
3 aware of any other witnesses have done that.

4 Q. Okay. In fact, would you agree with me
5 that the other three financial analysis expert witnesses,
6 Dr. Morin, Mr. Hill and Mr. Gorman, in fact, are all
7 experts in this field?

8 A. Yes, I would agree.

9 Q. And are all eminently qualified to give
10 this sort of advice to the Commission?

11 A. Yes.

12 Q. And so the range that the Commission sees
13 here as represented in that chart, would you agree that is
14 simply the range that you will get when reasonable experts
15 disagree?

16 A. Yes. I would agree.

17 Q. Now, when you did your calculations, did
18 you exercise professional judgment at any point?

19 A. Yes, I did.

20 Q. In fact, financial analysis consists of a
21 number of fairly simple equations, does it not?

22 A. Yes.

23 Q. The math is not that hard?

24 A. No, it's not.

25 Q. But you use professional judgment and

1 expertise when you select your inputs, do you not?

2 A. Yes.

3 Q. And the differences that we see are due,
4 are they not, to somewhat different inputs selected by the
5 different experts?

6 A. Yes.

7 Q. In other words, the CAPM is done in a
8 particular way. It has the same variables no matter who
9 is doing it, does it not?

10 A. I wouldn't say it has the same variables.
11 I think everyone can agree on what the formula is, but we
12 do have different assumptions on what the variables should
13 be.

14 Q. Well, what the inputs should be?

15 A. Right, the inputs should be.

16 Q. When I said the variables, I meant
17 mathematically, the formula is the same for every analyst?

18 A. Yes.

19 Q. It is the inputs that differ?

20 A. Yes.

21 Q. And each analyst in an exercise of his or
22 her professional and expert judgment will select somewhat
23 different inputs?

24 A. Yes.

25 Q. And inevitably will you agree with me that

1 that will result in differing outputs?

2 A. Yes.

3 Q. Okay. Thank you. Now, in your testimony,
4 you used a proxy group of 18 electric utilities, did you
5 not?

6 A. Yes.

7 Q. And you selected these electric utilities,
8 did you not, in order -- based on making them comparable
9 in risk to AmerenUE?

10 A. Yes.

11 Q. And isn't it true that Dr. Morin used two
12 proxy groups?

13 A. Yes, he did.

14 Q. And you had some criticisms for one of his
15 groups, did you not?

16 A. Yes.

17 Q. What were those criticisms?

18 A. I felt that the utilities he included were
19 not comparable to UE.

20 Q. In your professional expert judgment, would
21 that make those results unreliable?

22 MS. TATRO: Your Honor, I'm going to object
23 and interject that this is smelling a lot like friendly
24 cross.

25 MR. THOMPSON: Point to the rule against

1 it.

2 MS. TATRO: You're not cross-examining the
3 witness.

4 MR. THOMPSON: I'm asking questions and
5 she's answering them.

6 JUDGE WOODRUFF: Make sure you speak into
7 the microphone. I heard you, but I'm not sure it got
8 recorded. If you want to repeat what your objection was?

9 MS. TATRO: My objection is that this is
10 not proper cross-examination. It is friendly
11 cross-examination.

12 JUDGE WOODRUFF: I'm going to overrule the
13 objection.

14 BY MR. THOMPSON:

15 Q. Do you remember that last question?

16 A. I'm sorry. Can you repeat that?

17 Q. Whether or not the --

18 MR. THOMPSON: Well, why don't you read it
19 back, Kellene.

20 THE REPORTER: "Question: In your
21 professional expert judgment, would that make those
22 results unreliable?"

23 THE WITNESS: I don't think it makes them
24 unreliable.

25 BY MR. THOMPSON:

1 Q. Okay.

2 A. I just -- I just disagree with the
3 reasoning that he has.

4 Q. Very good. Now, in your testimony, you
5 redid his analyses, did you not?

6 A. Yes.

7 Q. And you also did some of your own?

8 A. Yes.

9 Q. Now, when you redid his, you did not redo
10 his empirical CAPM; isn't that true?

11 A. That's correct.

12 Q. How come?

13 A. I don't agree with the empirical CAPM.

14 Q. So you don't think that's a reliable
15 measure?

16 A. I think that the ECAPM is based on
17 adjustments of the CAPM that I don't think are necessary.

18 Q. Okay. And he also did two different risk
19 premium analyses, did he not?

20 A. Uh-huh.

21 Q. And you rejected one of those, the risk
22 premium electric, I think he called it, or why don't you
23 tell me which one you rejected?

24 A. I think he -- the one I rejected was where
25 he did a forecast of the market risk premium.

1 Q. His forecast risk premium. Again, why did
2 you reject that?

3 A. Well, one of my reasons was that I didn't
4 think it was -- not that it was accepted, but that it was
5 widely used, and that I just disagree with the assumptions
6 that go into that to come up with that market risk
7 premium.

8 Q. Okay. Now, when you redid his other
9 analyses, you changed certain inputs, did you not?

10 A. Yes.

11 Q. And you got different outputs, did you not?

12 A. Yes.

13 Q. And the outputs you got, in fact, are
14 generally more in line with the outputs you got from your
15 own analyses, aren't they?

16 A. Yes.

17 Q. Okay. Can you tell me, what are flotation
18 costs?

19 A. Those are costs that are used, part of it
20 is just to pay for when a utility or a company issues
21 stock to pay for the portion of that that they have to pay
22 to the company that's issuing the stock, and then also
23 sometimes when stock is issued, it has a devaluing effect
24 on the price of the stock and so you're accounting for
25 that as well.

1 Q. So part of it are hard costs that are
2 incurred in issuing the shares, and part of it would be
3 dilution in the value of the shares?

