

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Hearing
8 March 15, 2007
9 Jefferson City, Missouri
Volume 19

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

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

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

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22 REPORTED BY:

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

2 (EXHIBIT NO. 502 AND 504 WERE MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)

4 JUDGE WOODRUFF: All right. Welcome back
5 to day four, and when we left off last night, we had
6 finished Russell Trippensee. We're now ready for Michael
7 Brosch for the State of Missouri.

8 MR. MICHEEL: State would call Michael L.
9 Brosch.

10 (Witness sworn.)

11 MR. MICHEEL: Your Honor, I've given the
12 court reporter Mr. Brosch's direct testimony with respect
13 to the fuel adjustment clause, Exhibit 502NP and HC, and
14 his surrebuttal testimony, which has been marked for
15 purposes of identification as Exhibit 504NP/HC. And with
16 your leave, I have some live testimony with respect to the
17 new fuel adjustment clause proposal that appeared in the
18 tariff in Exhibit 104 in Mr. Lyons' surrebuttal testimony.
19 I'd ask your leave to proceed.

20 JUDGE WOODRUFF: Proceed.

21 MICHAEL BROSCH testified as follows:

22 DIRECT EXAMINATION BY MR. MICHEEL:

23 Q. Mr. Brosch, were you present for the
24 testimony of UE witness Baxter regarding changes to Union
25 Electric's proposed fuel adjustment clause tariff?

1 A. Yes, I was.

2 Q. And are you aware that there's a new
3 tariff, Exhibit 104, to replace Mr. Lyons' prefiled
4 exhibit that sets -- that was set forth in Ameren -- that
5 set forth Ameren's original proposal?

6 A. Yes, I'm aware of that.

7 Q. And have you -- since we got the tariff a
8 couple days ago, have you had an opportunity to review it?

9 A. Yes, a limited opportunity, but I have been
10 reviewing it.

11 Q. Are the details of a fuel adjustment clause
12 tariff important to define what costs are included versus
13 what costs are excluded for the rate adjustment?

14 A. Yes, they are. The details are very
15 important.

16 Q. In your direct testimony on the fuel
17 adjustment clause, Exhibit 502, at page 31, you mention a
18 problem with the fuel adjustment accounting regarding the
19 Taum Sauk outage, do you not?

20 A. Yes, I do.

21 Q. Does the company's revised tariff after
22 your review remedy the problem that you bring up on
23 page 31 of your direct?

24 A. No. That problem still exists in the sense
25 that actual fuel and purchased power costs are directly

1 impacted by the non-availability of Taum Sauk, and there's
2 no change to that problem by virtue of the new tariff.

3 Q. Also in your direct testimony, Exhibit 502
4 on the fuel adjustment clause at page 31, you describe a
5 problem associated with administering a fuel adjustment
6 clause for Union Electric because of the EEInc issue.
7 Does the company's revised tariff remedy that issue?

8 A. No, it does not. If the Staff's adjustment
9 for EEI is approved, there will be a problem in that
10 actual fuel expenses subject to an FAC tariff would not
11 reflect the availability of the Joppa plant.

12 (REPORTER'S NOTE: At this point, an
13 in-camera session was held, which is contained in
14 Volume 20, pages 1072 through 1073 of the transcript.)

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1 BY MR. MICHEEL:

2 Q. Does Union Electric's new proposal,
3 Exhibit 104, add a claim deficiency or sharing device?

4 A. Yes, it does.

5 Q. Why or why not is there any need for
6 incentive provisions when a fuel adjustment clause is
7 implemented?

8 A. Whenever an automatic pass-through device
9 is implemented for discrete elements of a utility's costs,
10 there is a wanting of incentives that would otherwise
11 exist to rigorously control those costs.

12 MR. BYRNE: Your Honor, I just -- we got
13 into some highly confidential information a moment ago.
14 In particular the amount of the demand charge in the
15 Entergy contract was highly confidential. I mean, again,
16 we can't unring the bell, but I'm hoping maybe we won't
17 ring the bell twice. We can unring in the written
18 transcript.

19 JUDGE WOODRUFF: It was a particular
20 number?

21 MR. BYRNE: Yes, it was a particular number
22 representing the demand charges under the Entergy Arkansas
23 contract.

24 JUDGE WOODRUFF: I'll direct the court
25 reporter to -- when she's preparing the transcript to mark

1 that document as -- or mark that number as highly
2 confidential.

3 MR. BYRNE: Thank you.

4 MR. MICHEEL: I apologize, Mr. Byrne.

5 MR. BYRNE: That's okay.

6 BY MR. MICHEEL:

7 Q. Is there a better way to preserve
8 incentives that are otherwise blunted by a fuel adjustment
9 clause?

10 A. Well, the best way is to not implement a
11 fuel adjustment clause and avoid the incentive-blunting
12 problem. But if incentives are desired to be replaced as
13 a result of implementing a fuel adjustment clause, I think
14 there should be a modest sharing of both the gains and the
15 pains associated with changes in energy costs, and a more
16 reasonable approach could be implemented certainly than
17 the one contained in the revised fuel adjustment tariff.

18 Q. Do you think that Ameren's revised fuel
19 adjustment clause, Exhibit 104, is consumer friendly?

20 A. Not particularly. It would track all of
21 the increases in fuel and purchased power costs that are
22 includable, but would track only a fraction of savings
23 once the sharing threshold is achieved. More importantly,
24 the fuel adjustment clause is piecemeal ratemaking that
25 would account for increases in some costs while ignoring

1 the potential for other cost changes.

2 Q. Does the introduction of a sharing
3 incentive as contained in Exhibit 104, the new fuel
4 adjustment clause proposal, increase or reduce the
5 administrative complexities that are discussed in your
6 initial testimony on this issue?

7 A. Because of the inclusion of the incentive
8 device, I believe that the revised tariff increases
9 complexity relative to a straight fuel adjustment clause
10 that would account for changes in actual cost relative to
11 base rate included costs. With the company's new
12 proposal, off-system sales margins must be monitored,
13 audited and reviewed, along with all of the fuel and
14 purchased power costs includable in the cost, to properly
15 administer the sharing mechanism.

16 Q. How important is a precise quantification
17 of fuel and purchased power within base rates under any
18 fuel adjustment proposal that would share reductions in
19 such costs in the future?

20 A. Establishing the fuel and purchased power
21 amount in base rates is extremely important because that
22 defines the base point for administering the proposed
23 sharing provision, and if fuel and purchased power costs
24 are overstated or understated in the Commission's rate
25 order, that threshold would be misstated and the sharing

1 grid would be misapplied, potentially either gifting
2 incentives to shareholders or denying shareholders
3 incentives that they would otherwise be entitled to.

4 Q. How important is the precise quantification
5 of off-system sales under base rates under any fuel
6 adjustment proposal that would share such costs in the
7 future?

8 A. Again, this number becomes extremely
9 important because the sharing base is defined by the
10 off-system sales revenue term that establishes the base.

11 Q. In your original surrebuttal testimony at
12 page 12, you say if a fuel adjustment clause is
13 implemented over the State's objections, causing
14 incentives to optimize fuel costs to be blunted, only a
15 small percentage of sharing at 5 to 10 percent above and
16 below off-system sales included in base rates may be
17 reasonable.

18 Does Ameren's new proposal, Exhibit 104,
19 respond to this?

20 A. I don't believe it does. The sharing grid
21 that's proposed is much different and is one-sided in the
22 sense that it proposes to net off-system sales against
23 recoverable fuel costs with rewards in one direction.

24 Q. Regarding the customer-sharing portion or
25 the CSP of the new proposed tariff, Exhibit 104, is it

1 reasonable to give UE a 75 percent bonus if net fuel costs
2 fall below the level set by the Commission?

3 A. I don't believe so. My view is that an
4 excessive reward may result, even if there is no improved
5 performance, particularly with respect to the potential
6 for the base amounts of fuel and purchased power and
7 off-system sales to be misstated in the -- in the
8 Commission's order, given the way that that sharing grid
9 would apply to those numbers relative to the base.

10 Q. Is it reasonable to expect future actual
11 net fuel costs will fluctuate around the normalized level
12 established by the Commission in this case?

13 A. Yes, it is reasonable to expect that. For
14 instance, in some years there would not be a Callaway
15 refueling outage, and in a given year weather impacts
16 could be expected to have an effect upon actual fuel costs
17 and off-system sales.

18 Q. Does the company's proposed fuel adjustment
19 clause sharing grid in Exhibit 104 provide any incentives
20 if future net fuel costs increase significantly, making
21 achievement of below net fuel costs unlikely in a given
22 year?

23 A. No, and I think this is a problem. If fuel
24 costs rise considerably in the future such that management
25 perceives that it cannot hope to reach the sharing

1 threshold, that incentive device is ineffective.

2 Q. Do you know what happens under the proposed
3 FAC sharing grid if future fuel costs decline and remain
4 below rate base level?

5 A. This is a problem that goes the other way,
6 in the sense that if structural changes occur, there would
7 be a repeated reward year after year because the base
8 amount is not adjusted or rebased. So if, for example,
9 the company makes its way well into the sharing grid, it
10 would be rewarded each year thereafter until the base is
11 restated, presumably in the next rate case.

12 Q. One of the issues in this case is
13 off-system sales margins. Are the State and the company
14 pretty far apart on that issue?

15 A. Yes. While the numbers continue to
16 change modestly, I think there's an issue of approximately
17 \$70 million in the difference.

18 Q. And what is the State's position on that
19 issue?

20 A. The State's position is that the off-system
21 sales, revenues and margins --

22 MR. LOWERY: Your Honor, I believe --

23 MR. MICHEEL: Don't say the number out
24 loud.

25 MR. LOWERY: I'm sorry to interrupt, but

1 the number is highly confidential.

2 THE WITNESS: The recommendation is that we
3 include the company's fuel budget and operating budget
4 numbers for 2007.

5 BY MR. MICHEEL:

6 Q. Let me ask you a hypothetical question.
7 Let's assume that UE convinces the Commission to adopt the
8 company's off-system sales margin amount but actual
9 margins reach the company's 2007 budget level under the
10 FAC proposal in Exhibit 104. Assume also that fuel costs
11 remain fairly constant. How many dollars of CSP bonus
12 would Ameren collect for the \$70 million of added
13 off-system sales?

14 A. By my calculation, with the sharing grid
15 contained in the company's revised FAC proposal,
16 shareholders would receive 7.5 million of the first
17 10 million in savings, plus .5 million of the next
18 25 million, 5 million more on the next 25 million, and
19 3 million on the last 10 million. So a \$7 million
20 off-system sales increment would result in an incentive to
21 shareholders of \$18 million.

22 Q. In your direct testimony on revenue
23 requirement, and again at page 15 of your surrebuttal, you
24 recommend that sales of emission allowances be credited
25 against fuel costs in any fuel adjustments proposal for

1 Union Electric. Does Exhibit 104 have any such proposal
2 in it?

3 A. No.

4 Q. And do you think such a proposal would be
5 appropriate?

6 A. I do in the event there is an FAC.

7 MR. MICHEEL: That's all I have for his
8 direct in response to Exhibit 104, and I would tender him
9 for cross-examination, your Honor.

10 JUDGE WOODRUFF: Thank you. For cross
11 we'll begin with Staff.

12 MR. DOTTHEIM: No questions.

13 JUDGE WOODRUFF: Public Counsel?

14 MR. MILLS: No questions.

15 JUDGE WOODRUFF: DNR? Missouri Retailers?
16 Mo-Kan? MASW? AARP?

17 MR. COFFMAN: No questions.

18 JUDGE WOODRUFF: MIEC?

19 MS. VUYLSTEKE: No questions.

20 JUDGE WOODRUFF: MIG? Commercial Group?
21 Noranda?

22 MR. CONRAD: We have no questions, your
23 Honor.

24 JUDGE WOODRUFF: Laclede and Aquila? Joint
25 Bargaining? And Ameren?

1 MR. BYRNE: I do, your Honor.

2 CROSS-EXAMINATION BY MR. BYRNE:

3 Q. Good morning, Mr. Brosch.

4 A. Good morning, Mr. Byrne.

5 Q. I guess I want to start by asking you a few
6 questions about some of your direct testimony that you
7 just gave this morning on our Exhibit 104 proposed FAC
8 tariff. Some of the questions Mr. Micheel asked you
9 addressed the Taum Sauk issue, in other words, the
10 difficulty you pointed out in your direct testimony with
11 accounting for Taum Sauk in the event the fuel adjustment
12 clause is approved.

13 A. That's correct.

14 Q. Do you remember that line of questioning?

15 A. Yes.

16 Q. I guess my question is, isn't it possible
17 to deal with the Taum Sauk issue if a fuel adjustment
18 clause is approved?

19 A. I'm not sure in the sense that one might
20 interpret the Commission's rule to require that actual
21 recorded fuel costs be used and applied in the rule. And
22 clearly with the Taum Sauk outage, the intention that
23 ratepayers not be burdened with the economic consequences
24 of that outage, there may be a question as to whether an
25 FAC can be used at all.

1 But stepping beyond that, with some effort
2 to model or simulate the operations of the system as if
3 Taum Sauk were available, if one had the modeling tools
4 and the resources to perform those calculations, the
5 effects could be estimated, and an adjustment to actuals
6 could be affected to correct for the Taum Sauk outage.

7 Q. I mean, wouldn't one way to estimate the
8 impact of Taum Sauk be to use the normalized impact of
9 taum Sauk that the Commission determines in this case and
10 just apply that normalized impact of Taum Sauk in each of
11 the years of the FAC for the next four years?

12 I mean, wouldn't that be one way to
13 estimate the impact of Taum Sauk and incorporate it into
14 the fuel adjustment clause?

15 A. It would be possible to deem or fix a value
16 for Taum Sauk as you described, although the actual impact
17 of the Taum Sauk outage varies hour by hour on the system,
18 and if fuel prices increase or off-system sales market
19 prices improve, one would expect the detrimental impact of
20 the Taum Sauk outage to grow with time.

21 Q. Sure. But that would at least be one
22 possible way to estimate the impact; is that fair to say?

23 A. Mechanically you could deem an amount
24 representative and make an adjustment to actual fuel costs
25 to administer the clause, yes.

1 Q. Okay. And would another way be each year
2 during the true-up proceeding to rerun the production cost
3 model with actual inputs for that year and then model what
4 the impact of Taum Sauk would have been had it been in
5 service during that year?

6 A. Simulation modeling could be done to
7 estimate the effect. I don't know that the result would
8 necessarily be the actual effect. I don't know that the
9 actual effect is knowable.

10 Q. Sure. Sure. Just like it's not knowable
11 for purposes of setting base rates in this case?

12 A. That's correct.

13 Q. You've got a model.

14 A second issue Mr. Micheel talked to you
15 about was, I guess, the EEInc issue. The EEInc also
16 creates a complication, I suppose, in your mind in
17 administering a fuel adjustment clause; is that correct?

18 A. Well, it does if the Commission finds in
19 favor of the Staff's position that the availability of the
20 Joppa plant should be accounted for as if that resource is
21 available to AmerenUE because obviously AmerenUE's per
22 book fuel expenses and purchased power expenses do not
23 reflect the availability of the Joppa plant subsequent to
24 December 31, 2005.

25 Q. Would it be fair to say that if the company

1 wins the EEInc issue, in other words, if the Commission
2 accepts the company's view that EEInc was a contract for
3 purchased power and it expired and there's no further
4 right to EEInc's power for AmerenUE, if the Commission
5 accepts that position, then we don't have a problem, do
6 we, in term of the FAC?

7 A. I believe that's true, and the Commission
8 could accept the State's position and it would not be a
9 problem.

10 Q. Okay. And -- but if they accept the
11 Staff's position, again, isn't it possible to overcome
12 that problem? Isn't it possible either through, I guess,
13 the same ways that you could overcome the problem with
14 Taum Sauk, either the Commission could establish a fixed
15 amount based on its decision in this case to reflect the
16 impact of the EEInc power on the fuel adjustment clause?
17 I mean, isn't that one way you could address it?

18 A. Yes. The answers would be the same as they
19 were with Taum Sauk. You could fashion a remedy for the
20 problem by either deeming and fixing an amount or by
21 estimating the impact through simulation modeling.

22 Q. Okay. A third problem that Mr. Micheel
23 discussed with you was the expiration of the Entergy
24 Arkansas contract?

25 A. Yes.

1 Q. Do you remember that?

2 A. I do.

3 Q. And do you know when that contract is
4 scheduled to expire?

5 A. Do I have permission to say?

6 Q. Good point. Perhaps we need to go
7 in-camera.

8 JUDGE WOODRUFF: All right. We'll go
9 in-camera at this point.

10 (REPORTER'S NOTE: At this point, an
11 in-camera session was held, which is contained in
12 Volume No. 20, page 1087 of the transcript.)

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1 BY MR. BYRNE:

2 Q. And I guess to the extent there are cost
3 increases that occur, and I think that was the point you
4 were just making, they would tend to offset the savings
5 from the Entergy Arkansas contract eventually when it
6 expires?

7 A. Well, that's really the essence of the
8 problem with piecemeal ratemaking with a fuel adjustment
9 clause or any other tracking tariff. If you decide to
10 segregate certain pieces of the revenue requirement and
11 implement a rate tracking device, you're ignoring the fact
12 that all of these other things are changing in the
13 background, some of them favorable, some of them
14 unfavorable. And the benefit of traditional regulation
15 relative to that regime is it provides a balanced
16 accounting for all of those changes from time to time.

17 Q. Okay. Another issue you discussed with
18 Mr. Micheel is the incentive that AmerenUE has proposed as
19 part of its fuel adjustment clause?

20 A. That's correct.

21 Q. And I know one of your criticisms of it is
22 it's one-sided. It provides rewards but no punishment, I
23 guess, for AmerenUE; is that fair to say?

24 A. That's right.

25 Q. And I mean, I guess one of the issues that

1 we have, and perhaps you could address this is, you know,
2 there are known cost increases in fuel that are going to
3 occur in the next several years, so doesn't that create a
4 problem for having a negative incentive?

5 I guess, in our view, when you have known
6 cost increases, you've already lost the game before the
7 game has been played, and I'd like to know your reaction
8 to that.

9 A. I'm happy to give you that.

10 Q. Okay.

11 A. The known cost increases that you speak of
12 are probably the worst reason to adopt a fuel adjustment
13 clause because they go right to the heart of the
14 difference we have when you say, management knows these
15 costs are expected to increase, so give us piecemeal rate
16 tracking for these known cost increases and not these
17 other things that are changing in the background.

18 So when you say, isn't it a problem if I
19 can't collect 100 percent of all my known fuel cost
20 increases, my response would be, would you be satisfied
21 with 90 percent, retaining an incentive to do something to
22 control those costs respectively?

23 Q. Okay. Well, let me ask you this: Do you
24 generally oppose fuel adjustment clauses? I take it you
25 do, based on your testimony.

1 A. No. No, I don't. In fact, I've testified
2 in favor of fuel adjustment clauses of different companies
3 under different circumstances.

4 Q. Okay. That's a good segue. Could you tell
5 me which companies you've supported a fuel adjustment
6 clause for?

7 A. Yes. Most recently in Hawaii, where we do
8 a fair amount of work, there's been focused attention on
9 the fuel adjustment clause there because in Hawaii the
10 utilities depend almost entirely upon oil-fueled
11 generation. And you can imagine with a fuel adjustment
12 clause, the effect on customers' bills given the recent
13 trend in oil prices.

14 Those utilities' fuel supply contracts
15 cause the price of oil to be indexed to some international
16 published indices. So the heightened attention on the
17 fuel adjustment clause has caused the Legislature to
18 demand that the Commission look very carefully and
19 critically at the fuel adjustment clause, and in rate
20 cases there has been testimony offered as to whether these
21 companies, in fact, need or should have a fuel adjustment
22 clause prospectively.

23 And my testimony was that the companies
24 would be unlikely to survive financially in the absence of
25 a fuel adjustment clause because of their dependence on

1 oil as a primary fuel supply and the extreme volatility in
2 oil prices, the magnitude of oil fuel expense and the
3 importance of fluctuations in that expense to those
4 utilities' financial performance.

5 Q. And was that basically all the electric
6 utilities in Hawaii?

7 A. The case that I have most recently in mind
8 was the 2005 Hawaiian Electric Company case. The issue
9 comes up by virtue of Act 162 in Hawaii in every case. So
10 there was testimony more recently in a Hawaii Electric
11 Light Company case on the big island. That testimony was
12 sponsored by a witness other than me, but it was also
13 supportive of continuation of their fuel adjustment
14 clause.

15 Q. Who does Utilitech represent in these
16 Hawaii proceedings? Do you perform a function similar to
17 like the Staff in these cases?

18 A. Our client is the Consumer Advocate's
19 Office, a division of the Department of Business and
20 Economic Development in Hawaii. The Consumer Advocate
21 performs almost like a Staff-like function in that the
22 commission staff is an advisory staff.

23 Q. Okay. All right. I think you said there
24 were maybe some other utilities that you favored fuel
25 adjustment clauses for. Can you tell me about any others?

1 A. That's the only instance I can recall where
2 I had testimony on the subject. In many states, fuel
3 adjustment clauses are a vestige of an earlier era and
4 date back often to the '70s when there was a big run-up in
5 fuel prices and legislatures and state commissions took up
6 fuel adjustment clauses.

7 In those states, it's an established
8 practice that has persisted for many years, although I do
9 recall being involved in a Kansas generic proceeding in
10 perhaps the late 1980s when, in an environment of stable
11 and declining fuel prices, the utilities in Kansas were
12 interested in not continuing their fuel adjustment clause.
13 I think they had an eye toward making money for
14 shareholders by reducing fuel costs and not having to pass
15 it back to consumers.

16 The Kansas Commission convened a generic
17 inquiry in fuel adjustment clauses, and there my testimony
18 was consistent with the industry position that we could
19 turn off the fuel adjustment clause for those utilities,
20 and I think it was, in fact, discontinued for a period of
21 time in Kansas. Since then I think the utilities have
22 come back and with some success achieved a reinstitution
23 of the fuel adjustment clauses.

24 Q. But would it be fair to say that in
25 jurisdictions where there's a history of having fuel

1 adjustment clauses, you've accepted that in filing
2 testimony in electric cases?

3 A. Well, I have because it was either the law
4 in that state and there was no discretion or it was a
5 long-established practice of the Commission without any
6 obvious reason to attempting to change that
7 long-established practice.

8 Q. Okay. How about purchased gas adjustment
9 clauses, are you opposed to purchased gas adjustment
10 clauses?

11 A. Well, certainly not philosophically. I
12 don't recall having testified on that. I think that on
13 that issue you have a commodity that exhibits a price
14 behavior that is difficult to predict and manage, and you
15 have for LDCs at least significant financial exposure
16 without a PGA-type device to track changes in cost.

17 Q. But don't purchased gas adjustment clauses
18 exhibit a lot of the qualities that you're critical of in
19 fuel adjustment clauses? In other words, they're taking a
20 piece, it's a piecemeal rate adjustment mechanism, isn't
21 it?

22 A. It certainly is, and given the facts and
23 circumstances for the LDCs and the nature of that cost,
24 tracking is a widely accepted exception to traditional
25 regulation for those costs.

1 Q. Okay. I am looking at your December 29th
2 testimony, and -- which I think is your -- I guess it was
3 your direct testimony that addressed fuel adjustment
4 clause.

5 A. I have it.

6 Q. And I'm looking on page 4, near the top.
7 You say, one reason to stick with traditional regulation
8 is that favorable changes tend to offset unfavorable
9 changes. Is that a fair summary of what you're saying
10 there?

11 A. Well, yes. Everything changes between test
12 years. Some change is favorable, some unfavorable. For
13 many utilities, customers and loads grow, producing new
14 margins. Efficiencies are found either by automating
15 systems or improved methods of operation. Everything
16 changes, some good, some bad, and because of that, we can
17 observe that utilities often go many years between rate
18 cases because of that netting effect.

19 Q. And in this case, AmerenUE's provided
20 testimony that there are significant known fuel cost
21 increases in the next several years. Do you agree with
22 that?

23 A. Yes. The most significant are actually
24 concentrated near the front of 2007, and I couldn't help
25 but notice that we're able to capture those and at least

1 by calculations of the parties other than the company, the
2 company's revenue requirement is negative in spite of
3 those changes.

4 Q. But there are also significant increases in
5 2008, 2009, 2010, are there not?

6 A. There are known modest increases in those
7 years.

8 Q. And how do you define modest?

9 A. Single-digit percentage changes, and
10 relative to total company revenues, very small percentage
11 changes.

12 Q. Would you agree they are tens of millions
13 of dollars in known changes?

14 A. Well, the numbers are in the record, and I
15 didn't disagree with the numbers Mr. Neff mentioned
16 yesterday.

17 Q. Okay. And --

18 A. At least with respect to the known changes
19 he spoke of responsive to Staff Data Requests with those
20 limiting assumptions.

21 Q. And I think he provided estimates, his own
22 estimates, too, when he was on the witness stand?

23 A. He did, and I was a little less receptive
24 to those, but I heard the numbers.

25 Q. Let me ask you this: Can you name any

1 expenses that will be reduced in future years for AmerenUE
2 that will offset those known fuel cost increases?

3 A. Well, I'm not going to say the number, but
4 the energy demand charges come to mind.

5 Q. That's several years down the road; is that
6 correct?

7 A. A couple.

8 Q. Okay. Anything else?

9 A. No. The problem is, as I said, everything
10 changes, and you can't really put a label to why a
11 company's able to go many years without a rate increase.
12 It's easy to focus on specific costs and say, look, these
13 have increased, but everything is dynamic. The cost of
14 capital changes. Customer counts and loads change.
15 Off-system sales performance change. All of these things
16 net together.

17 No, I have not gone searching for the magic
18 bullet that's going to offset your fuel cost increases
19 next year. There may be one.

20 Q. It just seems like there's testimony from
21 the company that a lot of non-fuel costs are increasing
22 pretty substantially as well. And, I mean, I'm talking
23 about the cost of raw materials. I think there's
24 testimony on aluminum prices going up and copper and the
25 cost of transformers. All those costs appear to be

1 increasing. Would you agree with that?

2 A. Well, I've seen the testimony, and I
3 understand that if I were putting on a rate case, I would
4 be interested in talking about specific discrete cost
5 increases. But the reality is you've been able to go a
6 number of years without a rate increase historically. And
7 prices of materials have changed, inflation has existed
8 for a very long time, and you can pick things out in
9 isolation and make a case for tracking just about
10 anything, but that's the wrong thing to do in most
11 instances.

12 Q. So you don't have any information that
13 would show that those costs are not increasing to the
14 extent the company has testified to, do you?

15 A. I've not conducted any study of specific
16 costs in isolation to see if they are likely to be
17 increasing or decreasing.

18 Q. Medical costs, pension costs, wages, you
19 have no reason to think those aren't increasing as the
20 company has testified?

21 A. Well, I believe that most utilities are
22 able to find productivity gains to mitigate or offset
23 inflationary pressures on the business, but I've conducted
24 no study of AmerenUE to see what those have been
25 historically or what they might be prospectively.

1 Q. Okay. Well, let me ask you this: If costs
2 are going up as AmerenUE has testified, both fuel and
3 non-fuel costs, in the absence of a fuel adjustment
4 clause, doesn't that suggest that AmerenUE will have to
5 file rate cases to cover?

6 A. Not necessarily.

7 Q. I guess we could just lose money; is that
8 the alternative?

9 A. Well, no. You could continue to add new
10 customers and the margins that come with new customers and
11 use those margins to help pay your increasing costs. You
12 could realize the effects of the off-system sales markets
13 and grow your off-system sales margins to mitigate those
14 costs. You could find ways to automate the business and
15 implement better -- better methods of operation to achieve
16 productivity gains.

17 Q. And, Mr. Brosch, do you know what our
18 growth rate is for AmerenUE?

19 A. I know that I had a customers-added
20 adjustment that is State Accounting Schedule C-1 that
21 estimated one year's worth of customer growth was worth
22 about 20 million in revenues and perhaps 15 in margins
23 after incremental energy costs.

24 Q. Would you believe maybe one and a half
25 percent?

1 A. It's close to that. I think that's
2 equivalent to about 20 million in revenues.

3 Q. And when we add customers, don't we often
4 have to spend money to build the infrastructure to serve
5 those new customers?

6 A. Sometimes. It depends on where the
7 customers are. The distribution system may require
8 extension to connect a new subdivision or an individual
9 new customer.

10 Q. I mean, how could we serve a new customer
11 without adding some facilities? I mean, is there a
12 possible way to do that?

13 A. This is often debated. But in-fill growth
14 where customers are added adjacent to an existing
15 distribution system might require little more than a
16 service line and meter installation.

17 Q. But at least you need a service line and a
18 meter for a new customer, right?

19 A. Yes.

20 Q. Let me ask you this, then: To the extent
21 that AmerenUE had to file more frequent rate cases because
22 it didn't have a fuel adjustment clause, wouldn't that
23 diminish the positive impact of regulatory lag?

24 A. Yes. All else constant, more frequent rate
25 cases cause the Commission to capture and adjust for

1 changes in cost and revenues.

2 Q. Let me ask you this: The -- you refer
3 to -- you contrast a fuel adjustment clause with what you
4 call traditional regulation?

5 A. Well, I do, in the sense that I'm trying to
6 put a label to this process used historically in Missouri
7 where we put together a test year and look at all of the
8 elements of the revenue requirement in one time -- at one
9 time in a matched and balanced way.

10 Q. I mean, are you aware that 27 of 29
11 non-restructured states have fuel adjustment clauses?

12 A. I don't dispute the survey that was
13 prepared by the company's witnesses. Like I said before,
14 it is an established practice by law or rule in many
15 states.

16 Q. Okay. On page 5, line 16 of that same
17 piece of testimony, you say, in contrast, piecemeal rate
18 tracking tariff adjustments often receive limited scrutiny
19 or input from regulators or consumer representatives even
20 though significant customer impact can result from such
21 tariffs?

22 A. I do.

23 Q. I guess I'd just like to know, what's the
24 basis for that statement?

25 A. Personal experience.

1 Q. Okay. Do you believe that's true for the
2 PGA in Missouri, for example?

3 A. I don't know. I've not examined that.

4 Q. Isn't it possible, Mr. Brosch, that if you
5 had an FAC and if you had a proceeding that was focused on
6 fuel costs, that might actually cause people to focus more
7 heavily or more directly on the fuel costs than they would
8 in a rate case where it's mixed in with all the other
9 myriad of issues?

10 A. It's possible for that to occur, but that's
11 inconsistent with my experience. In my experience, rate
12 cases tend to draw together a roomful of people like this,
13 all with an interest in transactions and amounts within a
14 specified review period. They're able to marshal their
15 resources and really pour into the numbers.

16 When you have an automatic adjustment
17 clause running, you have a continuum of cases and parties
18 with an interest have difficulty sometimes marshalling the
19 resources to track all that.

20 Q. But there are literally dozens of issues,
21 at least from the outset, that were in this case?

22 A. Yes, there are many issues in this case.

23 Q. On page 9, line 16, same piece of
24 testimony, you talk about the matching principle -- well,
25 it's really throughout page 9. You're talking about the

1 matching principle and how use of a fuel adjustment clause
2 would violate the matching principle?

3 A. Yes.

4 Q. But let me ask you this: In your -- in
5 your view, do PGAs violate the matching principle?

6 A. Yes.

7 Q. And let me ask you this: Isn't it true,
8 though, that if you had a fuel adjustment clause, the
9 rates would more closely match the fuel costs?

10 A. Are you talking about the fuel element of
11 the rate matching the fuel costs?

12 Q. Yes.

13 A. Yes. I think that's a desired outcome.
14 There would always be some timing and true-up issues and
15 potentially prudence issues if there are rigorous audits
16 undertaken and adjustments made, but generally that would
17 be an outcome one would look for.

18 Q. Okay. Also on page 9, you talk about the
19 risk of cherry picking. Really on line 2 is where you use
20 the term.

21 A. Yes, I see that.

22 Q. And -- but isn't it true under the -- under
23 Senate Bill 179 the fuel adjustment clause rules that the
24 Commission has adopted, there really can't be any cherry
25 picking? I mean, they specify what costs have to be

1 covered by fuel adjustment clause, and if those costs go
2 up or down, they have to be reflected in rates; isn't that
3 true?

4 A. Understand, this is -- the front end of
5 this testimony is explaining the theoretical reasons and
6 conceptual reasons for traditional regulation in contrast
7 to piecemeal rate tracking tariffs generically. So this
8 reference to cherry picking here was pointing to instances
9 where an advocate for a utility or a consumer advocate
10 could identify any individual discrete element of the
11 revenue requirement and propose rate tracking for it.

12 Q. Okay. You're not saying -- it's not a
13 criticism of the specific provisions of the fuel
14 adjustment clause rules in Missouri?

15 A. No, it's not.

16 Q. Okay. Fair enough.

17 A. It's just pointing to the potential
18 distortion if one's allowed to choose things that are
19 known to be increasing and track them in isolation.

20 Q. Okay. On page 10 you've got some bullets,
21 and the second bullet is a criticism of rate trackers. It
22 says, shifting of cost responsibility and risks to
23 customers who are least stable would influence cost levels
24 and sales levels. Do you see that?

25 A. I do.

1 Q. And I mean, I guess my question is, who
2 should have cost responsibility for fuel costs if not
3 customers?

4 A. Well, the point really goes to the fact
5 that management is in a position to procure fuel,
6 administer fuel contracts, maintain and operate generating
7 units, and control the input stream to produce the
8 electricity, in contrast to the customers who will get a
9 bill, and if it has a fuel adjustment clause on it, the
10 effects of those efforts will be passed through or the
11 absence of those efforts will be passed through, and the
12 consumers don't have any influence over the level of those
13 costs other than they might achieve by putting on a
14 sweater and turning down the thermostat or something like
15 that.

16 Q. So if you shift costs to management, then
17 that will give them an incentive to control it?

18 A. Well, again, this is the -- the whole
19 discussion of piecemeal tracking and some of the concerns
20 with piecemeal tracking, and under traditional regulation
21 in contrast, management does have that responsibility.
22 But at the same time, the utility has the opportunity to
23 bring forward all of its costs in accounting for its
24 customer load growth and rate base and all the other
25 changes in its current cost of capital and achieve an

1 adjustment to rates periodically that maintains the
2 regulatory lag incentive between test years.

3 Q. On line 14 on that page, you talk about
4 rate trackers and/or deferral accounting -- I guess it's
5 line 15 -- should only be allowed when extraordinary
6 circumstances exist. Do you see that?

7 A. Yes, I do.

8 Q. So do you believe that in all the states
9 where there are PGAs, extraordinary circumstances exist?

10 A. Well, I think it's been recognized that in
11 those states where consideration has been given to
12 terminating PGAs, that there are very good reasons for
13 perpetuating the PGAs because the LDCs are so financially
14 dependent on the ability to timely recover a cost that's a
15 very large share of their total operating expenses and
16 their revenue stream, a cost which they have very little
17 control over.

18 Q. Okay. So that's extraordinary
19 circumstances, in your mind?

20 A. In every case where I've seen it examined,
21 that conclusion was reached, yes.

22 Q. And how about in the 27 of
23 29 non-restructured states that have fuel adjustment
24 clauses, do you believe there are extraordinary
25 circumstances in all those states?

1 A. I don't know. As I said before, I think
2 that the fuel adjustment clause in many, perhaps most of
3 those states is a vestige of regulation historically
4 and/or the result of legislative action in those states
5 that imposed a fuel adjustment clause regime on the
6 Commission.

7 Q. On page 13 of that same testimony, line 20,
8 I guess, it says, in my experience, there have rarely been
9 regulatory disallowances of energy cost increases due to
10 findings of management imprudence. Do you see that?

11 A. I do.

12 Q. And I guess that's a criticism of, you
13 know, fuel adjustment clauses and single items; is that
14 fair to say?

15 A. Well, the context here is by reference to
16 Mr. Lyons' testimony where he's noting that the SB 179 and
17 Commission rules related to SB 179 limit your recovery of
18 energy costs to those that were prudently incurred, as if
19 to suggest that prudence audits represent a significant
20 protection for ratepayers. And in my experience, those
21 occur rarely and have only rarely produced adjustments, in
22 many cases because people just aren't looking very
23 closely.

24 Q. Let me ask you this: Isn't it possible
25 that the review process in the PGA context or in fuel

1 adjustment clause contexts acts as a deterrent, and so
2 utilities actually don't -- because they know they're
3 going to be reviewed for prudence, they actually don't
4 engage in imprudent actions? Isn't that possible?

5 A. I think it depends on the degree of
6 concerted effort put forth by the regulator to really pour
7 into and dedicate resources to that prudence review
8 activity. And in some states that happens periodically.
9 In most states it does not.

10 Q. I mean, you're not suggesting that the
11 prudence review that this Commission does on PGAs doesn't
12 work, are you?

13 A. I've not reviewed this Commission's
14 administration of PGAs.

15 Q. Okay. On page 14, line 7 -- or 6 and 7,
16 you say, unless regulators insist upon a corresponding
17 adjustment to the utility's allowed rate of return to
18 fully recognize the shifting of costs from shareholders to
19 ratepayers, there is no benefit to ratepayers from an FAC.
20 Do you see that?

21 A. I see that, yes.

22 Q. What if -- what if fuel costs decrease?
23 Wouldn't there be a benefit to having an FAC if fuel costs
24 decrease?

25 A. This is talking about the risk dimension of

1 an FAC and the way in which an FAC transfers fuel price
2 change risk to customers. An FAC is symmetrical in the
3 sense that price increases and reductions pass through to
4 customers. So if you are in an environment, unlike the
5 one claimed to exist for Ameren, where prices are
6 anticipated to decline, then there would be a benefit to
7 customers from that decline. That was the environment in
8 Kansas that I spoke of earlier, and the utilities were
9 clamoring to terminate their FAC in that state.

10 Q. Those crazy Kansas utilities, what are you
11 going to do about them?

12 How about the idea that the existence of an
13 FAC can improve the utility's credit quality and perhaps
14 the utility can borrow money at a lower rate of interest,
15 wouldn't that be a benefit that would ultimately accrue
16 down to the customers?

17 A. If that occurred, it would eventually
18 benefit customers, yes, and that's really kind of going to
19 the same point. If there's this benefiting effect on the
20 cost of capital, one would need to be careful to account
21 for that beneficial effect in setting rates.

22 Q. On page 15, line 1, you are talking about
23 the FAC process introducing tariff and bill complexity.
24 Do you see that?

25 A. I do.

1 Q. And I'd like to talk a little bit about
2 bill complexity. My understanding is there would be a
3 single line item on the bill that would show the impact of
4 the fuel adjustment clause. Is that -- is that so complex
5 for a customer to understand?

6 A. Well, if you were in Hawaii, you'd have a
7 different perspective on that. When the bill for fuel
8 adjustment clause is the majority of the total bill,
9 people tend to be pretty concerned. I don't know that
10 that's necessarily going to be the case here.

11 The reference is to both tariff and bill
12 complexity, and I would guess that if you handed your
13 tariff to a customer and said, this is what we're going to
14 do for you, the customer would be seeking help or pulling
15 their hair out trying to understand what it means.

16 Q. I suspect if you handed any part of the
17 tariff they might do that, too.

18 A. Well, the part that says this many cents
19 per kilowatt charge is pretty straightforward, this many
20 dollars per month for customer charge.

21 Q. But that's what the bill would be. I mean,
22 the bill wouldn't be any more complex than that, would it?

23 A. I expect you'll put a line item on the bill
24 that says, here's your fuel adjustment, and if that line
25 item is modest in amount, customers will look at it and

1 probably pay their bill without asking questions. If it's
2 a large customer with a large bill and that amount grows
3 significant, they may be more concerned and more inclined
4 to look further into the reasons for the changes.

5 Q. As I understand it, though, the base fuel
6 costs would be base rates and the fuel adjustment clause
7 would just address changes from that base fuel cost?

8 A. Yes, that's the way the tariff's
9 constructed.

10 Q. Okay. Is there any reason to think that
11 the fuel adjustment clause bill would be any more complex
12 than the gas bill that reflects a PGA?

13 A. I would expect it would look about the
14 same.

15 Q. Okay. And page 15, lines 5 to 6, you
16 express some concerns about variable pricing and less
17 predictable costs to consumers?

18 A. Yes.

19 Q. And I guess I was wondering, do the
20 volatility mitigation measures that AmerenUE has
21 introduced at least somewhat mitigate that concern?

22 A. They're certainly intended to do that, yes.

23 Q. Do you think they're successful in doing
24 that?

25 A. As I understand them, and I haven't looked

1 closely at them, but I listened with interest to that
2 discussion the other day, and it sounded like at least in
3 the near term there would be some mitigating effects. The
4 fact that you're deferring potentially large energy
5 amounts not recovered because of that mitigation impact
6 with interest may portend large adjustments after the
7 initial periods.

8 Q. Let me ask you in general about the changes
9 we've proposed to our FAC, I guess the big one being
10 netting off-system sales against fuel costs. Do you view
11 that as an improvement to our FAC proposal?

12 A. I do in the sense that I advocated for
13 tracking of the off-system sales margins or revenues in my
14 direct revenue requirement testimony because it's very
15 difficult to accurately quantify, especially given all the
16 changes that have occurred recently to the company and how
17 those changes would impact off-system sales. So a
18 tracking of off-system sales is desirable.

19 Q. So netting at least solves that problem?

20 A. It helps, yes, although the way it's
21 applied here is problematic because of the sharing grid
22 that I spoke of.

23 Q. Got you. On page 15, line 14, you're
24 talking about -- and a lot of other parties have addressed
25 the burden on Staff, and I guess my question is, would you

1 agree with me that a full-blown rate case is a much
2 greater burden on the Staff than reviewing compliance
3 filings under a fuel adjustment clause?

4 A. It depends.

5 Q. Well, how about this rate case compared to
6 what you would anticipate would be a prudence review under
7 our proposed fuel adjustment clause?

8 A. As I understand the rule, you're required
9 to continue to file periodic rate cases with some
10 frequency, so rate cases don't go away.

11 Q. Every four years, right?

12 A. That's right. And when you add to that
13 guaranteed rate case scenario whatever burden comes with
14 reviewing and auditing and administering a fuel adjustment
15 clause in the intervening years, I'm not sure whether one
16 could conclude that there's any efficiency gained. It
17 depends a great deal on how much resource dedication
18 occurs to monitor and regulate the fuel adjustment clause.

19 Q. I don't have a page for this, but I have
20 written down here that you say AmerenUE's fuel and
21 fuel-related transportation and purchased power costs are
22 less volatile and more controllable than other utilities.
23 Does that sound like something out of your testimony?

24 A. That sounds like something I would say,
25 yes.

1 Q. How do you know that to be true? You know,
2 how do you know that our fuel, fuel-related transportation
3 and purchased power costs are less volatile than other
4 utilities?

5 A. Well, I have a section of testimony that
6 tries to explain that. Starting with page 20 of the
7 direct fuel adjustment testimony, I go into some detail
8 about the company's efforts to purchase coal under term
9 contracts, how they've locked in their rail freight prices
10 and costs under term contracts for multiple years at
11 single-digit escalation rates and how the nuclear fuel
12 changes occur.

13 Q. I mean, is one big element to that the fact
14 that we're a coal and nuclear-based utility as opposed to
15 primarily a gas-fired utility?

16 A. Certainly that is an important fact.

17 Q. So in your view, if only we had more
18 gas-fired generation, we would be more qualified to have a
19 fuel adjustment clause?

20 A. I think you would be more dependent upon
21 and needy of a fuel adjustment clause.

22 Q. Like the Hawaii utilities, and maybe
23 they're in a different situation because they really can't
24 reasonably have coal-fired generation, but they're
25 oil-fired generation and they're dependent on a volatile

1 commodity, and so I guess in those circumstances, that's
2 when you think a fuel adjustment clause is warranted?

3 A. That's a very obvious case where it's
4 warranted. There are many other cases between those
5 extremes that one might apply judgment to.

6 Q. To your knowledge, is AmerenUE's generation
7 mix any different than most other midwestern utilities?

8 A. I've not really put them down side by side.
9 It's my impression that Ameren's combined coal and nuclear
10 capability probably exceeds the average midwest utility,
11 but I don't know that, and the difference probably
12 wouldn't be large. Certainly there's a lot of coal-fired
13 generation in the midwest.

14 Q. And do you know if AmerenUE's generation
15 mix is different than other electric utilities that have
16 fuel adjustment clauses?

17 A. Well, it's probably different than all the
18 other utilities that have fuel adjustment clauses. I'm
19 not sure what your question is. Every utility is
20 different in some way.

21 Q. Okay. You haven't studied the generation
22 mix of utilities that have fuel adjustment clauses versus
23 AmerenUE?

24 A. Not systematically, no. I'm speaking
25 from what I talk about in my testimony about the company.

1 Q. On page 27, line 12 of that same testimony,
2 you talk about nuclear fuel prices at Callaway have been
3 very stable and are expected to remain stable, and you
4 cite Data Request answers, but have you done any
5 independent study yourself of what the future outlook for
6 nuclear fuel prices is?

7 A. No, I can't say that I have. I did look
8 with interest at this company's long-term projections of
9 its own nuclear fuel cost and prices, and there were small
10 incremental steps at each refueling outage.

11 Q. Are you aware at all of a problem, a
12 problem in the worldwide market for nuclear fuel
13 assemblies, a problem with supply that's occurred
14 recently?

15 A. No.

16 Q. Do you know to what extent there are plans
17 for nuclear plants throughout the world, what the -- what
18 the number of nuclear plants is going to do in the near
19 future?

20 A. Well, I've read with interest various
21 predictions on the subject, and I know that there's a
22 renewed interest and initiative to explore the nuclear
23 option, but I haven't seen much in the way of what I would
24 call firm commitments to new plants to signify a firming
25 of opinion one direction or the other.

1 Q. Have you done any studies that would
2 indicate whether future coal costs will be stable or
3 volatile?

4 A. I have reviewed published surveys of fuel
5 market conditions. I think there's an EIA piece attached
6 to my testimony that talks about current market
7 conditions. I don't know that I made reference to or
8 relied upon any predictions of future market conditions.

9 Q. And you haven't done any studies yourself?

10 A. No. That's true.

11 Q. Okay. And how about for gas or oil, have
12 you done any studies of the future volatility of those
13 commodities?

14 A. I don't know how you would do those
15 studies, and I have not.

16 Q. How about rail transportation, have you
17 looked at what the future holds for the cost of rail
18 transportation?

19 A. Well, for Ameren, I have. That's what my
20 testimony talks about. More broadly, I have not.

21 Q. When looking at Ameren's, you've looked at
22 the contracts we have now; is that correct?

23 A. I did look at the contracts, yes.

24 Q. How about diesel fuel, have you looked at
25 what future volatility there is for diesel fuel?

1 A. I have not attempted to do that. I know
2 that there has been some volatility historically that
3 Ameren explained its programs to mitigate, and we
4 ultimately accepted costs of those programs.

5 Q. You would agree that diesel fuel's a
6 volatile commodity?

7 A. It has been from time to time.
8 Fortunately, it's not a large element of total fuel costs
9 for the company, and that heating oil trading program
10 appears to be effective in at least limiting the exposure
11 the company has to any volatility that does occur.

12 Q. Would it be fair to say that hedging
13 instruments dampen volatility of a price of a commodity?

14 A. They can, yes.

15 Q. They don't stop increases in the price of
16 that commodity, do they?

17 A. Well, the underlying market prices aren't
18 affected by the hedging instruments. Engaging in a
19 hedging program is attempting to contain or influence the
20 impact of those market prices that they care about.

21 Q. So if we hedge diesel fuel prices in 2007,
22 there's nothing going to prevent diesel fuel prices from
23 going up in 2008, is it?

24 A. No. But building the cost into the revenue
25 requirement will leave those costs there so that the

1 company can do with that money what they may to mitigate
2 volatility in the out years.

3 Q. But if the price is going up, you've got to
4 hedge at a higher level in 2008, right?

5 A. Yes. The underlying price changes aren't
6 affected by what one does to impact the hedge price
7 changes.

8 Q. On page 28 of your testimony you say
9 AmerenUE has little exposure to gas and oil.

10 A. Line 7?

11 Q. Yes. Really on line 8, you say it's only
12 about 3 percent of total energy costs. Do you know how
13 much 3 percent of our total energy costs is in dollars?

14 A. You told me I didn't need a calculator.

15 Q. I'm sorry.

16 A. If you look at page 18, I have there a
17 summary of test year base rate FAC costs by type, and
18 that's the 3 percent on the gas line.

19 Q. That's gas and oil together, isn't it, is
20 3 percent?

21 A. Yeah. Well, gas is virtually
22 insignificant, so call it 16 million out of 539.

23 Q. Okay. I'd like to switch gears a little
24 bit and talk to you about your surrebuttal, Mr. Brosch.
25 And particularly where you talk about off-system sales,

1 which I think starts on page 7, and my understanding
2 without -- I guess without giving any highly confidential
3 numbers away, my understanding is that you are proposing
4 to use AmerenUE's budgeted off-system sales; is that
5 correct?

6 A. That's right. The reference at page 9,
7 line 6 is to the company's recently approved fuel budget
8 for 2007.

9 Q. And my understanding is you are the only
10 witness in this case that's proposing the use of
11 AmerenUE's budgeted amount. Is that true?

12 A. I'm not sure. I was handed earlier today a
13 reconciliation document that suggests that possibly Public
14 Counsel is sponsoring an adjustment that's identical in
15 amount to my own, so I'm not sure how to interpret that.

16 Q. But at most, you and Public Counsel, and
17 maybe not Public Counsel?

18 A. I don't know if I might convince others.

19 Q. I guess anything's possible.

20 Did you do any analysis of AmerenUE's
21 budget?

22 A. Actually, I asked and worked diligently to
23 try to get ahold of it soon enough to be able to do some
24 analysis of it, and you may recall repeated responses to
25 our Data Request saying it's not available, even though we

1 were well into 2007. By the time I got it, I had no time
2 left to do any analysis of it. That's why it's in the
3 surrebuttall and not in the direct.

4 Q. Didn't we give it to you promptly after the
5 board approved it?

6 A. That's what I was told.

7 Q. Okay. And do you know whether our budget
8 is based on a normal level of plant availability?

9 A. My expectation is it would be based upon
10 availability presumed to exist during the budget year,
11 otherwise it wouldn't be very useful as a budget. So
12 probably not normalized, probably actual, including, for
13 instance, the new spring Callaway outage in its entirety.

14 Q. Would you be surprised to know that there
15 is no scheduled outage for the Labadie plant included in
16 the budget for 2007?

17 A. Like I said, I haven't been able to crawl
18 inside the numbers. I expect that there is a full nuclear
19 outage. There are likely discrete outage events
20 throughout the year that differ from what one might view
21 as normalized.

22 Q. How about Meramec? Would you be surprised
23 to know that there's no outage for the Meramec plant in
24 the budget?

25 A. I don't think you're going to find any

1 surprises here, no matter how many you ask about, because
2 I don't know.

3 Q. Simply don't know. I guess that's the same
4 answer. Do you believe it's appropriate for the
5 Commission to set rates based on non-normalized plant
6 availability?

7 A. I believe the Commission should use the
8 best, most representative data they have before them to
9 set rates.

10 Q. Do you know what was used for power prices
11 to come up with a budget number?

12 A. I believe there was reference to a forward
13 price curve and some more detailed data in the response
14 received ultimately to our Data Requests from this point.
15 I didn't know we were doing this issue or I would have
16 brought the information with me.

17 Q. Well, would you agree or do you recall that
18 it was based on forward price curves on a single day,
19 January 2nd, 2007?

20 A. I don't recall.

21 MR. MICHEEL: Your Honor, at this point I'm
22 going to object. We have off-system sales scheduled for
23 the next issue, and you know, Mr. Byrne's going to have
24 his chance to ask Mr. Brosch --

25 JUDGE WOODRUFF: It does seem to be getting

1 into off-system sales.

2 MR. MICHEEL: This is --

3 MR. BYRNE: Okay. That's fair enough.
4 They're kind of intertwined.

5 JUDGE WOODRUFF: I understand that.

6 MR. BYRNE: Could you just give me a
7 second?

8 JUDGE WOODRUFF: Certainly.

9 MR. BYRNE: That's all the questions I
10 have. Thank you, Mr. Brosch.

11 THE WITNESS: Thank you.

12 JUDGE WOODRUFF: Then we'll come up to
13 questions from the Bench. Commissioner Murray?

14 QUESTIONS BY COMMISSIONER MURRAY:

15 Q. Good morning.

16 A. Good morning.

17 Q. Mr. Brosch, on page 8 of your direct
18 testimony and on page 16 of your direct testimony, you
19 seem to set out some criteria for judging whether a fuel
20 adjustment clause would be appropriate?

21 A. I do, yes.

22 Q. And on page 8, the criteria that you set up
23 there or the -- maybe it would be called standards by
24 which to judge whether a company would be entitled to a
25 fuel adjustment clause. Are these standards that are

1 generally accepted in other jurisdictions or where did
2 these come from?

3 A. These come from my experience in working
4 with rate-tracking issues like this one from other
5 proceedings, and I think I read the company's responsive
6 testimony to this point to largely agree with these
7 criterion standards. Of course, the company applies them
8 differently to its facts than I have.

9 Q. Okay. So it might be accurate to say that
10 those are pretty generally accepted criteria?

11 A. Well, these are the kind of things from my
12 experience that people tend to talk about, interpret and
13 argue about when dealing with rate-tracking tariffs,
14 piecemeal cost-tracking tariffs, yes.

15 Q. All right. And then if you look at page 16
16 of your direct where you again list some standards or
17 criteria, it appears to me that those are more stringent
18 than the ones you listed on page 8, and I just would ask
19 you, is this your personal criteria that is -- that goes
20 beyond what is generally accepted or how would you compare
21 those standards to the ones listed on page 8?

22 A. Well, I would say that on page 8, these are
23 the overarching concepts or concerns that one might look
24 for, and on page 16, I'm trying to relate those concepts
25 to what one would look for in applying them to a

1 particular account. So I think they're going to the same
2 points. You see reference to the same words, volatility,
3 market forces versus beyond the control of management.
4 They have to be large enough to be significant to the
5 company. That's the thought or the linkage between those
6 two.

7 But, no, I don't think they're necessarily
8 any more stringent. And as to whether you could go to any
9 published authority, I doubt whether you could. This
10 is -- this is from my experience in dealing with these
11 issues and reading orders on these issues in other states.

12 Q. Okay. On page 8 where you speak about
13 volatility, you say volatile and difficult to reasonably
14 quantify in rate cases. But then on page 16, you say
15 volatile in amount causing significant swings and impact
16 in cash flows if not tracked. That seems to be different
17 to me.

18 A. Well, the volatility concept is there in
19 both. When you -- when you are applying the volatility
20 criteria to a particular utility, you would want to know
21 whether the financial impacts of that volatility are
22 significant to the company in question.

23 The first point is a little different in
24 that it also goes to the notion of tracking that is
25 implemented simply because it is extremely difficult to

1 get the number right at any particular point in time. And
2 examples there might include rate tracking for the
3 recovery of storm costs or rate tracking tariff to credit
4 gas supply or refunds to LDC customers that occur outside
5 of a PGA or something like that.

6 Q. Okay. You seem to add a section there on
7 straightforward and simple to administer, readily audited
8 and verified through expedited regulatory reviews. Would
9 you consider that a generally accepted criteria for
10 determining whether to apply this concept?

11 A. I believe it is. Certainly there is a
12 dialog surrounding consideration of a new rate tracking
13 proposal where people are interested in, are we going to
14 be able to do this, can it be effectively regulated, what
15 is the administrative burden to the utility, to the
16 Commission and upon customers if we add this layer of
17 complexity to the ratemaking framework? And that's the
18 point there, and I think the rule requires certain things
19 of the Commission that become an administrative
20 responsibility worth considering.

21 Q. And have you looked at the Missouri rule in
22 terms of what is required?

23 A. I have, yes. And it -- to me, it didn't
24 tell me a lot about exactly what you were going to do and
25 how you were going to get it done. I mean, it has the

1 words and phrases there that require certain things
2 happen, but the details are important in terms of whether
3 you have the resources to apply to the problem, and I
4 don't know.

5 Q. Did you think they were -- the requirements
6 were too detailed or not detailed enough?

7 A. I think they said the right things that are
8 to be done, but it's not unusual for a broad prescription
9 to be implemented in many different ways, depending on
10 what resources you can bring to bear.

11 Q. Lastly on page 16, you say balanced and not
12 distortive of test period relationships reflective of
13 factors that mitigate impacts in a manner that preserves
14 test year matching principles. I don't see that at all on
15 your list on page 8. Where did you arrive at this
16 preservation of test year matching principles being
17 included?

18 A. Well, I arrived at it, again, from my
19 experience in dealing with these things and what people
20 bring up, and we start to hear a little bit yesterday with
21 Mr. Trippensee is where do you put the boundaries around
22 the definition of includable fuel costs, and what do you
23 do if there are related transactions that have something
24 to do with fuel costs, should they be included or not?
25 What do we do if there is an income stream for the sales

1 of ash as a byproduct of coal generation, do we include or
2 exclude the revenues from ash sales?

3 This also goes to the fundamental problem.
4 This point 5 goes to the fundamental problem of any
5 piecemeal rate tracking tariff being distortive of test
6 period relationships. So you -- and the design of an FAC,
7 for example, would want to account for load growth in the
8 sales term, the volume term that you divide fuel costs by,
9 and the tariff does that. If you didn't do that, it would
10 be distortive of the required matching.

11 Q. So basically that's a safeguard that is
12 dealt with within the calculation of the FAC?

13 A. The mechanics and details of the
14 calculation are important, and to the extent one can
15 identify offsetting or mitigating transactions that should
16 be scooped up and included, it's important to do that. Or
17 by the same token, if there are things in there that need
18 not be in there, we can go back to that auditability and
19 that administrative burden and maybe simplify our lives by
20 what we're putting in the tariff and deciding we don't
21 need certain things in there because they bring us more
22 administrative responsibility than it is worth it.

23 Q. You mentioned when you were being
24 cross-examined earlier that there may be decreases in some
25 costs, and the one that you mentioned that you could think

1 of was energy demand charges. Was that related to the
2 Entergy Arkansas purchased power agreement?

3 A. Yes, it's that arrangement. And the fuel
4 adjustment tariff defines includable purchased power
5 demand charges with a 12-month term. So the longer-term
6 deals are excluded and the shorter-term deals are
7 included, and that's in an area that's been problematic in
8 the administration of fuel adjustment clauses in other
9 states.

10 Q. When does that expire, if you know? Is
11 that a -- I'm sorry.

12 MR. BYRNE: I think it is.

13 COMMISSIONER MURRAY: It's not -- I don't
14 see -- mentioning the agreement itself, is that --

15 MR. BYRNE: That's okay, but I think the
16 terms, the expiration and the dollar amount are the two.
17 Okay. I'm sorry. I've just been told the expiration date
18 is okay.

19 COMMISSIONER MURRAY: Thank you.

20 THE WITNESS: It is somewhere in my direct
21 revenue requirement testimony, and I think if I could find
22 it, it would be sometime in 2009, perhaps near the middle
23 of the year. That's as much as I can recall.

24 BY COMMISSIONER MURRAY:

25 Q. So that wouldn't occur -- that wouldn't be

1 accounted for anywhere in the test year?

2 A. No. No. That will be a change that will
3 not be captured by the fuel adjustment clause because of
4 the term of that contract, and the costs saved would be
5 retained by shareholders presumably until a next base rate
6 comes along where it could be accounted for.

7 Q. Okay. So you said 2009. On page 23, you
8 speak about the rail freight amounts, and again, I think
9 we're probably into highly confidential things if we
10 mention numbers, so I won't mention any numbers. But the
11 amounts that are the freight amounts that are effective
12 January of '07, they'll be in the true-up amount; is that
13 correct?

14 A. Yes, that is correct.

15 Q. And is there any evidence that you know of
16 that those will be rising?

17 A. Well, they will be rising by single-digit
18 percentages.

19 Q. In the amount included as January '07?

20 A. Yes. Yes. In fact, on page 23 in that
21 next HC reference, there's a reference on line 14 to one
22 of the relevant percentages.

23 Q. And that is one of the items that AmerenUE
24 is proposing to include in the cost of fuel that would run
25 through the fuel adjustment clause?

1 A. That's right. This would be -- this
2 percentage escalation would be tracked through and charged
3 to customers on a piecemeal basis.

4 Q. Now, do you not consider that significant
5 in terms of relative value?

6 A. Well, let me answer this way: I think the
7 existence of known discrete cost or price increases is not
8 in and of itself a reason to adopt rate tracking tariffs.
9 I think that's a fundamental disconnect between the
10 company's view of this and other parties' view of this,
11 where any advocate before you could opt in or out of a
12 rate tracking for a discrete subset of its revenue
13 requirement, and you can pretty well predict where they
14 think the direction of price changes are going by what
15 they advocated for.

16 Q. Of course, in Missouri at least it would be
17 limited to fuel?

18 A. By virtue of SB 179 rule.

19 0. Yes.

20 A. I expect so. I don't know. I do know that
21 you have from time to time entertained accounting
22 authority orders that are much like this in segregating a
23 certain piece of the revenue requirement and giving it
24 special rate treatment.

25 COMMISSIONER MURRAY: All right. I think

1 that's all I have. Thank you.

2 JUDGE WOODRUFF: Commissioner Clayton, do
3 you have any questions?

4 COMMISSIONER CLAYTON: No.

5 JUDGE WOODRUFF: Commissioner Appling, do
6 you have any questions?

7 QUESTIONS BY COMMISSIONER APPLING:

8 Q. Good morning, sir.

9 A. Good morning.

10 Q. I came earlier this morning and read your
11 testimony.

12 A. It's a lot to wake up to.

13 Q. Yeah, it was. A couple cups of coffee.

14 But I take it that you do support an FAC for the company?

15 A. For this company?

16 Q. Yes.

17 A. No, sir.

18 COMMISSIONER APPLING: Thank you very much.

19 That's the only question that I had. Just checking you
20 out.

21 THE WITNESS: Thank you. Didn't want to
22 get that one wrong.

23 JUDGE WOODRUFF: For recross, does any
24 party wish to recross based on questions from the Bench?

25 MR. BYRNE: Just a couple.

1 RE CROSS-EXAMINATION BY MR. BYRNE:

2 Q. Mr. Brosch, Commissioner Murray asked you
3 about these criteria on page 16 of your testimony.

4 A. Okay.

5 Q. And I'm assuming you don't think AmerenUE
6 meets any of your criteria or does it meet some of them?

7 A. Well, ultimately it's a judgment call, and
8 these are the criteria that I applied and explained how I
9 applied them to Ameren. There are challenges with respect
10 to each of them in terms of whether the company meets them
11 or not. On balance, the company has not, to my thinking,
12 met the criteria.

13 Q. Well, let's look at like No. 5, for
14 example, balanced and not distortive of test period
15 relationships. I mean, isn't that -- by definition,
16 doesn't a fuel adjustment clause not meet that criteria?

17 A. It is a problem, yes, that's right, by
18 definition.

19 Q. Okay. So under your criterion No. 5, you
20 could never have a fuel adjustment clause, right?

21 A. Well, on No. 5, it would be a challenge to
22 find a way to satisfy that criteria.

23 Q. How about straightforward and simple to
24 administer, I guess part of the problem there is -- in
25 this particular case is Missouri has some pretty detailed

1 rules, don't they? I mean, isn't that part of the --

2 A. I don't know if that's perceived to be a
3 problem or not, but I will say that in many states where
4 there's a fuel adjustment clause and not explicit
5 directives in a rule, there's a wide variety of resource
6 application and attention paid to regulating fuel
7 adjustment charges, from my experience.

8 Q. Would it be fair to say, given the detailed
9 rules in Missouri, it would be impossible to satisfy this
10 standard in Missouri?

11 A. It would be a challenge to satisfy that
12 standard.

13 MR. BYRNE: Okay. Thank you. No more
14 questions.

15 JUDGE WOODRUFF: Redirect?

16 MR. MICHEEL: No.

17 JUDGE WOODRUFF: All right. Then,
18 Mr. Brosch, can you step down. We'll be seeing you again
19 later.

20 We're due for a break. Let's come back at
21 10:20.

22 (A BREAK WAS TAKEN.)

23 JUDGE WOODRUFF: All right. We're back
24 from break, and before the break we finished with
25 Mr. Brosch, and Mr. Morris Brubaker has taken the stand.

1 (Witness sworn.)

2 JUDGE WOODRUFF: Thank you.

3 MS. VUYLSTEKE: I'm sorry. I will tender
4 the witness for cross-examination.

5 JUDGE WOODRUFF: All right. Thank you.
6 And for cross-examination, MEG's not here. Noranda's not
7 here. Commercial Group? Retailers? The State?

8 MR. MICHEEL: No questions.

9 JUDGE WOODRUFF: DNR? Staff? Laclede,
10 Aquila? Public Counsel?

11 MR. MILLS: No questions.

12 JUDGE WOODRUFF: AARP? Mo-Kan? MASW?
13 Joint Bargaining? And Ameren?

14 MR. LOWERY: I don't want Mr. Brubaker to
15 come up here for nothing.

16 MAURICE BRUBAKER testified as follows:

17 CROSS-EXAMINATION BY MR. LOWERY:

18 Q. You're here anyway, right?

19 A. That's right.

20 Q. How are you this morning, Mr. Brubaker?

21 A. Good, thanks.

22 Q. Now, Mr. Brubaker, as I understand it,
23 you've advocated that if an FAC is to be approved in this
24 case, that off-system sales should be netted against
25 variable fuel and purchased power costs through that FAC,

1 correct?

2 A. Correct.

3 Q. And Mr. Lyons, in his surrebuttal
4 testimony, outlines a proposal that does that, correct?

5 A. It appears to. We're still studying the
6 tariff sheet, but it appears that it does.

7 Q. Assuming that the tariff sheet implements
8 what he says that the company intends to do, it would net
9 the off-system sales against the fuel costs through the
10 FAC as you've suggested, correct?

11 A. It would.

12 Q. Now, you recommend, I believe in your
13 direct testimony, that any adjustment mechanism provide
14 incentives for the utility to control costs, correct?

15 A. Correct.

16 Q. And am I correct in improvements in plant
17 performance effectively lower net fuel cost if those
18 improvements in plant performance allow more off-system
19 sales whenever you're netting off-system sales against
20 fuel costs, for example, in a fuel adjustment clause?

21 A. They would.

22 Q. And if AmerenUE can enhance its earnings,
23 if it can more than offset fuel cost increases with
24 greater off-system sales, it's being given an incentive,
25 correct?

1 A. Under the structure of the fuel clause I
2 propose, that would be true.

3 Q. Well, under any -- let's talk about that.
4 If you have an incentive mechanism that would allow the
5 company to enhance its earnings if it's able to offset
6 fuel price increases by increasing off-system sales, then
7 that provides that kind of incentive, correct?

8 A. Yes, at a 10,000 foot level without looking
9 at the details of a mechanism to make sure there are no
10 other offsetting or unintended consequences, that would be
11 true.

12 Q. Right. And there may not be -- there's not
13 necessarily just one mechanism that could accomplish that
14 goal, is there?

15 A. No. I would agree.

16 Q. Now, in fact, I believe you've testified in
17 your direct testimony that it's important for the utility
18 to have incentives to control cost and to perform in a
19 superior manner, correct?

20 A. I think it's desirable, yes.

21 Q. Now, am I correct that incentives can be
22 provided by regulatory lag?

23 A. Sure.

24 Q. And am I correct that the longer the lag,
25 the more powerful that incentive is?

1 A. It's hard to answer in the absolute because
2 the utility is in control of when it files cases, and so
3 it may or may not be effective if it's longer.

4 Q. If an FAC is adopted for AmerenUE in this
5 case, is the utility still in control of when it files
6 cases?

7 A. Up to a four-year period, yes.

8 Q. So the utility has to file a case after
9 four years, correct?

10 A. Correct.

11 Q. And if because of cost increases a utility
12 has to file a case more often than that four-year period,
13 then the incentive normally provided by regulatory lag is
14 mooted. Would you agree with that?

15 A. I'm not sure I understand your question.

16 Q. Well, let's say a utility has to file a
17 case in one or two years after this case, as opposed to
18 waiting four years. The power of the incentive provided
19 by regulatory lag is going to be lessened if the utility
20 has to file sooner than if the utility has the full
21 four-year period?

22 A. I don't know if I could agree with that
23 because the utility is in control of that decision in
24 between the four-year periods. What it does to manage its
25 costs in between determines whether or not it would need

1 to file a rate case.

2 Q. Let's assume in the utility's view that the
3 utility has done everything they can to control its costs
4 and it nevertheless has experienced an increase in cost
5 that is deteriorating its ROE below what the utility
6 believes to be an acceptable level. In that event the
7 utility is going to have to file more often and the
8 incentive provided by regulatory lag is going to be
9 lessened; is that correct?

10 A. Again, I don't know because the regulatory
11 lag may have caused the company to do more than it
12 otherwise would have had it had the capability to pass on
13 costs without having to account for decreases in cost, so
14 I can't really say that.

15 Q. So you wouldn't even agree that if rate
16 cases do become more frequent, the incentive regulatory
17 lag might provide has been reduced, you wouldn't agree
18 it's been reduced at all; is that your testimony?

19 A. I don't equate the two because, again, the
20 utility is in control of what it does to manage its costs
21 and controls when it files its rate cases, so I don't see
22 that -- the direct connection. There may be circumstances
23 where that would apply. There may be circumstances where
24 it wouldn't apply.

25 Q. I don't think it's your testimony that the

1 utility can control all of its costs. Is that your
2 testimony, that the utility has control all of its costs?

3 A. The utility can manage all of its costs.
4 Some costs are more susceptible to control than others.

5 Q. Some costs are pretty difficult to control;
6 would you agree with that?

7 A. Yes.

8 Q. And would you agree that with respect to
9 many costs, we've seen inflation over the years and we
10 would expect to continue to see inflation over the years?
11 Would you agree with that?

12 A. We've seen inflation on some costs and
13 we've seen deflation on some costs that often follows
14 sharp run ups in price levels.

15 Q. Mr. Brubaker, in your fuel adjustment
16 clause direct testimony, I believe you proposed a sharing
17 mechanism with dead bands equaling \$10 million on each
18 side of a base level of costs, fuel costs, correct?

19 A. Correct.

20 Q. Now, with that structure, if fuel costs are
21 rising by \$10 million or more and if we hold everything
22 else equal, for example we don't generate any off-system
23 sales among the base that's set at all, the utility will
24 simply not recover the first \$10 million of fuel costs;
25 isn't that right?

1 A. If your reaction to that increase in costs
2 is to do nothing to offset it, that would be correct.

3 Q. That wasn't my question, though. If we
4 hold everything else equal, in fact, the utility will not
5 recover that \$10 million, correct?

6 A. If you constrain the example so nothing
7 else can change, the answer would be probably.

8 Q. I'll ask the question again. My question
9 was, if you, in fact, hold everything else equal, the
10 utility will not recover that first \$10 million? I think
11 it's a yes or no question.

12 A. It's yes in the hypothetical, but it's not
13 a realistic hypothetical.

14 Q. In your view it's not a realistic
15 hypothetical?

16 A. I agree.

17 Q. You don't know what all these future
18 conditions are going to be, do you?

19 A. I don't, but I have more faith in the
20 management of Ameren to believe they would ignore other
21 opportunities to reduce costs if their fuel costs
22 increase.

23 Q. Mr. Brubaker, what is your hourly rate for
24 this case?

25 A. \$290.

1 Q. Now, back when you started your career in
2 1987 --

3 A. '87? You're kind.

4 Q. I was trying to be. What was your hourly
5 rate then, Mr. Brubaker?

6 A. In 1987 or when I started?

7 Q. How about 1987?

8 A. I have no idea. Someplace between \$50 and
9 this.

10 Q. Was it more than \$100, less than \$290 an
11 hour?

12 A. I really don't know.

13 Q. You have no idea?

14 A. Let's see. '87? Okay. Try the question
15 again.

16 Q. Just a rough estimate, about what was your
17 hourly rate in 1987?

18 A. I would say between 150 and 200.

19 Q. So it's perhaps nearly doubled in that
20 period of time?

21 A. Well, doubled or gone up by half, I mean,
22 depending on where exactly it was. I honestly don't
23 remember.

24 MR. LOWERY: Thank you, Mr. Brubaker.

25 That's all I have, your Honor.

1 JUDGE WOODRUFF: Okay. Come up for
2 questions from the Bench, then. Commissioner Murray, do
3 you have any questions for Mr. Brubaker?

4 COMMISSIONER MURRAY: Yes, I believe I have
5 at least a couple.

6 QUESTIONS BY COMMISSIONER MURRAY:

7 Q. Good morning, Mr. Brubaker.

8 A. Good morning, Commissioner.

9 Q. With your proposed sharing structure, I'd
10 like you to kind of walk me through this a little bit if
11 you would.

12 A. Sure.

13 Q. If we did establish a fuel adjustment
14 clause with this sharing structure, and the company --
15 let's say, fuel prices increased \$10 million in year one.
16 How would having the fuel adjustment clause be any
17 different than having a traditional rate design in place?
18 I don't mean rate design, a traditional treatment of fuel
19 expenses in place?

20 A. Can I back up just a second in your
21 example?

22 Q. Sure.

23 A. And emphasize that it actually works on a
24 cents per kilowatt hour basis. So if the changes in cents
25 per kilowatt hour resulted in a \$10 million increase, I

1 think to stay with your question and to explain how the
2 thing functions.

3 Q. All right. It wouldn't be from growth, it
4 would be an increase just based on changes in kilowatt?

5 A. Correct. And the net of -- what you do is
6 you start with a base level that's fuel, purchased power,
7 minus off-system sales revenue. You get per kilowatt
8 hour, and say it's -- I don't know what it's going to be,
9 but it might be something in the neighborhood of
10 three-quarters of a cent a kilowatt hour. Then you go
11 forward to the next period and you do the same
12 calculation, and that -- and it's either gone up or down
13 or stayed the same. So if that happened and you were
14 within that and you converted back to dollars, it was
15 within \$10 million, nothing would happen. It would be no
16 different at that point in time.

17 Q. Okay. That would essentially be the same
18 as if the company had the traditional treatment?

19 A. On the first \$10 million, correct.

20 Q. And yet if they did have a fuel adjustment
21 clause, they're under certain other obligations, are they
22 not, that would not apply if they had the traditional
23 treatment of fuel costs?

24 A. True, but they're there by choice. They
25 have reporting obligations.

1 Q. Right. And those wouldn't be in place if
2 they were under a traditional treatment?

3 A. Right.

4 Q. And then they would also have the
5 obligation to file a rate case within, what is it, four
6 years?

7 A. Correct.

8 Q. What other obligations would they have that
9 they otherwise wouldn't have?

10 A. I don't recall the other provisions of the
11 rule, Commissioner.

12 Q. Now, in your estimation, how likely is it
13 that that scenario would play out, that the increase in
14 fuel costs would be within that base amount?

15 A. It's very difficult to tell. That would be
16 the argument in favor of the fuel adjustment clause, that
17 the changes in price levels, changes in the level of
18 off-system sales might be more than \$10 million a year.
19 The reason I did \$10 million is just to avoid having small
20 changes affect customers' bills.

21 I'm not wedded to having a dead band. I
22 would have no problem if the sharing started at \$1, but a
23 lot of these sharing structures do have a dead band just
24 to zone out insignificant changes in price levels, which
25 \$10 million for this company would be.

1 Q. All right. Now, assuming that you had an
2 \$11 million increase, at that -- at that level on your
3 proposed sharing structure, the customers would pay the
4 11th million, that amount above 10 million, the customers
5 would pay the 90 percent of the unplaced fuel costs?

6 A. Yes, ma'am.

7 Q. Okay.

8 A. Right.

9 Q. And the company would pay -- the
10 stockholders would pay 10 percent?

11 A. Correct.

12 Q. And then reversing that, if the fuel
13 savings were -- if the fuel costs were actually cents per
14 kilowatt hour amounted to, would you have to go down to a
15 decrease of \$11 million before the decreases would come
16 into play?

17 A. That's correct. The utility would retain
18 the benefit of the first \$10 million. It's just the flip
19 of going up.

20 Q. And then if there were a decrease, the
21 customers would experience 90 percent of that beyond the
22 base level, beyond the dead band?

23 A. For the next \$50 million, correct, and then
24 a smaller percentage. A larger percentage would go to the
25 company the farther down they're able to get it.

1 Q. But you have no way -- are you telling me
2 you have no way to quantify or estimate the likelihood of
3 the dead band being the actual amount that would be
4 incurred?

5 A. I do not. I won't speak for everybody, but
6 I can't imagine that anybody would be able to because
7 there's so many variables at play here. You know, a
8 \$10 million increase in fuel costs could be way more than
9 offset by a \$25 million larger off-system sales margin
10 than was set in the test year. It's just really
11 difficult.

12 Q. And the way that your calculations deduct
13 the off-system sales, is that the same as we talked about
14 under the company proposal?

15 A. I believe so. The -- subject to reading
16 the language and seeing there are no unintended effects,
17 the intent is the same in both cases.

18 COMMISSIONER MURRAY: All right. Thank
19 you.

20 JUDGE WOODRUFF: Does anyone wish to
21 recross based on those questions from the Bench?

22 MR. LOWERY: No, your Honor.

23 JUDGE WOODRUFF: Any redirect?

24 REDIRECT EXAMINATION BY MS. VUYLSTEKE:

25 Q. Mr. Brubaker, are you aware of -- what

1 areas of your business costs of running your business have
2 actually -- what costs have actually gone down since 1987?

3 A. Certainly our telecommunication costs have
4 gone down. Our cost of document management and
5 reproduction have gone down. Our cost of document storage
6 per document or per box have gone down because of
7 technological improvement. Certainly our costs of
8 producing cost of service studies and other analyses have
9 gone down because of the improvements with computers and
10 processors. So many things have changed.

11 Q. And are you aware of areas of utility costs
12 that have gone down since 1987?

13 A. Yes, similar things have -- are available
14 to the utilities, and I'm sure that they've taken
15 advantage of them. Utilities -- Ameren's fuel costs up
16 until just now from 1987 went down substantially.

17 MS. VUYLSTEKE: Okay. No other questions.
18 Thank you.

19 JUDGE WOODRUFF: Mr. Brubaker. You can
20 step down.

21 THE WITNESS: Thank you.

22 MS. VUYLSTEKE: At this point, your Honor,
23 I'd like to request admission of -- I apologize. I think
24 actually Mr. Brubaker's testimony was already admitted
25 into the record, all of his written testimony, I think.

1 JUDGE WOODRUFF: I don't believe so. It's
2 not been offered.

3 MR. LOWERY: It doesn't matter to us, but
4 he is going to be back.

5 JUDGE WOODRUFF: The practice has been you
6 can offer each testimony the last time he testifies.

7 MS. VUYLSTEKE: Okay.

8 JUDGE WOODRUFF: So you don't need to worry
9 about it at this point. The next witness, then, is
10 Mr. Dauphinais. Am I pronouncing that correctly.

11 THE WITNESS: Yes, you are.

12 JUDGE WOODRUFF: And you are James
13 Dauphinais?

14 THE WITNESS: Correct.

15 (Witness sworn.)

16 JUDGE WOODRUFF: You may be seated.

17 MS. VUYLSTEKE: I would offer the witness
18 for cross.

19 JUDGE WOODRUFF: And to save a little time,
20 I'll ask, are there any parties that wish to cross-examine
21 Mr. Dauphinais?

22 I see only Ameren, so we'll go with Ameren
23 then.

24 JAMES DAUPHINAIS testified as follows:

25 CROSS-EXAMINATION BY MR. LOWERY:

1 Q. How are you, Mr. Dauphinais?

2 A. Very good, Mr. Lowery.

3 Q. Mr. Dauphinais, a key perhaps -- perhaps
4 the key concern that you discuss in your FAC-related
5 testimony is a concern that if AmerenUE were to handle
6 off-system sales outside the fuel adjustment clause, it
7 would raise in your mind a number of cost allocation
8 issues, correct?

9 A. That's correct, in regard to the allocation
10 of fuel and purchased power costs along with MISO credits.

11 Q. That's really the key concern that you
12 raise regarding the fuel adjustment clause; is that
13 correct?

14 A. That is correct.

15 Q. And the company has addressed, perhaps not
16 entirely to your satisfaction, but it has addressed many
17 of those issues in Mr. Schukar's surrebuttal testimony,
18 correct?

19 A. There were still some outstanding
20 questions, as I indicated, and they may not be fully
21 addressed. A lot depends on the details that went into
22 the tariff itself.

23 Q. Some of the concerns you raise have been
24 addressed to your satisfaction. I believe you listed
25 about six different ones in your rebuttal testimony, and

1 some of those I think you indicated have been addressed?

2 A. Some of them appear to be addressed, yes.

3 Q. And I believe Mr. Schukar has indicated
4 separately in conversations with you that -- at least what
5 the company's intent is and what they intend to do that
6 addresses some of the additional ones; is that correct?

7 A. That is correct.

8 Q. And I take it from your comments you made a
9 moment ago, as long as those were implemented in the way
10 that is described in Mr. Schukar's rebuttal testimony or
11 as he has described to you, that at least as to those
12 concerns they would be resolved as far as you're
13 concerned, correct?

14 A. For those narrow concerns. My surrebuttal
15 raised an additional, at least one additional concern, and
16 in respect to MISO charges, there's also an additional
17 item that's still not entirely clear that's addressed.

18 Q. And I think another concern that you
19 previously expressed related to your observation that at
20 the time you filed your rebuttal testimony, the company
21 had not explained to your satisfaction how it would hold
22 customers harmless regarding the Taum Sauk events,
23 correct?

24 A. That's what my direct is.

25 Q. And the company has responded to that

1 concern now in Mr. Lyons' surrebuttal testimony. I
2 believe you testified that you believe the company's
3 recommendation to include a fixed set adjustment is
4 reasonable, given the dollar amount involved and the fact
5 that they're -- with a fuel adjustment clause there would
6 be a new rate case every four years; is that correct?

7 A. I had an additional caveat. It's correct
8 with the additional caveat. The additional caveat was
9 that in a reconciliation proceeding, if a party felt that
10 a production cost run was necessary, that they could
11 petition for that and those parties could be -- it could
12 be AmerenUE being the party petitioning for it.

13 Q. So either including the fixed amount in --
14 the fixed amount that would be determined in the rate
15 case, that would be okay with you, or if someone felt that
16 the production cost model should be run, the model that
17 affects, then that would be a satisfactory solution to the
18 Taum Sauk issue with the fuel adjustment clause, correct?

19 A. As long as the latter is kept open as an
20 option for parties.

21 Q. All right. In any event, the proposal that
22 Mr. Lyons made in his surrebuttal testimony with respect
23 to netting off-system sales through the fuel adjustment
24 clause, that moots those cost allocation issues in any
25 event if that is the proposal adopted in the case,

1 correct?

2 A. The devil's in the detail, but conceptually
3 it does.

4 Q. As long at it's properly implemented, it
5 moots the issues, correct?

6 A. As long as it's properly implemented.

7 Q. Now, Mr. Dauphinais, you provided an
8 estimate in your surrebuttal testimony of what off-system
9 sales margins would be if you were to use historic 2006
10 energy prices, correct?

11 A. Yes, I did.

12 MR. LOWERY: Your Honor, I guess actually,
13 Mr. Dauphinais' going to be back on off-system sales. I
14 think you probably prefer us just to wait 'til then, so is
15 that fine?

16 JUDGE WOODRUFF: That will be fine.

17 MR. LOWERY: Mr. Dauphinais, I think that's
18 all I have regarding the fuel adjustment clause. Thank
19 you.

20 JUDGE WOODRUFF: Commissioner Murray, do
21 you have any questions from the Bench?

22 COMMISSIONER MURRAY: Just give me a
23 second, Judge.

24 I don't believe I do. Thank you.

25 JUDGE WOODRUFF: So there's no need for

1 recross. Any redirect?

2 MS. VUYLSTEKE: No, your Honor.

3 JUDGE WOODRUFF: Then, Mr. Dauphinais, you
4 can step down.

5 And looking at my chart, I believe
6 Mr. Higgins and Mr. Johnstone and Ms. Brockway are going
7 to be testifying later; is that correct?

8 MR. LOWERY: That is correct, your Honor.

9 JUDGE WOODRUFF: Which means we're on to
10 off-system sales.

11 MR. CONRAD: Judge, before we do that, I
12 think counsel had discussed earlier the potential of
13 moving Mr. Swogger and he is available, and if we could --

14 JUDGE WOODRUFF: You want to do him now?

15 MR. CONRAD: If it's possible and by your
16 leave, that would be fine.

17 JUDGE WOODRUFF: That's certainly
18 acceptable to me, and assuming it's acceptable to the
19 parties, that's what we'll do.

20 MR. CONRAD: Okay.

21 JUDGE WOODRUFF: Which issue would this be,
22 Mr. Conrad?

23 MR. CONRAD: If your Honor please,
24 Mr. Swogger actually was originally scheduled later in the
25 proceeding, I believe to respond particularly to rate

1 design, class cost of service, that panoply of issues, and
2 it's by the grace and acquiescence of the other parties to
3 accommodate his schedule that we had decided to try to
4 move him actually to Friday, I think was the schedule, and
5 since things have moved along, we'd like to go ahead with
6 that. I do have --

7 MR. LOWERY: Your Honor, my apologies. And
8 I have no objection to going ahead and putting on
9 Mr. Swogger at this time, but I would like to have five or
10 ten minutes just to check with the attorneys who are
11 dealing with the rate design issues because I'm not, and
12 since he's here just the one time, just in case they'd
13 have some questions, I need just a few minutes to check
14 with them to do that.

15 MR. DOTTHEIM: And, Judge, also too, since
16 I'm not sure how long it will take with Mr. Swogger on the
17 stand, and I expect we'd go then immediately into
18 off-system sales, I think not all counsel and witnesses on
19 off-system sales are in the hearing room. So it might
20 take a few minutes assembling them.

21 JUDGE WOODRUFF: We can certainly take a
22 break as needed.

23 MR. CONRAD: Judge, while you're still
24 rolling and the thing is going upstairs, it might be that
25 one or more of the Commissioners --

1 JUDGE WOODRUFF: Yes, that's true. Do the
2 parties want to do mini openings again on the off-system
3 sales?

4 MR. LOWERY: Your Honor, I'd be prepared to
5 do that for you if you'd like to hear it, or if there are
6 Commissioners here. I think I'd leave it to the Bench
7 whether you think that would be helpful or not.

8 JUDGE WOODRUFF: What do the other parties
9 think? We've already kind of gotten into the discussion
10 on it.

11 MR. MILLS: I would do it if you wanted me
12 to, but I certainly don't need to.

13 MR. MICHEEL: I could talk about any issues
14 we have if you want to hear from me.

15 JUDGE WOODRUFF: I'm sure you can.
16 Obviously, we want to keep things moving as much as we
17 can.

18 MR. LOWERY: I think the record reflects
19 that.

20 JUDGE WOODRUFF: I didn't want to deny
21 anybody the opportunity if they wanted to, but otherwise
22 we'll just go without it.

23 All right. We're on break then until
24 11 o'clock.

25 (A BREAK WAS TAKEN.)

1 (EXHIBIT NO. 600 WAS MARKED FOR
2 IDENTIFICATION BY THE REPORTER.)

3 JUDGE WOODRUFF: Welcome back from break,
4 and Mr. Swogger has taken the stand.

5 (Witness sworn.)

6 MR. CONRAD: Your Honor, I have provided
7 the court reporter with a copy of the prepared direct
8 testimony of Mr. Swogger. It was filed back in December,
9 and that has been marked as Exhibit 600. So given that we
10 have agreed to waive the preliminary questions, I would
11 respectively tender the witness for cross, and subject to
12 that cross, would offer Exhibit 600 into the record.

13 JUDGE WOODRUFF: All right. Exhibit 600
14 has been offered into evidence. Does anyone object to its
15 receipt?

16 (No response.)

17 JUDGE WOODRUFF: Hearing no objections, it
18 will be received into evidence.

19 (EXHIBIT NO. 600 WAS RECEIVED INTO
20 EVIDENCE.)

21 JUDGE WOODRUFF: For cross-examination,
22 we'll begin with MIEC.

23 MS. VUYLSTEKE: No cross, thank you.

24 JUDGE WOODRUFF: MEG? Commercial Group?
25 Missouri Retailers? State?

1 MR. MICHEEL: No.

2 JUDGE WOODRUFF: DNR? Staff?

3 MR. DOTTHEIM: No.

4 JUDGE WOODRUFF: Laclede? Aquila? Public
5 Counsel?

6 MR. MILLS: No.

7 JUDGE WOODRUFF: AARP? MoKAN? MASW?
8 Joint Bargaining? And Ameren?

9 MR. BYRNE: Yes, your Honor.

10 GEORGE SWOGGER testified as follows:

11 CROSS-EXAMINATION BY MR. BYRNE:

12 Q. Good morning, Mr. Swogger.

13 A. Good morning, Mr. Byrne.

14 Q. Mr. Swogger, are you generally aware of
15 AmerenUE's revised fuel adjustment proposal?

16 A. I am.

17 Q. And are you familiar with the fact that
18 AmerenUE revised its proposal to incorporate some of the
19 suggestions that Noranda made in terms of volatility
20 mitigation?

21 MR. CONRAD: Your Honor, I'm not going to
22 object because this is not really the area of
23 Mr. Swogger's expertise, as long as counsel stays at, I
24 think, a proverbial 30,000 or 10,000 foot level.

25 MR. BYRNE: Okay. I'll stay at the 10,000

1 level.

2 BY MR. BYRNE:

3 Q. Mr. Swogger, do you know if Mr. Johnstone
4 or your other experts have had a chance to look at the
5 tariff that was marked as Exhibit 104 in this case?

6 A. They have.

7 Q. And what is your position on whether a fuel
8 adjustment clause should be allowed in this case?

9 A. Our position is -- we haven't taken a
10 position whether you should or should not have a fuel
11 adjustment clause.

12 Q. But let me ask you this: If the Commission
13 decides to order a fuel adjustment clause, do you have a
14 position on whether the proposal that AmerenUE has
15 submitted in surrebuttal testimony and in that tariff, do
16 you have a position on whether that would be appropriate?

17 A. As I understand, the changes that have been
18 made have largely addressed Noranda's concerns, and, you
19 know, I can only speak for Noranda, of course. But from
20 where I sit, I think those concerns have largely been
21 addressed and that the proposal that's now on the table is
22 good enough.

23 MR. BYRNE: Thank you, Mr. Swogger.

24 JUDGE WOODRUFF: Thank you. Commissioner
25 Murray, do you have any questions for Mr. Swogger?

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. This is the only time you're going to be
3 here; is that right?

4 A. I hope.

5 Q. And basically, you just filed direct; is
6 that correct?

7 A. That's correct.

8 Q. And you indicated on pages 5 and 6 of your
9 testimony that -- in speaking about load management
10 possibilities, that Noranda would cooperate in the
11 development of any load management rate product that would
12 be consistent with operational and reliability parameters;
13 is that correct?

14 A. That is correct.

15 Q. But then you said, to date we've not
16 developed any arrangements along these lines. Has there
17 been anything transpire in that regard since your
18 testimony was filed?

19 A. No, but I'd be glad to expand on that if
20 you're interested.

21 Q. All right. Please.

22 A. Noranda has very, very limited load
23 management capabilities. None of those are desirable to
24 Noranda, and we haven't pursued that because we highly
25 prefer -- I mean, I can't emphasize the word highly

1 enough, that we don't have any variability in the
2 procurement of our electricity.

3 We have on occasion, back in the late '90s,
4 taken advantage of the limited opportunity we have when
5 prices went way up, and what I was referencing, one of the
6 references that may be of interest to the Commission, that
7 in the late '90s, and I can't give you the exact year, but
8 an example of what happened is one day right before lunch
9 -- I remember this vividly -- I got a call from
10 Associated, our supplier at the time, and there was --
11 somewhere near Kansas City, and I do not know if it was
12 Kansas City Power & Light or Aquila or who, or it may have
13 been a municipality, I really don't know.

14 But basically it was in those days when
15 there was a shortage of electricity, and they said that
16 the lights were going to go out in this area, but through
17 some arrangement, if we could shed some load, that
18 Associated could provide some electricity to that supplier
19 and keep the lights on. And without any contracts in
20 place or whatever, we within ten minutes, and I'll never
21 forget this, too, because the phone system went dead in
22 our plant, and if you've ever been to our plant, it's kind
23 of big to get everybody on board to do this, but we tried
24 to cooperate, is the point, if at all possible.

25 And certainly we would do that for not only

1 Ameren, but any way we could help anybody. But we don't
2 do it with the idea of gaining money. That's not our
3 primary objective. But obviously if we do it, we don't
4 mind collecting, and Associated did pay us well for that.

5 Q. Okay. In terms of the rate design, the --
6 have you testified in previous cases regarding rate
7 design?

8 A. I have not.

9 Q. Have you -- do you do any studies on how
10 rate design is usually done?

11 A. I do not.

12 Q. So you wouldn't consider yourself a rate
13 design expert?

14 A. I definitely am not a rate design expert.

15 Q. You do have testimony here, though, about
16 the cost shifts from the residential class proposed in
17 this proceeding. What would that amount to if -- let's
18 just hypothetically say that Ameren received its full
19 revenue increase request and that shift were made. Do you
20 have any ballpark figure as to what that would actually
21 mean to Noranda?

22 A. If I remember the original filing of Ameren
23 back in July, I believe that the rate from Noranda with
24 the 10 percent residential rate cap was going to go up
25 approximately 19 percent.

1 Q. Fairly substantial increase when one-third
2 of your costs are energy costs; is that right?

3 A. Devastating, yes.

4 Q. All right. In your opinion, is there any
5 justification for such a rate shift, such a class shift in
6 rates between the classes?

7 A. No. That's been one of our concerns if
8 something like that would be adopted, where the Commission
9 would just say, hey, we're going to take all -- we're not
10 going to let the residentials or anybody else go up at
11 all, we're just going to take it all to our single class.
12 Since we are a class, just let Noranda eat it all. It
13 would be devastating to us, so yes, it is a big concern.

14 Q. And when -- if your costs were to increase
15 that significantly, how would it -- how would it impact
16 Noranda? What are the various ways in which that kind of
17 an increase would impact you?

18 A. And I might even tie that to the cap, the
19 4 percent cap and why that's important to Noranda, because
20 they kind of go together. You know, how would that impact
21 us? Obviously 4 percent of a very big number is, you
22 know, goes right to our bottom line. And we don't have an
23 ability, you know, we deal on a worldwide market, to pass
24 those costs on to our customers, so how would we deal with
25 that?

1 We would do the prudent things that you
2 would expect any business to do. We would immediately
3 constrain capital expenditures, for instance. We would
4 try to cut costs in other areas. You know, we would do
5 whatever it took to try to stay in business. And one of
6 the reasons, for instance, in the rate cap on the fuel
7 volatility is we would hope that those costs would then go
8 back down, you know, that something caused them to spike
9 up, and then oftentimes things like that do go back to
10 some lower level. And that was one of our thoughts in
11 getting that, why it was very important to Noranda.

12 Does that answer your question?

13 Q. Yes. Would there also be a possibility
14 that you might have to lay off people?

15 A. Absolutely. Absolutely. In fact, there's
16 a possibility we would totally shut down. We would lay
17 off. I would -- I don't want to say everybody isn't
18 extremely important, but you can always do a little bit
19 less painting and jan-- I mean, you would do what you
20 could. But you couldn't -- you can't do away with those
21 people forever. But I think most businesses would be able
22 to do something, and we would do that.

23 Q. But it would definitely impact individuals
24 in the state?

25 A. Most likely, yes.

1 COMMISSIONER MURRAY: Thank you. I believe
2 that's all I have.

3 JUDGE WOODRUFF: Commissioner Appling, do
4 you have any questions for Mr. Swogger?

5 QUESTIONS BY COMMISSIONER APPLING:

6 Q. Sir, I apologize for not being here when
7 you started. What's the number of employees you have in
8 your company?

9 A. At the New Madrid facility, we have roughly
10 1,100.

11 Q. 1,100. So a large increase in fuel or
12 electric down in your location would put a lot of people
13 out of work?

14 A. Potentially could, yes.

15 Q. So my assumption is that your company's not
16 in favor of the FAC?

17 A. We haven't taken a position on that, sir.
18 I'll leave it at that. I'll leave it to experts to go
19 into all the pluses and minuses I've heard over the last
20 day. We have not taken a position.

21 COMMISSIONER APPLING: Thank you very much.

22 JUDGE WOODRUFF: Does anyone wish to
23 recross based on questions from the Bench?

24 MS. VUYLSTEKE: I'm sorry. I have a few
25 questions for recross -- or for cross.

1 JUDGE WOODRUFF: We missed you before,
2 didn't I?

3 MS. VUYLSTEKE: Right. Am I allowed to
4 recross at this point?

5 COMMISSIONER MURRAY: Judge, I'm sorry.
6 I'm going to have another question. I just thought it
7 might be more efficient.

8 MS. VUYLSTEKE: Absolutely, Commissioner.
9 Thank you.

10 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

11 Q. Just let me verify one thing with you.
12 Noranda's position is primarily opposing the class cost of
13 service proposal, is that correct, the rate design shift?

14 A. If you're referring to the residential
15 rate?

16 Q. Yes.

17 A. Absolutely we are opposed to that.

18 Q. And have you taken any position as to the
19 rate increase request itself?

20 A. No, we have not.

21 COMMISSIONER MURRAY: All right. Thank
22 you.

23 JUDGE WOODRUFF: Ask your question.

24 MS. VUYLSTEKE: Thank you.

25 CROSS-EXAMINATION BY MS. VUYLSTEKE:

1 Q. Mr. Swogger, I just have a couple of
2 questions. As I understand Noranda's position on the fuel
3 adjustment, your main concern about that was volatility,
4 is that correct, that that was one of the main dangers
5 that you saw with the fuel adjustment clause?

6 A. That was a very big issue for us, yes.

7 Q. Would you say it was a primary concern or
8 your main concern?

9 A. It was a very big issue, yes, I would.

10 Q. Okay. And you believe that this particular
11 concern of volatility has been largely resolved or greatly
12 mitigated by Ameren's revised proposal on the FAC,
13 correct?

14 A. I think I used the term something like good
15 enough. Is it perfect? Of course not, but yes, it's good
16 enough. We're largely okay with it.

17 Q. Okay. But that doesn't mean that you
18 support the FAC. If I understand your position on the
19 FAC, you're neither opposing or supporting the Commission
20 adopting an FAC for Ameren, your position is you don't
21 take a position regarding whether the Commission should
22 establish one for Ameren?

23 A. That is correct.

24 MS. VUYLSTEKE: Okay. Thank you.

25 JUDGE WOODRUFF: Any other recross? Any

1 redirect?

2 REDIRECT EXAMINATION BY MR. CONRAD:

3 Q. Mr. Swogger, I'll just be very, very brief.
4 Commissioner Murray asked you about the impact on Noranda
5 and the rate design issues. Do you recall those
6 questions?

7 A. Yes.

8 Q. You are here not as an expert in that
9 field, but I take it rather as a -- as just a business
10 person that's talking about the impact on your operations?

11 A. That's correct.

12 Q. Just so the record is clear, I believe
13 Ms. Vuylsteke and counsel for Ameren asked you about your
14 position on the FAC itself, and just so it's capsulized
15 and clear, please restate Noranda's position with respect
16 to the FAC itself.

17 A. We have not -- if your question is have we
18 taken a position should Ameren get an FAC or not, Noranda
19 has not taken a position on that.

20 Q. And when you say that, do you have a
21 position on any of the other issues or concerns that
22 others have raised?

23 A. No, I don't want to speak for anybody else.

24 MR. CONRAD: Thank you very much,
25 Mr. Swogger. That's all. And I would again move

1 admission of Exhibit 600 and ask that the witness be
2 excused.

3 JUDGE WOODRUFF: I've already admitted 600,
4 and the witness is excused, and you can go on back down to
5 New Madrid, sir.

6 THE WITNESS: Thank you.

7 JUDGE WOODRUFF: All right, then. I
8 believe we're ready to move to off-system sales, and looks
9 like Mr. Schukar is coming forward.

10 (Witness sworn.)

11 JUDGE WOODRUFF: You may be seated.

12 (EXHIBIT NOS. 28 THROUGH 32 WERE MARKED FOR
13 IDENTIFICATION BY THE REPORTER.)

14 SHAWN E. SCHUKAR testified as follows:

15 DIRECT EXAMINATION BY MR. LOWERY:

16 Q. Mr. Schukar, do you have any corrections to
17 any of your prefiled testimonies?

18 A. Yes, I do.

19 Q. And let me grab the exhibit list.

20 Mr. Schukar, you filed direct testimony HC, direct
21 testimony public, supplemental direct testimony, rebuttal
22 testimony on the 31st of January, rebuttal testimony on
23 the 5th of February and then surrebuttal testimony,
24 correct?

25 A. Correct.

1 Q. I believe His Honor just indicated those
2 are Exhibits 28HC, 28NP, 29, 30, 31 and 32, correct?

3 A. Correct.

4 Q. Could you please describe -- I think you
5 mentioned that you did have some corrections. Could you
6 please describe, starting with your earliest testimony and
7 moving forward, any corrections you have to any of those
8 testimonies?

9 A. Okay. On my direct testimony on page 16,
10 line 2, there's a price of 54.03. That should be 53.90.
11 On line 3 of page 16 of my direct testimony, the price of
12 42.42 should be 42.13. That is the only correction in my
13 direct testimony.

14 In my January 31st rebuttal testimony, on
15 January 2, line 14, the --

16 MR. MICHEEL: Could you just slow down?

17 MR. MILLS: What page are you on now?

18 THE WITNESS: Page 22, on line 14, the
19 price of 50.78 should be 50.45, and the following number
20 of 1.65 should be 1.32. On page -- I mean on page 22,
21 line 16, the price of 6.64 should be 4.95, and the
22 14.percent should be 11.1 percent.

23 BY MR. LOWERY:

24 Q. And could you explain briefly?

25 A. I will on the next page.

1 Q. Okay. Sure.

2 A. On page 23 then, on the table, in the
3 middle of the table on the line that starts out with
4 Proctor model at actual gas prices, the price that is \$49
5 should be 53.73.

6 The next price that is 51.26 should be
7 49.58.

8 The next price that was 50.78 should be
9 50.45.

10 The percentage of 96 should be 108 percent.

11 The next number, which is a minus 17.03
12 should be minus 12.30.

13 The next one, which is 6.64 should be 4.95.

14 And the last one, which was 1.65, should be
15 1.32. What happened on that one was when I'd asked for
16 the analysis to be done, the price of the 6.40 and the
17 6.65 was applied to Dr. Proctor's model, but then they
18 didn't look at the price for the summer period and the
19 non-summer period, and so the prices that were originally
20 were in there were for the whole year, so this makes it
21 accurate to the price for the summer period on the
22 non-summer period.

23 The next correction is on my February 5th
24 rebuttal, and this is on page 13. Everybody there? Okay.
25 On page 13, line 3, the 3.4 million should be 1.0 million.

1 On page 4 -- I mean on page 13, line 4,
2 3.4 million should be 1.0 million. On line 5, 3.4 million
3 should be 1.0 million. And on line 7, the 3.4 million
4 should be 1.0 million.

5 Also in my rebuttal testimony, I have
6 corrected the Table 1. I think you're going to hand that
7 out.

8 MR. LOWERY: Your Honor, I guess we could
9 just mark this as an exhibit.

10 JUDGE WOODRUFF: All right. And your next
11 number is 106.

12 (EXHIBIT NO. 106 WAS MARKED FOR
13 IDENTIFICATION BY THE REPORTER.)
14 BY MR. LOWERY:

15 Q. Mr. Schukar, I'm going to hand you what's
16 been marked as Exhibit 106. Mr. Schukar, could you
17 identify Exhibit 106 that I've just handed you?

18 A. Yes.

19 Q. Please do so.

20 A. It is the Schedule 12.6 that was in my
21 rebuttal testimony that was filed on February 5th. It
22 contains the information associated with MISO charge
23 allocations for the fuel adjustment clause and off-system
24 sales. It's been corrected from what was originally
25 filed. Do you want me to go over the corrections?

1 schedule was on the RNU line. The revenue neutrality cost
2 causation was added to the UEGEN asset owner, where before
3 it had the megawatt hour ratio, and the reason that was
4 done is because revenue neutrality uplift is allocated on
5 market load, and so the load side would be getting it.
6 Generation would not receive it, with the exception of
7 sales from the generation side, and that's why it was
8 appropriate to have that as cost causation.

9 Q. I just want to make sure the record is
10 clear, Mr. Schukar. I think on the numbers I think the
11 record is clear, but on the cost causation change that you
12 indicated, am I correct that if we look at the fourth
13 column, which is the second column under the 2007
14 allocation method set of columns, and we come all the way
15 down to the row that's labeled RNU and go to the fourth
16 column that SES-12-6 said, megawatt-hour method, you were
17 substituting for that cost causation, paren, 100 percent
18 OSS, close paren; is that correct?

19 A. That's correct.

20 Q. Did you have any other corrections to your
21 testimony, Mr. Schukar?

22 A. Yes. In my surrebuttal on page 7.

23 Q. And could you describe those, please?

24 A. I was waiting for everybody to get there.

25 Okay. On page 7, line 7, the off-system sales margin

1 of -- it was 15 million. That is changed to 202.5.

2 Line 8, the 3.5 is changed to 1.0.

3 MR. FREY: I'm sorry. Could you repeat
4 that second one?

5 THE WITNESS: I'm sorry. Yes. Page 7,
6 line 8, 3.5 should be corrected to 1.0, and the reason for
7 the changes was the 1.0 was from the previous schedule,
8 but the 2.02 million, 2.02.5 was a rerun of the
9 off-systems sales margin, given changes that had been
10 agreed to by several of the parties, including how to
11 handle the Callaway outage and the length of the Callaway
12 outage, removing limits on the off-system sale, the
13 inclusion of the transport fuel hedge cost, and then the
14 nuclear fuel price. So those changes were all included to
15 make this an accurate number.

16 The last change is on Schedule SES-17.2 of
17 my surrebuttal, and when you look at the headings on the
18 eighth row over, it says, native load fuel risk W/netting
19 of off-system of OSS margins, and then it has parens 5
20 equals parens 2 minus 3 parens normal. The two should be
21 replaced with threes.

22 BY MR. LOWERY:

23 Q. And are all those all the corrections you
24 had in your testimony?

25 A. Yes, they are.

1 MR. LOWERY: Your Honor, with that, I would
2 offer -- this is Mr. Schukar's only appearance. I would
3 offer into evidence Exhibits 28HC, 28P, 29.

4 JUDGE WOODRUFF: It should be 28NP.

5 MR. LOWERY: Thank you, your Honor. 29,
6 30, 31, 32 and also Exhibit 106, which is a replacement of
7 the incorrect schedule.

8 JUDGE WOODRUFF: Okay. Exhibits 28, 29,
9 30, 31, 32 and 106 have been offered into evidence. Are
10 there any objections to its receipt?

11 MR. MILLS: I don't have any objections. I
12 would like to ask some questions about 106, since we've
13 just seen it before I -- just to clarify what's going on
14 here.

15 JUDGE WOODRUFF: All right. Go ahead. You
16 can ask from there.

17 VOIR DIRE EXAMINATION BY MR. MILLS:

18 Q. Mr. Schukar, comparing Exhibit 106 to the
19 original schedule, you made a change to the revenue
20 neutrality line that doesn't appear to affect the numbers;
21 is that correct?

22 A. That is correct.

23 Q. So the significant change that drives
24 3.4 down to 1 is under the FTR number?

25 A. It was a combination of the congestion and

1 the FTR, were the two changes. They're offsetting costs,
2 in effect.

3 Q. So the congestion change served to drop
4 off-system sales from 2.3 down to 1.3, roughly?

5 A. I'm sorry?

6 Q. To raise it from your original schedule
7 from 1.3 up to 2.3?

8 A. That is correct.

9 Q. And then the change under FTR was to make
10 it more negative by a factor of roughly three and a half
11 million?

12 A. That is correct.

13 MR. MILLS: Okay. Just trying to follow
14 along. I don't have any objections.

15 JUDGE WOODRUFF: All right.

16 MR. FREY: Your Honor, if I might ask a
17 question.

18 JUDGE WOODRUFF: Certainly. Go ahead.

19 VOIR DIRE EXAMINATION BY MR. FREY:

20 Q. Back on page 7 of your surrebuttal
21 testimony, Mr. Schukar, you made a correction on line 7.
22 It was 158 million previously, and now it's?

23 A. 202.5.

24 Q. 202.5. And my question is, did the prices
25 change from the original in order to yield that new

1 number?

2 A. I'm sorry. No. The gas price that was
3 used in there was a 6.58, and the -- and the off-system
4 sales price was the 3.04 that I used in my surrebuttal.

5 MR. FREY: Thank you.

6 JUDGE WOODRUFF: Hearing no objections,
7 then 28, 29, 30, 31, 32 and 106 are admitted into
8 evidence.

9 (EXHIBIT NOS. 28, 29, 30, 31, 32 AND 106
10 WERE RECEIVED INTO EVIDENCE.)

11 MR. LOWERY: Thank you, your Honor. And I
12 would tender Mr. Schukar for cross-examination.

13 JUDGE WOODRUFF: Thank you very much.
14 Looking down the parties that are actually here, beginning
15 with MIEC?

16 MS. VUYLSTEKE: Good morning, Mr. Schukar.

17 JUDGE WOODRUFF: If you'd come on up to the
18 podium, make it easier.

19 THE WITNESS: Good morning.

20 CROSS-EXAMINATION BY MS. VUYLSTEKE:

21 Q. I want to refer to Exhibit 106 for a
22 second. Are the estimates of 2006 actual FTR credit
23 between native load and off-system sales calculated using
24 the proposed 2007 allocation method for FTR credits?

25 A. Can you ask that question again, please?

1 Q. Sure. Are the estimates of 2006 actual FTR
2 credits between native load and off-system sales
3 calculated using proposed 2007 allocation method for FTR
4 credits?

5 A. Not exactly, because in 2006 there was some
6 pooling of FTR, so they had to be allocated. What has
7 changed since the 2006, we've changed our asset owners
8 within the MISO, so it's very clear and we have a UELSE, a
9 UEGEN and an AET asset owner so you can specifically set
10 out any FTR that is associated with UELSE as associated
11 with the load. Any FTR that is associated with UEGEN is
12 specifically associated with off-system sales. We weren't
13 set up that way prior to the end of '06.

14 Q. Okay. Is it correct that you have been the
15 company's main witness regarding MISO revenues, credits
16 and charges?

17 A. In what manner?

18 Q. Have you been the primary witness on the
19 issue of MISO revenues, credits and charges?

20 A. I believe I've been the primary witness on
21 the allocation of those costs.

22 Q. Were you present during the MIEC's
23 cross-examination of Mr. Lyons yesterday regard -- or I'm
24 sorry -- the day before yesterday regarding the
25 pass-through of MISO revenues, credits and charges under

1 the company's latest fuel adjustment clause proposal?

2 A. Yes, I was.

3 Q. Is it correct that all MISO revenues,
4 credits and charges except those under MISO Schedules 10,
5 16, 17 and 24 will flow through the company's latest fuel
6 adjustment clause proposal?

7 A. I do not believe that's 100 percent
8 accurate. There's two aspects to that, and I want to make
9 sure I'm clear on it. The one aspect is in our UELSE we
10 have our wholesale loads, and so a certain portion of
11 those costs will be allocated to the wholesale loads. I
12 think it's about one and a half percent. There's also
13 asset owner AET. AET MISO charges are not incorporated
14 into these costs, into the wholesale cost for the native
15 load cost.

16 Q. Okay. Would it be accurate to say that
17 your testimony just now is a correction to the testimony
18 of Mr. Lyons or -- a correction?

19 A. I would say that it's a -- while I don't
20 remember Mr. Lyons' exact response from yesterday, I think
21 that's a correction.

22 Q. Okay. And then moving on to AmerenUE's
23 latest proposed off-system sales margin, is it correct
24 that the pro sim runs used hourly wholesale electric
25 prices that averaged to \$38.04 per megawatt hour on an

1 around-the-clock basis?

2 A. That is correct.

3 Q. Now, to confirm your current position on
4 off-system sales for the test year, I'm going to give you
5 some numbers and assumptions, and if you could just
6 confirm whether those are accurate. Okay?

7 A. Uh-huh.

8 Q. We have 9.5 million megawatt hours of
9 off-system sales and margins of \$202 million in the test
10 year?

11 A. That's relatively close.

12 Q. Okay. And that position assumes Taum Sauk
13 is operational?

14 A. Correct.

15 Q. It assumes that there is no EEInc capacity?

16 A. Correct.

17 Q. And it assumes that the JDA has gone away?

18 A. That is correct.

19 Q. And then for some historical perspective
20 going back to the few years prior, I'm going to do the
21 same thing, ask you to confirm whether these numbers and
22 assumptions are correct. For 2005, is it correct that you
23 had off-system sales of 15 million megawatt hours and
24 margins of \$206 million?

25 A. I'm not sure I can confirm those numbers.

1 I think that the amount of the off-system sales is about
2 right, but as far as the margin number, I'm not aware of
3 what the margin number is.

4 Q. Would you accept, subject to check, that
5 it's \$206 million?

6 A. That is fine.

7 Q. And the assumptions for 2005 are that EEInc
8 is there all year?

9 A. Correct.

10 Q. That the JDA is in effect all year?

11 A. That is correct.

12 Q. And that Taum Sauk is operational for
13 11 months?

14 A. About, yes.

15 Q. Okay. And then for the 12 months ending
16 June 30th, 2006, is it correct that you assume that EEInc
17 is included for six months -- I'm sorry. Is it -- let me
18 go to the numbers.

19 For the 12 months ending 6/30/06, you had
20 \$13.2 million -- I'm sorry -- 13.2 million megawatt hours
21 of off-system sales?

22 A. I believe that is true.

23 Q. And the margins were \$219 million?

24 A. Once again, I can't confirm the margins.

25 Q. Would you accept subject to check

1 \$219 million?

2 A. Yes.

3 Q. And then the assumptions for that would be

4 EEInc is included for six months?

5 A. Correct.

6 Q. And the JDA was in effect?

7 A. Yes.

8 Q. And Taum Sauk was operational for five

9 months?

10 A. Correct.

11 Q. This is my last one. For 2006 actuals,

12 your off-system sales were 13.2 million megawatt hours and

13 your margin was \$192 million?

14 A. Once again, I can confirm the megawatt

15 hours. I can't confirm the margin.

16 Q. So subject to check --

17 A. Correct.

18 Q. -- 192 million?

19 A. Yes.

20 Q. And that's without EEInc and --

21 A. Correct.

22 Q. Okay. With the JDA?

23 A. Correct.

24 Q. And without Taum Sauk?

25 A. Correct.

1 MS. VUYLSTEKE: Okay. Thank you.

2 JUDGE WOODRUFF: Thank you. For the

3 Commercial Group? MEG? AARP? Noranda?

4 MR. CONRAD: No questions.

5 JUDGE WOODRUFF: State?

6 MR. MICHEEL: Yes.

7 JUDGE WOODRUFF: And, Mr. Micheel,

8 I will go ahead and warn you we're going to break for

9 lunch at about 10 minutes to 12 so we can have agenda at

10 12 o'clock.

11 MR. MICHEEL: Do you even want me to start?

12 JUDGE WOODRUFF: Yes.

13 MR. MICHEEL: That's fine.

14 JUDGE WOODRUFF: I'll leave it up to you.

15 MR. MICHEEL: We might as well wait. I'm

16 barely going to get into --

17 JUDGE WOODRUFF: That's what I kind of

18 thought.

19 Let's go ahead and take a break. We'll

20 come back from lunch at one o'clock.

21 (A BREAK WAS TAKEN.)

22 JUDGE WOODRUFF: Welcome back from lunch,

23 and we're just about to begin the cross-examination of

24 Mr. Schukar.

25 CROSS-EXAMINATION BY MR. MICHEEL:

1 Q. Good afternoon, Mr. Schukar.

2 A. Good afternoon.

3 Q. It's my understanding now that the

4 off-system sales revenue number is \$202.5 million; is that

5 correct?

6 A. I think you're referring to the margin?

7 Q. Yes.

8 A. Yes.

9 Q. And in your direct testimony it was 180?

10 A. It was 184. I'm sorry, which --

11 Q. The direct.

12 A. The original direct was 180, that is

13 correct.

14 Q. And in your supplemental direct it was 183?

15 A. Right.

16 Q. And then when you got on the stand today,

17 it's 202.5?

18 A. Correct.

19 Q. And you'd agree with me that UE recognizes

20 that profits from off-system sales should be recognized as

21 a reduction in revenue requirements.

22 A. Say the question again, please.

23 Q. That UE recognizes that profits from

24 off-system sales should be recognized as a reduction to

25 the company's revenue requirement?

1 A. Yes.

2 Q. And you don't dispute that the off-system
3 sales profits earned by UE belong to ratepayers because
4 generating units creating the opportunity to make those
5 sales are included in rates paid by ratepayers?

6 A. No.

7 Q. And the staffing and O&M expenses for UE's
8 generating units are recognized in setting rates, correct?

9 A. That is correct.

10 Q. And UE has no generation that's supported
11 by shareholders to speculate on power markets, all UE
12 generation is supported by ratepayers, correct?

13 A. All UE generation.

14 Q. That's what I'm asking about. Now, at
15 page 4 of your direct testimony, I think you say a sharing
16 mechanism which would mitigate the substantial risks
17 associated with the variability of off-system sales
18 margins for both AmerenUE and its customers would provide
19 a balanced incentive for AmerenUE to improve revenues and
20 lower costs in order to maximize off-system sales margins;
21 is that correct?

22 A. Could you point to where you were reading
23 from, please?

24 Q. I think it starts at line 5 there, a
25 sharing mechanism which would mitigate the substantial

1 risks assoc--

2 A. Okay.

3 Q. I'm sorry. Do you see it there?

4 A. Yes.

5 Q. Why don't you take time to read it, and you
6 let me know when you're ready and we'll go.

7 A. Okay.

8 Q. I want to unpack that just a little bit.

9 What are the -- what are the risks that you're talking
10 about there, sir?

11 A. The risk associated with off-system sales.
12 There's several risks that occur with off-system sales.
13 One is the performance of your plants, the inputs to the
14 plants and the cost associated with those off-system
15 sales, the margins you can receive, where can you sell to,
16 and then how much is available based on what's happening
17 with native load. That's to name a few. I don't know
18 that that's all-inclusive.

19 Q. Well, why don't you name them all for me?

20 A. I don't know that I can name them all for
21 you.

22 Q. Are those the major ones?

23 A. I believe so.

24 Q. So you've listed five major ones
25 essentially, that list is five?

1 A. If you read them back.

2 Q. Well, you said the performance of plants,
3 the costs, the margins, where the sales are and the native
4 load?

5 A. The ability to sell.

6 Q. And those would be the major risks?

7 A. I believe so.

8 Q. And you also talk about their variability
9 issues?

10 A. Yes.

11 Q. Explain that to me.

12 A. Well, variability occurs because of
13 differences that may occur because of the availability for
14 off-system sales, what the price in the marketplace may
15 be.

16 Q. Let me ask you this: At least those first
17 two are the same as the risks. Are the variability and
18 the risks going to be the same?

19 A. They're consistent.

20 Q. So really they're one and the same?

21 A. Well, the risk may have included like the
22 ability to sell off-system. I don't know that that would
23 be a variability.

24 Q. Would you agree with me that the various
25 parties who have got testimony in this case have vastly

1 different estimates for the off-system sales margins?

2 A. They're different.

3 Q. Vastly different?

4 A. Depending on how you define that.

5 Q. How would you define vastly different?

6 A. I think if you said in the 40, 50 million

7 range is vastly different.

8 Q. Are there differences in the 40, 50 million

9 range here?

10 A. There are some, yes.

11 Q. And is it correct that UE has the lowest

12 level of off-system sales margins recommended?

13 A. I believe that is so.

14 Q. Would you agree with me that the Staff has

15 a much higher level of off-system sales due in part to the

16 treatment of the EEInc as a UE resource?

17 A. I believe they had two numbers, one with

18 and one without.

19 Q. And the number with is much larger?

20 A. Yes, it is.

21 Q. And would you agree with me that the State

22 has advocated using the company's own 2007 budget?

23 A. Yes.

24 Q. Would you agree with me that Ameren's view

25 of sharing is to create a low base of off-system sales

1 margins and then share between ratepayers and shareholders
2 over this amount?

3 A. Are you talking about our current proposal?

4 Q. Yes.

5 A. No.

6 Q. And so let me ask you this: How has your
7 proposal changed from your direct testimony to the
8 testimony that you have in your surrebuttal testimony?

9 A. In my direct testimony, what we had
10 included was a level of off-system sales to pass through.
11 There was an alternative that was provided but wasn't a
12 proposal to me that could be thought about because of the
13 uncertainties associated with the off-system sales. And
14 so in my direct what was identified was a level of
15 180 initially, which was adjusted to 183 million, and that
16 would be a number that was set, and then the company would
17 be at risk of it going low or high.

18 In the current proposal, the off-system
19 sales are passed through, are netted against the fuel
20 cost, and then the fuel cost, if we are able to achieve a
21 level greater than that fuel cost, there's a sharing grid
22 associated with that.

23 Q. Is that assuming a fuel adjustment clause?

24 A. That is assuming a fuel adjustment clause.

25 Q. Let's assume that the Commission decides in

1 its wisdom that a fuel adjustment clause isn't
2 appropriate. How is AmerenUE requesting that off-system
3 sales be handled?

4 A. I think our original proposal stands.

5 Q. So we have two proposals then. We have
6 your original proposal, which is --

7 A. Our current proposal is our proposal.
8 That's with the fuel adjustment clause and the sharing
9 mechanism. If the Commission chooses to do something
10 else, they can do something else.

11 Q. Okay. That's what I'm trying to get to.
12 The proposal that you have in your surrebuttal testimony,
13 that supersedes all these other proposals in the earlier
14 testimony?

15 A. Yes.

16 Q. Is that correct?

17 A. That is correct.

18 Q. And so if the Commission -- let me try to
19 understand that. If the Commission decides against a fuel
20 adjustment clause, then UE has no proposal for off-system
21 sales?

22 A. I don't know that I'm the right person to
23 answer that.

24 Q. Who would be the right person?

25 A. I think that would be Mr. Lyons.

1 Q. Why is that? Because most of the
2 off-system sales questions Mr. Lyons said that we should
3 ask you.

4 A. Well, off-system sales and the level of
5 off-system sales is what I'm addressing.

6 Q. And why would Mr. Lyons be the right guy?

7 A. Because that's part of the overall rate
8 case, I believe. Actually, I think it would probably be
9 Mr. Baxter because that's a policy question.

10 Q. Thank you. I just wanted to understand.

11 Now, if I read your testimony correctly,
12 you don't think history is much of a guide in establishing
13 off-system sales levels because there are many recent
14 changes; is that correct?

15 A. I believe in our case that is correct.

16 Q. And in your testimony, you list at least
17 ten different known changes that cause history to be, in
18 your view, not useful; is that correct?

19 A. That is correct.

20 Q. And has UE attempted to account for all ten
21 of those changes?

22 A. I believe we have.

23 Q. And the way you've done that is you've had
24 Mr. Finnell run the simulation model; is that correct?

25 A. That is correct.

1 Q. And is my understanding correct that you're
2 the one who provided the inputs for those models?

3 A. I provided the input for the price for the
4 off-system sales.

5 Q. And one of the things you did is you
6 proposed the use of a three-year average for each month
7 during the period from January 2003 through December 2005
8 with adjustments to account for the extraordinary
9 hurricane season and the rail transportation
10 interruptions; is that correct?

11 A. That is correct.

12 Q. So you would agree with me that there was
13 no current data employed in the company's approach?

14 A. No current data?

15 Q. Yes.

16 A. When you say current data, are you talking
17 about '06, '05? What are you talking about current data?

18 Q. Well, data newer than '05, how about that?
19 '05 was the oldest or most recent data you utilized?

20 A. Originally, that is correct.

21 Q. And you didn't use any test year data; is
22 that correct?

23 A. I believe the test year was from middle of
24 '05 to the middle of '06. So we did use some of the test
25 year data.

1 Q. And you also reached back as far as January
2 2003; is that correct?

3 A. That is correct.

4 Q. And the result was an average in the
5 proposed test year market price of \$35.71, correct?

6 A. That's an around-the-clock average, that is
7 correct.

8 Q. And you didn't update your analysis to
9 recognize any market energy price changes that have
10 occurred in '06 or '07, correct?

11 A. I did not update.

12 Q. Yes.

13 A. Yes, I made an adjustment in my
14 surrebuttal.

15 Q. And you included '06 and '07 data?

16 A. Well, the surrebuttal analysis was based on
17 data that went through '06.

18 Q. Have you included any '07 data?

19 A. No. Can I qualify that?

20 Q. You can give the correct answer.

21 A. There was no '07 data in the 304. We did
22 look at a test year of -- not a test year, a year from
23 February 1, 2006 to January 31st of 2007.

24 Q. So you used one month of '07 data?

25 A. That was what was available when I did

1 that.

2 Q. Let me go back to the corrections that you
3 made to your testimonies. When did you become aware that
4 those corrections needed to be made?

5 A. When I was going through checking
6 everything and preparing for this.

7 Q. When was that?

8 A. Probably in the last week.

9 Q. Now, you characterize in your direct
10 testimony at page 12, line 3, the 2005-2007 averaging
11 period that you used as relatively current; is that
12 correct?

13 A. Yes.

14 Q. But UE wouldn't accept that for ratemaking,
15 would it, if we used '03 and '05 costs?

16 A. I do not believe that -- we used portions
17 of earlier years for certain portions of our rate case in
18 areas such as the availability of our units and used
19 averages across those periods.

20 Q. Should we use the average of 2003-2005 coal
21 prices and fuel expense?

22 A. I don't know.

23 Q. Should we use the average of 2003-2005
24 plant balances in rate base?

25 A. I don't know.

1 Q. Should we use the average of 2003-2005 tree
2 trimming costs for payroll or depreciation expense?

3 A. I do not know.

4 Q. Do you think when you're setting rates it's
5 best to get the most recent information?

6 A. I think it's best to get the appropriate
7 information.

8 Q. And sometimes that may not be the most
9 recent?

10 A. It may not be.

11 Q. Page 13, line 17, you indicate that
12 off-peak prices for electricity are strongly influenced by
13 the price of coal; is that correct?

14 A. That is correct.

15 Q. By using the averages of 2003-2005 market
16 energy prices without updating and then advocating current
17 2007 coal prices in UE's expense, the company's case is at
18 least not matching dates; isn't that correct?

19 A. Repeat the question, please.

20 Q. By using the average 2003-2005 market
21 energy prices without updating, which is what I understand
22 you said you did --

23 A. 2003 through 2005 without updating, with
24 the corrections?

25 Q. Yes.

1 A. Yes.

2 Q. And then advocating a current 2007 coal
3 price in UE's expenses, there's a mismatch there, is there
4 not, in UE's case?

5 A. I do not know that that's true.

6 Q. Well, at least the costs that you're using
7 are not from the same time period, would you agree with
8 that?

9 A. That is correct.

10 Q. And so in that way it's a mismatch; is that
11 correct?

12 A. That the costs are from different time
13 periods?

14 Q. Yes.

15 A. That is true.

16 Q. Do you disagree with Mr. Neff that market
17 coal prices have increased in the last couple years?

18 A. Do I disagree with him?

19 Q. Yes. Do you disagree with him?

20 A. No.

21 Q. Do you dispute any of Mr. Neff's comments
22 about market coal price increases?

23 A. No.

24 Q. Is it correct that for your calculation of
25 off-peak energy prices you include no data more recent

1 than December 2005?

2 A. You're talking about the original
3 calculation?

4 Q. Yes, sir.

5 A. That is true.

6 MR. MICHEEL: I need to get an exhibit
7 marked, your Honor, and I don't know what number it is.

8 JUDGE WOODRUFF: It's 512.

9 (EXHIBIT NO. 512 WAS MARKED FOR
10 IDENTIFICATION BY THE REPORTER.)

11 BY MR. MICHEEL:

12 Q. Mr. Schukar, I hand you what's been marked
13 for purposes of identification as Exhibit 512. It's the
14 company's response to AG/UTI DR 078. Are you familiar
15 with that?

16 A. Yes, I am.

17 Q. It's marked highly confidential, is it not?

18 A. Yes, it is.

19 Q. And I've looked at these responses. Could
20 you help me understand why this one's HC? Because we
21 don't have to go into highly confidential. I don't want
22 to do it and I can't understand what on here is highly
23 confidential.

24 A. I see no reason.

25 Q. Okay.

1 MR. LOWERY: Your Honor, we don't have an
2 objection to this exhibit being treated as highly
3 confidential. It may have been if there were spreadsheets
4 included with that, there may have been highly
5 confidential in those, but Mr. Micheel does not have that
6 marked.

7 JUDGE WOODRUFF: You have no objection to
8 this being not highly confidential?

9 MR. LOWERY: We do not have any objection,
10 that's correct.

11 JUDGE WOODRUFF: You had misspoken.

12 MR. LOWERY: I'm sorry. Thank you.

13 BY MR. MICHEEL:

14 Q. Okay. Is that indeed your response to that
15 Data Request?

16 A. Yes.

17 Q. And did you prepare it?

18 A. Yes.

19 Q. Okay. Now, in there we ask you if you
20 agree with Mr. Neff, do we not?

21 A. That is correct.

22 Q. And you indicate that you did; is that
23 correct?

24 A. That is correct.

25 Q. Let me ask you this: What makes the 2003

1 time frame representative of current conditions if the
2 2002 time frame is not representative of current
3 conditions?

4 A. I looked at a graph of prices to see what
5 kind of price movements had occurred, and when I looked
6 previous to 2003, especially in the natural gas prices,
7 they were lower than what it looked like they were if you
8 took out the Katrina effect and looked forward for the
9 next three years.

10 Q. Why didn't you update your calculations to
11 include 2006 data in place of 2003 or even 2004?

12 A. I'm sorry. I changed my -- to the 38.04
13 based on a different analysis.

14 Q. Okay. So you changed your analysis
15 completely?

16 A. I changed my analysis for coming up with
17 the coal price, that is correct.

18 Q. And help me understand what that analysis
19 is now.

20 A. It was based on a regression of coal prices
21 against off-peak power prices and gas prices against
22 on-peak power prices, and then based on that regression
23 and with an input of a coal price and a gas price, came up
24 with a resulting 38.04.

25 Q. And why did you change the analysis or do a

1 new analysis?

2 A. As I reviewed the testimony of others and
3 looked at that analysis, it provided what I believed to be
4 a good response to what the appropriate price would be.

5 Q. And what's the time frame in that analysis?
6 What years did you do regression analysis on?

7 A. I believe -- I believe the regression was
8 from '03 through '06.

9 Q. And why are those the appropriate years?

10 A. I believe prices were in a range that was
11 similar to where they're at today.

12 Q. And why didn't you do that out of the gate?

13 A. I don't know.

14 Q. When did you determine you needed to do a
15 different analysis?

16 A. As I mentioned before, after I reviewed the
17 testimony of others.

18 Q. So they made some good points in that
19 testimony and you thought, I need to rethink this?

20 A. Well, I believe that there is a lot of ways
21 of looking at different price analyses, and yes, there was
22 some good points made and there was some that weren't as
23 good.

24 Q. That's fair enough. So really any of the
25 analysis that you have in your direct testimony, that's

1 really not going to -- there's no real reason to ask you
2 about that because you've discarded that; is that fair? I
3 don't mean to use discarded in a pejorative. I mean,
4 you've done something that you think is better?

5 A. I think we've updated the prices, that is
6 correct.

7 MR. MICHEEL: I guess I'll move the
8 admission of Exhibit 512, your Honor, just so I get it
9 done.

10 JUDGE WOODRUFF: 512 has been offered. Any
11 objections to its receipt?

12 MR. LOWERY: No objection.

13 JUDGE WOODRUFF: It will be received into
14 evidence.

15 (EXHIBIT NO. 512 WAS RECEIVED INTO
16 EVIDENCE.)

17 BY MR. MICHEEL:

18 Q. Let me ask you this: What adjustments to
19 that regression analysis did you make, if any?

20 A. To which regression analysis?

21 Q. Well, the one that you're standing by now.

22 A. I don't believe I made any adjustments to
23 the regression analysis that comes up with the 38.04.

24 Q. Let me ask you a question. So there's been
25 no changes to the regression analysis, you haven't made

1 any one-time adjustments for hurricane effect or any other
2 sort of effects?

3 A. To come up with the 38.04?

4 Q. Yes.

5 A. No.

6 Q. Okay. Thank you. On page 18 of your
7 direct testimony, line 9, you note that AmerenUE faces a
8 significant risk of not earning the expected level of
9 off-system sales margins because of a variety of
10 uncertainties regarding fuel cost, power prices, native
11 load requirements and generation availability; is that
12 correct?

13 A. That is correct.

14 Q. You would agree with me that the risk is
15 symmetrical and the ratepayers are also exposed, correct?

16 A. I would agree with you that the ratepayers
17 are exposed to the same risk.

18 Q. And you admit that at page 19, line 19, do
19 you not, where you say customers and AmerenUE face the
20 same risk?

21 A. Where's that at again, please?

22 Q. Line 19, page 19 of your direct testimony,
23 sir.

24 A. What I say there is that the level will be
25 inaccurate. That is different.

1 Q. But you would agree with me that there are
2 risks on both sides of the issue?

3 A. There are different risks.

4 Q. Well, why don't you explain to me the risks
5 for the ratepayer?

6 A. I believe the risk for the ratepayer is if
7 the level is set incorrectly, that if it's too low and
8 because that's an offset, then their rates would be
9 higher, and if it was too high, they would be set -- the
10 rate would be lower.

11 Q. So it's important that this Commission get
12 the right level or the best approximation of what they
13 think is the right level; is that correct?

14 A. It would be important.

15 Q. And no party's advocating an off-system
16 sales level below that of what UE is proposing; is that
17 correct?

18 A. I think I stated that before.

19 MR. MICHEEL: I need to get another exhibit
20 marked. Is that going to be Exhibit 513, your Honor?

21 JUDGE WOODRUFF: That would be correct.

22 (EXHIBIT NO. 513 WAS MARKED FOR
23 IDENTIFICATION BY THE REPORTER.)

24 BY MR. MICHEEL:

25 Q. Mr. Schukar, I've handed you what's been

1 marked for purposes of identification as Exhibit 513. Do
2 you have it in front of you?

3 A. Yes, I do.

4 Q. And is that Ameren's response, AmerenUE's
5 response to AG/UTI 666?

6 A. Yes.

7 Q. Does that indicate that the answer was
8 prepared by you?

9 A. Yes, it does.

10 Q. And is it correct that for the test year,
11 no contract off-system sales were included in your initial
12 or in the supplemental direct testimony 183 million
13 amount?

14 A. That is correct.

15 Q. And is it correct UE has approximately
16 237 megawatts of excess capacity for sale?

17 A. At that time, that was correct.

18 Q. Is it correct UE didn't participate in the
19 Illinois auction?

20 A. That is correct.

21 Q. Is it correct that Ameren Energy, which is
22 an affiliated marketing company of AmerenUE, is continuing
23 to market excess capacity?

24 A. Yes.

25 Q. And you would agree with me that no sales

1 of capacity were recognized in this rate case, correct?

2 A. Correct.

3 MR. MICHEEL: I would move the admission of
4 Exhibit 513, your Honor.

5 JUDGE WOODRUFF: 513 has been offered. Are
6 there any objections to its receipt?

7 (No response.)

8 JUDGE WOODRUFF: Hearing none, it will be
9 received into evidence.

10 (EXHIBIT NO. 513 WAS RECEIVED INTO
11 EVIDENCE.)

12 MR. MICHEEL: I need to get another exhibit
13 marked, Exhibit 514.

14 (EXHIBIT NO. 514HC WAS MARKED FOR
15 IDENTIFICATION BY THE REPORTER.)

16 BY MR. MICHEEL:

17 Q. I hand you what's been marked for purposes
18 of identification as Exhibit 514, sir. Do you have that
19 in front of you?

20 A. Yes, I do.

21 Q. And that is AG/UTI Data Request 319, is it
22 not, sir?

23 A. Yes, it is.

24 Q. And is that Data Request response prepared
25 by you?

1 A. Yes.

2 Q. And --

3 MR. LOWERY: Mr. Micheel, I'm sorry. Could
4 you inquire of Mr. Schukar whether he still considers that
5 to be highly confidential?

6 MR. MICHEEL: Is it marked highly
7 confidential?

8 MR. LOWERY: It is, right above the A.
9 Right above the answer to Item A says response, response
10 is highly confidential.

11 MR. MICHEEL: I'm sorry. I'm used to
12 seeing a big stamp as required by the Protective Order.

13 JUDGE WOODRUFF: That last page does have a
14 big stamp.

15 BY MR. MICHEEL:

16 Q. Is it highly confidential?

17 A. Yes, it is.

18 JUDGE WOODRUFF: We'll mark it as 514HC,
19 then.

20 BY MR. MICHEEL:

21 Q. I wasn't going to ask you about any of the
22 numbers in here, I don't think. So if I ask a question
23 and your answer has to be highly confidential let me know,
24 and we'll go in, because I'm not in the business of
25 letting out your secrets.

1 Since your number -- well, I guess we'll go
2 in HC. I just don't know if this is highly confidential
3 or not. I want to err on the side of --

4 JUDGE WOODRUFF: All right. We'll go
5 in-camera at this point.

6 We're in-camera.

7 (REPORTER'S NOTE: See discussion on page
8 1208, line 4.)

9 BY MR. MICHEEL:

10 Q. Since your testimony was prepared, UE has
11 actually made several capacity sales that were not
12 recognized in the proposed off-system sales margin values;
13 is that correct?

14 A. Yes.

15 Q. And that's what this exhibit shows; is that
16 correct?

17 A. It shows several capacity sales, that is
18 correct.

19 Q. I would move the admission -- was any of
20 that highly confidential?

21 A. That this was capacity sales, no.

22 Q. And that you've made some capacity sales?

23 A. No.

24 Q. Then could we not make that HC?

25 A. The data is.

1 Q. The specific data is, but I'm not going to
2 ask you about that, just the fact that you've made sales.
3 That way I can use it in --

4 JUDGE WOODRUFF: I'll instruct the court
5 reporter to -- this last highly confidential excursion was
6 not highly confidential and she can note that in the
7 record.

8 We'll go back into -- I'll take us back on
9 to the Internet.

10 BY MR. MICHEEL:

11 Q. