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2 PUBLIC SERVICE COMMISSION

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6 TRANSCRIPT OF PROCEEDINGS
7 Evidentiary Hearing
8 March 22, 2010
9 Jefferson City, Missouri
 Volume 29

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12 In the Matter of Union Electric)
13 Company d/b/a AmerenUE's Tariffs)
14 To Increase Its Annual Revenues) File No. ER-2010-0036
15 For Electric Service)

16

17 MORRIS L. WOODRUFF, Presiding,
18 CHIEF REGULATORY LAW JUDGE.

19

20 JEFF DAVIS,
21 TERRY JARRETT,
22 KEVIN GUNN,
23 ROBERT S. KENNEY
24 COMMISSIONERS.

25

26 REPORTED BY:

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

2 JUDGE WOODRUFF: Good morning, everyone.
3 Let's go ahead and get started. Welcome back for the
4 second week of the AmerenUE rate hearing. We are starting
5 this morning with an on-the-record presentation regarding
6 the First Nonunanimous Stipulation & Agreement that was
7 filed by various parties on March 10th.

8 We'll start off the proceedings by taking
9 entries of appearance again for this so the record is
10 clear as to who's here, beginning with AmerenUE.

11 MR. LOWERY: Thank you, your Honor.
12 James B. Lowery, Smith Lewis, LLP, 111 South Ninth Street,
13 Suite 200, Columbia, Missouri 65201, appearing on behalf
14 of AmerenUE.

15 JUDGE WOODRUFF: For the Staff?

16 MR. WILLIAMS: Nathan Williams, Steven
17 Dottheim --

18 JUDGE WOODRUFF: Ms. Tatro wants to enter
19 her appearance, too.

20 MS. TATRO: Thank you. Wendy Tatro, 1901
21 Chouteau Avenue, St. Louis, Missouri 63103, AmerenUE.

22 JUDGE WOODRUFF: On behalf of the Staff?

23 MR. WILLIAMS: Nathan Williams and Steven
24 Dottheim, P.O. Box 360, Jefferson City, Missouri 65102,
25 appearing on behalf of the Staff.

1 JUDGE WOODRUFF: For Public Counsel?

2 MR. MILLS: Lewis Mills on behalf of the
3 Office of the Public Counsel and the public, and my
4 address is in the record.

5 JUDGE WOODRUFF: Is NRDC here?

6 (No response.)

7 JUDGE WOODRUFF: Department of Natural
8 Resources?

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

13 JUDGE WOODRUFF: For MIEC? No one's going
14 to enter an appearance.

15 Okay. Missouri Energy Group?
16 Ms. Langeneckert I think contacted me, indicated she
17 probably would not be here today.

18 Municipal Group?

19 MR. CURTIS: Yes. Leland B. Curtis on
20 behalf of the Municipal Group.

21 JUDGE WOODRUFF: Thank you. MEUA?

22 (No response.)

23 JUDGE WOODRUFF: AARP?

24 MR. COFFMAN: John B. Coffman appearing on
25 behalf of AARP and the Consumers Council of Missouri.

1 JUDGE WOODRUFF: Thank you. And KCPL?

2 Charter Communications? Laclede? The unions?

3 (No responses.)

4 JUDGE WOODRUFF: Missouri Retailers?

5 MR. SCHWARZ: Tim Schwarz, Blitz,
6 Bardgett & Deutsch appearing on behalf of the Missouri
7 Retailers Association.

8 JUDGE WOODRUFF: Missouri Acorn? And
9 MJMEUC?

10 (No response.)

11 JUDGE WOODRUFF: All right. I believe
12 that's all the parties. Let's start the proceedings by
13 giving the signatory parties an opportunity to make any
14 brief opening introductory comments. Start with the
15 company.

16 MR. LOWERY: Well, your Honor, it depends
17 on what the Commission might be looking for. I could
18 summarize the main points of each of the terms of the
19 First Nonunanimous Stip or, I guess as a general matter,
20 as is often the case, the company and the other parties
21 negotiate on a number of matters and always try to find
22 common ground on issues that they think they can find
23 common ground on.

24 I would say that the stipulation reflects a
25 combination of, on the revenue requirement issues, a

1 combination of -- some of the things are in the nature of
2 corrections, just the kind of things that you run into as
3 you do your case. Some of the things are contested issues
4 on miscellaneous revenue requirement issues where the
5 parties have compromised on certain positions.

6 In terms of the fuel adjustment clause, for
7 example, most of the matters reflected in the stipulation
8 are housekeeping type changes that both the company and
9 the Staff proposed that the parties agreed upon. There's
10 some agreements about the DSM and energy efficiency, some
11 studies that will be done.

12 So it's a combination of a number of
13 revenue requirement and non-direct-revenue-requirement
14 issues that the parties, main parties in the case agreed
15 upon and that no one else had any opposition to. I would
16 be happy to talk about any of them specifically, but it's
17 a fairly long stipulation, and unless the Commissioners
18 want me to kind of walk through the entire document at
19 this point, I guess I'd reserve any further comment.

20 JUDGE WOODRUFF: That's fine. And if the
21 Commissioners have specific questions about specific
22 areas, they'll ask those questions.

23 Any opening comments from Staff?

24 MR. DOTTHEIM: No specific --

25 MR. WILLIAMS: Mr. Dottheim's correct, I

1 didn't have anything specific, other than I wanted to tell
2 the Commission that this Stipulation & Agreement is a
3 product of extensive negotiations over several weeks and I
4 imagine among some of the parties even longer periods of
5 time.

6 And as the title indicates, there's some
7 hope there would be a follow-up Stipulation & Agreement by
8 the inclusion of the word first in the title of this one,
9 and, in fact, there are parties who are working towards
10 finalizing a second Stipulation, Nonunanimous Stipulation
11 & Agreement to present to the Commission.

12 I believe Mr. Dottheim has some further
13 comments.

14 MR. DOTTHEIM: Yes. The Commission, I
15 think, in various sessions has made it clear that in
16 particular it may have some questions regarding DSM,
17 demand side management, energy efficiency. Hopefully we
18 can address those questions this morning.

19 There are other events which will be
20 occurring regarding demand side management and energy
21 efficiency respecting not just AmerenUE but the other
22 electric utilities, I'm quite sure. The Commissioners
23 recall that there are a couple of dockets in existence,
24 one of them the Energy Independence and Security Act,
25 PURPA docket on Section 111(d)(17) of PURPA, the rate

1 design modifications to promote energy efficiency
2 investments standard, and the File No. EW-2010-0187
3 docket, which is in the matter of an investigation into
4 the coordination of state and federal regulatory policies
5 for facilitating the deployment of all cost-effective
6 demand side savings to electric customers of all classes
7 consistent with the public interest.

8 For those two files, those two EW files,
9 there are workshops scheduled for April 14, May 17 to 18
10 and June 11. The Staff filed that proposed schedule with
11 the Commission in February, and on March 3 the Commission
12 issued an Order adopting the workshop schedule rule
13 modification. The modification was the modification that
14 the Commission directed that the RTO issues in the
15 EW-2009-0291 and EW-2010-0187 dockets be addressed in
16 either the April 14 or the May 17 to 18 workshops.

17 I might even mention that at this time
18 there is an aggregator that the Staff has become aware of
19 through some sources, including MISO, that is in existence
20 in the AmerenUE service territory.

21 But -- so regardless of the Stipulation &
22 Agreement on demand side management, there will be further
23 proceedings occurring on demand side management which will
24 involve AmerenUE and cover SB 376, the MEEIA Act, and I
25 would just note that.

1 And also finally note that I think it's
2 been mentioned that it is anticipated that AmerenUE will
3 be filing another rate increase case soon after the
4 pending case. The Stipulation & Agreement on demand side
5 management is for purposes of resolving this case. So I
6 think the Commissioners can expect demand side management
7 to be an issue, an item in AmerenUE's next case.

8 So I would just note that as an
9 introduction. I don't know if that might address any of
10 the Commissioners' questions or concerns that have been
11 indicated that the Commissioners might express this
12 morning.

13 JUDGE WOODRUFF: Thank you, Mr. Dottheim.
14 Anything for Natural Resources?

15 MS. WOODS: Good morning, Judge and
16 Commissioners.

17 The Department of Natural Resources'
18 primary focus in this Nonunanimous Stipulation & Agreement
19 can be found in paragraphs 10 and 12. The Department was
20 particularly interested in the importance of the 1 to
21 2 percent modeling that Ameren has agreed to do for DSM.
22 It will encourage, we believe, the company to look at
23 where the savings really are and then to bring that
24 process into the IRP.

25 The Department is also pleased that it now

1 will clearly have a role in developing tariffs to
2 implement the various DSM programs, and it feels that it
3 can have a real -- play a real beneficial role in
4 developing those tariffs.

5 The Department also was active in the
6 amortization issue. It's now gone from ten years to six
7 years, and while that's not exactly what the Department
8 was looking for, the Department does believe that is an
9 improvement.

10 And again, with that, the Department would
11 simply state that it is in favor of and pleased with the
12 First Nonunanimous Stipulation & Agreement filed in this
13 case. Thank you.

14 JUDGE WOODRUFF: Thank you. Anything from
15 AARP and Consumers Council?

16 MR. COFFMAN: Yes. I can also concur that
17 this was a result of extensive negotiations. My clients
18 take away from this particularly benefits in paragraph 4
19 and paragraph 11, 4 being the ECRM. We're supportive
20 particularly because this would result in assurance that
21 we would not have a single surcharge as we looked at this
22 case.

23 And I see several other issue resolutions
24 contained in this document that are logical and
25 reasonable. We're a signatory and we support the First

1 Nonunanimous Stip.

2 JUDGE WOODRUFF: Thank you. For the
3 Missouri Retailers?

4 MR. SCHWARZ: I have no -- I have no
5 opening comments. Be glad to take questions later if
6 there are any.

7 JUDGE WOODRUFF: Thank you. For MIEC?

8 MS. VUYLSTEKE: Your Honor, we support the
9 Nonunanimous Stipulation & Agreement.

10 JUDGE WOODRUFF: Ms. Vuylsteke, do you want
11 to enter your appearance? You arrived a little late.

12 MS. VUYLSTEKE: I apologize. Diana
13 Vuylsteke, Bryan Cave, 211 North Broadway, Suite 3600,
14 St. Louis, Missouri 63102 on behalf of MIEC.

15 JUDGE WOODRUFF: Thank you. I believe
16 that's all the signatory parties. Are there any
17 non-signatory parties that want to make any opening
18 statements?

19 (No response.)

20 JUDGE WOODRUFF: All right. Hearing none,
21 then we'll come up here for questions from the
22 Commissioners, starting with Commissioner Davis.

23 COMMISSIONER DAVIS: I guess I'm going to
24 direct this to Mr. Lowery and then Ms. Vuylsteke. That
25 is, numbered paragraph 2 on page 2, LTS rate schedule

1 taker pay modification, what -- what does -- what does
2 that provision mean?

3 MR. LOWERY: Your Honor, the company had
4 proposed what we call a taker pay tariff modification to
5 the LTS tariff, the LTS class being large transmission
6 service. Only Noranda takes service under that tariff.
7 And essentially what that would have done is if Noranda --
8 Noranda would have had an obligation to pay a minimum
9 monthly bill, which essentially would have been their
10 normal full load bill. If they drop below that, then the
11 company would have sold that energy, credited Noranda's
12 bill, and then made whole if there was a loss of Noranda
13 load, a catastrophic kind of loss of Noranda load.

14 In lieu of that, what the parties have
15 agreed to is, and this is in paragraph 1E, what we call an
16 "N" factor, and essentially it's a mechanism through the
17 fuel adjustment clause tariff whereby if Noranda's load
18 drops essentially about 50 megawatts or more, about
19 10 percent of their load, then essentially the same kind
20 of mechanism takes place where the company will -- those
21 megawatt hours are freed up. They will be sold
22 off-system. The revenues will come back to the company,
23 only to the point where the company is put back in the
24 same position as if the load drop had not occurred.
25 So if market prices were higher, the additional amount

1 would flow through the FAC and be -- for the benefit of
2 all the customers.

3 So the taker pay and the "N" factor are
4 sort of mutually exclusive. You don't need both. And the
5 parties felt that the "N" factor was a more appropriate
6 way to address this sort of very unique risk and
7 circumstance you have with a customer that's one
8 500 megawatt customer as large as the city of Springfield.

9 That's why we don't have the -- that's why
10 paragraph 2 says we won't have the taker pay modification
11 because we've addressed it in paragraph 1E.

12 COMMISSIONER DAVIS: Now, as Mr. Dottheim
13 referenced --

14 MR. LOWERY: I apologize.

15 COMMISSIONER DAVIS: I didn't know if
16 Mr. Williams or you needed to add anything.

17 MR. WILLIAMS: I was just pointing out to
18 the company that Schedule 1 of the Stipulation & Agreement
19 on page 6, the "N" factor is stated there, and it as
20 Mr. Lowery has described it.

21 COMMISSIONER DAVIS: All right.
22 Mr. Dottheim made reference earlier to the fact that we
23 now have an applicator for -- an application from CPower
24 to be an aggregator in MISO. And I guess my question is,
25 how does -- how does that affect anything? Mr. Lowery, I

1 mean, you look a little confused here. As I understand --
2 as I understand it, you sign up -- if you're an industrial
3 user, you sign up with an aggregator. You know, you can
4 avoid using your load and then sell a piece of that load
5 directly into the market.

6 So I'm trying to figure out how this fits
7 in with integrated resource planning, but also, I mean,
8 I'm a little bit concerned that, you know, and if -- do
9 you have any -- anybody have any comments on that or --

10 MR. LOWERY: Well, Judge, if I look a
11 little confused it's because we haven't really had an
12 opportunity to roll up our sleeves, so to speak, on that
13 issue to the extent we might like to. There is going to
14 be a Commission workshop, I don't remember the exact date,
15 but mid April, and one of the things on the agenda for
16 that workshop I know is the demand aggregator issue and so
17 on in the context of the PURPA standards and so on.

18 So I don't have a firm answer for you yet.
19 I don't think it necessarily relates to the Stipulation
20 any particular way, but I understand your concern. In
21 terms of exactly how those demand aggregators are going to
22 work and that market's going to work in MISO, I can't
23 speak with a lot of intelligence about that because I
24 haven't delved into that issue with great detail yet.

25 COMMISSIONER DAVIS: Anybody else have any

1 comments on that? Mr. Dottheim?

2 MR. DOTTHEIM: Commissioner Davis, I think
3 the Staff first became aware of this on Friday of last
4 week, and I believe we are going to hopefully be talking
5 with AmerenUE about this. We -- we talked with MISO on
6 Friday afternoon, Joyce Davidson, and we haven't had an
7 opportunity to pursue the matter with AmerenUE. And we
8 were also planning on giving a phone call to CPower also.
9 So we ourselves are not very far --

10 COMMISSIONER DAVIS: You're going to read
11 to them from the Missouri statutes, Mr. Dottheim?

12 MR. DOTTHEIM: Well, I'm not -- at this
13 point, I'm not quite sure what we're going to do, but I
14 think we'd like to get to know them a little bit better.
15 But at the moment, we have nothing further to report.

16 I believe the thought is that we might have
17 something further for the Commission at its agenda this
18 week or at least provide whatever we do have at that point
19 if not -- if not sooner.

20 COMMISSIONER DAVIS: Okay.

21 MR. WILLIAMS: Commissioner, if I might
22 add?

23 COMMISSIONER DAVIS: Absolutely,
24 Mr. Williams.

25 MR. WILLIAMS: The concern you've just

1 raised is not anything that was contemplated within the
2 scope of this Stipulation & Agreement.

3 COMMISSIONER DAVIS: Is it you think my
4 concern that, you know, for instance, if you're Noranda
5 and you're getting electricity lower than the cost of
6 everyone else and then you're not taking that electricity
7 and wheeling it into the market and receiving a profit off
8 of that electricity that otherwise would probably -- could
9 be used to the benefit of other ratepayers, is that a
10 valid concern, Mr. Williams?

11 MR. WILLIAMS: Yes, it is, Commissioner.
12 I'm not disputing that. I'm just saying the issue of
13 aggregators was not something that was contemplated in the
14 Stipulation.

15 COMMISSIONER DAVIS: I understand. It
16 wasn't contemplated a couple of weeks ago. We just got
17 one now.

18 DSM programs, numbered paragraph 12,
19 obviously you've got a two DSM programs portfolios for
20 analysis in the next Chapter 22 resource filing due
21 February 5th, 2011, and it's March, late -- it's late
22 March now, and is two years enough time to get --
23 Ms. Tatro?

24 MS. TATRO: Good morning. We've discussed
25 it with the folks that do the modeling for AmerenUE, and

3 COMMISSIONER DAVIS: Okay. I'll pass for
4 now, Judge.

7 COMMISSIONER JARRETT: Good morning. My
8 questions deal with paragraph 12, the demand side
9 management programs. Now that the parties have reached
10 agreement, do the parties consider this a benchmark moving
11 forward with demand side -- for the Commission moving
12 forward with demand side management programs, or do you
13 believe that this will -- this may just be a placeholder
14 that will have other outcomes when we finish the filing
15 rulemaking and the Prop C/Senate Bill 376 matter?

25 COMMISSIONER JARRETT: Do you think the

1 settlement will help us evaluate, you know, in order to
2 help with the rulemaking?

3 MR. DOTTHEIM: Well, 12, possibly, but I
4 think with the time frame on it, the hope I expect is that
5 we will be further along, much further along respecting
6 DSM and SB 376, MEEIA, by the time that the analysis
7 called for under 612 is completed.

8 So I don't think that the analysis required
9 or being viewed in Section 12 is going to be anything that
10 will forestall any other activity on DSM, but I think DNR
11 was the prime mover on Section 12, and they may want to
12 weigh in on that.

13 COMMISSIONER JARRETT: Okay. Ms. Woods,
14 any comment?

15 MS. WOODS: I believe Ms. Wilbers does have
16 some comments. Do you want to have her sworn in?

17 JUDGE WOODRUFF: Sure. We'll swear you in.

18 (Witness sworn.)

19 JUDGE WOODRUFF: First of all, could you
20 identify yourself.

21 MS. WILBERS: My name is Brenda Wilbers
22 with the Department of Natural Resources Energy Center.

23 COMMISSIONER JARRETT: Did you understand
24 my question?

25 MS. WILBERS: I think so. We do consider

1 this a step forward. We are looking forward to
2 participating in the Senate Bill 376 PURPA workshops
3 and --

4 The REPORTER: I'm sorry. I can't hear
5 you.

6 CHAIRMAN CLAYTON: I can't hear either.

7 JUDGE WOODRUFF: Is your microphone on?
8 The green light should be on.

9 MS. WILBERS: We look forward to working on
10 the issues in the PURPA workshop, Senate Bill 376 workshop
11 to address the rate design/cost recovery issues related to
12 DSM. We think this is a step forward, though, because it
13 will provide the analysis of the larger DSM portfolios in
14 the resource plan to be filed early next year, and it also
15 moves us forward at least in the cost recovery area by
16 reducing the amortization period. So it's a step forward.

17 COMMISSIONER JARRETT: Thank you.
18 Ms. Tatro.

19 MS. TATRO: Thank you, Commissioner. I
20 would echo that UE considers it a placeholder.

21 The second thing that I would, I believe,
22 echo that Mr. Dottheim said is that the company certainly
23 hopes that the Commission has rules implementing SB 376
24 prior to the approval of its February 2011 IRP. The cost
25 recovery portion and how that works and other aspects of

1 SB 376 are very important and will be very instructive as
2 to what demand side programs utilities across Missouri are
3 able to implement.

4 So we look forward to getting that workshop
5 going and getting some rules so that everyone understands
6 how that law is going to be implemented.

7 COMMISSIONER JARRETT: Thank you. Anybody
8 else want to address that? Mr. Mills.

9 MR. MILLS: Yes, please. I guess to begin
10 with, let me clarify my position on the Stipulation as a
11 whole. There are a number of provisions beginning on
12 page 8 that are labeled miscellaneous provisions. Most of
13 those are fairly discrete revenue requirement issues that
14 the company and the Staff worked out. I don't have any
15 opposition to those, but in the time between when those
16 were brought forward and the Stipulation was filed, I
17 simply didn't have time to go through all of those to get
18 completely familiar with it.

19 With the exception of those miscellaneous
20 provisions, which I don't oppose, I support the
21 Stipulation & Agreement.

22 And then specifically with respect to
23 paragraph 12, I think your question was should we look at
24 this as a benchmark, and I agree, it's really not. It's
25 more of a placeholder than a benchmark, although I think

1 paragraph C is an important benchmark, and I think to the
2 extent that DNR has not been involved with tariff language
3 drafting and specific program tariff language development
4 for other utilities, they should be, and we will support
5 them in getting involved with other utilities.

6 With respect to paragraphs A and B, though,
7 those are really simply modeling efforts to give some more
8 information going into the next IRP. The first part of
9 paragraph A is sort of generic. It talks about 1 percent
10 and 2 percent targets.

11 The next paragraph is really more UE -- I
12 mean the next sentence is really more UE specific, talking
13 about the MAP and RAP from the DSM market potential study.
14 So that -- I mean, while we support these and think that
15 they're valuable modeling exercises, that part at least is
16 probably not really transferrable to other utilities who
17 haven't done the same sort of market potential that UE has
18 recently done.

19 But I agree that this is an important
20 placeholder, that we're going to be moving on either to
21 this or from this or some other way, but for now this is a
22 very good step.

23 COMMISSIONER JARRETT: Thank you,
24 Mr. Mills.

25 My next question is regarding education,

1 and I just had a question. Maybe the company can start
2 and other parties can jump in. I wanted to cite to, I
3 know the Post Dispatch had an article entitled Energy
4 Efficiency Meets Reality Television where Mr. Ward, I
5 guess he was the family that was chosen to participate in
6 this energy efficiency program through the stimulus money,
7 and he had indicated that he feels that if he reduces his
8 energy, he'll save on his energy bill.

9 I guess my question is, will there be
10 education, will the company participate in education
11 programs to educate the consumer, the ratepayer that while
12 these demand side management programs are good and they do
13 reduce demand and will reduce -- will reduce demand, that
14 won't necessarily or may or may not necessarily equate
15 into lower bills for the consumers?

16 Obviously that's just one aspect that goes
17 into pricing, and you may have someone participate fully
18 in demand side management but yet their bill still goes
19 up. So how is the company going to educate the consumer
20 that, just because you participate, your bills aren't
21 going to go down?

22 MS. TATRO: Well, I think there's a lot of
23 education that goes on with these programs in order to
24 even get consumers to pay attention and understand what's
25 available to them, to know the rebate is out there or

1 whatever their issue is. There's a lot of education
2 that's involved in these programs.

3 If you have specific questions about
4 education that's going to be done, I have individuals from
5 the company who can answer that question probably with
6 more specificity than I can.

7 (Witness sworn.)

8 JUDGE WOODRUFF: Identify yourself.

9 THE WITNESS: My name is Richard Mark,
10 Senior Vice President Customer Operations for AmerenUE,
11 and I -- your question about customer bills and education,
12 I think the important thing that we try to do is to -- is
13 to separate the customer bill from customer usage, and to
14 try to get the customers to understand that their usage is
15 a driving part of their bill. The bill is impacted by a
16 number of other factors, and including in some cases the
17 municipal tax that is included in the bill. A lot of
18 customers don't really understand that.

19 So what we've been trying to do and are
20 looking at trying to design future programs to really help
21 customers understand and monitor their energy usage. We
22 recently just -- well, last year we sent out what we call
23 personal energy report, and that report is really focused
24 on the customer's energy usage by month. We try to give
25 them some information so that they help understand how

1 much they're using. We give them information about the
2 degree days by month and that type of thing so that we can
3 try to get the customers to really change their thinking
4 from what is my bill to what is my energy usage. And I
5 think that is key to any successful communication.

6 JUDGE WOODRUFF: Excuse me. I'm getting
7 e-mails. They can't hear you over the stream. Can you
8 get closer to the mic and make sure it's on?

9 MS. TATRO: It wasn't. I apologize.

10 COMMISSIONER JARRETT: Just as a follow-up
11 question, as we move more towards these demand side
12 management type programs, obviously there's going to be
13 interaction between the customer and the company, as you
14 said, and you guys are going to get more complex questions
15 from consumers that are going to be calling in to your
16 customer service department.

17 Have you-all thought about, contemplated
18 additional training for staff and how they're going to be
19 able to handle these more complex questions for consumers?

20 MR. MARK: That's a great question. You
21 know, customers look for us for -- to us for advice, and
22 what we are currently doing is we've done some training
23 for all of our customer contact representatives that take
24 the initial phone calls. We actually have a team right
25 now that is looking at trying to develop a more

1 comprehensive department per se that would really handle
2 those types of calls, to where the initial call could come
3 in to the customer contact center, those simple questions,
4 and where we actually have a list of most frequently asked
5 questions. We provide that information and education to
6 our customer service reps so that they can handle that
7 initially.

8 And then we're looking at developing a
9 group that could handle those more complex calls. The
10 call center would then refer the call to a specialized
11 internal group of advisors that can provide the customer
12 with any of those -- with help in answering those
13 questions or direction on where those questions could be
14 answered.

15 We think that is a very critical part going
16 forward of providing energy knowledge and information and
17 education to our customers.

18 COMMISSIONER JARRETT: Thank you.
19 Appreciate your testimony, sir. I don't have any further
20 questions, Judge, but I did want to commend the parties on
21 the agreement on the demand side management. That's
22 something that's sort of near and dear to my heart. I
23 think it's going to yield a lot of good things. So I
24 appreciate answering my questions on that. Thank you.

25 JUDGE WOODRUFF: Commissioner Gunn?

1 COMMISSIONER GUNN: Yeah. I just have a
2 couple, and some of them are general. Some of them are
3 more specific. The first is to all the parties. Was the
4 last filed -- does the last filed reconciliation in the
5 case take into account the reductions in the stip?

6 MR. LOWERY: Yes.

7 COMMISSIONER GUNN: So the one that we have
8 assumed the stip is approved?

9 MR. LOWERY: Yes.

10 COMMISSIONER GUNN: Okay. Great. The
11 second is another housekeeping. The stipulation says that
12 Missouri-Acorn indicated they did not oppose the
13 Stipulation. I understand that Missouri-Acorn may not
14 exist anymore, but I just wanted to make sure that since
15 it was in the Stipulation, that there was an affirmative
16 response from their lawyer that they did not oppose,
17 because I know they haven't entered an appearance, they
18 haven't participated. I'm just trying to figure out
19 what's going on.

20 MR. WILLIAMS: I assure you, Commissioner
21 Gunn, that I did get that communication from the attorney
22 representing Missouri-Acorn.

23 COMMISSIONER GUNN: Like I said, literally
24 I think they've shut their doors, and I don't know that
25 they exist anymore. So that may just be a housecleaning,

1 something all the parties can take into account.

2 Then two quick specific questions. On
3 paragraph 12C, as you mentioned, which is the consultation
4 paragraph on the DSM programs, do the parties contemplate
5 that the workshops and other programs that Mr. Dottheim
6 mentioned in his opening fulfill that consultation
7 requirement or is that -- those are incidental to any
8 other consultation requirement, to a consultation
9 requirement required?

10 MS. TATRO: Commissioner, I think what sub
11 C is talking about is when AmerenUE is getting ready to
12 file a new tariff on a specific demand side program, prior
13 to filing that tariff we're going to consult, as we often
14 do with Staff and Office of the Public Counsel, we're also
15 going to consult with the Department of Natural Resources
16 on how the tariff reads and what should or shouldn't be
17 included.

18 So they're going to be part of the
19 development of those specific tariffs prior to us filing
20 them for approval by this Commission.

21 COMMISSIONER GUNN: And are the parties
22 that are mentioned, DNR, OPC and Staff, comfortable that
23 the consultation requirement isn't merely a notification
24 requirement and is a -- that there will be a robust
25 discussion?

1 MR. WILLIAMS: In one word, yes.

2 MR. MILLS: Yes. We have lots of robust
3 discussions. We will continue to.

4 COMMISSIONER GUNN: Yes.

5 MS. WOODS: And the Department is looking
6 forward to being part of those robust discussions.

7 COMMISSIONER GUNN: Glad to hear it. Now I
8 want to go to paragraph 11A, which is part of the Pure
9 Power program. Was that issue driven mostly by Staff or
10 was there another party that was driving those issues?

11 MS. TATRO: I think Staff was the only
12 party that filed testimony on the issue.

13 COMMISSIONER GUNN: So I'll direct this
14 toward Staff. 11A has -- basically requires a disclaimer
15 on articles, websites, on materials that are produced, but
16 there are no requirements as to location, size,
17 prominence. There aren't any other requirements except
18 that the disclaimer must appear.

19 So I just want to make sure that Staff is
20 comfortable that this will not be a small print not
21 viewable except through magnification type of disclaimer.

22 MS. KLIETHERMES: Yes. We do think that
23 the language is adequate. We are relying on a good faith
24 interpretation and enactment of those provisions.

25 MS. TATRO: And Commissioner, if I might

1 add, we have since the last rate case provided Staff with
2 a copy of all new materials that we've come up with.
3 We'll continue to do so, and I'm certain if they think the
4 print is too mall, they'll let us know.

5 COMMISSIONER GUNN: Thank you. I don't
6 have any further questions.

7 JUDGE WOODRUFF: Commissioner Kenney?

8 COMMISSIONER KENNEY: Thank you. My
9 question is for anyone that wants to chime in on it, but
10 it's relative to paragraph 32 in the miscellaneous revenue
11 requirement items. This was dealing with incentive
12 compensation, advertising and donations, 7 and a half
13 million dollar reduction from Ameren's revenue
14 requirement. Executive compensation and advertising were
15 issues that were mentioned at many of the public hearings
16 that I attended as a concern of the customers.

17 So my question is twofold. Is the
18 incentive compensation a component of executive
19 compensation, and secondarily, how much of a variance is
20 the 7 and a half million dollars from the company's
21 original request?

22 MR. LOWERY: Commissioner, executive
23 compensation is not part of the incentive compensation
24 resolution that you see here. However, Mr. Williams
25 mentioned that several of the parties have reached

1 agreement in principle on a Second Nonunanimous
2 Stipulation that we're actually working on the document
3 today, and executive compensation is resolved in that
4 Stipulation.

5 In terms of incentive compensation, the
6 only remaining issue left here was essentially a small
7 component, the incentive compensation that the company
8 included in revenue requirement that was tied to earnings
9 per share, and that's been resolved by this Stipulation.

10 In terms of the amounts and those kinds of
11 things, that's really subject of negotiations. We can't
12 really talk specifics. But we've resolved -- we had some
13 differences of opinion, for example, on advertising, some
14 portions appropriate, not appropriate. Different people
15 had different views. We've resolved that along with the
16 incentive compensation, dues and donations issues.

17 COMMISSIONER KENNEY: The second part was
18 how much does that 7 and a half million vary from the
19 original request, if you know?

20 MR. LOWERY: I don't know. I can't -- when
21 you package those issues together and exactly how much was
22 in the revenue requirement, I couldn't answer that
23 question off the top of my head here today.

24 COMMISSIONER KENNEY: Anybody?

25 MR. MILLS: Commissioner, I can't answer

1 that question directly, but I think we could go back to
2 the original reconciliation that had the issues of
3 incentive compensation, advertising and dues and donations
4 and look at the gap for the total of those three issues
5 between the Staff and the company and see what portion of
6 that gap is closed by the 7 and a half million dollars,
7 and that will give you at least an aggregate number for
8 those three issues together. I can't tell you any more
9 specifically than that.

10 MR. LOWERY: Commissioner, there are
11 also -- while Mr. Mills was talking, there was also a
12 piece of that incentive compensation issue, the company
13 accrues a certain amount -- when we filed the case in
14 July, we accrued a certain amount, sort of an expectation
15 of what the actual payment's going to be. Turned out that
16 there was -- I don't remember exact number. Seems like it
17 was north of \$3 million, money that was not actually
18 spent.

19 So since that wasn't spent, that's rolled
20 up in this number as well. So a portion of it is
21 resolving contest, if you will, between parties. A
22 portion of it was really just updating revenue requirement
23 to match what was actually spent.

24 COMMISSIONER KENNEY: My other questions
25 with respect to DSM were already dealt with and addressed.

1 So thank you, and I commend the parties in their efforts
2 to resolve some of these issues.

3 JUDGE WOODRUFF: Chairman Clayton?

4 CHAIRMAN CLAYTON: Thank you, Judge. A
5 number of my questions have been asked, so there may be a
6 little bit of repetition here, but I do need a little more
7 clarification.

8 I want to start with DNR. On paragraph 12
9 relating to demand side management programs, from DNR's
10 perspective, can you -- can you tell me what DNR is giving
11 up from its previously filed positions supported by
12 testimony, what is DNR not getting in its request by
13 agreeing to this stipulation?

14 MS. WILBERS: Well, in our filed testimony
15 we did request that the 1 and 2 percent scenarios be
16 modeled in the IRP. So that is consistent with what we
17 asked for.

18 We also filed testimony presenting support
19 for a cost recovery approach and consideration of
20 incentive mechanisms for DSM that was implemented
21 successfully. However, there was not sufficient
22 information provided by AmerenUE to actually make a
23 recommendation that that be put in place at this time.

24 So while we support annual cost recovery
25 through expensing of DSM costs, in the context of this

1 rate case there was just insufficient information for us
2 to be able to make a recommendation that that be put in
3 place in this case.

4 CHAIRMAN CLAYTON: Let me try to interpret
5 what you're saying. Basically, DNR, the Energy Center was
6 throwing out a concept that required additional analysis
7 and information from the company to make it work, and
8 there was a problem in either the exchange of the
9 information or time ran out or settlement was reached.
10 Help me understand that a little more.

11 MS. TATRO: Well, Chair Clayton, I would
12 not characterize it in that manner. I think the problem
13 that -- or the issue I'll say that caused the company to
14 accept a less than -- cost recovery that's less than what
15 it had proposed dealt primarily with SB 376, the fact that
16 this Commission doesn't have rules implementing it yet,
17 the fact that various parties in the case filed testimony
18 that their interpretation was something that the company
19 saw as a hindrance to implementation of various -- of new
20 demand side measures. I think that was the biggest
21 stumbling block that caused the parties to come together
22 on this less than perfect solution.

23 CHAIRMAN CLAYTON: Help me understand that
24 dispute a little more. Is it a dispute between straight
25 expensing versus whether an expenditure would be rate

1 based, whether there would be recovery of and return on?

2 Is that the nature of the dispute?

3 MS. TATRO: Well, certainly that's
4 something that parties have different opinions about.

5 CHAIRMAN CLAYTON: I don't want to know
6 parties' positions. I'm just trying to understand how
7 this position has evolved to what it is here before us.

8 MS. TATRO: And a part of the issue is
9 getting a better understanding of what this Commission
10 believes SB 376 requires, would it allow for expensing or
11 does it require that the program final evaluation be
12 complete and reviewed by all the parties. So there are
13 timing questions there, stuff that the company certainly
14 hopes get resolved quickly in a rulemaking so that we have
15 some certainty going forward.

16 But this is an interim improvement. It's a
17 six-year amortization instead of ten, and it allows for
18 rate base treatment of unamortized amounts.

19 MR. WILLIAMS: Chairman Clayton, if I
20 might?

21 CHAIRMAN CLAYTON: Sure.

22 MR. WILLIAMS: From Staff's perspective, as
23 AmerenUE has stated, there were differing positions
24 relating to the timing of recovery for things like DSM
25 programs, and a lot of that uncertainty focused on the

1 meaning of Senate Bill 376. And I think all of the
2 parties thought that the best place for resolution of that
3 is in the rulemaking, not in this case.

4 CHAIRMAN CLAYTON: Mr. Williams, let me
5 just ask from Staff's perspective, if there -- if there
6 were no stipulation on this issue, does the Commission
7 have authority in this rate case filing without a
8 stipulation, without people signing on and not objecting,
9 to issuing an Order addressing these reductions in demand
10 that are set out in paragraph 12A?

11 My follow-up question is, does Staff
12 contemplate or have an idea of whether demand reductions
13 as listed in paragraph 12A will be items up for
14 negotiation in the Senate Bill 376 rulemaking?

15 MR. WILLIAMS: You're not speaking of
16 modeling, you're asking if the Commission has the
17 authority to impose a reduction?

18 CHAIRMAN CLAYTON: Without the voluntary
19 agreement, yes.

20 MR. WILLIAMS: I think Mr. Dottheim might
21 be better positioned to answer that question than I am.

22 MR. DOTTHEIM: That's not something that
23 has been addressed as yet, and I think that's something
24 that would be best left for discussion. I think there is
25 an argument that under certain conditions the Commission

1 would have the authority to require the reduction.
2 Whether those conditions presently exist, that can
3 probably be open to debate, but I think that would be an
4 item of quite lively discussion. There are already any
5 number of items in dispute based upon the literal language
6 of SB 376 before one ever gets to a question such as that
7 which you've just raised.

8 MS. TATRO: If I may? I want to make sure
9 there's not any misunderstanding of what 12A does. It is
10 not a requirement that UE reaches the 1 or 2 percent.
11 It's modeling. I just want to make sure there wasn't
12 confusion.

13 CHAIRMAN CLAYTON: I understand. Let me go
14 back to DNR or the Energy Center. So aside from -- aside
15 from the cost recovery debate which would be presumably
16 left to the rulemaking, is there anything else that DNR is
17 not getting in this stipulation compared to its position
18 at this point in the case?

19 MS. WILBERS: In our testimony we have --
20 in addition to encouraging the modeling, we encourage --
21 we encourage implementation if cost effective. There is
22 the Senate Bill 376 goal of achieving all cost-effective
23 DSM, so we have encouraged that. Again, we're looking
24 forward to the workshops to spell all that out. It's --

25 CHAIRMAN CLAYTON: Well, the workshops will

1 lead to consistency for all utilities as aside from
2 entering an order case by case as they come up. Would you
3 agree with that?

4 MS. WILBERS: Yes, I would.

5 CHAIRMAN CLAYTON: So what I'm trying to
6 understand is, by approving this Stipulation with the
7 understanding that we have a rulemaking coming up, does
8 approving this take away from the Commission's ability to
9 set a consistent approach to addressing energy efficiency
10 issues associated with electric utilities?

11 MS. WILBERS: No, I don't believe so.

12 CHAIRMAN CLAYTON: I'm trying to get a
13 sense of, from the Energy Center's perspective, what
14 you're not getting part of the deal that potentially is
15 going to come up, but if we address it in a rulemaking and
16 it's consistently applied across the board, it would be
17 less of a problem.

18 MS. WILBERS: If I could also mention the
19 all cost effective DSM savings. It is addressed also in
20 the IRP rule provision, so the Commission would have an
21 opportunity to have input into that.

22 MR. WILLIAMS: Chairman, I was just going
23 to point out that this agreement has the usual language
24 that it's just for purposes of resolution of this case
25 only.

1 CHAIRMAN CLAYTON: Okay. Going back to the
2 Energy Center, in our natural gas cases we have formally
3 endorsed a concept of either a collaborative or an
4 advisory group that will actively work on implementing
5 certain programs.

6 Is the nature of the working group in this
7 case similar or dissimilar to what we've done in at least
8 the MGE and Empire Gas cases?

9 MS. WOODS: Chairman Clayton, it's similar.
10 It's more a part of the IRP process, but it is similar.

11 CHAIRMAN CLAYTON: Well, if a dispute were
12 to arise among parties -- and as I understand, there's a
13 dispute that pops up for probably every utility. It may
14 be Staff. It may be Energy Center. Maybe it's the
15 utility. Maybe it's Public Counsel. If a dispute comes
16 up, how will that dispute be addressed?

17 And I ask the question from the frame of
18 reference of the MGE natural gas case where I think the
19 Commission tried to send a statement that if -- if a
20 dispute arises, try to get something back so that the
21 Commission can be a part of reaching -- some part of
22 making a decision one way or another so that the group has
23 direction.

24 So what I'm trying to get at in this case,
25 with this working group, should we anticipate, if a

1 dispute arises, that it will come up and be a part of this
2 case number or will it always be part of an ongoing
3 rolling three-year IRP process in terms of implementation
4 of programs, setting expenditure levels, looking at demand
5 reductions?

6 MS. WOODS: The collaborative is part of
7 the IRP process, and in the agreement for -- in the last
8 IRP, there was a pretty structured procedure for, if there
9 are disputes, basically the parties are unable to resolve
10 them, we would bring them to the Commission.

11 CHAIRMAN CLAYTON: As part of the IRP
12 process, not --

13 MS. WOODS: But that is not addressed in
14 this case or in any of the testimony that the Department
15 filed in this case or in this First Nonunanimous
16 Stipulation.

17 CHAIRMAN CLAYTON: From the Energy Center's
18 perspective, you-all are agreeable with that concept of
19 continuing to work through the IRP process?

20 MS. WILBERS: Yes. And I think with the
21 tariff process, those also would come before the
22 Commission for approval, and I think parties would have
23 the opportunity to file comments in support or in
24 opposition to the tariff filing. Other parties can
25 correct me if I'm wrong.

1 MS. WOODS: And if I may, Mr. Chairman, the
2 other -- the gas utilities don't have the, I hesitate to
3 say benefit of an IRP process, which is part of the reason
4 that the collaborative is usually framed in the actual
5 rate case.

6 CHAIRMAN CLAYTON: Did you make that
7 statement that the gas utilities don't have the benefit of
8 the IRP process?

9 MS. WOODS: Yes, I did.

10 CHAIRMAN CLAYTON: I'm sure Ameren looks at
11 this as a benefit as well.

12 MS. WOODS: I'm sure they do.

13 CHAIRMAN CLAYTON: Mr. Dottheim, did you
14 have anything you wanted to add?

15 MR. DOTTHEIM: I'm not sure whether this is
16 an extraneous comment or not, but when you're talking
17 about the collaborative process, there are -- the
18 collaboratives are structured not all in the same manner.
19 Some of the collaboratives are advisory. Some of the
20 collaboratives, the members have votes.

21 I am probably the only one maybe in the
22 staff counsel's office who has concerns about
23 collaboratives that have votes as opposed to just being
24 advisory bodies. It may be that's born of the
25 collaborative that exists for the Kansas City Power &

1 Light experimental regulatory plan, if I remember my
2 collaboratives correctly, and that is there is a
3 collaborative in the Kansas City Power & Light
4 experimental regulatory plan that was negotiated, and
5 there was a Nonunanimous Stipulation & Agreement.

6 And when it came time for the first meeting
7 of the collaborative, the Sierra Club, which was not a
8 signatory, showed up for the meeting, and so did a member
9 of the staff of the Kansas Corporation Commission. I
10 actually had invited someone from the Kansas Corporation
11 Commission.

12 And one of the signatories to the Kansas
13 City Power & Light experimental regulatory plan said,
14 these people can't attend, they are not signatories to the
15 Kansas City Power & Light experimental regulatory plan.
16 They cannot benefit as a consequence from being members of
17 the collaborative. They also have no right to attend the
18 collaborative.

19 They were permitted, that is the Sierra
20 Club and the person from the Kansas Corporation Commission
21 were permitted to attend that meeting, and they attended
22 no others.

23 And that matter did not go anywhere else,
24 and I always wondered if the Sierra Club had pressed an
25 open meeting argument, where that ultimately might have

1 gone, because the Staff of the Commission and the Office
2 of the Public Counsel and DNR were participating.

3 So I probably have gone far afield from
4 your question, but when you're talking about
5 collaboratives, I think it's very important to consider
6 what are the parameters of the collaborative that you're
7 talking about. Is it an advisory collaborative? Is it a
8 collaborative where members vote and send that vote to the
9 Missouri Public Service Commission for action?

10 CHAIRMAN CLAYTON: How do you think it
11 ought to be, Mr. Dottheim? I understand the problem. How
12 do you think it ought to be?

13 MR. DOTTHEIM: I think it should be
14 advisory, and I think it should be an open meeting.

15 CHAIRMAN CLAYTON: Well, I appreciate that.
16 What would be -- when I make the comment about having a
17 working group or advisory group collaborative, I'm not
18 sure if I mean anything in particular by the different
19 titles, but when a dispute arises, how should the dispute
20 be resolved? Should it be resolved by the group itself or
21 by the Commission? And what is the appropriate forum?

22 There was evidence in another case that
23 came up where a dispute arose and it stalled additional
24 discussions, at least that's what I took from it, on
25 working forward on issues.

1 I'm just asking, how should it be resolved
2 if there is a dispute? If you don't do a vote, you've got
3 an advisory. How do you provide both majority and
4 minority opinions and opportunity to argue their case, so
5 to speak?

6 MR. DOTTHEIM: I think those are -- those
7 are items that need to be addressed when the advisory
8 group or the collaborative is being established, and it
9 needs to be part of the groundrules.

10 CHAIRMAN CLAYTON: So in this Stipulation,
11 what are we doing with regard to the group that will
12 continue working on energy efficiency? There's a
13 reference to consultation with other parties. Do we have
14 a formal group? And then you have the whole issue of
15 whether we're going to operate under the contested case
16 framework of a rate case versus the non-contested or
17 arguably non-contested case type of an IRP process.
18 That's what I'm trying to understand, what we're doing
19 here.

20 MR. DOTTHEIM: I think on page 7, item 12,
21 the matter of the demand side management programs, 12C
22 states that's only advisory. It says consult, and the
23 entities that are consultants are named. There's no
24 reference to meetings. So the consultations can be by e-mail
25 or some other forum that need not be meetings.

1 CHAIRMAN CLAYTON: So there's not a formal
2 working group?

3 MR. DOTTHEIM: Correct.

4 CHAIRMAN CLAYTON: It's just basically copy
5 in a few people?

6 MR. DOTTHEIM: Yes.

7 CHAIRMAN CLAYTON: So I guess I'm trying to
8 understand why --

9 MR. DOTTHEIM: There's also -- there's also
10 on that same page, there's another group under municipal
11 lighting, 13A.

12 MR. MILLS: If Mr. Dottheim is done, I'd
13 like to get in a little bit on this.

14 MS. TATRO: I would as well.

15 MR. DOTTHEIM: And there is -- I would
16 raise one other item, and it involves AmerenUE, and maybe
17 this is a little far afield, but it was the third year of
18 the first AmerenUE experimental alternative regulation
19 plan, which there were two AmerenUE experimental
20 alternative regulation plans, each of three years, and the
21 third year of the first alternative regulation plan went
22 to the Commission for resolution and ultimately went up to
23 the Western District Court of Appeals. And the Western
24 District Court of Appeals interpreted the Stipulation &
25 Agreement and found that there was provision for the

1 Commission to ultimately decide disputes.

2 So I think it's very important, what are
3 the provisions that are set out in any agreement that's --
4 that's reached, and the more significant the consequences,
5 the greater the need for specificity and clarity.

6 CHAIRMAN CLAYTON: Well, there's not much
7 specificity or -- I mean, there's not much of a
8 collaborative here from what you're saying.

9 MR. DOTTHEIM: And I don't know whether --

10 CHAIRMAN CLAYTON: If that's what you're
11 saying.

12 MR. DOTTHEIM: Yeah. And I don't know that
13 there -- there needs to be, but I don't propose to speak
14 on behalf of Mr. Mills, who was very anxious to --

15 CHAIRMAN CLAYTON: I'm going to get to him.
16 I want to ask you just one last question and then give
17 Mr. Mills a chance.

18 If you have a working group, just let's use
19 the term working group that is being consulted on demand
20 side program analysis and programs for an electric utility
21 such as AmerenUE, and let's say Public Counsel raises a
22 concern, say DNR raises -- somebody raises a concern.

23 Does the concern ever come up, I guess is
24 the first question, and if so how, and does it come up in
25 this case or does it come up in the IRP process, in your

1 reading? Everybody will -- I just want to finish with
2 Mr. Dottheim, then we'll --

3 MR. DOTTHEIM: I'm sorry. I -- I wasn't
4 following your hypothetical.

5 CHAIRMAN CLAYTON: Let's say Public
6 Counsel's been consulted on part of this program and
7 they're unhappy with it. They want to raise a concern.
8 What is the appropriate forum to raise that concern, or do
9 they not have that right?

10 MR. DOTTHEIM: Mr. Williams wants to
11 address it, and I think -- because you're referring
12 specifically to item 12?

13 CHAIRMAN CLAYTON: 12C. I got it open. It
14 says consult with.

15 MR. DOTTHEIM: Okay. Well --

16 CHAIRMAN CLAYTON: I guess with the history
17 that you've thrown out and the discussion we've had, what
18 is the appropriate place for a party to raise a concern?
19 And what is the mechanism for address, for the Commission
20 addressing that concern?

21 MR. DOTTHEIM: Mr. Williams was closer to
22 the negotiations on item 12, so let him respond to it, and
23 I'll see if I think I need to supplement it in any way.

24 MR. WILLIAMS: Chairman Clayton, I believe
25 the way Staff views this is that you're looking at

1 developing the programs that are going to be implemented
2 through tariff language. So when AmerenUE actually files
3 its tariff sheets, the parties would have an opportunity
4 to ask the Commission to suspend them because of their
5 concerns.

6 CHAIRMAN CLAYTON: So it's on a tariff by
7 tariff basis?

8 MR. WILLIAMS: That's right. That's the
9 way I view it.

10 CHAIRMAN CLAYTON: That is helpful. So it
11 will be in the -- rather than a program being designed in
12 MGE's case where you have a collaborative that works
13 through on concepts, I don't recall that we've had fights
14 over tariff language. So I think most of the fights or
15 the disputes have occurred during the collaborative
16 process.

17 In this process, we just assume that any
18 party, whether they're part of the consultation group or
19 not, will be able to file some sort of action that
20 disputes the tariff and then we'll go from there. Okay.
21 Thank you. A lot of nodding heads. I like that.

22 Mr. Mills.

23 MR. MILLS: Let me -- and if your question
24 was about the function of collaboratives in general for
25 other utilities, we can have a long discussion about that

1 about what happens.

2 CHAIRMAN CLAYTON: I'm really not trying to
3 have a long discussion.

4 MR. MILLS: Good.

5 CHAIRMAN CLAYTON: I'm really not being --
6 I'm just trying to compare what we've done in gas cases.
7 This is our first electric case addressing demand side
8 issues. I want to know how it compares and why we're
9 doing it that way in the Stipulation.

10 MR. MILLS: And we have not done anything
11 in this Stipulation & Agreement that is anywhere
12 comparable to what you've done in gas cases. There are
13 arguably a couple of collaborative groups that are
14 established in this case.

15 One is the company has agreed to do a cost
16 study with respect to municipal streetlighting and agreed
17 to cooperate with the parties on that. That's a very
18 focused sort of ad hoc group that will address that simple
19 question of what is the -- whether the costs of providing
20 service to streetlighting customers is appropriate under
21 current rates or whether there need to be revenue neutral
22 shifts.

23 There is also sort of another ad hoc
24 working group that will address DSM cost recovery. From
25 my point of view, that particular ad hoc working group

1 will be largely subsumed at this point within the
2 rulemaking on Senate Bill 376, which is addressing the
3 same question more broadly. I don't know that there's
4 going to be a whole lot of drive to try to do that in
5 isolation for UE at the same time we're doing it for the
6 entire industry.

7 And then finally there is sort of an
8 ongoing rather than ad hoc working group, which is OPC,
9 Staff, the company and DNR who will work on tariff
10 language, and Mr. Williams has addressed how disputes in
11 that group will come to the Commission.

12 For the other ones, both with respect to --
13 and I should add a third one or fourth one. I've lost
14 count. There is the agreement of UE to work together with
15 the parties on the modeling in 12A. Both with the
16 modeling in 12A and the cost studies in paragraph 13, any
17 disputes with respect to that will come up in the next
18 case because that's when those things will get litigated.
19 That's the forum in which they will come up.

20 There really probably shouldn't be any need
21 for the parties to come to the Commission for resolution
22 before the next case. And with respect to the first one,
23 which is the DSM cost recovery, that will come up in the
24 context of the rulemaking. That's how it comes to the
25 Commission. That's how they come up. There's no

1 overarching collaborative that's got a broad scope like a
2 gas case.

3 CHAIRMAN CLAYTON: Okay. That is helpful.
4 If we're talking about program implementation, Ameren
5 contemplates having some sort of program, whether it be an
6 appliance rebate program or an audit program, whatever the
7 example is. In the gas side, the collaborative would
8 generally work through those issues and then provide some
9 sort of recommendation. The company would move forward or
10 not.

11 It's going to be different here.
12 Basically, there will be consultation, but Ameren's just
13 going to file it, and then disputes will be aired out in
14 the tariff, the suspension of the tariff, and any disputes
15 will be aired in that way and the Commission will make a
16 decision on how the program's set up?

17 MR. MILLS: And maybe the signatories have
18 a different view from me, but nothing in the Stipulation
19 addresses that question at all. That doesn't even arise
20 in the Stipulation & Agreement about how the company
21 consults with other parties about designing and
22 implementing programs. It's not addressed in here.

23 CHAIRMAN CLAYTON: And that would be
24 different compared to what is going on in at least two
25 other gas utilities?

1 MR. MILLS: There are discussions and
2 collaboration with entities through the IRP, but nothing
3 in this Stipulation & Agreement addresses that.

4 CHAIRMAN CLAYTON: So it's different?
5 We're doing it different for electric utilities than we do
6 for gas utilities?

7 MR. MILLS: And I'm not sure I can address
8 that in depth, but I can tell you that we're not
9 addressing it here in this Stipulation & Agreement.

10 CHAIRMAN CLAYTON: Well, Mr. Kind's shaking
11 his head like he's got something wrong over here. If he
12 wants to chime in on it, but it's distracting. So if he's
13 going to offer something, then he ought to offer it.

14 MR. MILLS: I had my back to him, so I
15 wasn't distracted. I will certainly offer him to answer
16 your questions.

17 JUDGE WOODRUFF: Mr. Kind, I'll swear you
18 in.

19 (Witness sworn.)

20 MR. KIND: With respect to differences
21 between gas and electric utilities, it would depend on
22 which utility you're talking about. For example, Empire
23 has a consensus-based DSM collaborative. That's Empire
24 Electric. That's different than the other electric
25 utilities. The gas side, it's a mixture of advisory

1 versus operating by consensus.

2 But with respect to just the general
3 question of where do discussions occur, where do the
4 different parties and stakeholders address their concerns
5 or disputes, within an advisory group or stakeholder
6 process, I'm involved on both the gas and electric side to
7 the extent I have time to, and it's not a lot different.

8 For example, in the UE IRP process, there's
9 a stakeholder process that -- where the parties have
10 discussions about how to go forward with various aspects
11 of the planning process, and that is really not a lot
12 different than the narrower discussions that take place on
13 the gas side just with respect to how to go forward with
14 planning of demand side programs. Those are similar type
15 things.

16 CHAIRMAN CLAYTON: So you're saying that
17 they're the same, just that the collaborative -- I don't
18 want to get caught up on terms, but the working group, if
19 we just use the generic term working group, in electric
20 cases occurs in the IRP process, it doesn't occur outside
21 of that?

22 MR. KIND: It can occur outside of that as
23 well in terms -- that's on the planning side. On the --

24 CHAIRMAN CLAYTON: The IRP is more a
25 long-term implementation of the -- the gas side similar

1 type of programs would be more program implementation
2 sooner, you know, prior, within the next couple of years,
3 wouldn't it? If you're going to design a program, the IRP
4 process would contemplate it over a longer period of time,
5 when if you're trying to set up a lighting program or
6 rebate program, that would take place in the shorter time,
7 wouldn't it?

8 MR. KIND: No. I mean, the IRP is just
9 much broader in scope. It includes both long-run
10 planning, what are you going to do over the next 20 years,
11 as well as implementation plans on both the supply side
12 and demand side, what are you going to do specifically
13 over the next three years.

14 That's -- and it's that implementation plan
15 development that is somewhat similar on the electric side
16 to what you will see happening on the gas side in the
17 collaboratives or advisory groups with respect to DSM.
18 On the gas side, you get both planning and implementation
19 and a narrower scope. You're not looking at the supply
20 side. You're just looking at the demand side.

21 On the electric side, through the IRP
22 process you're looking at planning, demand and supply side
23 resources. You're looking at analysis, integrated
24 analysis, risk analysis. But then the final stage is
25 implementation plans on the supply and demand side that

1 comes out of the IRP process. And then those
2 implementation plans that come out of the IRP are really
3 further refined in the tariff development process, and the
4 discussions have been taking place to date generally the
5 way they took place with utilities, electric utilities,
6 that there are discussions with both Staff and OPC with
7 respect to these DSM implementation issues.

8 We generally discuss them just program by
9 program, but we often will discuss several programs at
10 once, and the discussions can be broader than just on a
11 program by program basis. There can be disputes, as you
12 mentioned. Sometimes those disputes aren't resolved
13 through discussions. Sometimes a tariff gets filed where
14 OPC has a dispute with the tariff even though we've had
15 some prior discussions with the utility.

16 And for UE, an example of that would be
17 their Rider L filing where we filed to oppose that tariff.
18 That then led to further discussions where we came to some
19 agreement to move forward on implementation.

20 CHAIRMAN CLAYTON: Thank you. Ameren, do
21 you-all have some?

22 MS. TATRO: Yeah. Just to make sure that
23 it's clear, the IRP process has a stakeholder process that
24 UE uses where we have numerous meetings and focusing on
25 different portions of the IRP rules as we go through it.

1 It's not a voting collaborative, but to the extent that UE
2 doesn't take someone's suggestion, we know we're at risk
3 when we file the IRP that that issue will be raised.

4 Separate that -- and then the Commission
5 rules on the IRP and finds it does or doesn't have
6 deficiencies, et cetera.

7 Then on the implementation side, I guess I
8 would say, right, there's the preferred plan which is your
9 20-year plan and your implementation plan which is 3
10 years, you implement that through the tariffs that you
11 file for the portion -- I'm talking here about the DSM
12 portion.

13 And we have conversations today with Staff
14 and OPC as we work through that. Typically we share the
15 tariff prior to it being filed. We get language
16 suggestions, feedback on whether the incentive level is
17 right, whatever the issue may be. It is not voting
18 feedback. UE retains that responsibility. But we know if
19 we file it and Staff has told us that they oppose it, that
20 they're going to ask for it to be suspended and they're
21 going to oppose it and we're not going to get the program
22 implemented in the time frame in which we want.

23 So there's a natural incentive for the
24 parties, I think, to find a mechanism that works or a
25 solution that works for everyone, and that's typically how

1 it's been working. We -- the change that we're making is
2 that we're bringing DNR and the skills that they have into
3 that process more formally, which we had not done prior.

4 CHAIRMAN CLAYTON: DNR, do you-all want to
5 say anything in light of this conversation that has gone
6 on longer than I anticipated?

7 MS. WOODS: I see no reason to repeat what
8 the other parties have said. We agree with what OPC and
9 the company have stated.

10 CHAIRMAN CLAYTON: All right. Let me
11 ask -- I want to follow up on a couple of questions from
12 Commissioner Kenney and I'll wrap this up.

13 Relating to the issues that are mentioned
14 in paragraph 32 relating to incentive compensation,
15 advertising, dues and donations, just focusing on
16 advertising -- and I don't have my reconciliation with me.
17 I misplaced it. I think Commissioner Kenney asked of the
18 variance among the parties' positions, and I know this
19 figure in paragraph 32 is a compilation of several issues,
20 and there is the black box nature, I suppose, of this
21 paragraph, but I'm trying to get a sense of how far the
22 parties were apart on just the sole issue of advertising.

23 MR. LOWERY: There were differences among
24 the parties. There was compromise on both sides. I can't
25 really tell you exactly a proportion.

1 CHAIRMAN CLAYTON: Let me ask, did Staff
2 propose a disallowance relating to advertising, and if so,
3 how much?

4 MR. WILLIAMS: My recollection is that we
5 did, but I do not recall the amount.

6 CHAIRMAN CLAYTON: Did Staff propose a
7 disallowance relating to incentive compensation?

8 MR. LOWERY: I can answer that, and the
9 answer is no, except there was, as I mentioned, an amount
10 that had been accrued that was expected to be spent that
11 wasn't spent. So it wasn't a disallowance. It was just
12 essentially in the nature of a true-up. It wasn't spent,
13 so you shouldn't recover something that wasn't spent, and
14 we agreed with that.

15 CHAIRMAN CLAYTON: Did Public Counsel allow
16 a disallowance for advertising expense in its case in
17 chief?

18 MR. MILLS: No, we did not. We did not
19 look at that issue.

20 CHAIRMAN CLAYTON: Or did you support
21 Staff's position?

22 MR. MILLS: We supposed Staff's position.
23 We typically do on advertising. It's a very
24 time-consuming process to go through the entire
25 advertising, and Staff does a very good job of that in

1 most cases.

2 CHAIRMAN CLAYTON: So if we were to approve
3 this Stipulation and, as Commissioner Kenney suggested, a
4 number of people brought up concerns about advertising at
5 the local public hearing process, what exactly are we
6 deciding on the issue of advertising? Basically we're
7 just approving an agreement among the parties here, so we
8 don't know --

9 MR. LOWERY: Well, Commissioner, the Staff
10 did propose a disallowance. I can't remember the exact
11 amount. I think through the process of the give and take
12 of looking at the ads and so on, that Staff agreed that a
13 certain portion of the disallowance was probably not
14 appropriate, that the advertising, some of those
15 advertisings met the Commission's traditional standards.
16 I think there was another piece where we still had some
17 difference of opinion, and I think we compromised that.

18 CHAIRMAN CLAYTON: When you say the
19 standards, where are those standards listed, or are they
20 set out anywhere?

21 MR. LOWERY: They're not -- they're not a
22 rule. They're not a policy. In fact, I think if they
23 were a policy without a rule, there might be issues about
24 whether the Commission can, in fact, do such a thing. But
25 they generally appeared, and I believe, and Mr. Dottheim

1 can probably give you the case number because he's very
2 good at that, I believe back in the '80s perhaps in a KCPL
3 case was sort of the seminal case where the Commission in
4 some detail laid out three or four categories that they
5 typically used to analyze different types of advertising.

6 And you have pretty consistently followed
7 that approach ever since then. In our last rate case
8 order, by the way, I think you cited to those and also
9 talked about those exact same, maybe I shouldn't say
10 standards, guidelines that typically have been used.

11 And I think that's how Staff analyzed all
12 the advertising expense that the company had when they --
13 they applied those guidelines and felt that some of them
14 didn't really meet. Upon further review in discovery, I
15 think they agreed that, in fact, some of them did, and
16 some of them I don't think they ever felt did.
17 Ultimately, we reached a resolution of the issue.

18 CHAIRMAN CLAYTON: Can you -- if this
19 Stipulation were resolved, all issues associated with
20 advertising, is it possible, Mr. Lowery, do you know what
21 Ameren's total budget is with regard to advertising that
22 would be included in the expense component of rates? It
23 doesn't need to be an exact figure.

24 MR. LOWERY: I want to say in the revenue
25 requirement that we filed in this case it was in the

1 3 million range, give or take. I'm pretty sure I'm right
2 about that within a factor of 10, 20 percent either way.
3 Mr. Mills does point out, that is not, I don't think, the
4 company's total budget for advertising, but some of that
5 is not requested. It's not AmerenUE. It's not even --
6 it's so-called below the line. It's not requested from
7 Missouri ratepayers at all.

8 So we're only talking about the 3 million,
9 if my figure's right, and I think it's in the ballpark,
10 would only be talking about the portion that AmerenUE felt
11 was within those guidelines was appropriate for recovery
12 from ratepayers.

13 CHAIRMAN CLAYTON: Okay. Thank you.
14 Thanks to everyone for their patience.

15 JUDGE WOODRUFF: Anything else from the
16 Commissioners?

17 All right. It was suggested that since
18 this will be the only time some of these parties are here,
19 that they might want to offer their testimony that was
20 prefiled. Is anybody in that situation?

21 MR. LOWERY: I think that would be
22 appropriate. To be honest, we probably ought to sit down
23 and look at the testimony and make sure we have the full
24 list of witnesses maybe for all of us. And there would be
25 portions of the Staff Report that I know Staff has been

1 offering portion by portion. If the Bench could indulge
2 us to do that, can we come back later today and do that?

3 JUDGE WOODRUFF: That's fine. There's no
4 particular hurry on that. We've got until Friday anyway.

5 All right. Anything else? Mr. Mills, you
6 wanted to say something?

7 MR. MILLS: Not directly related to the
8 Stipulation & Agreement, but as a procedural matter, the
9 two issues we have listed for today are the fuel
10 adjustment clause and low income programs. As
11 Mr. Williams, I think, e-mailed to the Commission and has
12 mentioned here today that we are contemplating a
13 stipulation that has some impact on the fuel adjustment
14 clause issue. There is also a move afoot on a Stipulation
15 & Agreement with respect to low income issues.

16 I think it would make some sense to allow
17 the parties an extended break this morning to talk about
18 both of those things rather than try to try two issues
19 both of which are subject to pending or at least possible
20 stipulations. And I -- lest you get too excited, I will
21 point out that the fuel adjustment clause, I don't think
22 anybody contemplates settling the entire issue, but at
23 least some aspects of it would be addressed.

24 JUDGE WOODRUFF: But it is possible to
25 settle the low income rate class?

1 MR. MILLS: There has been some discussion
2 among a number of the parties, and I think it would help
3 to have a broader discussion and see what the
4 possibilities of settling are.

5 JUDGE WOODRUFF: It's my understanding that
6 several of the other issues that are up for Tuesday and
7 Wednesday are likely to be settled.

8 MR. MILLS: I think that's correct.

9 MR. DOTTHEIM: Yes. On the low income
10 issue, since -- I hope I'm not misstating this, but since
11 the Commissioners raised that issue themselves, if the
12 parties are able to come up with some proposal,
13 resolution, if I can use that term, to suggest to the
14 Commissioners, are the Commissioners looking for something
15 in particular in that the parties did not originally raise
16 that issue on their own?

17 JUDGE WOODRUFF: I believe it would be like
18 any other resolution that the parties would come up with
19 on any other issue. Ultimately it's up to the Commission
20 to decide. If the parties want to submit something, the
21 Commission would consider it.

22 Well, Mr. Mills has offered a good
23 suggestion that we take an extended break this morning.
24 Why don't we take a break now. We'll come back at
25 one o'clock and see where we're at.

1 With that, we are on a break until one
2 o'clock.

3 (A BREAK WAS TAKEN.)

4 (EXHIBIT NOS. 800 THROUGH 803 WERE MARKED
5 FOR IDENTIFICATION BY THE REPORTER.)

6 JUDGE WOODRUFF: We're back from lunch.
7 It's 1 p.m. Mr. Byrne, you indicated there was further
8 discussion going on?

9 MR. BYRNE: Yes, your Honor. The parties
10 are working on two separate partial stipulations, one
11 dealing with the low income program, well, the one we
12 talked about before that deals with advertising and some
13 other issues. I think we could really use an additional
14 little bit of time to advance on those, and I guess we
15 were hoping that we could postpone starting the FAC until
16 three o'clock today.

17 JUDGE WOODRUFF: We'd do opening statements
18 on the FAC at that time?

19 MR. BYRNE: Yes.

20 JUDGE WOODRUFF: Anyone object to doing
21 that?

22 MR. WILLIAMS: No objection.

23 JUDGE WOODRUFF: Ms. Woods, you indicated
24 also you had some housekeeping matters?

25 MS. WOODS: Yes, your Honor. Thank you.

1 The Department would like to move testimony into the
2 record in support of the first Nonunanimous Stipulation &
3 Agreement, and that would be Exhibit 800, which was Adam
4 Bickford's direct testimony, Exhibit 801, Laura Wolfe's
5 direct testimony, Exhibit 802, Adam Bickford's rebuttal
6 testimony, and Exhibits 803, Laura Wolfe's rebuttal
7 testimony. I've handed copies of those documents to the
8 court reporter.

9 JUDGE WOODRUFF: Exhibits 800, 801, 802 and
10 803 have been offered. Any objections to their receipt?

11 (No response.)

12 JUDGE WOODRUFF: Hearing none, they will be
13 received into evidence.

14 (EXHIBIT NOS. 800, 801, 802 AND 803 WERE
15 MARKED AND RECEIVED INTO EVIDENCE.)

16 MS. WOODS: Thank you.

17 JUDGE WOODRUFF: Anything else anyone wants
18 to bring up while we're still on the record?

19 MS. VUYLSTEKE: I have one matter, Judge.
20 Regarding the rate design settlement, the rate design
21 issues scheduled for later this week, Mr. Woodsmall said
22 that he would be able to let us know by the end of the day
23 which of the various witnesses that we have that he plans
24 to cross, and when I know that, I will let the Bench know
25 or maybe Mr. Woodsmall will, and if to the extent the

1 Commissioners know whether they want to question certain
2 witnesses, that would be helpful. We have Professor
3 Yatchew potentially coming from Canada, and he was
4 planning to travel, but if there were no questions, he
5 wouldn't come.

6 JUDGE WOODRUFF: Keep me informed.
7 Mr. Williams.

8 MR. WILLIAMS: Judge, I'd just like to do a
9 clarification. Mr. Byrne referred to advertising. That
10 was actually part of the First Nonunanimous Stipulation &
11 Agreement. The parties are working on flotation costs,
12 rate case expense, executive compensation and treatment of
13 some contracts that AmerenUE entered into with regard to
14 the fuel adjustment clause. That's the subject of
15 discussions and working out a final stip currently.

16 MR. BYRNE: I apologize, your Honor.
17 Mr. Williams is right.

18 JUDGE WOODRUFF: It's certainly easy to get
19 confused in these cases. Anything else anyone wants to
20 discuss at this point?

21 (No response.)

22 JUDGE WOODRUFF: All right. Then we will
23 take another intermission and come back at three o'clock.

24 (A BREAK WAS TAKEN.)

25 JUDGE WOODRUFF: It's now three o'clock and

1 we're back from our intermission. Are we ready to get
2 started on the FAC?

3 MR. LOWERY: I think we are.

4 JUDGE WOODRUFF: Let's do mini openings on
5 the FAC issue, beginning with AmerenUE.

6 MR. LOWERY: Good afternoon. May it please
7 the Commission?

8 When the Commission issued its order
9 inviting testimony regarding AmerenUE's fuel adjustment
10 clause, it asked the parties to address whether the FAC
11 was reasonably necessary to provide AmerenUE with a
12 sufficient opportunity to earn a fair ROE. The Commission
13 also asked the parties to address the appropriateness of
14 the existing 95/5 percent sharing provision in the fuel
15 adjustment clause.

16 No party contends in their testimony that
17 the FAC isn't necessary to provide AmerenUE with a
18 sufficient opportunity to earn a fair ROE. To the
19 contrary, it clearly is, as demonstrated by the fact that
20 the company has come nowhere close to earning its allowed
21 ROE in quite some time, and that's even with a fuel
22 adjustment clause.

23 As the additional direct testimony of
24 AmerenUE witness Lynn Barnes indicates, without an FAC
25 during 2009 AmerenUE's earnings would have been 60 basis

1 points below what its earned ROE was.

2 And as Ms. Barnes' additional testimony
3 also indicates, for just the first six months of 2010, if
4 an FAC were not in place, AmerenUE's earnings would be
5 lower by approximately *****.

6 (**Reporter's note: This portion of the
7 testimony was redacted as HC and is contained in Volume 30
8 of the transcript.)

9 So the issue is not, therefore, whether the
10 FAC should be continued. It should be. Indeed, the Staff
11 affirmatively recommends that it be continued in its
12 present form with the same sharing percentage with some
13 minor housekeeping changes and some agreed-upon changes,
14 some of which we talked about this morning. No one
15 disagrees with that.

16 That really leaves only one issue for
17 discussion, and that is the appropriateness of the
18 existing 95/5 percent sharing mechanism. What is the
19 evidence regarding that sharing mechanism? First the
20 evidence shows that there has been no material change in
21 any fact or circumstance whatsoever in those circumstances
22 that led the Commission to reject other sharing percentage
23 proposals in the last rate case and to adopt the 95/5
24 percent mechanism that's contained in the FACs in place
25 for all eligible Missouri utilities, including AmerenUE.

1 Indeed, one could identify any change in
2 circumstance, it would suggest today even more strongly
3 that the 95/5 percent mechanism should not be changed.
4 As the company's testimony indicates, we are seeing more
5 volatility, not less volatility, in the components of our
6 net fuel costs, and, of course, we have the earnings
7 issues that I mentioned.

8 Moreover, there has been no showing
9 whatsoever that any aspect of the company's management of
10 its net fuel cost is anything other than entirely prudent
11 and reasonable. AmerenUE's coal costs have gone up from
12 the last case, but because of the recession spot coal
13 prices have come down some. They've come down from what
14 Mr. Neff thought they would be when he sat in that chair
15 about a year and a half ago speaking to you about that
16 issue, and AmerenUE has taken advantage of those lower
17 coal prices as it continues to hedge its coal needs over
18 the next one to five years.

19 Nothing has changed since the last case
20 about AmerenUE's sophisticated fuel purchasing and hedging
21 strategies and risk management practices that govern all
22 of the components that are tracked in the FAC.

23 Moreover, AmerenUE had record generation at
24 it's Callaway plant in 2009, and its entire fleet
25 availability was better in 2009 than it was in 2008.

1 Those facts are important because, as you know, it allows
2 the company to maximize its off-system sales, which result
3 in a very significant offset to retail rates that is
4 passed through the FAC.

5 As you heard during the power plant
6 maintenance issue that you heard testimony on last week,
7 AmerenUE spent approximately 119 million during the test
8 year on steam plant maintenance and intends to spend
9 essentially a like amount in 2010. Those costs, including
10 the portion of the costs that go for schedule overhauls of
11 those units, are designed to improve plant efficiency and
12 output, and that does a couple of things.

13 First, it improves plant heat rates, so we
14 get more energy per BTU of fuel burned. Secondly, it
15 improves output. Those megawatt hours that I was talking
16 about are greater, and so we make greater off-system sales
17 and we lower rates through the fuel adjustment clause.

18 In addition, as of today, we are less than
19 six months into the first 12-month recovery period under
20 the existing FAC. The Staff's prudence review started
21 only about ten days ago and isn't slated to be done until
22 next fall. Not a single party has raised a single concern
23 about whether AmerenUE is prudently managing its purchase
24 of coal, gas, nuclear fuel, oil. Not a single party has
25 raised a single concern about whether AmerenUE is

1 prudently operating and maintaining its power plants. Not
2 a single party has raised a single concern about whether
3 the company is properly making all the off-system sales
4 that it can make at an appropriate price.

5 At bottom, not a single party has raised
6 even one concern about AmerenUE's management of all the
7 components of the net fuel costs that are tracked in the
8 fact.

9 In the face of those undisputed facts,
10 there is no basis whatsoever to give any consideration to
11 the recycled sharing percentage proposals that are raised
12 by MIEC and OPC in response to the Commission's Order that
13 was issued a few weeks ago. Neither Mr. Brubaker nor
14 Mr. Kind cite any evidence that supports the notion that
15 AmerenUE lacks sufficient incentive to manage its net fuel
16 costs properly.

17 All Mr. Kind is able to say is that, quote,
18 Public Counsel believes from a general perspective the FAC
19 mechanism currently in place for UE does not provide
20 sufficient incentive, end quote.

21 All Mr. Brubaker can say is that he too
22 does not, quote, believe, end quote, that a 95/5 sharing
23 is appropriate.

24 Their beliefs are nothing more than rank
25 speculation and cannot possibly constitute substantial and

1 competent evidence that would justify a change in the
2 sharing percentage. In its Report and Order of just over
3 a year ago, this Commission rejected the very proposals
4 that are being dredged up again in this case, and the
5 Commission stated that, if you had adopted those
6 proposals, it would, quote, force AmerenUE shareholders to
7 absorb approximately 25 million in coal costs alone in
8 2010, end quote.

9 The point the Commission was making was
10 that this would amount to a disallowance without proof of
11 any malfeasance or imprudence of prudently incurred fuel
12 cost. That point remains true today just as it was then.

13 The Commission also made very clear, and I
14 quote, a fuel adjustment clause is a privilege, not a
15 right, which can be taken away if the company does not act
16 prudently, end quote. As Ms. Barnes testifies in this
17 case, that fact alone is sufficient incentive for the
18 company to act prudently.

19 I would also note that this Commission has
20 repeatedly recognized that the vast majority of fuel
21 adjustment clauses, and almost every utility has one, have
22 no sharing at all. That fact, too, should lead one to
23 question the validity of these witnesses', quote, belief
24 that larger sharing percentages are for some reason
25 uniquely needed for AmerenUE.

1 Stated bluntly, adopting these recycled
2 proposals would, in effect, amount to convicting the
3 company of failing to act prudently without any evidence
4 to support a conviction on that or any other basis.

5 In addition to having no evidentiary basis
6 to change the sharing mechanism, there are in any event
7 very important reasons not to make such a change. As
8 Staff's own citation in its Cost of Service Report to a
9 Standard & Poor's report on the company indicates,
10 adoption of the FAC at AmerenUE with its near mainstream
11 pass through mechanism, 95 percent versus 100 percent, was
12 undoubtedly very supportive of AmerenUE's credit quality.

13 The FAC has also improved AmerenUE's chance
14 to earn a fair return, which is a key statutory criteria
15 in Senate Bill 370-- or 266 I should say, in Missouri.
16 The FAC and the maintenance of the 95/5 percent sharing
17 mechanism is critical if the company is going to have any
18 chance to earn a fair ROE in the coming years.

19 In addition, changing that sharing
20 percentage now, based upon a record that provides no
21 evidence that would justify a different decision in this
22 case versus the decision made about a year ago, indeed
23 based upon a record that supports even more strongly the
24 continuation of the FAC and the sharing percentage that we
25 have, would, I would submit, reflect a regulatory

1 inconsistency that would be very difficult to explain.

2 Imagine the reaction of bond and equity
3 investors to a detrimental change in the FAC that the
4 company has had for barely a year in the absence of any
5 proof of mismanagement on the part of the company. As
6 AmerenUE witness Gary Rigg explained, investors would
7 either think that the Commission is convinced that the
8 company's incapable of properly managing its fuel cost,
9 its net fuel cost, which if true would concern investors
10 greatly, or investors would think that the Commission
11 itself and regulation in Missouri is arbitrary and
12 unpredictable, which if true would suggest a much higher
13 level of regulatory risk.

14 As the witnesses you heard last week
15 testified, regulatory risk is one of the key risk
16 investors are concerned about for a regulated firm like
17 AmerenUE. And if they perceive higher regulatory risk,
18 they are going to charge more for the capital that they
19 provide. It's really that simple.

20 As I conclude my remarks, I'd like to
21 briefly address two more issues. First, while the Staff
22 is recommending the continuation of the FAC and the 95/5
23 percent sharing mechanism, Staff suggests, I believe
24 mistakenly, that the circumstances today are essentially
25 akin to the circumstances two rate cases ago when AmerenUE

1 first asked for a different FAC.

2 In fact, in that case AmerenUE's proposal
3 was far different from the FAC approved a year ago and
4 that is in place today. AmerenUE's initial proposal in
5 that case did not include off-system sales in the FAC, a
6 fact about which I'd ask that you take administrative
7 notice. After much criticism, the company changed its
8 proposal but didn't do so until surrebuttal about two
9 weeks before the evidentiary hearing started, and at that
10 point included an asymmetric sharing provision, which was
11 also much criticized by the parties. I'd also ask you to
12 take administrative notice of those facts.

13 I point to those facts because they
14 demonstrate that Staff's statements that really nothing
15 has changed between two proposals two rate cases ago are
16 really mistaken. Conversely, it is indeed true that
17 nothing really has changed since the last rate case and
18 this rate case except that the volatility of net fuel
19 costs is even greater now. AmerenUE has, in fact,
20 operated with an FAC for a year, and there's no evidence
21 that AmerenUE has not been prudent in doing so with
22 respect to any element of its net fuel cost management.

23 Finally, I would note that the company's
24 ability to provide the Commission with all of the evidence
25 it would have provided had these issues come up in the

6 Nonetheless, we have done our level best to
7 provide substantial and competent evidence that
8 demonstrates not only the appropriateness of the FAC
9 itself, but its existing sharing percentage. And I would
10 note that this is in addition to direct testimony that we
11 filed when we filed this case in July in support of the
12 fuel adjustment clause, including full compliance with the
13 very extensive minimum filing requirements that the
14 Commission's rules call for.

21 I appreciate your patience, and thank you
22 for your attention.

25 MR. WILLIAMS: Thank you. May it please

1 the Commission?

2 There are three issues listed for decision
3 on the fuel adjustment clause in this case. The first one
4 is whether or not AmerenUE's fuel adjustment clause should
5 be modified or discontinued. It's Staff's position made
6 early on in the case that the fuel clause should be
7 modified in accordance now with the first Stipulation &
8 Agreement and another Stipulation & Agreement that we
9 anticipate will be filed yet today.

10 In response to AmerenUE's statements about
11 the Staff saying that AmerenUE's fuel adjustment clause
12 proposal is no different than what it proposed a couple of
13 rate cases ago, what Staff's position is is that
14 circumstances in AmerenUE's rate case, the factors that
15 the Commission looks at are not significantly different
16 two cases ago than they were in the last case or even now,
17 not so substantially different that it should impact what
18 the Commission decides to do here.

19 Having said that, what the Staff was doing
20 was presenting information to the Commission. It's still
21 Staff's position that AmerenUE's fuel adjustment clause
22 should be modified.

23 With respect to the sharing mechanism, it's
24 Staff's position that the sharing mechanism should remain
25 at 95/5. At this point in time, AmerenUE's fuel

1 adjustment clause has not been in place very long. Before
2 making a change to that sharing mechanism, Staff believes
3 that the Commission should look at how that clause
4 operates for a longer period of time.

5 The third issue is the treatment of
6 long-term bilateral sales contracts. It's Staff's
7 position that those should flow through AmerenUE's fuel
8 adjustment clause. For the future, that's an item that's
9 being addressed in a Stipulation & Agreement that has not
10 yet been presented to the Commission.

11 There's still the issue of the proper
12 treatment of those -- of a couple of bilateral sales
13 contracts that occurred in the past. It's Staff's
14 position that those contracts should flow through the fuel
15 adjustment clause as off-system sales and not as AmerenUE
16 has treated them.

17 That concludes Staff's opening.

18 JUDGE WOODRUFF: Thank you. Opening for
19 Public Counsel.

20 MR. MILLS: Thank you. And I'll pick up
21 just sort of where Mr. Williams left off. Public Counsel
22 agrees with Staff that there are still some issues
23 outstanding with respect to the Wabash and AP contracts,
24 but not with respect to this case. The Stipulation &
25 Agreement that we anticipate filing today will resolve the

1 issue for this case. We may revisit that in another case
2 at another time. Not revisit that, but look at the other
3 aspects of that contract in another case at another time.

4 With respect to the issues that are pending
5 before the Commission in this case, that being primarily
6 the continuation of the FAC or the modification of the
7 sharing percentage, and I agree again Mr. Williams.
8 Mr. Lowery emphasized that little has changed since the
9 2008 case relative to the FAC issue, but the same is true
10 with respect to the 2007 cases. In one of those cases the
11 PSC allowed 95 percent of fuel cost changes to flow
12 through an FAC, and in the other it allowed zero.

13 There is no evidence in this case that
14 95 percent is right and 80 percent or some other number is
15 wrong. This is entirely a policy question. The
16 Legislature has squarely put it within your discretion to
17 allow anywhere between zero percent and 100 percent of
18 changes in fuel to pass through an FAC. There is nothing
19 magic about the 95 percent, and the PSC has the discretion
20 to change it in this case.

21 Now, one of the main arguments that the
22 company has made against changing the FAC sharing
23 percentage in this case, and I assume it would be in any
24 other case, is that having once granted a utility
25 favorable treatment with respect to an issue, the

1 investment community would be horrified should the
2 Commission ever revisit that decision and do something
3 different.

4 Such an approach amounts to a ratchet that
5 is constantly tightening around ratepayers without any
6 aspect, any anticipation of release of that ratchet. The
7 Commission should not approach regulation that way. The
8 Commission should not really look that strongly at what
9 investors think of their decisions and find themselves
10 frozen into a policy that they want to change and would
11 change but for investor expectations. If it's the right
12 thing to do for the ratepayers of Missouri, that's what
13 the Commission should do.

14 In this case, Public Counsel believes that
15 the evidence will show that an 80 percent sharing
16 percentage will send a much stronger and much more
17 effective signal with respect to UE's prudent management
18 of its fuel expenses.

19 Thank you.

20 JUDGE WOODRUFF: MIEC.

21 MS. VUYLSTEKE: May it please the
22 Commission?

23 The Commission has taken the unusual step
24 of asking the parties to provide recommendations on a very
25 major policy issue at a relatively advanced stage of the

1 case regarding the appropriateness of the FAC and its
2 sharing mechanism. And your request demonstrates to us
3 the Commission's desire to continually evaluate and
4 consider the implementation of important new regulatory
5 mechanism.

6 And I think perhaps the parties were remiss
7 in not including in our initial filing our recommendations
8 on this issue. But nevertheless, we very much welcome the
9 opportunity to renew our FAC recommendations in this case,
10 and we appreciate the opportunity. We continue to believe
11 that an 80/20 sharing is the appropriate incentive for the
12 utility. It would improve and strengthen UE's incentive
13 for cost management.

14 And we would like to present the evidence
15 of Mr. Maurice Brubaker once again on this issue. He
16 proposes a 20 percent sharing by AmerenUE of cost
17 increases and 20 percent retention of cost decreases.
18 Mr. Brubaker's proposal also includes a cap mechanism on
19 financial impacts to limit the shareholder exposure of
20 50 basis return on equity. We think this better aligns
21 the interest of the utility, its shareholders and its
22 customers, and we appreciate your consideration of this
23 evidence.

24 Thank you.

25 JUDGE WOODRUFF: Opening for AARP and

1 Consumers Council?

2 MR. COFFMAN: May it please the Commission?

3 I'm here today representing one of my clients, the
4 Consumers Council of Missouri, and I want to take you
5 back, actually give you a broader historical perspective
6 on where -- whether we are in a situation that the
7 Commission cannot consider other options.

8 It was the Consumers Council of Missouri
9 under the name of the UCCM that took the original fuel
10 adjustment clause to -- through the courts, and ultimately
11 the Supreme Court struck it down as violating the
12 prohibition against single-issue ratemaking. And from the
13 years 1979 to 2008, AmerenUE operated without a fuel
14 adjustment clause and operated profitably. Rates were
15 reasonably low, and profits were healthy.

16 In fact, past Union Electric CEO Miller
17 once commented to his shareholders that it was the lack of
18 a fuel adjustment clause that had helped incent them to
19 cut costs and to drive down fuel, fuel expenses.

20 And so I think there's an acknowledgement
21 that not having costs flow through a fuel adjustment
22 clause is at least in some sense an incentive. And I
23 would ask that you consider the previous case as an
24 aberration, and we hope that you go back to the decision
25 that was made in the previous case, the 2007-002 case

1 where you looked at off-system sales, you looked at the
2 various generation and operational characteristics of this
3 utility and decided that it was different than some of the
4 smaller electric utilities in Missouri and that it did not
5 need a fuel adjustment clause in order to have an
6 opportunity to earn a fair return.

7 I would suggest that the -- that there's
8 evidence in this case that will support the idea that
9 things have not materially changed and that Ameren does
10 not need one.

11 And when you look at the volumes of
12 testimony, the various eight or nine witnesses that Ameren
13 has put forth, a common theme is that you shouldn't
14 disrupt the last case because, you know, S&P or some Wall
15 Street analyst is going to freak out. It's almost as if,
16 you know, that your decisions are to be made less on
17 exactly what Ameren's operational characteristics are and
18 more, you know, attune to Wall Street perceptions, and I
19 would suggest that that is not how the Commission should
20 be deciding its cases.

21 If, in fact, the Commission does feel that
22 it needs to continue a fuel adjustment clause in this
23 case, our position is that it should -- it should be at a
24 50/50 sharing at most. The utility constantly talks about
25 its opportunity to earn a fair return and often implies

1 that it's -- that everything should be designed to ensure
2 that they meet their cap. Consumers on the other hand
3 like to emphasize that the law says that it's the public
4 that should be the PSC's guiding star and that the public
5 should have primary concern in your decisions.

6 But I think we all agree that really your
7 job is to balance the interests of the shareholders and
8 the ratepayers, and we really I think all agree on that.
9 And if you are indeed going to be issuing a balanced
10 decision, we don't see why a 50/50 sharing is not the most
11 balanced way to approach this issue, putting 50 percent of
12 the costs into the base rates and having only 50 percent
13 of the variation flow -- of incremental change in fuel and
14 purchased power costs being flow through.

15 It minimizes the volatility up and down,
16 and it is simply fair that you not place 95 percent of the
17 cost or the -- 95 percent of the risk of the variation of
18 this cost on the consumers side which has absolutely zero
19 control over fuel and purchased power cost decisions, and
20 that you put a very significant amount of that risk on the
21 utility that's getting a return to compensate it for its
22 risk and which does have some control, if not complete
23 control, at least I think some control if not a
24 significant amount of control. That's what we hope that
25 you will see after you hear the evidence today.

1 Thank you.

2 JUDGE WOODRUFF: Thank you. Missouri
3 Retailers?

4 MR. SCHWARZ: Do not have an opening on
5 this issue.

6 JUDGE WOODRUFF: All right. I believe
7 that's all the parties who are here who wanted to make
8 openings. Let's go for our first witness on this issue,
9 would be Lynn Barnes. Please raise your right hand. I'll
10 swear you in.

11 (Witness sworn.)

12 JUDGE WOODRUFF: Thank you very much. You
13 may be seated. And Ms. Barnes, I don't know if you were
14 here or watching the other testimony last week, but I've
15 been making a little announcement at the beginning of each
16 testimony, just reminding you to only answer the questions
17 that are asked of you, not to try to give explanations
18 unless the attorney asks you to do that.

19 THE WITNESS: Okay.

20 JUDGE WOODRUFF: If you restrict yourself
21 to answering the question that's asked, if it asks for a
22 yes or no question, just answer yes or no, and things will
23 go much more smoothly and more quickly.

24 THE WITNESS: All right.

25 JUDGE WOODRUFF: You may inquire.

1 MR. BYRNE: Thank you, your Honor.

2 LYNN BARNES testified as follows:

3 DIRECT EXAMINATION BY MR. BYRNE:

4 Q. Good afternoon, Ms. Barnes.

5 A. Good afternoon.

6 Q. Could you please state your name for the
7 record.

8 A. Lynn M. Barnes.

9 Q. And by whom are you employed, Ms. Barnes?

10 A. I'm employed by AmerenUE.

11 Q. And are you the same Lynn M. Barnes that
12 caused to be filed in this case direct testimony that's
13 been marked as Exhibit 121, additional direct testimony
14 regard AmerenUE's fuel adjustment clause which has been
15 marked Exhibit 122HC and 122NP, and additional rebuttal
16 testimony regarding AmerenUE's fuel adjustment clause
17 which has been marked Exhibit 123HC and 123NP?

18 A. That's correct.

19 Q. And is the information contained in that
20 prefiled testimony true and correct to the best of your
21 knowledge and belief?

22 A. Yes, it is.

23 Q. Do you have any corrections that you need
24 to make to any of that testimony?

25 A. Not at this time.

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

5 A. Yes, they would.

6 MR. BYRNE: Your Honor, I would offer
7 Exhibit Nos. 121, 122HC and NP and 123HC and NP, and
8 tender Ms. Barnes for cross-examination.

9 JUDGE WOODRUFF: Exhibits 121, 122 and 123,
10 the last two being HC and NP, have been offered. Any
11 objections to their receipt?

12 (No response.)

13 JUDGE WOODRUFF: Hearing none, they will be
14 received.

15 (EXHIBIT NOS. 121, 122HC AND NP AND 123HC
16 AND NP WERE MARKED AND RECEIVED INTO EVIDENCE.)

17 JUDGE WOODRUFF: For cross-examination, we
18 would begin with the Missouri Retailers.

19 MR. SCHWARZ: I have no questions.

20 JUDGE WOODRUFF: All right. For AARP?

21 MR. COFFMAN: Yeah.

22 CROSS-EXAMINATION BY MR. COFFMAN:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. I'm John Coffman. I represent AARP and the

1 Consumers Council.

2 In your testimony, you state that the fear
3 of disallowance is a sufficient incentive on AmerenUE to
4 seek the lowest possible fuel and purchased power cost; is
5 that a fair assessment?

6 A. I believe I stated that the fear of not
7 having an FAC at all would be incentive enough for us to
8 keep our purchased -- fuel and purchased power and
9 off-system sales prudently managed.

10 Q. You think that the hammer over your head of
11 the Commission taking away the fuel adjustment clause is
12 enough to make you --

13 A. Yes. That's correct.

14 Q. -- act in a prudent fashion?

15 A. Yes. That's correct.

16 Q. Are you familiar with how prudence reviews
17 work under the fuel adjustment clause? I know that the
18 first prudence review has only begun, but are you --

19 A. Since we haven't been through it all yet, I
20 don't know that I know exactly how it's going to work for
21 us as we're, kind of like you said, going through that
22 right now.

23 Q. And is it your understanding that if small
24 intervenors such as the ones that I represent would want
25 to review the prudence, they would need to intervene in

1 additional cases and participate in those additional fuel
2 adjustment clause reviews?

3 A. I'm not as familiar with the process. I'll
4 take your word for it if that's what the process is.

5 Q. Is it your opinion that AmerenUE has had an
6 increasing difficulty in reaching its authorized return on
7 equity cap in recent years?

8 A. Yes, absolutely.

9 Q. And do you attribute that to fuel-related
10 issues?

11 A. I think a large portion of them are. I
12 mean, fuel is a substantial part of our cost structure.
13 Almost half of our expense is fuel related, and as a
14 result, volatility and swings in that tend to be more
15 significant than they would be for other types of expenses
16 that we incur.

17 Q. Would you -- how would you rate your fuel
18 and purchased power risks amongst the other risks that the
19 utility has? Would it be the greater business risk that
20 the utility has?

21 A. Well, again, because of the size, the order
22 of magnitude of the expense, the level of risk that we
23 incur is also much more significant than for any specific
24 individual component, component of our expense.

25 Q. Could you -- how would you characterize the

1 relative percentage of business risk that fuel and
2 purchased power cost risk accounts for?

3 A. I'm not sure I could apply a percentage to
4 it so much, but there are a lot more components of the
5 fuel acquisition and also when we're selling on the power
6 markets that's outside of our control, as opposed to some
7 other expense where we may be entering into a contract for
8 tree trimming or for inspections or other type of expense.

9 Q. Would you agree with me that AmerenUE's
10 risk -- risk of fuel and purchased power cost variation is
11 lessened with a fuel adjustment clause?

12 A. I'm not sure the risk is lessened. The
13 cash flows and the recovery is more aligned, and we have
14 then the ability to utilize that cash for other things.

15 Q. Are you saying that a fuel adjustment
16 clause does not lessen AmerenUE's business risk at all?

17 A. It lessens the risk of non-recovery, which
18 would mean then that we have to allocate any cost-related
19 increases or any cash for increases to fuel, and then that
20 allows us to not be able to spend that same cash on other
21 important elements of our business.

22 Q. Do you believe that certain Wall Street
23 analysts have recognized this as a significant risk
24 reducing mechanism?

25 A. They have from the standpoint that it's

1 become much more of a norm for utility companies across
2 the nation and not an exception to have a rider. So in
3 the current environment, having that type of a rider is
4 much more of a mainstream item.

5 Q. So it more or less just sends a message?

6 A. It sends a message around the stability of
7 the regulatory environment here and the certainty under
8 which we'll have recovery so that they then can do their
9 own assessment of what risk elements of business risk that
10 we encounter.

11 Q. Do you believe it lessens AmerenUE's
12 business risk in that sense with regard to Wall Street
13 perceptions?

14 A. Well, Wall Street perceptions, like it or
15 not, we have to go to the market to borrow money or to
16 issue capital, and in order to make sure that we're on an
17 even playing field with other utilities who are also
18 competing for that same dollar from those investors, it is
19 helpful from that perspective.

20 Q. Have you read all the other fuel adjustment
21 clause that AmerenUE has put forth?

22 A. Yes, I have.

23 Q. And are you familiar with testimony that
24 talks about the risk and reward relationship that the fuel
25 adjustment clause presents?

1 A. Are you referring to a specific witness
2 or --

3 Q. Are you familiar with the various
4 discussions and debate involving whether AmerenUE has skin
5 in the game?

6 A. I'm aware of that notion.

7 Q. And do you consider 5 percent of fuel and
8 purchased power cost variation being embedded in the base
9 rates to be skin in the game for Ameren?

10 A. I actually believe that represents a
11 disallowance of prudently managed costs, and as I said
12 before, having the FAC is incentive enough for us to
13 prudently manage our costs.

14 Q. It's just as likely to be -- to go the
15 other way, isn't it? In fact, during this past period
16 since the last rate case, AmerenUE has gone through
17 periods when, in fact, the 5 percent went the other way --

18 A. That's correct.

19 Q. -- and that benefited AmerenUE on a cash
20 flow basis, didn't it?

21 A. Actually, the first accumulation period,
22 the result was a refund actually to customers, and that
23 was then offset by a corresponding increase in fuel costs
24 in the second accumulation period. So those sort of
25 offset each other. But yes, it absolutely can go either

1 way. And in your first example, had we not had a sharing
2 mechanism, 100 percent of that refund would have gone back
3 to customers.

4 Q. But you still prefer, you would prefer
5 100 percent flow through because that would be -- that
6 would be more certainty?

7 A. It's not about certainty. It's about
8 making sure we recover our prudently managed costs. We
9 have not changed our mode of operation with respect to
10 procuring fuel or buying power on the market or selling
11 power on the market with the fuel adjustment clause, and
12 so we really don't see the need for the sharing mechanism
13 and feel it's more punitive than incentive for us at this
14 time.

15 Q. But really for you, the fuel adjustment
16 clause has nothing to do with risk at all?

17 A. It's risk of recovery of costs that,
18 without a fuel adjustment clause, we would not recover
19 under the current regulatory structure.

20 Q. So with regard to the risk of non-recovery,
21 would you agree with me that the fuel adjustment clause
22 lessens Ameren's risk?

23 A. Well, it allows recovery of costs, like I
24 said, that would normally not be recovered at all. I'm
25 not sure there's a risk component there. It's just a fact

1 based on how the regulatory process works.

2 Q. You don't have an opinion about whether it
3 affects your company's risk or not?

4 A. I'm not sure it's a risk discussion, so I
5 guess I don't have an opinion about it specifically.

6 Q. You would agree with me that AmerenUE's
7 customers have no control over fuel and purchased power
8 cost decisions, wouldn't you?

9 A. Yes. They don't have control over any of
10 our costs, frankly.

11 Q. And you would agree with me, would you not,
12 that AmerenUE has some control over its fuel and purchased
13 power cost decisions?

14 A. Because it's our job to purchase, then we
15 have the ability to enter into contracts.

16 Q. And you have options, do you not?

17 A. We do what we can to manage the risk around
18 hedges, to eliminate whatever or mitigate whatever
19 volatility we can. Very minimal ability to do that.

20 Q. A utility has choices, does it not, between
21 what types of generation to build, to operate and which
22 types of generation to dispatch?

23 A. To some extent. MISO directs some of that
24 now that we're in a more transparent market situation. We
25 haven't built any new base load generation in quite some

1 time.

2 Q. But again, you would agree that there
3 are -- wouldn't you agree that there are several choices
4 that have to be made and management decisions surrounding
5 fuel and purchased power?

6 A. Well, we have an obligation to serve
7 customers, and so we have to do the best we can to
8 estimate what that load requirement's going to be and what
9 the most prudent way to meet that load requirement is.

10 MR. COFFMAN: That's all I have. Thank
11 you.

12 JUDGE WOODRUFF: Public Counsel?

13 MR. MILLS: Just a few. Thank you.

14 CROSS-EXAMINATION BY MR. MILLS:

15 Q. Good afternoon, Ms. Barnes.

16 A. Good afternoon.

17 Q. How much of your overall compensation is at
18 risk as incentive compensation, what percentage?

19 A. I believe I'm eligible for up to 35 percent
20 of my base as additional incentive compensation.

21 Q. So if you achieved -- if you hit all of
22 your targets, you would get 100 percent of your expected
23 compensation; is that correct?

24 A. It's a combination of whether the company
25 does well, whether my -- the personal metrics. I think

1 for me actually it's all based on Ameren earnings, and
2 that's not part of the rate case. None of my incentive
3 comp is paid for by customers in Missouri.

4 Q. Is any of it at risk based on your own
5 performance?

6 A. Sure.

7 Q. About 35 percent of it, right?

8 A. Well, a portion of that 35 percent is based
9 on personal performance as well as overall Ameren
10 performance. Again, not part of the rate case. It's not
11 recovered in any rates.

12 Q. But even some of the overall Ameren
13 performance you have some control over because that's part
14 of your job to make the company do well, is it not?

15 A. Part of my job's to analyze the financials
16 and to consult with the operations folks who ultimately
17 are spending the money, yes.

18 Q. Have you ever gone to your boss and said,
19 that's way too much at risk, I think I should have
20 95 percent in base and only 5 percent at risk?

21 A. No, actually, I have never done that.

22 Q. Now, I think you said in response to a
23 question from Mr. Coffman that you have -- you meaning
24 AmerenUE, not you personally, has minimal ability to
25 control volatility in any fuel pricers. Is that your

1 testimony?

2 A. Yes, that is my testimony.

3 Q. So all of the hedging that you do and all
4 of the elaborate hedging schemes that you go into have
5 minimal effect over simply buying stuff day to day on the
6 spot market?

7 A. We're not buying that much on the spot
8 market. We obviously do the best we can to mitigate what
9 we can, what we have, and there are witnesses beyond me
10 who do this for a living that you can talk with in more
11 specifics around that. But I think we've seen just by the
12 volatility in the past year our overall net base fuel
13 costs went up almost 70 percent from the last rate case to
14 this one, that volatility is very difficult to mitigate
15 even with the hedging strategies.

16 Q. So your best efforts just have a minimal
17 impact on that?

18 A. Yeah. We do the best we can, but we do not
19 have the ability to influence the markets for prices, and
20 that largely controls what we have to pay for fuel or what
21 we can sell power for.

22 Q. Is there a cost to the company and the
23 customers for hedging activities?

24 A. There's a cost and a benefit. It goes both
25 ways, and that's all built into --

1 Q. Okay. And what is the benefit? Is it just
2 this minimal ability to control volatility you're talking
3 about, is that the benefit?

4 A. Again, the folks that actually do that
5 hedging can be much more specific around this, but when we
6 enter into transactions that offer a hedge against the
7 market, they can be mark to market up or down. So
8 sometimes those are beneficial. Sometimes they will
9 increase the costs, because we can't always predict what
10 the market's going to do and whether the hedge will be
11 effective.

12 Q. Would you agree with me that over the long
13 term, the very long term, that hedging will almost always
14 cost more than not hedging?

15 A. I'm not close enough to it to make that
16 assumption. You'd need to ask the experts.

17 MR. MILLS: No further questions.

18 JUDGE WOODRUFF: For Staff?

19 MR. WILLIAMS: Staff has no questions of
20 this witness.

21 JUDGE WOODRUFF: For MIEC?

22 CROSS-EXAMINATION MS. VUYLSTEKE:

23 Q. Good afternoon, Ms. Barnes. How are you?

24 A. Fine. Thanks.

25 Q. Can you tell me the dollar amount of net

1 base fuel cost that AmerenUE currently contends should be
2 allowed in this case?

3 A. I believe the amount in our test year was a
4 little over \$840 million.

5 Q. And are you aware that the MIEC's position
6 in this case is that the proper number is less than
7 500 million?

8 A. I wasn't aware of the specific number, no.

9 Q. And what is your understanding of the
10 Staff's position on the question of the dollar amount of
11 net base fuel cost that should be allowed in this case?

12 A. We have gone through the fuel models with
13 them, and I've not worked specifically directly with them
14 on those fuel models, but I believe we're very close to
15 being in agreement with how the fuel costs are being
16 developed.

17 Q. Ms. Barnes, in the number that you just
18 gave me, did you give me the net base fuel cost as a total
19 cost of fuel and purchased power?

20 A. Yes.

21 Q. Okay.

22 A. I did not include the off-system sales,
23 you're right.

24 Q. Minus revenues for off-system sales?

25 A. That's right. There's about \$300 million

1 of off-system sales built into our original test year
2 number?

3 Q. So what would the total number be?

4 A. The total number's probably in that
5 \$500 million range. I stand corrected. That's right.

6 MS. VUYLSTEKE: Thank you.

7 JUDGE WOODRUFF: Did you have anything
8 else?

9 MS. VUYLSTEKE: I'm sorry. No other
10 questions. Thank you.

11 JUDGE WOODRUFF: Okay. We'll come up for
12 questions from the Bench, then. Commissioner Davis?

13 CHAIRMAN DAVIS: No questions.

14 JUDGE WOODRUFF: Commissioner Jarrett?

15 QUESTIONS BY COMMISSIONER JARRETT:

16 Q. Good afternoon.

17 A. Good afternoon.

18 Q. How are you doing?

19 A. Fine, thank you.

20 Q. I just have a couple of quick questions.

21 One thing you mentioned in your testimony when Mr. Coffman
22 was asking you questions was about fuel adjustment clauses
23 being in the mainstream.

24 A. Yes.

25 Q. And I wanted to pursue that a little bit.

1 Are you aware of how many states have fuel adjustment
2 clause mechanisms in their rates?

3 A. I don't know if I'll have them all correct,
4 but I -- about half of the states are restructured, and
5 all of them that I'm aware of, about 23 states have fuel
6 adjustment clause mechanisms, I believe.

7 Q. Okay. And when we talk about these pass
8 through mechanisms, 95/5, 80/20, 50/50, can you tell me
9 what other states, are you familiar with what other states
10 are doing as far as that?

11 A. I've looked at some information. I don't
12 have it here. There is some sharing, but by far the
13 majority of states I believe offer 100 pass through,
14 similar to how our PGA works on the gas side.

15 Q. Have you ever heard of any state having a
16 50/50?

17 A. No. The states that have sharing, at least
18 in the information I've seen, is closer to a 90/10. I
19 don't think I've seen anything below 90/10.

20 Q. You've never seen anything below 90/10?

21 A. Not recently.

22 COMMISSIONER JARRETT: Thank you. No
23 further questions.

24 JUDGE WOODRUFF: Commissioner Gunn?

25 QUESTIONS BY COMMISSIONER GUNN:

1 Q. Ms. Barnes, how are you?

2 A. I'm fine. Thank you.

3 Q. Good. I wasn't quite clear on
4 Ms. Vuylsteke's question. What would the effect of the
5 company be between a 95/5 and a 90/10 in a dollar amount?

6 A. I don't have that number in front of me.
7 Obviously if we -- it's going to -- I don't have that
8 number easily calculable. I'd have to get back to you
9 with that.

10 Q. Were you involved in the 2008 rate case,
11 the last one?

12 A. Not related to the FAC, but on other
13 issues.

14 Q. Because Mr. Lowery left out, there was one
15 major party that advocated for a lower sharing that he
16 didn't mention, and that was Ameren. Do you recall that?
17 After the Report and Order was issued, Ameren came back
18 and advocated for a change in the fuel adjustment clause
19 sharing mechanism. Do you recall that?

20 A. I do recall that.

21 Q. And that was because of the ice storm
22 knocked out Noranda?

23 A. Yes.

24 Q. And all of a sudden there was a lot more
25 power to be sold and would flow through. And I believe

1 that the motion for rehearing stated that we certainly
2 couldn't allow the windfall of this ice storm to go to the
3 customers, and if they weren't allowed to sell this power
4 on the open market, it would be impossible for Ameren to
5 earn their authorized ROE. Do you agree with that?

6 A. Yes.

7 Q. So what happens if Noranda goes out of
8 business?

9 A. Well, we now with the first Stipulation,
10 and I'm not an expert at this, but we have built into the
11 calculation on the FAC an "N" factor that essentially
12 mitigates any drastic change in volume from a load
13 perspective particularly relating to Noranda since they
14 are such a large customer on our system, so that we are
15 able to recover at least the fixed cost of the costs that
16 are built in to base rates relating to that load before
17 the rest of the benefit gets shared with customers.

18 Q. So in the Stipulation & Agreement you
19 essentially modified the sharing agreement as it stands
20 right now?

21 A. With respect to that element, yes, just to
22 prevent that situation from reoccurring.

23 Q. So there's even less risk now?

24 A. With respect to that particular issue, I'd
25 say yes, there is.

1 Q. So tell me -- so today, without the --
2 without that "N" factor, and you may not know a dollar
3 amount, but what -- if you reduced the sharing mechanism,
4 because that's what it kind of would be, a reduction in
5 that 95, isn't that essentially what you're doing?

6 A. No. Essentially what we were doing and
7 what we've done, what happened last year with the ice
8 storm is that base rates were built on an assumption of
9 what native load would be, and that included Noranda, and
10 when Noranda's load dropped significantly, there was this
11 element of costs that were assigned to native load
12 customers that would not get recovered through other
13 means, and that was the issue that was brought before the
14 Commission as a modification.

15 What we've done with the FAC in effect is
16 modify the calculation so that that can't happen again, so
17 that at least we're able to recover what was assumed in
18 the original base rates to be recovered, and that any
19 benefit beyond that would go back to customers through the
20 fuel adjustment clause mechanism as it was assumed to in
21 the past.

22 Q. And would that mitigate any lowering of
23 the sharing mechanism? So let's say -- let's say the
24 sharing mechanism was lowered hypothetically from 95/5 to
25 90/10, but since the calculations have been modified to

1 take into account any risk associated with large scale
2 loss of use by Noranda or large scale reduction in use by
3 Noranda, would then the effect of the lowering of that
4 sharing mechanism be mitigated?

5 A. I don't think so. I mean, essentially what
6 the sharing mechanism is doing is disallowing a portion of
7 costs that are prudently managed, that we've prudently
8 incurred fuel costs, and we're essentially saying by
9 sharing is that we've incurred the costs, no one's
10 disputing that they have not been prudently incurred, but
11 the company's not going to be allowed to recover 5 percent
12 or 10 percent.

13 Q. That's not true. I mean, well, in the
14 sharing mechanism it is, but there are -- you could
15 recover these costs -- if there was no fuel adjustment
16 clause, for example, you would be able -- you wouldn't be
17 denied recovery of those costs, you would just be denied
18 recovery of those costs immediately, right?

19 A. We would be able to -- if we didn't have a
20 fuel adjustment clause and we had fuel cost increases, to
21 the extent that we were able to sell power over and above
22 what those increases were, we could mitigate that recovery
23 from that perspective.

24 Q. But you could come in for a rate case and
25 recover those fuel costs, right?

1 A. We can, but the rate case process is 11
2 months, and even in the best scenario where we file rate
3 cases right after each other, there's still about five
4 months of time where a cost can go in and we would not
5 recover ever the increase during that five-month period.

6 Q. But could you request 100 percent of those
7 increases? You could, right?

8 A. We'd have to, I guess, through some sort of
9 a regulatory asset or Accounting Authority Order. I mean,
10 we'd have to go through that type of process in order to
11 recover it. There would be no certainty that we would
12 recover it, and we would be amortizing it probably over
13 several years.

14 Q. Right. But the potential is, is that you
15 could recover 100 percent -- taking into account
16 regulatory lag, you could -- you could recover 100 percent
17 of those costs, which may equal, depending on what it
18 looks like, may equal 5 percent? There could be a break
19 even point?

20 A. I guess conceivably. I haven't really
21 worked through all the inner workings of the regulatory
22 process to that extent. I mean, it would be a much more
23 drawn-out affair and would -- there would be much more
24 uncertainty around whether we'd actually recover those
25 costs or not. I couldn't say with certainty that it would

1 mitigate it or would it be equal to the 5 percent or not.

2 Q. I think that's fair. That's a fair point.

3 And we are dealing with the effects of regulatory lag

4 that --

5 A. Absolutely. Yeah. Regulatory lag's still

6 there even with the fuel adjustment clause, because we

7 don't recover the cash for 16 months.

8 Q. I'm still a little fuzzy about how the "N"

9 factor doesn't -- wouldn't mitigate against a lowering,

10 because in the scenario where Noranda were to lose power

11 again, if another ice storm were to come through, if

12 Noranda would decide to leave, there would be a -- even

13 with a lower sharing mechanism, even with a 90/10 -- let's

14 say that the calculation is the old calculation. And this

15 is my fault. These are -- this is my small brain trying

16 to figure this stuff out. So don't read anything in to

17 these questions.

18 A. I might be right there with you. Pretty

19 soon I'm going to send you to Mr. Cooper. He's the "N"

20 factor expert.

21 Q. Okay. We can save those for him if we need

22 to. But let's say today, under the current conditions,

23 the pass through was a 90/10 or something less than that,

24 and Noranda loses power or decides to move away.

25 A. Uh-huh.

1 Q. That could be, depending on where it is,
2 could increase the company's ability with a lowered
3 sharing mechanism to earn their authorized ROE, because
4 you would have -- under the same arguments that were made
5 at the rehearing, would have power to sell on the open
6 market?

7 I'm just taking the argument that the
8 company -- I'm taking the argument that the company made
9 in the motion for rehearing after the Report and Order
10 that said that if the sharing mechanism were kept at 95/5
11 and this money was returned back to the customers, that
12 they would -- it would be difficult, if not impossible,
13 for them to earn their returned ROE. So, but I --

14 A. And I think the reason why that was, and I
15 wasn't in those specific discussions, but I think the
16 reason why that was was because when base rates were set,
17 they were based on an assumption of a level of load. So
18 costs were allocated based on that load level. When that
19 load level dropped, that was a major change in those
20 assumptions, and that differential --

21 Q. Here's the mistake I'm making, which I now
22 realize what I'm doing, is that they requested a temporary
23 adjustment to the fuel adjustment clause. Once the
24 benefit ran out --

25 A. Yes.

1 Q. -- they wanted to go back to putting the
2 risk back on the customer?

3 A. Yes. Our goal was just to remain whole.
4 Our goal ultimately here is just to recover the costs that
5 we've incurred and not any more, not any less.

6 Q. Okay. All right. I understand where I'm
7 walking you down the wrong path here. I apologize for
8 that.

9 All right. So other states have done
10 90/10. That's as far as you can tell. There's some.
11 There's nothing lower than that. But it is also your
12 belief that among all the parties, that -- well, with
13 several prominent exceptions, at least between Staff and
14 Ameren, there is general agreement that a fuel adjustment
15 clause should continue in some form?

16 A. Yes. That's correct.

17 COMMISSIONER GUNN: All right. I apologize
18 for my confusion, and I don't have anything further.

19 JUDGE WOODRUFF: Commissioner Kenney.

20 QUESTIONS BY COMMISSIONER KENNEY:

21 Q. Hi. How are you?

22 A. I'm good. How are you?

23 Q. I'm doing well. Thank you. I'll be brief.

24 You say in your testimony, in the direct testimony that
25 without the FAC Ameren would have no reasonable

1 opportunity to earn its authorized ROE?

2 A. That's correct.

3 Q. Now, the FAC mechanism went into effect
4 after the '08 rate case?

5 A. It went in effect in March of '09, which
6 was upon order after the '08 rate case.

7 Q. There were periods of time prior to March
8 of '09 that Ameren did earn its authorized ROE, correct?

9 A. I believe there was a chart in Mr. Baxter's
10 testimony, and I want to say maybe for two months or three
11 months, there might have been isolated instances where we
12 may have reached it. I don't think during 2009 proper we
13 ever did, but I don't recall specifically.

14 Q. Not in 2009 proper, but in April and May --
15 I'm looking at Mr. Baxter's chart. In April and May of
16 '08 and March of '08 you got close. September of '07 was
17 close to 10 percent. I guess what I'm getting at, is it
18 fair to say that the FAC -- because the way your testimony
19 reads, it makes it seem as if the FAC is the sole
20 mechanism that's responsible for -- or the absence of it
21 is responsible for Ameren's inability to earn its
22 authorized ROE.

23 A. I don't think that's what it's mean to say.
24 I think the -- it's certainly a contributing factor, and
25 given the fact that almost half of our total expenses are

1 fuel related, it certainly is a large contributing factor,
2 and the volatility and the magnitude of increases that
3 we've seen suggest that it certainly is a significant
4 factor.

5 Q. But you would agree with me that it's maybe
6 a bit of an overstatement to say that Ameren has no
7 reasonable opportunity to earn its authorized ROE without
8 the FAC?

9 A. Well, I think that there's a whole lot of
10 tools that are in the war chest of the Commission to use
11 to help mitigate regulatory lag and to provide us
12 opportunities to earn a sufficient return, and the FAC is
13 just one. Interim rates was another one, and we went down
14 that path for a little while. So there are lots of
15 opportunities and different ways to do it. This is just
16 one.

17 Q. Would it be fair to say that it's Ameren's
18 position that excess-- or that regulatory lag is really
19 the problem and the FAC is a mechanism to mitigate it?

20 A. Executive regulatory lag is a problem, and
21 the FAC is one way to mitigate it, yes.

22 Q. What is your definition of excessive
23 regulatory lag as you understand it?

24 A. Well, I would say excessive regulatory lag
25 is when, even under the best circumstances, we do not have

1 sufficient opportunity to earn the authorized return the
2 Commission's granted us. I'm not sure you can put a time
3 frame around that.

4 COMMISSIONER KENNEY: That's all the
5 questions I have. Thank you.

6 THE WITNESS: Thank you.

7 JUDGE WOODRUFF: Thank you. Recross based
8 on those questions from the Bench. Looks like AARP's
9 first.

10 MR. COFFMAN: I have one line of questions.

11 RECROSS-EXAMINATION BY MR. COFFMAN:

12 Q. Based on Commissioner Kenney's questions,
13 would you agree with me that there was excessive
14 regulatory lag during the, say the 1990s when AmerenUE's
15 costs were generally going down?

16 A. I wasn't with the company then, so I don't
17 know that I was really familiar with the industry at that
18 time. But I do understand that we had opportunities with
19 the alternative regulation plan in the '90s and did refund
20 customers back for anything that was in excess of what our
21 authorized return was at that time.

22 Q. Do you know what your authorized return was
23 under the experimental alternative regulatory plan?

24 A. Somewhere around 12 percent, 13 percent.

25 Q. And do you -- do you understand what the

1 time limit is for a rate reduction complaint case in
2 Missouri?

3 A. I believe it's 11 months, just --

4 Q. Would you believe that there is no time
5 limit and, in fact, it can go -- those rate complaint,
6 rate reduction cases can go on for a year or --

7 MR. BYRNE: I'm going to object. Counsel's
8 testifying. She's already testified she doesn't know what
9 the length of time is, or she said 11 months.

10 BY MR. COFFMAN:

11 Q. Can you at least agree with me that
12 regulatory lag can work both directions?

13 A. Absolutely, it can, and a component of
14 regulatory lag is an important element of the process, but
15 when it becomes excessive to the point where companies
16 can't in any reasonable way earn the authorized return
17 that the Commission's granted it, then I believe it
18 becomes counterproductive.

19 MR. COFFMAN: That's all I have.

20 JUDGE WOODRUFF: Any other parties wish to
21 recross? Public Counsel.

22 RE-CROSS-EXAMINATION BY MR. MILLS:

23 Q. Ms. Barnes, I believe in response to a
24 question from one of the Commissioners, you said you
25 didn't look at the 5 percent -- well, the fact that only

1 95 percent of the changes in fuel costs go through the
2 fuel adjustment clause, that you did not view that as an
3 incentive but rather as a disallowance. Do you recall
4 that?

5 A. Yes.

6 Q. Assume with me that you've got another
7 category of costs, the cost for paper in our office
8 buildings goes up between rate cases. Are you with me so
9 far?

10 A. Yes.

11 Q. And in rate -- the first rate case, the
12 amount in base rate is set at X amount, and in the second
13 rate case it's set to capture the increase in costs
14 between the two cases. Are you with me so far?

15 A. Uh-huh.

16 Q. Would you consider the fact that you did
17 not recover your changes as they happened between the two
18 cases as a disallowance?

19 A. I guess in the truest form, yes, it is a
20 disallowance of costs.

21 Q. So any cost change that you don't capture
22 in real time you consider to be a disallowance?

23 A. Well, I think the idea of a rate case is
24 to --

25 Q. Can you first answer my question? Is that

1 yes or no?

2 A. Yes, I guess so.

3 MR. MILLS: That's all the questions I
4 have. Thank you.

5 JUDGE WOODRUFF: Staff?

6 MR. WILLIAMS: Thank you, Judge.

7 RE CROSS-EXAMINATION BY MR. WILLIAMS:

8 Q. Ms. Barnes, you more than once talked about
9 the high amount of fuel expense that AmerenUE has and the
10 high volatility it's experienced, have you not?

11 A. Yes.

12 Q. When you were referring to fuel costs, were
13 you talking about just the cost of fuel and purchased
14 power or were you talking about net fuel costs where the
15 cost of fuel and purchased power was netted against
16 off-system sales revenues?

17 A. Actually, if you look at net base fuel
18 costs, the reason for the substantial increase in net base
19 fuel costs in this case versus what's in rates currently
20 is really related to off-system sales largely because of
21 power prices going down.

22 Q. And is the volatility you've been referring
23 to then for AmerenUE a result of the off-system sales?

24 A. Well, that's certainly one factor. I mean,
25 we can have -- we experience volatility in the others as

1 well, but that's the most dramatic one that we've seen in
2 the last 12 months.

3 Q. And don't you have different types of power
4 plants?

5 A. Yes. We buy fuel for coal, nuclear and gas
6 primarily, a little oil, I think.

7 Q. And what volatility do you experience in
8 your nuclear fuel costs?

9 A. Our nuclear fuel cost, obviously we have
10 refuelings every 18 months, and the nuclear fuel costs
11 have gone up. Mr. Irwin can give you details about that.
12 But in components of buying the uranium as well as in the
13 enrichment process, we've seen those costs go up. And
14 we've got known and measurable increases that will be
15 effective before the rates go into effect here that are
16 actually not currently being included in our costs at this
17 time.

18 Q. We've been talking about volatility, not
19 just increased costs. When you talk about nuclear, you
20 indicated you had 18 months refueling. So is the
21 volatility every 18 months?

22 A. There's been volatility -- again, Mr. Irwin
23 can give you many more details around this, but there's
24 volatility in the enrichment process costs as well as in
25 the purchase of the raw uranium.

1 Q. Then you mentioned coal was another fuel
2 source.

3 A. Yes.

4 Q. Would you go into the volatility around
5 coal?

6 A. Our coal volatility is in both the purchase
7 of the coal and the transportation costs. Again, Mr. Neff
8 will be one of the witnesses who can give you the details
9 about that.

10 Q. And do you know the frequency with which
11 those costs change?

12 A. Generally, I believe they have escalation
13 clauses in those contracts that go into effect every
14 January.

15 Q. So it's annual?

16 A. Annual.

17 Q. You also have gas generation, do you not?

18 A. Yes, we do.

19 Q. And could you explain about the volatility
20 in those gas costs?

21 A. Again, Mr. Massmann will be on the stand.
22 You can ask him details. But we are purchasing those, and
23 there has been a lot of change in the market, the NYMEX
24 market for gas, I understand.

25 Q. And do you have any idea of what percentage

1 of AmerenUE's generation is related to gas?

2 A. No. I would defer you to Mr. Massmann
3 about those details. It's very small, but still
4 significant.

5 Q. When you say very small, less than
6 25 percent?

7 A. It's less than nuclear and less than coal.
8 Beyond that, I couldn't tell you specifically.

9 MR. WILLIAMS: No further questions. Thank
10 you.

11 JUDGE WOODRUFF: MIEC?

12 RE-CROSS-EXAMINATION BY MS. VUYLSTEKE:

13 Q. Ms. Barnes, I just have one clarifying
14 question based on your discussion with Commissioner Gunn.
15 Referring to the Stipulation & Agreement, is it your
16 understanding that the 40,000 dollar (sic) megawatt hour
17 trigger only applies to the loss of Noranda load?

18 A. Again, I'm not the detail expert on the "N"
19 factor, but it is called the "N" factor, I believe it does
20 relate primary to Noranda.

21 MS. VUYLSTEKE: Thank you.

22 JUDGE WOODRUFF: Redirect?

23 MR. BYRNE: Yes, your Honor.

24 REDIRECT EXAMINATION BY MR. BYRNE:

25 Q. Ms. Barnes, earlier Mr. Coffman was talking

1 about business risk. Do you recall that line of
2 questioning?

3 A. Yes.

4 Q. And I believe he asked you if having an FAC
5 would significantly change your business risk. Do you
6 remember those questions he asked you?

7 A. Uh-huh.

8 Q. My question is this: Would having an FAC
9 change AmerenUE's business risk relative to other electric
10 companies around the United States?

11 A. Yes. I think in the context I was talking
12 about where we're competing for capital, our cash flows,
13 and we generate negative cash flows from our operations,
14 so we have to go to the market if we want to fund the
15 investments that are needed in our business to remain high
16 reliable generator and deliver power.

17 And if we don't have a fuel adjustment
18 clause and the mainstream of the majority of utilities
19 that we're competing for capital with do have a fuel
20 adjustment clause, it makes it much more difficult for us
21 to compete for that same dollar. And if we are able to
22 access the markets, the interest rates and the borrowing
23 costs that we would incur would be higher. So ultimately
24 over the long term that would result for higher rates for
25 customers because we'd pass those interest costs on to the

1 consumer most likely.

2 Q. Ms. Barnes, if we have a fuel adjustment
3 clause with a 95 percent or a 5 percent -- or a 100
4 percent pass through, are we -- do we have the same
5 business risk or different business risk than other
6 electric utilities?

7 A. I think having the FAC is the -- is an
8 important element. From a sharing perspective, I think it
9 gets back to recovering our costs and improving the cash
10 flows. If we have a 100 percent pass through, then we
11 improve our cash situation, which means we don't have to
12 go to the market as quickly to borrow or access for
13 funding the investments that we need to make.

14 If we're disallowed costs because of the
15 sharing mechanism, that just raises the need, increases
16 the need for us to need to go to market to get the funds
17 that we need.

18 Q. In answer to another question, Ms. Barnes,
19 I think you referred to the 5 percent sharing mechanism as
20 a 5 percent disallowance of costs that haven't been shown
21 to be imprudent. I was wondering if you could expand on
22 that a little bit. Why do you think that's an
23 disallowance?

24 A. Well, effectively there haven't been any
25 indication from any of the testimony that we've had in

1 this case that we've been imprudently managing our costs.
2 I think we have a track record, frankly, before we had an
3 FAC that suggests that we manage our fuel costs pretty
4 well. So if we have to keep 5 percent and don't have the
5 ability to share that cost increase and pass that on to
6 recover it from our customers, then essentially it is a
7 disallowance of costs in my estimation.

8 Q. Would that get better or worse if the
9 5 percent became 20 percent?

10 A. It would get worse, obviously.

11 Q. Okay. Mr. Mills made some comparisons of
12 your incentive compensation to the fuel adjustment sharing
13 percentage. Do you recall that line of questioning?

14 A. I do recall that.

15 Q. Do you think it's -- do you think that's a
16 fair comparison of an incentive compensation percentage to
17 a sharing percentage under the fuel adjustment clause?

18 A. No, not really. First of all, as I
19 mentioned, none of my incentive compensation is paid for
20 by consumers anyway. But essentially our employees who
21 are in this business, and you certainly can feel free to
22 question them when they're here, their compensation has
23 not changed and the metrics that we use to compensate them
24 for performance hasn't changed with or without an FAC.

25 They're always looking for the way to

1 manage our costs as prudent a way as possible and as
2 efficient a way as possible, and we do the best we can
3 given the control that we have and the influence we have,
4 which is not much, over any of those factors.

5 Q. Ms. Barnes, if you don't receive
6 100 percent of your incentive compensation in any year, is
7 that a disallowance of prudently incurred costs that
8 you've incurred?

9 A. No. I guess I never had it, so I don't
10 know that I lost it. I don't think of myself as a
11 regulated entity that has the ability to recover my costs.

12 Q. Let me ask you this. What if your boss
13 only let you recover 95 percent of your expenses, of your
14 prudently incurred expenses of driving down here to
15 Jefferson City, would that be okay with you?

16 A. Well, no, actually.

17 Q. What if he only let you recover 80 percent
18 of your prudently incurred expenses of driving down to
19 Jefferson City?

20 A. I think that would not be quite fair
21 either.

22 Q. In a conversation you had with Commissioner
23 Gunn, I think at one point his -- I think his question
24 was, well, wouldn't fuel costs be recovered anyway even if
25 you didn't have a fuel adjustment clause, it would just be

1 delayed? Is that true or is that not true?

2 A. No. As I tried to clarify, even in the
3 best regulatory framework, there's always going to be at
4 least four or five months of time where we would incur an
5 increase in fuel, or a decrease for that matter, and it
6 would not be impacting rates and flowing through to
7 customers.

8 Q. So if you incurred a fuel cost increase in
9 that five or six months of delay, I guess, between the
10 cutoff date for the known and measurable changes and when
11 rates went into effect, would you ever be able to recover
12 that?

13 A. No.

14 Q. And give me an idea of the magnitude of
15 those costs. Let's imagine that -- well, let's imagine
16 that we didn't have a fuel adjustment clause right now,
17 and what -- do you know what the magnitude of the fuel
18 cost increase is for the first six months of 2010?

19 A. I believe Mr. Lowery included it in his
20 opening comments, but it was around -- it's around *****.

21 Q. And if we didn't have a fuel adjustment
22 clause, would we -- what would happen to that *****
23 million?

24 (**Reporter's note: This portion of the
25 testimony was redacted as HC and is contained in Volume 30

1 of the transcript.)

2 A. Well, that was just covering the period
3 from January through June, so --

4 Q. Would we recover that --

5 A. No.

6 Q. -- if we didn't have a fuel adjustment
7 clause?

8 A. No, even if we filed right after this case
9 concluded.

10 Q. What would happen to that?

11 A. The shareholders would bear that burden.

12 Q. Okay. And do you know how many basis
13 points just that ***** million translates into?

14 A. Roughly ***** I want to say.

15 (**Reporter's note: This portion of the
16 testimony was redacted as HC and is contained in Volume 30
17 of the transcript.)

18 Q. You had a fairly long discussion with
19 Commissioner Gunn about Noranda and their loss, and I
20 guess I'd like to clear that up as much as I can on the
21 record. Tell us what happened with Noranda.

22 A. Basically what happened with Noranda is a
23 day maybe, 24 hours after the Order from the last case was
24 awarded, there was an ice storm in southeast Missouri
25 which knocked out power and did some damage to Noranda, so

1 they dropped their load. Because of how rates were set
2 and because of --

3 Q. Before you keep going, what was the
4 magnitude of the drop in their load and what was the
5 magnitude of the drop in dollars, if you know, order of
6 magnitude?

7 A. You know, I don't have those details, other
8 than I just -- Noranda is by far the largest customer that
9 we have, so when they drop load, it's significant for us.

10 Q. Is it hundreds of thousands, millions, tens
11 of millions of dollars?

12 A. It was tens of millions of dollars.

13 Q. And how were those -- how were those tens
14 of millions of dollars in Noranda revenue treated in the
15 rate case where the Order was issued one day before the
16 storm happened?

17 A. They would have seemed to be recovered in
18 native load, so --

19 Q. So when Noranda got knocked out and we lost
20 tens of millions of dollars, did that have an impact on
21 AmerenUE?

22 A. Absolutely.

23 Q. Okay. And would that -- would that impact
24 have been changed at all if there was a different sharing
25 percentage in the fuel adjustment clause?

1 A. Well, it would have changed if we -- if we
2 sold the power on the off-systems market, more of the
3 benefit would have been kept by us, I guess, if the
4 sharing would have been increased.

5 Q. Let me take a hypothetical. Let's imagine
6 that we lost \$50 million a year when Noranda went down,
7 and then let's imagine -- I guess let's imagine we had
8 taken that power and sold it in the off-system market for
9 the same price, so we would have gotten \$50 million. I
10 guess are you -- we would have lost the \$50 million to
11 start with from losing the Noranda load, right?

12 A. Right.

13 Q. What would we have gotten back?

14 A. We would have gotten back 5 percent of the
15 50 million that we sold.

16 Q. And if it was a 10 percent sharing
17 mechanism, how much would we have gotten back?

18 A. \$5 million.

19 Q. You talked about -- you talked about some
20 other states that have sharing mechanisms, and I think you
21 said 90/10 sharing mechanism was the most extreme sharing
22 mechanism you were aware of. Do you know about how many
23 states have a 90/10 sharing mechanism?

24 A. Not off the top of my head. I mean, not
25 every state has sharing mechanisms.

1 Q. Like, less than five?

2 A. Yeah. I want to say between five and ten
3 maybe. I don't recall specifically.

4 Q. In response to Commissioner Kenney, I think
5 he asked you a little bit about excessive regulatory lag
6 and what's excessive. Do you remember that line of
7 questioning?

8 A. Uh-huh.

9 Q. And I guess my question is, does cash flow
10 have any impact on excessive regulatory lag? Is that an
11 indication of excessive regulatory lag?

12 A. Clearly it is. You know, I mean we look at
13 earnings, but we also look at cash flows. As I said, we
14 generate negative cash flows from our operations just as a
15 normal course. So when you have regulatory lag, for
16 example, as we have in the FAC as it's currently
17 implemented, even though we eventually recover the costs,
18 there's a 16-month gap between when we incur the cost and
19 when we actually collect it from customers. And so during
20 that period of time we don't have access to that cash, and
21 it exasperates, then, the negative cash flow.

22 Q. Do you have any idea what the magnitude of
23 AmerenUE's negative cash flow is?

24 A. Hundreds of millions of dollars.

25 Q. Okay.

1 A. On an annual basis.

2 Q. How about earnings, do earnings have -- are
3 earnings in indicia of excessive regulatory lag? Are low
4 level of earnings an indication?

5 A. In some cases, it can be. It's much more a
6 cash flow issue, I think, than an earnings issue.

7 Q. Okay. Do you know what AmerenUE's -- what
8 the impact on AmerenUE's earnings would have been in 2009
9 if we had not had a fuel adjustment clause?

10 A. Our operating income would have decreased
11 \$18 million, and it would have dropped our ROE by about 60
12 basis points.

13 Q. Mr. Williams asked you some questions about
14 the volatility of, I think it was of off-system sales
15 revenues. I think you said they've been very volatile; is
16 that correct?

17 A. Uh-huh. That's correct.

18 Q. But are there also costs that have
19 increased in between this last rate case and this rate
20 case, fuel costs?

21 A. Coal costs again through the escalation
22 provisions as of January 1st, 2010, coal costs went up.

23 Q. And if we had not had a fuel adjustment
24 clause or if we had had a fuel adjustment clause with
25 worse sharing percentage, what would have happened to

1 those coal cost increases?

2 A. They would have been absorbed by the
3 shareholder.

4 Q. Do you know how much net fuel costs have
5 gone up between last rate case and this rate case?

6 A. About \$200 million.

7 MR. BYRNE: Thank you, Ms. Barnes. I don't
8 have any further questions.

9 JUDGE WOODRUFF: All right. Ms. Barnes,
10 you can step down.

11 Next witness is Robert Neff. Good
12 afternoon, Mr. Neff.

13 THE WITNESS: Good afternoon.

14 (Witness sworn.)

15 JUDGE WOODRUFF: Thank you. And I assume
16 you were in the room when I gave my little speech to
17 Ms. Barnes about only answering the questions that are
18 asked and --

19 THE WITNESS: Yes.

20 JUDGE WOODRUFF: -- we'll be able to move
21 much smoother.

22 THE WITNESS: Yes.

23 JUDGE WOODRUFF: You may inquire.

24 ROBERT NEFF testified as follows:

25 DIRECT EXAMINATION BY MR. LOWERY:

1 Q. Would you please state your name for the
2 record.

3 A. My name is Robert Neff.

4 Q. Mr. Neff, are you the same Robert K. Neff
5 who caused to be prepared one piece of prefiled testimony,
6 which has been premarked as Exhibits 124NP and HC?

7 A. Yes.

8 Q. Do you have any corrections to that
9 testimony?

10 A. No.

11 Q. If I were to ask you the same questions
12 that are posed in the testimony, would your answers be the
13 same?

14 A. Yes, they would.

15 MR. LOWERY: Your Honor, I would offer
16 Exhibits 124NP and HC and tender the witness for
17 cross-examination.

18 JUDGE WOODRUFF: 124NP and HC has been
19 offered. Any objections to their receipt?

20 (No response.)

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

23 (EXHIBIT NOS. 124NP AND 124HC WERE MARKED
24 AND RECEIVED INTO EVIDENCE.)

25 JUDGE WOODRUFF: For cross-examination,

1 again beginning with Missouri Retailers?

2 MR. SCHWARZ: No questions, Judge.

3 JUDGE WOODRUFF: AARP?

4 MR. COFFMAN: No questions.

5 JUDGE WOODRUFF: Public Counsel?

6 MR. MILLS: Yes, just a few questions.

7 CROSS-EXAMINATION BY MR. MILLS:

8 Q. Mr. Neff, how much of your compensation is
9 at risk as incentive compensation?

10 A. 40 percent.

11 Q. And have you ever gone to your boss and
12 suggested that that should be reduced to only 5 percent?

13 A. I've suggested that my base salary should
14 be higher, but I have not suggested that my bonus should
15 be reduced.

16 Q. So you suggested that your base should be
17 higher, but not necessarily that the percentage that's at
18 risk should be lower?

19 A. That's right.

20 MR. MILLS: No further questions.

21 JUDGE WOODRUFF: For Staff?

22 MR. WILLIAMS: Just a few questions.

23 CROSS-EXAMINATION BY MR. WILLIAMS:

24 Q. Mr. Neff, you're familiar with AmerenUE's
25 coal purchases?

1 A. Yes, I'm responsible for AmerenUE's coal
2 purchases.

3 Q. And how often does AmerenUE's coal costs
4 change?

5 A. The majority of the contracts, the costs
6 change annually, but there's some costs that change within
7 the year as well.

8 Q. You said a majority. How much is a
9 majority, where they change annually?

10 A. I would say 90 percent of the costs change
11 annually.

12 Q. And can you give us some idea as to the
13 magnitude of the change or does it vary?

14 A. The change within the year?

15 Q. The annual changes.

16 A. The annual changes, it varies from year to
17 year. This year we're seeing a \$53 million increase in
18 AmerenUE's coal costs, which is a 9 percent increase.
19 Next year we're projecting \$56 million increase, which is
20 an 8 percent increase. 2012 we're projecting a
21 \$111 million increase, which is a 15 percent increase and
22 so on.

23 Q. Are those orders of magnitude what you've
24 been -- what AmerenUE's been experiencing in the recent
25 past as well?

1 A. Yes. We've been in a rising cost
2 environment, so these increases would be typical, yes.

3 MR. WILLIAMS: No further questions.

4 JUDGE WOODRUFF: For MIEC?

5 MS. VUYLSTEKE: No questions. Thank you.

6 JUDGE WOODRUFF: All right. We'll come up
7 for questions from the Bench. Commissioner Davis?

8 QUESTIONS BY COMMISSIONER DAVIS:

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. Good afternoon, Mr. Neff.

12 A. Good afternoon.

13 Q. Okay. So are you aware with, you know,
14 what -- assuming a coal -- your coal contract goes up
15 \$50 million a year roughly, are you aware of, you know,
16 what that translates into in terms of earnings for the
17 company or if it's -- if it's unaccounted for expense, say
18 the number goes up \$50 million and the company is earning
19 10 percent, do you know, does that bring the company's
20 earnings down -- just in and of itself, does that bring
21 the company's earnings down to 9 percent, a little less
22 than 9, 8? Do you have any idea?

23 A. Well, a \$50 million increase would be
24 subject to the sharing mechanism, so 5 percent would
25 affect our earnings, so that would be \$2.5 million effect

1 on earnings.

2 Q. But assuming there was no sharing mechanism
3 in place?

4 A. Yes. That would direct earnings directly,
5 yes.

6 Q. And is there -- is there any way that
7 Ameren could time the escalator clauses in its coal
8 contracts to more closely coincide with rate cases or --
9 I'm just trying to -- how about you answer that question?

10 A. You mean absent an FAC?

11 Q. Absent an FAC or even with an FAC, you
12 know, for those people that -- those people that are
13 philosophically opposed to FAC, how do you -- was there
14 any -- anything you can do differently or do better in
15 terms of how you time these contracts?

16 A. We could certainly time our contracts
17 differently than January 1st. However, I think the
18 regulatory process always results in a five-month lag in
19 recovery of those costs just because the way the rate case
20 process works and the true-up after a six-month period.

21 COMMISSIONER DAVIS: Okay. I'll pass,
22 Judge.

23 JUDGE WOODRUFF: Commissioner Jarrett?

24 COMMISSIONER JARRETT: Mr. Neff, I don't
25 have any questions, but I appreciate your testimony.

1 Thanks.

2 JUDGE WOODRUFF: Commissioner Gunn?

3 COMMISSIONER GUNN: Just a couple, and I
4 hope to be better this time.

5 QUESTIONS BY COMMISSIONER GUNN:

6 Q. So let's assume -- you're responsible for
7 the coal purchases, which is including the hedging program
8 on a going-forward basis?

9 A. That's correct.

10 Q. So in terms of the hedging program that you
11 have in place, would the -- would you do anything
12 differently today that you're currently doing if the -- if
13 the pass through mechanism became something less than 95?
14 Let's say it was 90 or 85. Do you believe that your
15 processes could become more efficient or any more
16 efficient than they currently are?

17 A. If the sharing mechanism was to change, we
18 would not change the way we purchase fuel. We did not
19 change from the time before we had an FAC until the time
20 when we started the FAC, and we -- if the sharing
21 mechanism changed, we would not change our method of
22 buying fuel.

23 Q. Okay. Because there's some -- there's some
24 testimony, which I don't know if it's been entered yet,
25 but there's some testimony that we've noticed in other

1 companies that they seem to become less concerned about
2 efficiencies in those programs once a fuel adjustment
3 clause has gotten to the point, but you haven't changed
4 anything from the 2008 case when the first fuel adjustment
5 clause was --

6 A. We still have the same hedging program, the
7 same systematic way of laying coal contracts. We have the
8 same risk management policies. We have not changed our
9 purchasing practices at all, because we believed that was
10 the best way to do it before we had an FAC and still
11 remains the best way to do it, we think.

12 Q. How often do you analyze the programs
13 themselves for efficiencies? Do you do internal audits or
14 anything to -- or industry reviews that determine that
15 what you're doing is both an industry standard and best
16 for the company?

17 A. We receive numerous audits over the course
18 of a year. We have internal audits. We have external
19 audits. Of course, we have now starting a Staff audit.
20 So we are audited quite frequently on our purchasing
21 practices.

22 Q. And that's from an efficiency standpoint?

23 A. Yes.

24 Q. Is there a difference -- are there
25 different standards in the industry? For example, is

1 there -- always kind of described, is there kind of a Ford
2 versus a Cadillac versus a Maserati version of hedging
3 practices?

4 A. There are different ways of hedging. We
5 think that our way is the best and results in the most
6 reliable and best cost fuel supply.

7 Q. So Ameren has the gold standard in terms of
8 industry practice?

9 A. In our opinion, yes.

10 Q. In your opinion. Okay. And so that
11 doesn't -- regardless of the pass through mechanism,
12 that's not going to change. So we're not going to see a
13 measurable increase in efficiency no matter what the pass
14 through mechanism is?

15 A. I would say that's correct, yes.

16 COMMISSIONER GUNN: Okay. Thank you. I
17 don't have anything further.

18 JUDGE WOODRUFF: Commissioner Kenney.

19 COMMISSIONER KENNEY: Mr. Neff, thanks for
20 your time. I don't have any questions.

21 JUDGE WOODRUFF: Anyone wish to recross
22 based on those questions from the Bench? Looks like
23 Public Counsel.

24 RE-CROSS-EXAMINATION BY MR. MILLS:

25 Q. I think in response to some questions from

1 Commissioner Gunn, you talked about your fuel purchasing
2 practices and the fact that they haven't changed due to
3 the fuel adjustment clause; is that correct?

4 A. That's correct.

5 Q. Have there been any changes since the last
6 rate case in the arrangements for pooling coal supplies
7 for UE and the coal used by merchant coal plants owned by
8 Ameren?

9 A. There have been no changes.

10 Q. Now, you said that you've got -- your coal
11 contracts have escalators that take effect every 12
12 months; is that correct?

13 A. Either expire and have new contracts or
14 there's escalation provisions in the existing contracts,
15 yes.

16 Q. Could you negotiate multiyear contracts
17 that have escalators every 15 months?

18 A. The standard would be escalation every
19 year, but conceivably we could negotiate a contract that
20 has an escalator every 15 months.

21 Q. Or 18 months?

22 A. Yes.

23 Q. As a result of AmerenUE's size and the
24 other Ameren companies, UE purchases -- I mean Ameren
25 purchases a very significant amount of Powder River Basin

1 coal; is that not true?

2 A. We purchase about 39 million tons of Powder
3 River Basin coal. It's about 8 percent of the Powder
4 River Basin coal production.

5 Q. Is there any other single purchasing entity
6 that purchase that much?

7 A. I know others come close, but we're the
8 largest PRB purchaser.

9 Q. Now, with respect to your hedging
10 practices, if the spot market price for coal doubled in
11 2011, how much would your coal costs go up?

12 A. 2011, we're approximately 66 percent hedged
13 at the current time or we still have 7 million tons left
14 to buy for AmerenUE for next year. The current price is
15 around 12.50 a ton. So if it doubled, that would be \$25 a
16 ton. So 12 times -- 12.5 times 7 is -- around
17 \$100 million it would go up

18 Q. Has that ever happened, in your experience?

19 A. The price of coal doubled?

20 Q. Yes.

21 A. It's happened twice in the past three
22 years.

23 Q. Over a one-year period?

24 A. Yes. Within a year's period, yes.

25 Q. And with respect to your coal

1 transportation costs, are those largely hedged as well
2 over the next few years?

3 A. We're 100 percent hedged through the end of
4 next year, '11, and then our Labadie contract expires,
5 which is about 45 percent of UE's coal burn is on that
6 contract.

7 Q. But through the end of 2011, your coal
8 transportation costs are essentially locked down; is that
9 true?

10 A. The base rates, yes.

11 MR. MILLS: No further questions.

12 JUDGE WOODRUFF: Staff or MIEC?

13 MS. VUYLSTEKE: No questions.

14 MR. WILLIAMS: No questions.

15 JUDGE WOODRUFF: Redirect.

16 REDIRECT EXAMINATION BY MR. LOWERY:

17 Q. Mr. Neff, I'll go back to questions that
18 Mr. Mills was just asking you. You were talking about be
19 100 percent hedged. Is there some assumption about
20 volume? When you say you're 100 percent hedged, is there
21 some assumption about volume in calling it 100 percent
22 versus 90 percent versus 110 percent?

23 A. In transportation, when we say 100 percent,
24 it is 100 percent because the transportation contracts
25 cover whatever we move. In coal, however, we purchase --

1 like I mentioned, we're 66 percent hedged. If the coal
2 volume would go up, we would be less hedged, or if it was
3 reduced, we would be more hedged.

4 Q. So if they had a very hot summer, for
5 example, and you had to buy 2 or 3 million more tons, what
6 would you have to do? How do you cover that additional
7 volumetric risk that you have?

8 A. We would have to go out in the market and
9 purchase it. For example, for this year, we came into the
10 year 93 percent hedged, which is about 1.5 million tons
11 short for the year. So we're at risk for any coal
12 movement movements within this year for that million and a
13 half tons.

14 Q. Mr. Williams asked you some questions about
15 the changing prices typically on each January 1. Do you
16 recall those?

17 A. Yes, I do.

18 Q. Does the -- does the volatility in the coal
19 spot market, does it affect what AmerenUE pays?

20 A. Absolutely. To the extent we participate
21 in the over-the-counter market, which we do for a small
22 portion of our coal, it affects it directly. The producer
23 market where we buy most of our coal, we buy from the coal
24 producers, that has -- directly impacts that market as
25 well.

1 Q. When you're layering in these hedges, and I
2 think when you -- the term hedge is used here, it's just
3 meaning you're contracting for a quantity of coal for a
4 particular period of time, right? That's what a hedge is,
5 right?

6 A. That's right.

7 Q. What price are you paying -- let's say
8 you're going to do a three-year deal with Arche Coal for,
9 I don't know, however many tons of PRB coal for the next
10 three years. What's determining the price that you end up
11 contracting for when you put that hedge in place?

12 A. What determines the price?

13 Q. Yes.

14 A. We typically go out for competitive bid
15 amongst all the PRB producers, and the lowest price bid is
16 what we would purchase.

17 Q. Does the market play any role in that
18 process?

19 A. Absolutely. When we get the bids, we
20 compare it the OTC market and there's an obvious
21 correlation. Usually the producers want a premium to the
22 OTC, because when you buy in the OTC market you're not
23 sure where the coal's going to come from. You have to
24 take it in one specific month. You're bound by the terms
25 of the OTC contract.

1 If you buy from a producer, you have some
2 more flexibility. You know the specific mine. Typically
3 they would charge a premium above OTC for producer coal.
4 Rarely if ever would you see them below the OTC price.

5 Q. I think you indicated in an answer to a
6 question that coal costs in 2010 were going up around
7 \$50 million. Do you remember that?

8 A. Yeah. That's correct.

9 Q. It seems my recollection is that for 2010,
10 the last time you were here, you were predicting actually
11 quite a bit bigger increase for 2010. Do you recall that?

12 A. Yes. In my prior testimony, we had
13 estimated coal cost increases in future years, and we
14 estimated the increase for 2010 to be \$99 million. It
15 ended up being 56.

16 Q. Is that because the market changed a lot
17 between what you thought at that time you were going to
18 layer in those coal hedges and what you actually layered
19 them in for?

20 A. Yes. There were several markets that came
21 down. The diesel fuel market was very high at the time we
22 made those estimates in the fall of 2008, and also the
23 coal markets were very high. So both of those markets
24 came down and impacted our increase.

25 Q. Do you ever see it go the other way, you

1 think that you're going to be layering in hedges over the
2 next five years at X price say a couple years out, three
3 years out, and it ends up being X plus a lot in the
4 market?

5 A. Yes. We just experienced that for our coal
6 for this year. In the past three months, the price has
7 gone up over \$2 a ton. So our coal that we still have to
8 buy this year has gotten more expensive.

9 Q. What kind of percentage move is \$2 a ton?

10 A. 20 percent. The price went from 10.25 to
11 12.45.

12 Q. Is it fair to say that the volatility in
13 the coal market affects AmerenUE's coal costs and the
14 certainty or uncertainty you have around those coal costs?

15 A. Yes. We buy in those markets all the time,
16 so it affects us.

17 Q. Commissioner Gunn asked you some questions,
18 and I think he was probably referring to Ms. Mantle's
19 testimony that isn't in the record yet but probably will
20 be shortly, about things at least she perceives that Staff
21 has seen in other companies. Do you recall that question?

22 A. Yes.

23 Q. About efficiencies that those other
24 companies may or may not be pursuing once they have an
25 FAC. Do you recall that?

1 A. Yes, I recall that.

2 Q. In coming into this rate case, did you do
3 anything differently in terms of the data, the analysis,
4 the calculations, et cetera, that you put into determining
5 what the coal costs should be on a normalized basis in
6 this rate case versus the last two?

7 A. No. It was almost identical.

8 Q. Why in your mind is it important to be
9 accurate in rebasing your fuel costs in each rate case
10 with or without an FAC?

11 A. Could you restate the question?

12 Q. Why do you try to be as accurate as you can
13 in every rate case in terms of arriving at what you think
14 the coal costs are actually going to be when rates are in
15 effect? Why is that important to you?

16 A. Because if you don't rebase them, you will
17 always lose 5 percent of them in the increases.

18 Q. Or if it went the other way, customers
19 might miss, right?

20 A. Absolutely, yes.

21 MR. LOWERY: That's all the questions I
22 have, Mr. Neff. Thank you.

23 JUDGE WOODRUFF: Mr. Neff, you can step
24 down.

25 THE WITNESS: Thank you.

1 JUDGE WOODRUFF: I don't intend to go late
2 tonight, but I want to go ahead and bring the next witness
3 up to get started and see how it goes on that. We'll call
4 Jaime Haro. Please raise your right hand.

5 (Witness sworn.)

6 JUDGE WOODRUFF: You may be seated. And I
7 assume you also heard my speech about only answering
8 questions you're asked --

9 THE WITNESS: Yes.

10 JUDGE WOODRUFF: -- and we'll keep things
11 moving here.

12 THE WITNESS: I will.

13 JUDGE WOODRUFF: All right. You may
14 inquire.

15 MR. BYRNE: Thank you, your Honor.

16 JAIME HARO testified as follows:

17 DIRECT EXAMINATION BY MR. BYRNE:

18 Q. Good afternoon, Mr. Haro.

19 A. Good afternoon.

20 Q. Could you please state your name for the
21 record.

22 A. Jaime Haro.

23 Q. And by whom are you employed, Mr. Haro?

24 A. AmerenUE.

25 Q. And are you the same Jaime Haro who caused

1 to be filed in this case direct testimony that's been
2 marked as Exhibit No. 125 and fuel adjustment clause
3 rebuttal testimony that's been marked as Exhibit No. 126?

4 A. Yes.

5 Q. Do you have any corrections that you need
6 to make to that prefiled testimony?

7 A. No corrections.

8 Q. Is the information contained in that
9 testimony true and correct to the best of your knowledge
10 and belief?

11 A. It is.

12 Q. And if I were to ask you the questions
13 contained in that prefiled testimony here today when
14 you're under oath, would your answers be the same?

15 A. Yes, they would.

16 MR. BYRNE: Your Honor, I'd offer Exhibit
17 Nos. 125 and 126 and tender Mr. Haro for
18 cross-examination.

19 JUDGE WOODRUFF: 125 and 126 have been
20 offered. Any objections to their receipt?

21 (No response.)

22 JUDGE WOODRUFF: Hearing none, they will be
23 received.

24 (EXHIBIT NOS. 125 AND 126 WERE MARKED AND
25 RECEIVED INTO EVIDENCE.)

1 JUDGE WOODRUFF: Cross-examination,
2 beginning with Public Counsel. There's nobody behind you.
3 CROSS-EXAMINATION BY MR. MILLS:
4 Q. Good afternoon, Mr. Haro. How are you?
5 A. Good afternoon. Doing good, thank you.
6 Q. Can you tell me what percentage of your
7 compensation is based on incentive pay and what percentage
8 is base pay?
9 A. 40 percent.
10 Q. 40 percent is incentive and 60 percent is
11 base?
12 A. Yes.
13 Q. And have you ever suggested to your boss
14 that you would be equally incented if 95 percent was in
15 base and only 5 percent was incentive?
16 A. Of the total compensation?
17 Q. Yes.
18 A. No, I have not.
19 MR. MILLS: Thank you. No further
20 questions.
21 JUDGE WOODRUFF: For Staff?
22 MR. WILLIAMS: No questions.
23 JUDGE WOODRUFF: For MIEC?
24 MS. VUYLSTEKE: No questions.
25 JUDGE WOODRUFF: Come up for questions from

1 the Bench.

2 COMMISSIONER GUNN: I don't have any
3 questions.

4 COMMISSIONER KENNEY: Nor do I.

5 JUDGE WOODRUFF: Then there's no need for
6 recross. Any redirect?

7 MR. BYRNE: Just one or two, your Honor.

8 REDIRECT EXAMINATION BY MR. BYRNE:

9 Q. Mr. Haro, if your boss paid you only
10 80 percent of your prudently incurred expenses to drive
11 down here from Jefferson City, would that be okay with
12 you?

13 A. No.

14 MR. BYRNE: Thank you. That's all I have.

15 JUDGE WOODRUFF: Mr. Haro, you can step
16 down.

17 THE WITNESS: Thank you.

18 JUDGE WOODRUFF: That went well. Let's try
19 Mr. Irwin. Good afternoon, Mr. Irwin. Please raise your
20 right hand.

21 (Witness sworn.)

22 JUDGE WOODRUFF: I assume you also heard my
23 speech about only answering the questions asked?

24 THE WITNESS: Yes, I did.

25 JUDGE WOODRUFF: Thank you. You may

1 inquire.

2 RANDALL IRWIN testified as follows:

3 DIRECT EXAMINATION BY MR. LOWERY:

4 Q. Would you please state your name for the
5 record.

6 A. Randall Irwin.

7 Q. And by whom are you employed?

8 A. AmerenUE.

9 Q. Mr. Irwin, am I correct that you've caused
10 to be prepared for filing in this docket prefiled
11 testimonies that have been premarked as Exhibits 127 and
12 128, both HC and NP versions?

13 A. Yes.

14 Q. Do you have any corrections to those
15 testimonies?

16 A. No, I do not.

17 Q. If I were to ask you the same questions
18 posed in those testimonies, would your answers be the same
19 today?

20 A. Yes, they would.

21 Q. And your answers are true and correct to
22 the best of your knowledge and belief; is that correct?

23 A. Yes, they are.

24 MR. LOWERY: With that, your Honor, I'd
25 offer Exhibits 127 and 128, both the HC and NP versions,

1 and tender Mr. Irwin for cross-examination.

2 JUDGE WOODRUFF: 127HC and NP and 128HC and
3 NP have been offered. Any objections to their receipt?

4 (No response.)

5 JUDGE WOODRUFF: Hearing none, they will be
6 received.

7 (EXHIBIT NOS. 127HC AND NP AND 128HC AND NP
8 WERE MARKED AND RECEIVED INTO EVIDENCE.)

9 JUDGE WOODRUFF: For cross-examination, for
10 Public Counsel?

11 MR. MILLS: Thank you.

12 CROSS-EXAMINATION BY MR. MILLS:

13 Q. Mr. Irwin, what percentage of your pay is
14 at risk as incentive pay and what percent is in base?

15 A. Only 10 to 15 percent is incentive.

16 Q. And have you ever suggested to your boss
17 that you would be equally incented if only 95 percent was
18 in base and 5 percent was in incentive?

19 A. No, I have not.

20 Q. Now, assume with me that you regularly
21 travel to Jefferson City, that's a routine part of your
22 job. Can you make that assumption?

23 A. Okay.

24 Q. That last year you were able to make the
25 trip, all expenses included, for \$100. Okay. Are you

1 with me on the assumption so far? And that your boss told
2 you that if you came back one more time, that if you were
3 able to drive that price down by X amount, that you would
4 get to keep some of the difference between the base amount
5 and the amount that you -- that you were able to drive
6 that price down. Would that give you some incentive to
7 drive the price down?

8 A. No. My philosophy is you try to keep costs
9 down no matter what the incentive is.

10 Q. So if you were able to get dollars back in
11 your pocket for driving the price down, you'd have no
12 incentive to do so?

13 A. Those are the company's dollars that I'm
14 getting reimbursed for.

15 MR. MILLS: No further questions.

16 JUDGE WOODRUFF: Staff?

17 MR. WILLIAMS: Thank you, Judge.

18 CROSS-EXAMINATION BY MR. WILLIAMS:

19 Q. Mr. Irwin, you're here on AmerenUE's
20 nuclear fuel costs, are you not?

21 A. Yes, I am.

22 Q. And how often do those costs change for
23 AmerenUE?

24 A. Well, you've got to understand that nuclear
25 fuel costs are comprised of four different components,

1 uranium costs, conversion costs, enrichment costs and
2 fabrication costs, and you have four different markets
3 you're in, and you have four different procurements that
4 go on. So they change basically all the time as far as
5 the different markets are concerned, because we buy
6 different times for uranium, different times for
7 conversion, enrichment and fabrication.

8 Q. Do you know what portion of AmerenUE's
9 nuclear fuel costs, what portion it makes of AmerenUE's
10 total fuel costs?

11 A. No, I do not.

12 Q. Do you have any idea?

13 A. I know that Callaway is about 20 percent of
14 the generation, but I don't know how that reflects to or
15 translates to fuel cost, total fuel cost.

16 MR. WILLIAMS: No further questions.

17 JUDGE WOODRUFF: For MIEC?

18 MS. VUYLSTEKE: No questions.

19 JUDGE WOODRUFF: Come up for questions from
20 the Bench.

21 QUESTIONS BY COMMISSIONER GUNN:

22 Q. Just some similar ones to Mr. Neff. Do you
23 operate a hedging program with the nuclear fuels, or does
24 it operate substantially differently than coal?

25 A. Hedging for nuclear fuel is really tied

1 into the uranium markets, and that market has just started
2 to develop. We've done very little hedging in that
3 regard. We're developing a program in house, but it
4 hasn't gone very far at all.

5 Q. Where is the industry in terms of hedging
6 uranium?

7 A. It's -- the whole industry is very -- it's
8 in its infancy. Little has been done that I'm aware of.

9 Q. So any program that you currently have is
10 consistent with industry practice right now?

11 A. Yes.

12 Q. Would you consider it be the top of the
13 industry practice or would you consider it just say an
14 industry standard?

15 A. I'd say it's probably a little above
16 standard. We've kind of led the ballgame a little bit.

17 Q. And would you do anything differently if a
18 fuel pass through was lower than it is right now?

19 A. No. We didn't change when the fuel
20 adjustment clause came into play from what we were doing
21 prior to that.

22 Q. So currently you believe you have the most
23 efficient, let's call it fuel management system for the
24 nuclear fuel costs that you can have?

25 A. Yes. We do our best to get the most

1 attractive prices available given the conditions of what
2 we're dealing with.

3 Q. Do you have similar amounts of audits and
4 reviews that the coal side does?

5 A. Maybe not as much as the coal side. We do
6 have some internal audit reviews of our practices.

7 Q. And how -- how do you -- this market is
8 just evolving, so how do you determine what the other
9 industry innovations are in keeping -- or getting the most
10 efficient lowest fuel cost possible?

11 A. When you said these markets are just
12 evolving, which --

13 Q. You said that the uranium hedge market --

14 A. Hedge market.

15 Q. So other than -- other than that, what
16 steps do you take on an everyday basis to make sure that
17 you're either complying with the industry standards in
18 terms of making sure that what you're doing is the most
19 efficient possible or that your hedge program is being
20 properly developed the way that the industry is or to
21 investigate other industry innovations that may make your
22 program better?

23 A. Well, we do discuss to the extent we can
24 procurement practice among the nuclear industry, although
25 what utilities do specifically on hedging is probably --

1 is more confidential to them. So other than maybe
2 comparing industry reports on where you are fuel cost
3 wise, nuclear fuel cost, that's about all I can suggest.

4 Q. Do you constantly review your own internal
5 practices?

6 A. We review it -- our hedging program is
7 governed by the Risk Management Steering Committee at
8 AmerenUE, and we discuss that at least once a year and
9 review where we are and should we change.

10 COMMISSIONER GUNN: Thank you. I don't
11 have any further questions.

12 JUDGE WOODRUFF: Commissioner Kenney?

13 COMMISSIONER KENNEY: No. Thanks,
14 Mr. Irwin. Thank you.

15 JUDGE WOODRUFF: Any recross based on
16 questions from the Bench? I don't see any.

17 MR. WILLIAMS: Judge, I'm going to ask a
18 few.

19 JUDGE WOODRUFF: Go ahead.

20 RE-CROSS-EXAMINATION BY MR. WILLIAMS:

21 Q. Commissioner Gunn asked you some questions
22 about AmerenUE and hedging of your uranium costs and other
23 nuclear-related fuel costs. Has AmerenUE hedged those
24 costs?

25 A. We have hedged a few purchases of uranium

1 that we have coming in 2010 and 2011, financial hedges.

2 Q. If it's not highly confidential, and if it
3 is we can go into in-camera, but what percentage have you
4 hedged through, I think you said through 2011?

5 MR. LOWERY: Your Honor, just to clarify,
6 we are not in-camera, and I don't know whether it is
7 confidential, Mr. Irwin, but wanted to make sure you were
8 aware of that.

9 THE WITNESS: Uranium contracts have prices
10 keyed into two different indicators. One is a spot market
11 price indicator. Another is a long-term market price
12 indicator. We have both of those indicators in contracts.

13 Secondly, the hedge program that's
14 developing in the marketplace is tied off of the spot
15 market price indicator. So we have limited ability to do
16 anything with contracts that right now are tied to the
17 long-term index.

18 So of spot market related contracts, for
19 2011 and '12 -- or '10-'11, I would say nominally 35 or
20 40 percent of our total deliveries. I won't disclose
21 that.

22 BY MR. WILLIAMS:

23 Q. You, I believe, tied it to the spot market.
24 What about long-term, or is that something --

25 A. We can't -- we're not able to hedge that

1 because there's not a direct correlation right now with
2 the long-term market index and any hedging market.

3 MR. WILLIAMS: No further questions.

4 JUDGE WOODRUFF: All right. Redirect.

5 REDIRECT EXAMINATION BY MR. LOWERY:

6 Q. Mr. Irwin, I want to go back to the
7 questions that Mr. Williams was just asking you because
8 I'm concerned that the use of the term hedging has
9 different meanings here and perhaps people aren't clear.
10 Is the hedging that you're talking about, is it a
11 volumetric hedge or is it a price hedge?

12 A. What I was talking about with matching to
13 spot market indicators and the 40 percent, that was a
14 price hedge.

15 Q. And 35 percent -- and so 35 percent of
16 whatever this amount is?

17 A. Whatever this amount is.

18 Q. What portion of the total uranium needs in
19 those years -- because I think you said a piece of
20 uranium's tied to the long-term, you can't hedge that, and
21 a piece is tied to spot. Apparently your total needs is
22 something less than the 35 percent, right?

23 A. Correct. It's -- if you look at what our
24 annual uranium needs may be, the percent hedged may be
25 more like 20 percent.

1 Q. And then that's just one piece of the four
2 pieces of the four pieces of the puzzle, so to speak,
3 right?

4 A. Yes.

5 Q. And those other pieces of puzzle, they're
6 unhedged, that true, in those time frames?

7 A. Price hedged?

8 Q. Yes.

9 A. There are no hedging markets to hedge
10 conversion prices, conversion services, enrichment
11 services or fabrication services, similar to what a
12 financial hedge you could do for a uranium market.

13 Q. So I guess that means that you may have
14 some contracts to do some of those things in place, but
15 the price you're going to pay for them is going to be
16 whatever the price is in the market at that time; is that
17 right?

18 A. It's either market-related pricing or some
19 contracts have base escalated provisions.

20 Q. So if 20 percent of the -- just the
21 uranium, maybe it's effectively 20 percent's priced
22 hedged, it's even a smaller percent of the total fuel
23 assembly, I guess, or whatever that you're actually going
24 to put in the reactor that's hedge for those years; is
25 that right?

1 A. Maybe more like 10 percent total.

2 Q. Mr. Williams asked you some questions
3 earlier, too, about how often -- how often there's changes
4 in the, I questions changes in the nuclear fuel costs
5 themselves, and I took it from his questioning he was
6 talking about -- he was kind of tying it to the every 18
7 month refueling. Is that how you understood his question?

8 A. Well, I tried to explain that our costs are
9 affected by four different markets, and we have different
10 procurements that happen throughout a time frame to build,
11 let's say, a reload of fuel. And clearly once -- once a
12 fuel reload is established, then you know the cost at that
13 18-month time frame. But throughout the process up to
14 that, you're buying different goods and services.

15 Q. The fact that you actually change, you have
16 a known cost that changes every 18 months, does that have
17 anything to do with exposure to market volatility between
18 those 18-month periods?

19 A. No. Market can change the next day, and we
20 may be buying the next day just based on our procurement
21 practice.

22 MR. LOWERY: Thank you, Mr. Irwin. That's
23 all the questions I have.

24 JUDGE WOODRUFF: Thank you, Mr. Irwin. You
25 can step down.

1 We've got two more witnesses for UE. I'm
2 assuming if we get them tonight, then they don't have to
3 come back tomorrow. I see nods out there. Let's try and
4 get them on. Mr. Massmann. Good afternoon.

5 THE WITNESS: Good afternoon.

6 JUDGE WOODRUFF: Please raise your right
7 hand.

8 (Witness sworn.)

9 JUDGE WOODRUFF: Thank you very much. You
10 heard my little speech about answering only the questions
11 you're asked?

12 THE WITNESS: Yes.

13 JUDGE WOODRUFF: Thank you. Have a seat,
14 and you can inquire.

15 MR. BYRNE: Thank you, your Honor.

16 JAMES MASSMANN testified as follows:

17 DIRECT EXAMINATION BY MR. BYRNE:

18 Q. Please state your name for the record,
19 Mr. Massmann.

20 A. My name is James Massmann.

21 Q. And by whom are you employed?

22 A. AmerenUE Energy Fuels and Services.

23 Q. And are you the same James Massmann that
24 caused to be filed in this case fuel adjustment clause
25 rebuttal testimony that's been marked as Exhibit No. 129HC

1 and 129NP?

2 A. Yes, I am.

3 Q. Do you have any corrections you need to
4 make to this testimony?

5 A. No, I do not.

6 Q. And is the information contained in that
7 testimony true and correct to the best of your knowledge
8 and belief?

9 A. Yes, it is.

10 Q. If I were to ask you the questions
11 contained in this prefiled testimony here today when
12 you're under oath, would your answers be the same?

13 A. Yes, they would.

14 MR. BYRNE: Your Honor, I'd offer Exhibit
15 Nos. 129HC and NP and tender Mr. Massmann for
16 cross-examination.

17 JUDGE WOODRUFF: 129HC and NP has been
18 offered. Any objections to their receipt?

19 (No response.)

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

22 (EXHIBIT NOS. 129HC AND 129NP WERE MARKED
23 AND RECEIVED INTO EVIDENCE.)

24 JUDGE WOODRUFF: For cross, Public Counsel.

25 CROSS-EXAMINATION BY MR. MILLS:

1 Q. Mr. Massmann, you've been in the back of
2 the room. You know what's coming. How much of your pay
3 is tied up in incentive pay and how much is in base pay?

4 A. 35 percent of my base pay is incentive.

5 Q. And have you ever suggested to your boss
6 that you would do an equally good job if only 5 percent of
7 your pay was at risk?

8 A. No, I have not.

9 MR. MILLS: No further questions.

10 JUDGE WOODRUFF: All right. For Staff?

11 CROSS-EXAMINATION BY MR. WILLIAMS:

12 Q. Mr. Massmann, are you here testifying about
13 natural gas?

14 A. Yes, I am.

15 Q. Prices in particular?

16 A. Cost for natural gas for Ameren.

17 Q. Do you know what percentage of AmerenUE's
18 total fuel and purchased power costs are related to
19 natural gas?

20 A. It's changed quite a bit over the years.
21 Prior to the global financial crisis, natural gas costs
22 have grown to about \$79 million for AmerenUE, and that
23 was -- at the time that was about 13 percent of the total
24 fuel costs.

25 Q. And at what time was that?

1 A. That was 2007.

2 Q. Do you know about currently?

3 A. In 2008, it was approximately 48 million.

4 I believe in 2009 it was down to about 24 million.

5 Q. And do you know what 24 million is as a

6 percentage of AmerenUE's total fuel and purchased power

7 costs?

8 A. I don't have that percentage at my hand.

9 Q. No idea at all?

10 A. I'd have to calculate that. I'm not sure

11 what the total fuel cost is. I know it's gone up

12 significantly over the last few years. I think it -- I

13 don't have that number in my head, though.

14 Q. Well, you did for 2007. Is it something

15 less than the 13 percent you gave for 2007?

16 A. I suspect it is.

17 MR. WILLIAMS: No further questions.

18 JUDGE WOODRUFF: MIEC?

19 MS. VUYLSTEKE: No questions.

20 JUDGE WOODRUFF: Come up for questions from

21 the Bench. Commissioner Davis?

22 CHAIRMAN DAVIS: No questions.

23 COMMISSIONER JARRETT: I have no questions.

24 Thank you for your testimony.

25 QUESTIONS BY COMMISSIONER GUNN:

1 Q. I'll ask you similar questions that I asked
2 as well. The process that you use, do you believe that it
3 is the most efficient process that you have, you can have?

4 A. Yes, it is. We have not changed our
5 process since we had the fuel adjustment clause.

6 Q. And that process wouldn't change if the
7 sharing mechanisms were reduced or, let's say, increased?

8 A. No. We would use the same prudent
9 management of the -- of procuring natural gas for our
10 generators.

11 Q. And what processes do you use to ensure
12 that that process is always up to date? What reviews,
13 what industry standards do you look at? How do you make
14 sure that your shop is running the most efficiently and
15 doing the gold standard?

16 A. Good question. There's a couple things
17 that we do. Each year, at the end of each year we do a
18 review of the performance of our strategy, of our plan for
19 managing natural gas fuels. From that, then we develop a
20 strategy looking forward for the next year and decide
21 which products work the best, which ones we need to change
22 and which of the new ones maybe the other industry is
23 using.

24 We talk to suppliers that provide natural
25 gas for many other generators, too, and talk to them about

1 what other products are out there that can help them out.

2 Q. Okay. And you would concur that you
3 believe in the industry you guys are the gold standard?

4 A. Well, we believe we're doing the best that
5 we can for this. I think Mr. Neff also mentioned that
6 there's a Risk Management Steering Committee that provides
7 policy and guidelines for us to manage our hedging of our
8 natural gas.

9 COMMISSIONER GUNN: Okay. I don't have any
10 further questions. Thank you, sir.

11 THE WITNESS: Thank you.

12 JUDGE WOODRUFF: Any recross based on those
13 questions? Public Counsel?

14 MR. MILLS: Just very briefly.

15 RE CROSS-EXAMINATION BY MR. MILLS:

16 Q. Tell me about the annual review process of
17 your hedging practices for the past year. Is that a
18 formal process?

19 A. It's a process where the group that manages
20 natural gas, they take a look and just see how each of
21 those different packages that they purchased performed.

22 Q. Is it a quantitative analysis that's
23 reduced to writing or a qualitative analysis?

24 A. It's more a qualitative analysis.

25 Q. Is there a report produced every year?

1 A. In the past several years, yes, there was a
2 report produced.

3 Q. And what has the general conclusion been
4 about the -- well, if it's different for each year, let me
5 know, but has there been a consistent conclusion that
6 you-all have been doing a good job, a bad job or lots of
7 room for improvement, or qualitatively how have you rated
8 yourselves?

9 A. There have been very minor changes that we
10 have made to it. Most of it has to do with changes that
11 we see in the market on an every day basis and how we
12 manage those changes.

13 MR. MILLS: Thank you. No further
14 questions.

15 JUDGE WOODRUFF: Staff or MIEC?

16 MS. VUYLSTEKE: No questions.

17 JUDGE WOODRUFF: Redirect.

18 MR. BYRNE: I don't think so. Thanks, your
19 Honor.

20 JUDGE WOODRUFF: Let's call Mr. Finnell.
21 you can step down. Good afternoon, Mr. Finnell.

22 THE WITNESS: Good afternoon.

23 JUDGE WOODRUFF: Please raise your right
24 hand.

25 (Witness sworn.)

1 JUDGE WOODRUFF: You may be seated. And I
2 assume you also heard my speech about answering only the
3 questions that are asked?

4 THE WITNESS: Yes, I did.

5 JUDGE WOODRUFF: Thank you. You may
6 inquire.

7 TIMOTHY FINNELL testified as follows:

8 DIRECT EXAMINATION BY MR. LOWERY:

9 Q. Would you please state your name for the
10 record.

11 A. Timothy D. Finnell.

12 Q. And by whom are you employed?

13 A. AmerenUE Services.

14 Q. Mr. Finnell, and I'm only going to ask you
15 about your fuel adjustment clause testimony. You're going
16 to appear on another day. But did you cause to be
17 prepared in this docket for filing fuel adjustment clause
18 rebuttal testimony?

19 A. Yes, I did.

20 Q. And that's been marked as Exhibit 132?

21 A. Yes.

22 Q. Do you have any corrections to that
23 testimony?

24 A. No, I do not.

25 Q. If I were to ask you the same questions

1 that are posed in the testimony, would your answers be the
2 same?

3 A. Yes, they would.

4 MR. LOWERY: Your Honor, with that, I would
5 move for the admission of Exhibit 132 and tender the
6 witness for cross.

7 JUDGE WOODRUFF: 132 has been offered. Any
8 objection to its receipt?

9 (No response.)

10 JUDGE WOODRUFF: Hearing none, it will be
11 received.

12 (EXHIBIT NO. 132 WAS MARKED AND RECEIVED
13 INTO EVIDENCE.)

14 JUDGE WOODRUFF: Cross-examination,
15 beginning with Public Counsel.

16 MR. MILLS: Thank you.

17 CROSS-EXAMINATION BY MR. MILLS:

18 Q. Mr. Finnell, you know what's coming, too.
19 How much of your pay is given to you as incentive pay and
20 how much is in base pay?

21 A. I have the ability to get up to 20 percent
22 from my incentive.

23 Q. And have you ever suggested to your boss
24 that you would be equally as incented if you had
25 95 percent in base rate and only 5 percent at risk?

1 A. No, I have not.

2 MR. MILLS: No further questions.

3 JUDGE WOODRUFF: Staff?

4 MR. WILLIAMS: Thank you, Judge.

5 CROSS-EXAMINATION BY MR. WILLIAMS:

6 Q. Good afternoon, Mr. Finnell.

7 A. Good afternoon.

8 Q. Are you here testifying about AmerenUE's

9 fuel in an overall sense?

10 A. I was responding to Ms. Mantle's testimony

11 about the company not producing a quality effort in

12 developing their net base fuel costs.

13 Q. Are you familiar with AmerenUE's fuel

14 expenses in terms of which types of generation contribute

15 which cost in terms of a proportion?

16 A. I have some of the information, yes.

17 Q. Well, can you give some idea of what

18 proportion of AmerenUE's total fuel and purchased power

19 costs is related to its expenses for its nuclear plants?

20 A. I believe in our direct testimony, about

21 \$67 million was related to nuclear fuel costs.

22 Q. And when you're talking -- are you talking

23 about the increase in cost or are you talking about the

24 total cost?

25 A. That was the total cost, yes.

1 from the Bench, so no need for recross. Any redirect?

2 REDIRECT EXAMINATION BY MR. LOWERY:

3 Q. Mr. Finnell, Mr. Williams was asking you
4 about proportion of gas costs, nuclear costs, coal costs.
5 Have you seen -- do you ever see when you look back for
6 actual results that the amount of gas costs that the
7 company incurs are vastly different than what the company
8 might have been predicting going into a year?

9 A. The amount of gas expenditures do vary
10 from year to year based on market conditions and system
11 conditions.

12 Q. Just for clarification, the 67 million
13 nuclear number that you gave, is that the number including
14 the refuel that's going to start in April or was that just
15 the direct case number?

16 A. That was what we filed in our direct case,
17 and that did have the refueling costs for the April
18 refueling outage.

19 MR. LOWERY: Thank you, Mr. Finnell. No
20 further questions.

21 JUDGE WOODRUFF: Mr. Finnell, you can step
22 down. Thank you.

23 We'll stop there for the night. When we
24 come back tomorrow, we'll be dealing with Ms. Mantle,
25 Mr. Brubaker and Mr. Kind for the fuel adjustment clause.

1 Do we know yet if the low income rate class is going to go
2 tomorrow?

3 MR. BYRNE: Your Honor, we do have a
4 settlement in principle where we've agreed on the outlines
5 of a low income program. And we can -- I don't know. You
6 know, I guess that will probably be reduced to the form of
7 a stipulation. I can give you some of the broad outlines
8 now if you'd like or you can just wait until we file the
9 stipulation.

10 JUDGE WOODRUFF: You can just wait 'til the
11 stipulation's filed. I'm just trying to figure out the
12 schedule for tomorrow is the reason I asked.

13 MR. LOWERY: Your Honor, you had asked
14 earlier today about testimony that was really related to
15 the stipulation, and if you'd like, I now know what
16 testimonies those should be at least for the company. I
17 can go ahead and offer them if you'd like to go ahead and
18 clean that detail up or we can wait.

19 JUDGE WOODRUFF: Let's wait 'til tomorrow
20 morning to do that.

21 MR. MILLS: Judge, given that we have a
22 light day tomorrow with the low income issue settling and
23 just a few witnesses remaining in fuel adjustment clause,
24 do you have any interest in starting late?

25 JUDGE WOODRUFF: Well, that's certainly a

1 possibility. I wanted to ask also about the union issue
2 is also on for tomorrow. I assume that's still going.

3 MR. BYRNE: That's not been settled.

4 JUDGE WOODRUFF: Not been settled. The
5 only other issue on there was the -- for March 23rd was
6 the rate case expense, which I believe is also settled.

7 MR. BYRNE: That's been settled.

8 JUDGE WOODRUFF: Would it be helpful to the
9 parties to start late?

10 MR. MILLS: Certainly would be helpful to
11 me. In addition to some other things going on, I've got
12 the Empire local public hearing tonight, which will
13 prevent me from getting prepared for this hearing
14 tomorrow.

15 JUDGE WOODRUFF: Let's go ahead and start
16 at ten o'clock, then. Okay. Then we are adjourned until
17 ten o'clock tomorrow.

18 WHEREUPON, the hearing of this case was
19 recessed until March 23, 2010.

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1

I N D E X

2

On-the-Record Presentation on First Unanimous
Stipulation & Agreement

2324

3

4

FUEL ADJUSTMENT CLAUSE

5

Opening Statement by Mr. Lowery

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Opening Statement by Mr. Williams

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Opening Statement by Mr. Mills

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Opening Statement by Ms. Vuylsteke

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Opening Statement by Mr. Coffman

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8

9

AMERENUE'S EVIDENCE:

10

LYNN BARNES

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, 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
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