4 A. Yes.

5 Q. Okay. And do you know, did AmerenUE issue
6 any stock during the test year?

7 A. To the best of my knowledge, AmerenUE did
8 not.

9 Q. And would you agree with me that Dr. Morin
10 systematically used an upward flotation cost adjustment?

11 A. Yes, he did.

12 Q. And, in fact, you don't agree with that, do
13 you?

14 A. No, I don't.

15 Q. And is that because UE did not, in fact,
16 issue any shares during the test year?

17 A. That's correct.

18 MR. THOMPSON: Okay. I have no further
19 questions. Thank you.

20 JUDGE WOODRUFF: Thank you. Let's see.
21 AmerenUE?

22 CROSS-EXAMINATION BY MS. TATRO:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. I'd like to start by talking about your

1 background. Okay. Your education, your undergraduate is
2 a BA in mathematics, right?

3 A. Yes.

4 Q. Normally a skill I avoid. And then you
5 have an MBA in finance?

6 A. Yes.

7 Q. And you do not have any type of further
8 education, no Ph.D.?

9 A. No, I do not.

10 Q. Okay. Have you completed any type of
11 specialized ROE training?

12 A. No, I have not.

13 Q. Do you have any kind of certification on
14 ROE?

15 A. No, I do not.

16 Q. Have you authored or published articles on
17 utility regulation related issues?

18 A. No, I have not.

19 Q. So I take it that means you haven't
20 authored or published articles on ROE either?

21 A. No, I have not.

22 Q. Okay. Have you taught any ROE courses?

23 A. No, I have not.

24 Q. Now, how many times do you suppose you have
25 testified in public utility proceedings since the year

1 2000?

2 A. On any case? On any topic?

3 Q. Let's be general.

4 A. About five or six times.

5 Q. On all topics for public utilities, you've
6 only testified five or six times?

7 A. My memory's not that good. I would say
8 five to ten times. I'm sorry. I don't know offhand
9 exactly.

10 Q. Okay. Your usual topic is in the area of
11 rate design, isn't it?

12 A. I've done testimony on rate design, other
13 cost of service issues. In the '90s I did a lot of
14 forecasting work.

15 Q. And in the last rate case we talked about
16 the IDR tariff for a while?

17 A. That's correct.

18 Q. So how many times have you testified
19 specifically on the issue of return of equity?

20 A. I would have to say four or five times.

21 Q. Let's talk about some of those. Obviously
22 there was some testimony in UE's last rate case. You
23 remember that testimony?

24 A. Yes, I do.

25 Q. And do you know about how much testimony

1 you offered at that time?

2 A. Are you talking about pages?

3 Q. Sure. How many pages were there?

4 A. Let's say 15.

5 Q. Okay. And do you know of the 15 pages --
6 let me ask you a different question first. Did you do a
7 full ROE study in that case?

8 A. I did not at that time.

9 Q. Did you -- so you didn't do a DCF analysis
10 or any other methodology, right?

11 A. Not at that time.

12 Q. You just critiqued AmerenUE's witnesses and
13 some of the other witnesses?

14 A. That's correct.

15 Q. And you also discussed AmerenUE's risk
16 factors, didn't you?

17 A. Yes.

18 Q. In fact, wouldn't your risk discussion
19 probably take up the majority of what that testimony
20 actually involved?

21 A. Yes.

22 Q. I believe you also testified in a Missouri-
23 American Water rate case before this Commission?

24 A. Yes.

25 Q. And that would have been when?

1 A. I think it was 2003.

2 Q. Okay. Do you have any idea how
3 comprehensive that testimony was on the ROE issue?

4 A. I think at that time I did submit DCF
5 analysis. I'm sorry. I can't remember exactly.

6 Q. Okay. Would you accept that you submitted
7 three pages on ROE?

8 A. I'd have to check that.

9 Q. Okay. Did you do any type of full study in
10 that case, ROE study?

11 A. I would have to check that.

12 Q. Perhaps I can help you on that. Just a
13 moment.

14 MS. TATRO: May I approach?

15 JUDGE WOODRUFF: You may.

16 MS. TATRO: I'm not going to offer it as an
17 exhibit. I don't have copies.

18 BY MS. TATRO:

19 Q. Do you recognize the document?

20 A. Yes, I do.

21 Q. Okay. And is that your testimony in the
22 Missouri-American Water case?

23 A. Yes, it is.

24 Q. And can you turn to the section that deals
25 with return on equity?

1 A. Yes.

2 Q. Let's start with that page question again.
3 About how many pages of testimony is there on that issue?

4 A. I'd say five.

5 Q. Okay. Did you submit a full ROE study?

6 A. No, I did not.

7 Q. Did you do a DCF analysis or any other kind
8 of ROE?

9 A. If I didn't submit ROE testimony, I didn't
10 do any other analysis.

11 Q. In fact, this testimony mostly relates to a
12 discussion about the reduction of risk to Missouri-
13 American Water because of the recent, at that time, ISRS
14 legislation?

15 A. That's correct.

16 Q. And you know what ISRS means when I refer
17 to that? You're familiar with it?

18 A. Yes.

19 Q. Okay. I think you've testified maybe in a
20 couple other cases. There was an Interstate Power & Light
21 case back in 2002?

22 A. Yes.

23 Q. Did you -- do you remember if you undertook
24 a complete ROE study in that case?

25 A. No, I did not.

1 Q. Did you make an ROE recommendation?

2 A. No, I did not.

3 Q. So am I missing any that you know of?

4 A. I did submit testimony in Canada, in Nova
5 Scotia.

6 Q. Probably a different regulatory scheme than
7 here, though, right?

8 A. Yes.

9 Q. Of the cases you've submitted ROE testimony
10 on, has any of them been adopted by a Commission?

11 A. No.

12 Q. Okay. Let's talk about a different
13 subject. We've established you were a math major. I was
14 not. But let's discuss averages and medians for just a
15 moment.

16 A. Uh-huh.

17 Q. You know what those mean, right?

18 A. Yes.

19 Q. Can you tell me the difference between an
20 average and a median?

21 A. Well, the median is when you -- you order
22 things from smallest to lowest, let's say, and then you
23 pick what's in the middle, what's 50 percent below, what's
24 50 percent above roughly.

25 Q. Uh-huh.

1 A. The average is when you sum up all those
2 and divide it by the number and that gives you the
3 average.

4 Q. Okay. So averaging doesn't really tell you
5 anything about the characteristics of a group, right?

6 A. I don't understand your question.

7 Q. Well, does it tell you anything about the
8 frequency of occurrences of any number?

9 A. No.

10 Q. And as you said, a median of the series
11 always falls where 50 percent of the numbers are higher
12 and 50 percent of the remaining numbers of the series are
13 lower; is that correct?

14 A. Yes.

15 Q. So when you use a median, it tempers any
16 concern that one might have with outliers, doesn't it?

17 A. It could.

18 Q. It's good to know I remember that much
19 math. You indicated earlier that Mr. Hill uses standard
20 methodology in his work. Can you tell me if any
21 Commission relies on the modified earnings price ratio
22 analysis that he uses?

23 A. I could not, and you would have to ask him
24 if they relied on that analysis that he's done.

25 Q. I'm sure that we will, but I'm interested

1 in your expert opinion.

2 A. My expert opinion is that I don't know if
3 any Commission has relied on that.

4 Q. Okay. Can you point to any modern textbook
5 that recommends this method?

6 A. No, I cannot.

7 MS. TATRO: I have no further questions.

8 JUDGE WOODRUFF: All right. We'll come up
9 for questions from the Bench, then. Commissioner Murray?

10 QUESTIONS BY COMMISSIONER MURRAY:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. I was interested in the part of your
14 testimony where you recommended a generic approach.
15 Your -- I think what you're suggesting is that this
16 Commission have a hearing involving all of the utilities
17 who would be affected by a calculation of return on equity
18 at any time, and arrive at a methodology that the
19 Commission accepted as the methodology that would be used
20 going forward in determining ROE. Is that what you're
21 suggesting?

22 A. That could be a type of generic cost
23 hearing that you have. You could also just have something
24 that they've enacted in California where you have a
25 generic cost of capital hearing for the -- out there just

1 the large energy utilities. They set the rate, and that
2 rate will be in place for the next three years, barring
3 any -- anything that would cause a utility that they felt
4 they needed to come back and get an adjustment.

5 And then during that time if there's any
6 change and -- within 100 basis points of say the utility
7 bonds, AA rated utility bonds, then they would make an
8 adjustment to that ROE. But for the three-year period it
9 stays in place, and then after three years the utility
10 comes back and they would have another hearing on their
11 ROE. And that's separate from any other rate case issue.

12 Q. But you're -- I think you're suggesting
13 that the method by which we would determine or set the
14 company's ROE would be determined in advance; is that
15 correct?

16 A. Yes. You would have a hearing and experts
17 would participate and give their recommendations as to
18 what they felt was the best method to determine return on
19 equity for a utility, and then that could be based on the
20 DCF, it could be based on the capital asset pricing model.
21 You could give weight to those models.

22 Q. And do you think that the amount of weight
23 that we should give to each model is constant over time or
24 can be constant or should it change with circumstances?

25 A. Well, I think when that's determined, it

1 should be constant for the period that the return on
2 equity would be in place.

3 Q. So if you're talking about a generic
4 proceeding, what are you looking at, a time frame?

5 A. Well, for example, in British Columbia,
6 Canada, they have a generic cost of capital to determine,
7 and they set the return on equity for a low risk utility,
8 and then they apply that to other utilities, and they
9 adjust that based on their risk. So if a utility has more
10 risk, they will increase that return on equity. That
11 return on equity is then in place until the next hearing,
12 which is in five years.

13 And then between that time they have what's
14 called an automatic adjustment mechanism, and that in that
15 jurisdiction is based on changes in long-term rates. So
16 if long-term rates were to be -- go upwards by 50 percent,
17 then that would be -- 75 percent of that would be applied
18 to the ROE and then there would be an upward adjustment.

19 Q. Long-term risk-free rates?

20 A. Canadian. Yeah, long-term risk-free rates.
21 So it would be long-term Canadian.

22 Q. Well, I think you're correct that there's
23 an awful lot of time spent in each individual rate case
24 going through all of the methodology and determining and
25 listening to all of the expert witnesses express why they

1 prefer a certain methodology or how they apply the inputs
2 to a methodology, and -- and we do hear, I mean, much of
3 the same type of testimony in every rate case. We hear
4 the company's coming in usually with one kind of
5 methodology and support, their experts supporting why they
6 use it, and then the intervenors come in saying that there
7 ought to be either different inputs or there might have to
8 be different emphasis or different methodologies.

9 And I just thought it was an interesting
10 concept to -- in looking forward as to whether the
11 Commission could simplify the process and make it a more
12 certain -- put a little more certainty in the regulatory
13 process by adopting something like what you recommended.

14 COMMISSIONER MURRAY: Thank you.

15 THE WITNESS: You're welcome.

16 JUDGE WOODRUFF: Commissioner Jarrett?

17 QUESTIONS BY COMMISSIONER JARRETT:

18 Q. Yes. Good afternoon, Ms. LaConte. How are
19 you today?

20 A. Fine, thank you.

21 Q. I have just a couple of questions. I'm
22 looking at your direct testimony, page 14, and
23 specifically looking at Table 3. This is a chart on the
24 recommended return on equity where you set out the various
25 methods that you use to calculate the CAPM 10.4 ROE, risk

1 premium 10.1 ROE, discounted cash flow 10.6, and then
2 average 10.3. And someone else may have asked you this,
3 but please clarify. Is this -- are these calculations
4 without an FAC?

5 A. Yes.

6 Q. And so with an FAC, did you testify that
7 about 20 basis points?

8 A. Yes, I did.

9 Q. Okay. So your CAPM with an FAC would be
10 10.2?

11 A. Yes.

12 Q. Risk premium would be 9.9, and your
13 discounted cash flow would be 10.4?

14 A. Yes.

15 Q. And you might have to help me. What does
16 that average out to be?

17 A. Well, what I recommended was just removing
18 20 basis points from the average. So it would be 10.1.

19 Q. 10.1?

20 A. Yes.

21 Q. All right. Got you. Now, without an FAC,
22 your range is 10.1 to 10.6. Would anywhere in your range
23 be a reasonable ROE for this company?

24 A. Yes. I think it would. A year and a half
25 ago the Commission approved a 10.2 percent return on

1 equity for the company, which I think was a reasonable
2 return. Since that time, we know that interest rates have
3 declined by about 70 basis points. If we were to only
4 take a portion of that, say 75 percent of that, and use
5 that as an adjustment to the 10.2, that would take us down
6 to about 9.7.

7 Now, as Dr. Morin had pointed out in his, I
8 think it was surrebuttal testimony, he felt that an upward
9 adjustment of 25 basis points to the utility's return
10 would be acceptable because of the current economic
11 situation. So that would bring you back up to about 10 or
12 10.1. So I think that the 10.2 I'm recommending is quite
13 reasonable for the utility.

14 Q. And that's without an FAC?

15 A. Yes.

16 Q. Okay. Well, again, I'm just kind of trying
17 to go back to your Table 3. With an FAC -- or excuse me.
18 Without an FAC, you believe that anything between 10.1 and
19 10.6 would be reasonable?

20 A. Yes.

21 Q. And then with an FAC, you believe that
22 anything between 9.9 and 10.4 would be reasonable; is that
23 correct?

24 A. Yes, but I do recommend 10 percent.

25 Q. And my other question, I have to ask you

1 this, you remember Mr. Thompson asked you some questions
2 about Mr. Hill and whether or not his -- you would
3 consider his recommendation reasonable, and I believe your
4 answer was something to the effect, after you thought
5 about it for a minute, based on his assumptions, you
6 didn't think they were unreasonable. Well, do you think
7 his assumptions were reasonable?

8 A. I'm not going to say they're reasonable or
9 unreasonable. I'm just going to say that I disagree with
10 some of his assumptions.

11 Q. Would you elaborate on that, tell us which
12 ones you disagree with and why?

13 A. I'm sorry. I couldn't tell you off the top
14 of my head exactly the assumptions he made that I disagree
15 with.

16 Q. All right. Well, would you say that his
17 assumptions lowered the ROE?

18 A. Yes, they did.

19 Q. More than you think they might have
20 otherwise?

21 A. Yes.

22 COMMISSIONER JARRETT: Okay. I don't have
23 any further questions then. Thank you.

24 THE WITNESS: You're welcome.

25 JUDGE WOODRUFF: Commissioner Gunn?

1 COMMISSIONER GUNN: Yeah. I just have one,
2 maybe two.

3 QUESTIONS BY COMMISSIONER GUNN:

4 Q. And I apologize if it's in testimony and I
5 didn't see it. In making your calculations, did you do
6 any analysis as to whether or not the fuel adjustment
7 clause should be included or not, or did you just merely
8 do your analysis with or without a fuel adjustment clause?

9 A. I just did it with or without a fuel
10 adjustment clause. I did not make a recommendation as to
11 whether it should be included or not.

12 Q. And your testimony makes no judgment as to
13 the appropriateness of the fuel adjustment clause?

14 A. No, it does not.

15 Q. Did your analysis take into account the --
16 your recommendation with the fuel adjustment clause, was
17 there a particular design to that fuel adjustment clause
18 that you took into account that determined the 10.2?

19 A. No, there was not.

20 Q. So do you have any opinion as to -- would
21 your opinion change on that 10.2 recommendation -- oh, I'm
22 sorry. Your recommendation was 10.0 with a fuel
23 adjustment clause?

24 A. Yes.

25 Q. Does that change based on whether the fuel

1 adjustment clause was the 95/5 as suggested by some or the
2 50/50 as suggested by others?

3 A. I think that would have an effect on the
4 fuel -- on the return on equity.

5 Q. What -- if the fuel adjustment clause was a
6 50/50, let me -- I'm trying to ask this a different way
7 because I'm not sure you went deeply into the analysis.
8 But is there any general correlation between how much
9 would pass through to the ratepayer with a certain number
10 of basis points that would go into your analysis?

11 A. I can't say that I came up with the 20
12 basis points based on different pass through scenarios. I
13 would think that if the fuel adjustment clause was
14 approved with 50/50 sharing, that that would have an
15 upwards effect on return on equity.

16 Q. You'd be closer to the 10.2 than you would
17 the 10.0?

18 A. Yes.

19 Q. And then if it was a 95/5, I'm assuming the
20 opposite, you would be closer to the 10.0 than you would
21 the 10.2?

22 A. I would think it would be the 10.0, yes.

23 COMMISSIONER GUNN: That's all the
24 questions I have.

25 JUDGE WOODRUFF: Mr. Chairman?

1 QUESTIONS BY CHAIRMAN DAVIS:

2 Q. Good afternoon, Ms. LaConte. Did you
3 review the testimony of Dr. Morin in this case?

4 A. Yes, I did.

5 Q. Do you recall when he filed that testimony?
6 Do you recall when he filed his direct testimony?

7 A. I think it was at the beginning of April.

8 Q. April 4th?

9 A. Yes.

10 Q. Okay. Now, Staff filed its cost of service
11 report, and you, Dr. Hill, Mike Gorman, all filed your
12 direct testimony in this case on or about August 28th,
13 correct?

14 A. Yes.

15 Q. Okay. So it's -- is it fair to say that
16 August 28th is more than four months after Dr. Morin filed
17 his direct testimony in this case?

18 A. Yes.

19 Q. Did you have any conversations with
20 Dr. Hill or Mr. Gorman prior to filing your testimony in
21 this case?

22 A. No, I did not.

23 Q. Did you know Dr. Hill's recommendation in
24 this case before he filed it?

25 A. No, I did not.

1 Q. Did you know Mr. Gorman's recommendation in
2 this case before he filed it?

3 A. No, I did not, but I agree with it.

4 Q. Okay. Do you recall Mr. Thompson showing
5 you a graph outlining the various ROE positions in this
6 case?

7 A. Yes, I do.

8 Q. Okay. You recall that Dr. Morin's
9 recommendation was 10.9 percent with an FAC?

10 A. Yes.

11 Q. I believe Dr. Hill's recommendation was 9
12 and a half percent without an FAC; is that correct?

13 A. I think it was 9 and a half without an FAC.

14 Q. And Mr. Gorman's recommendation was 10.2
15 percent, correct?

16 A. Yes.

17 Q. And your recommendation was 10.2 percent
18 without an FAC, correct?

19 A. Yes.

20 Q. Okay. And so if we -- if we add
21 Dr. Morin's 10.9 percent with an FAC and Dr. Hill's
22 recommended 9 and a half percent without an FAC, that
23 would come up with 20.4 percent, would it not?

24 A. Yes.

25 Q. And then if we divided those numbers out by

1 two, we magically get 10.2 percent, don't we?

2 A. Yes.

3 Q. And 10.2 percent was what Ameren was
4 awarded in the last rate case, wasn't it?

5 A. Yes.

6 Q. Okay. You've appeared in front of other
7 regulatory bodies in other states and nations on ROE; is
8 that correct?

9 A. Yes.

10 Q. In those proceedings, did the regulatory
11 body staff present witnesses?

12 A. Yes.

13 Q. Do you recall in any of those other cases
14 outside Missouri if the staffs of the regulatory bodies,
15 if their -- if their staff's recommendation was ever lower
16 than those of the consumer advocates in those cases?

17 A. No, I can't say I do remember that
18 occurring.

19 Q. Do you recall any being higher?

20 A. Yes.

21 Q. Okay. Do you know what the lowest awarded
22 ROE by any commission in the country is this year?

23 A. I think for a vertically integrated utility
24 that's similar to Ameren, I think the lowest has been
25 about 10 percent.

1 Q. Okay. And you draw a distinction between a
2 vertically integrated utility and one that's operating in
3 a restructured environment?

4 A. Yes. There's utilities in the northeast
5 that are considered mainly transmission and distribution
6 utilities and they get much lower return on equities.

7 CHAIRMAN DAVIS: Thank you. No further
8 questions, Ms. LaConte.

9 JUDGE WOODRUFF: All right. Then recross
10 based on questions from the Bench. MIEC?

11 MS. VUYLSTEKE: No questions.

12 JUDGE WOODRUFF: Noranda?

13 MR. CONRAD: No questions.

14 JUDGE WOODRUFF: For the State?

15 MR. IVESON: I think just one question.

16 JUDGE WOODRUFF: Make sure you use your
17 microphone.

18 MR. IVESON: Sorry.

19 RE-CROSS-EXAMINATION BY MR. IVESON:

20 Q. Ms. LaConte, Commissioner Jarrett asked you
21 whether you disagreed with the assumptions that were drawn
22 by Mr. Hill. Let me ask you the same question with
23 respect to Dr. Morin. Do you disagree with the
24 assumptions that he used in arriving at his decision?

25 A. Yes, there are some that I disagree with.

1 MR. IVESON: That's all.

2 JUDGE WOODRUFF: Let's see. For Public
3 Counsel?

4 MR. MILLS: Just a few.

5 RE-CROSS-EXAMINATION BY MR. MILLS:

6 Q. Chairman Davis asked you what the lowest
7 ROE for a vertically integrated electric utility was. Do
8 you recall the highest this year?

9 A. I -- as I recall, Mid-American Utility in
10 Iowa was awarded 11.7 percent.

11 Q. And was that a straight ROE or did that
12 involve some incentives or special circumstances?

13 A. I think it does involve some special
14 circumstances. There I think they get preapproval for a
15 return on equity when they're considering building a large
16 generating unit.

17 Q. Other than that one, do you know what the
18 highest is?

19 A. I'm sorry. I can't remember off the top of
20 my head.

21 Q. Now, you had some questions from
22 Commissioner Murray about simplifying the ROE process. Do
23 you recall those?

24 A. Yes.

25 Q. Would clear and definitive statements from

1 the PSC about what approaches they prefer and what they
2 find the most compelling also simplify the process?

3 A. I think it would, but I think it also
4 requires input from the utilities and the intervenors as
5 to what everyone can agree upon as a fair method.

6 Q. For example, if the Commission in case
7 after case said things like, you know, we prefer analyst
8 estimates to historical growth rates, then the parties
9 would know what to do in the next case, would they not?

10 A. I think that's different than having a
11 generic cost of capital hearing where everyone puts in
12 their input and then a final decision is made on what will
13 be used to determine return on equity from here on out. I
14 think just because the Commission says that they prefer
15 something does not mean that it's not open for use in
16 future cases.

17 Q. And the approach that you're suggesting
18 would have those matters not be open for discussion or for
19 contest in future cases; is that correct?

20 A. What I'm suggesting is that the Commission
21 would have a hearing where the method would be determined
22 for calculating the return on equity. That return on
23 equity would be in place for, say, three years or five
24 years, and then it would be open for changes in the future
25 at the next hearing, but that would determine the return

1 on equity for a certain period of time.

2 Q. So if in the first one of those hearings
3 the Commission determined that DCF was the best way to
4 determine ROE, that wouldn't preclude someone from coming
5 in the second case three to five years later and saying,
6 no, no, you really have to do CAPM; is that correct?

7 A. That's correct. I mean, they would have to
8 give compelling evidence as to why they believe that, but
9 I think -- I think that that's fair for them to do that.

10 MR. MILLS: Thank you. That's all the
11 questions I have.

12 JUDGE WOODRUFF: Questions from Staff?

13 MR. THOMPSON: Thank you, Judge.

14 RE-CROSS-EXAMINATION BY MR. THOMPSON:

15 Q. Ms. LaConte, with respect to your
16 recommendation or suggestion that the Commission consider
17 engaging in a generic return on equity proceeding, you
18 don't offer any opinion as to whether Missouri law would
19 allow that, do you?

20 A. No, I do not. I don't have the knowledge
21 whether that's allowable or not.

22 Q. And Commissioner Jarrett asked you whether
23 or not you thought that Mr. Hill's assumptions were
24 reasonable, and you indicated you disagreed with some,
25 then you were unable to indicate specifically which ones.

1 Isn't it true that if you agreed with all of Mr. Hill's
2 assumptions, that, in fact, your recommendation would look
3 a lot more like his?

4 A. I suppose it would.

5 MR. THOMPSON: No further questions. Thank
6 you.

7 JUDGE WOODRUFF: For AmerenUE?

8 RECROSS-EXAMINATION BY MS. TATRO:

9 Q. Commissioner Murray asked you some
10 questions about the generic approach, and you talked about
11 how California has a generic proceeding. Do you know what
12 rate was set in California for large electric utilities?

13 A. I want to say one was 11.1, 11.25 for
14 another, and I can't remember what the other one received.

15 Q. Okay. I believe Commissioner Gunn talked
16 to you about the FAC and you analyzed what the ROE should
17 be, whether UE had an FAC or without an FAC, but does MEG
18 oppose an FAC for UE?

19 A. MEG did not have a position on whether
20 AmerenUE should have an FAC.

21 Q. Okay. Now Commissioner Jarrett talked to
22 you about how government interest rates have declined by
23 about 70 basis points. You remember that?

24 A. Yes.

25 Q. Is it also not true that utility bond

1 yields are up 2- to 300 basis points?

2 A. Subject to check, yes.

3 Q. Okay. And that would be relative to the --
4 what existed, for example, in UE's prior rate case?

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

6 Q. I'll withdraw the question. That's fine.

7 A. Okay.

8 MS. TATRO: I have no further questions.

9 JUDGE WOODRUFF: Redirect?

10 REDIRECT EXAMINATION BY MS. LANGENECKERT:

11 Q. You were asked some questions from UE about
12 how many times you testified in various venues on return
13 on equity and other issues. When you gave the answer of
14 how many times you testified, were you speaking about
15 actually testifying in a proceeding such as this or were
16 you also giving the amount of times that you submitted
17 testimony and the case then went to settlement and you did
18 not appear before the commission?

19 A. I was referring to times when I appeared
20 before commissions.

21 Q. Okay. So the number would be greater if
22 you included when you submitted testimony but there was no
23 actual hearing?

24 A. Yes.

25 Q. Okay. Now, I do not have a cite for this,

1 but I recall that the Commission quoted you in its final
2 order in the last AmerenUE case in your analysis of the
3 value of having the FAC when it came to the ROE. Do you
4 recall that as well?

5 A. No. I'm sorry, I don't.

6 Q. So much for the kudos for you. Do you
7 recall that the ROE you recommended in the last AmerenUE
8 case was the same as what the Commission ultimately
9 decided to give to AmerenUE or a close proximity?

10 A. Well, I did not submit testimony that --
11 where I did an analysis of return on equity.

12 Q. Right, you didn't do an analysis, but you
13 did do a recommendation of what the ROE should be, did you
14 not?

15 A. Yes.

16 Q. And do you recall that the Commission's
17 approval was close to what you had recommended?

18 A. Yes.

19 Q. In fact, every time that you've given an
20 ROE recommendation in a case before the Missouri
21 Commission, the Commission has given an ROE to the utility
22 that's much closer to what you recommended than what --
23 closer to what the utility recommended; is that accurate?

24 A. I would say subject to check. I can't --

25 Q. Okay.

1 A. -- tell you definitively if that's true.

2 MS. LANGENECKERT: That's all my redirect.

3 JUDGE WOODRUFF: Thank you. Then

4 Ms. LaConte, you can step down and you're excused. You
5 can go on your way.

6 THE WITNESS: Thank you.

7 JUDGE WOODRUFF: All right. Let's go back
8 to overview and policy and Stephen Rackers. Please raise
9 your right hand.

10 (EXHIBIT NOS. 200NP, 200HC, 201, 202 AND
11 227 WERE MARKED FOR IDENTIFICATION BY THE REPORTER.)

12 (Witness sworn.)

13 JUDGE WOODRUFF: You may inquire when
14 you're ready.

15 STEPHEN RACKERS testified as follows:

16 DIRECT EXAMINATION BY MR. DOTTHEIM:

17 Q. Would you please state your name for the
18 record.

19 A. Stephen M. Rackers.

20 Q. And would you please state your place of
21 employment.

22 A. The Missouri Public Service Commission.

23 Q. And would you please state the address of
24 your employment.

25 A. 9900 Olive -- excuse me -- Page Avenue,

1 Suite 103, Overland, Missouri.

2 Q. And have you caused to be filed in this
3 proceeding direct testimony that has been marked,
4 premarked as Exhibit No. 201?

5 A. Yes.

6 Q. Have you caused to be filed in this
7 proceeding and are sponsoring a Staff report cost of
8 service that has been premarked Exhibit No. 200HC and
9 Exhibit No. 200NP?

10 A. Yes.

11 Q. Have you caused to be filed surrebuttal
12 testimony in this proceeding that has been premarked and
13 prefiled as Exhibit No. 202?

14 A. Yes.

15 Q. And have you caused to be filed and are
16 sponsoring what has been premarked and prefiled as Exhibit
17 No. 227, Staff accounting schedules?

18 A. Yes.

19 MR. DOTTHEIM: Judge, pardon me. I wasn't
20 in the hearing room earlier. I don't know if we're
21 providing copies at this point to the court reporter for
22 marking or what procedure we're taking.

23 JUDGE WOODRUFF: I believe you can go ahead
24 and provide a copy. I also had 201, Mr. Rackers' direct.
25 Is that correct?

1 MR. DOTTHEIM: Yes. I'm sorry if I didn't
2 identify the direct testimony as Exhibit No. 201 or
3 identify it at all, but yes, Exhibit No. 1 has been
4 prefiled and premarked as the direct testimony of Stephen
5 M. Rackers.

6 JUDGE WOODRUFF: Are you offering those at
7 this time?

8 MR. DOTTHEIM: Yes.

9 JUDGE WOODRUFF: 200HC and NP, 201, 202 and
10 I believe it was 227 have been offered into evidence. Are
11 there any objections to their receipt?

12 MR. DOTTHEIM: Judge, at this time, since
13 Mr. Rackers is just being offered for overview, the
14 Staff -- I wouldn't necessarily characterize that Staff
15 has policy testimony. Mr. Rackers is being offered at
16 this time for overview on cost of service, for example.

17 Staff's thought was that since a
18 reconciliation has been filed and one earlier this morning
19 was passed out, if the Commissioners might have any
20 questions regarding the reconciliation at this time in the
21 list and order, schedule of issues and order of witnesses
22 and opening statements there was a list of revenue
23 requirement issues resolved by AmerenUE and Staff. If the
24 Commissioners might have any questions regarding that
25 matter or anything in general, Mr. Rackers is available at

1 this time. He's available throughout the hearing. He'll
2 be -- he'll be here throughout the hearing.

3 JUDGE WOODRUFF: Will he be up on other
4 issues?

5 MR. DOTTHEIM: Yes. And so since he will
6 be up on other issues, we wouldn't offer into evidence his
7 testimony at this time, and since other witnesses will
8 be -- Staff witnesses will be testifying who have portions
9 of the Staff report, which in essence they've authored,
10 and have rebuttal and/or surrebuttal testimony, they will
11 be taking the stand, we would be offering it or those
12 portions when they take the stand.

13 I wouldn't be suggesting that the Staff
14 offer at this time into evidence any of the exhibits that
15 were just offered to the court reporter and that --
16 identified.

17 JUDGE WOODRUFF: At this point they've just
18 been marked and identified and the witness is being
19 tendered for cross-examination on the --

20 MR. DOTTHEIM: Yes. And I would again like
21 to note, I think what Mr. Thompson indicated this morning,
22 that the reconciliation, which he referred to and I think
23 subsequently provided copies to the Bench and to the
24 parties, is the reconciliation that Mr. Rackers has been
25 working on. It's a document in progress. It had not

1 previously been provided to all the parties, which is the
2 Staff's procedure, so that the parties can review it and
3 comment on it, and we are hoping to receive comments from
4 the parties on the reconciliation that was provided this
5 morning. It's a work in progress.

6 The reconciliation that was filed on
7 November 12th is a reconciliation that previously had been
8 provided to the parties in which they had had the
9 opportunity to comment on and the Staff believed that it
10 received all comments that had been offered and that the
11 comments were reflected in the document that was filed on
12 November 12th, which I have additional comments of that
13 document with me if there's any reason that the Bench
14 would like to have that marked as an exhibit.

15 JUDGE WOODRUFF: We'll see. Right now he's
16 tendered for cross-examination?

17 MR. DOTTHEIM: Yes. The only other
18 thing -- I'm sorry to interrupt you, Judge -- that I might
19 note is I think the reconciliation is generally
20 self-explanatory. I think it is -- it is generally
21 possible to match up the line items on the reconciliation
22 with the issues, except in one area, and that is
23 off-system sales, and Mr. Rackers can identify how that
24 can be done. I can do that. That can be done now. It
25 can be done when the off-system sales issue is tried or --

1 JUDGE WOODRUFF: Let's wait on it for now
2 until off-system sales comes up.

3 MR. DOTTHEIM: Very good.

4 JUDGE WOODRUFF: For cross-examination,
5 then, begin with Public Counsel?

6 MR. MILLS: No questions.

7 JUDGE WOODRUFF: From the State?

8 MR. IVESON: No questions, your Honor.

9 JUDGE WOODRUFF: Noranda?

10 MR. CONRAD: Just a couple, your Honor.

11 CROSS-EXAMINATION BY MR. CONRAD:

12 Q. Good afternoon, Mr. Rackers.

13 A. Good afternoon.

14 Q. Do you have before you what's been marked
15 for identification as Exhibit 200?

16 A. Yes.

17 Q. The Staff cost of service report?

18 A. Yes, I do.

19 Q. I'm looking at the, I think it's the first
20 text page after the index or the table of contents under
21 the heading executive summary.

22 A. Yes, sir.

23 Q. There you're describing in somewhat general
24 terms the Staff's review in response -- Staff's review and
25 an audit that was in response to the filing made by the

1 utility here April 4, 2008. And you're recommending at
2 the time of this report, which was August 28th,
3 51.3 million and change?

4 A. That's correct.

5 Q. Now, in doing that audit and making that
6 review, did Staff have a particular ax to grind one way or
7 the other?

8 A. No, sir.

9 Q. Is your purpose fairly stated to try to
10 approach this as a balanced matter between the
11 shareholders and the ratepayers?

12 A. That's correct.

13 MR. CONRAD: Thank you, sir. That's all.

14 JUDGE WOODRUFF: All right. MIEC?

15 MS. VUYLSTEKE: No questions. Thank you.

16 JUDGE WOODRUFF: MEG?

17 MS. LANGENECKERT: No questions.

18 JUDGE WOODRUFF: AmerenUE?

19 MR. BYRNE: No questions.

20 JUDGE WOODRUFF: Come up for questions from
21 the Bench then. Commissioner Murray?

22 COMMISSIONER MURRAY: No questions. Thank
23 you.

24 JUDGE WOODRUFF: Commissioner Jarrett?

25 COMMISSIONER JARRETT: No questions.

1 Thanks.

2 JUDGE WOODRUFF: Chairman Davis?

3 QUESTIONS BY CHAIRMAN DAVIS:

4 Q. Good afternoon, Mr. Rackers.

5 A. Good afternoon.

6 Q. Have you -- did you have an opportunity to
7 listen to the opening statements and to view the testimony
8 of Mr. Tom Voss?

9 A. Yes, I did.

10 Q. Is the Staff of the Missouri Public Service
11 Commission capable of running economic simulations to tell
12 the Missouri General Assembly or the ratepayers of this
13 state what a new nuclear plant might cost in Callaway?

14 A. I don't know. I would tend to think that
15 we could, but I don't know that for a fact.

16 Q. You think -- but do you think it is
17 possible for us to estimate that the plant could cost
18 6 billion, it could cost 8 billion to calculate, you know,
19 what the capitalized interest would be, you know, what --
20 you know, taking into account all relevant factors, we
21 could give the Missouri General Assembly an estimate if
22 they asked us to do so, could we not?

23 A. Yes --

24 Q. Okay.

25 A. -- I believe we could.

1 CHAIRMAN DAVIS: Okay. No further
2 questions, Judge.

3 JUDGE WOODRUFF: Any recross from any party
4 based on questions from the Bench? Mr. Mills?

5 RECROSS-EXAMINATION BY MR. MILLS:

6 Q. Mr. Rackers, are you familiar with the
7 analysis that Public Counsel submitted and what has been
8 docketed as Case No. EO-2009-0126?

9 A. Just on a very cursory basis, yes.

10 Q. Is it your understanding that that is at
11 least intended to be an analysis of certain different
12 approaches to financing a new nuclear power plant at
13 Callaway?

14 A. That's my understanding.

15 Q. And have you studied that in any detail?

16 A. No, I have not.

17 MR. MILLS: Then I guess I don't have any
18 more questions. Thank you.

19 JUDGE WOODRUFF: Redirect then -- I'm
20 sorry. Go ahead for Noranda.

21 MR. CONRAD: Just one follow up.

22 RECROSS-EXAMINATION BY MR. CONRAD:

23 Q. Mr. Rackers, Chairman Davis asked you about
24 the capabilities of Staff to run a certain set of analysis
25 with respect to the costs of Callaway 2. You recall that?

1 A. Yes.

2 Q. Would Staff also be capable of evaluating
3 within that same context the cost of various financing
4 approaches?

5 A. I believe that we could.

6 MR. CONRAD: Thank you. That's all.

7 JUDGE WOODRUFF: Any other recross? All
8 right. Redirect?

9 MR. DOTTHEIM: No questions.

10 JUDGE WOODRUFF: All right. Then
11 Mr. Rackers, you can step down. And that brings an end to
12 the overview and policy issue, and it's now almost 4:30.
13 It's a little late in the day to start on return on
14 equity, so I -- we will adjourn at this point and resume
15 at 8:30 tomorrow morning.

16 CHAIRMAN DAVIS: Judge, are there going to
17 be opening statements on return on equity?

18 JUDGE WOODRUFF: Yes, there will be mini
19 openings on return on equity.

20 MR. BYRNE: Is there a time frame? My
21 recollection is those are expected to be pretty short.

22 JUDGE WOODRUFF: I think in the past we've
23 used about five minutes standard.

24 MR. CONRAD: I'll be happy to give him 30
25 seconds.

1 MR. BYRNE: Thanks, Stu. That's the nicest
2 thing you've said all day.

3 JUDGE WOODRUFF: With that, then, we are
4 adjourned 'til 8:30 tomorrow morning.

5 (A discussion was held off the record.)

6 JUDGE WOODRUFF: We're back on the record.

7 CHAIRMAN DAVIS: Judge, I just want to
8 state for the record in reference to a question asked by
9 Mr. Mills, I'm not sure that the case number that he
10 represented, I'm not sure that that is an actual case
11 pending before the Commission. I just wanted to state
12 that for the record. I think it may be a motion. That
13 does not make it a case.

14 JUDGE WOODRUFF: It's a motion to open a
15 case, I believe.

16 CHAIRMAN DAVIS: Yes.

17 JUDGE WOODRUFF: With that then, we are
18 adjourned.

19 WHEREUPON, the hearing of this case was
20 recessed until November 21, 2008.

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3 COUNTY OF COLE) ss.

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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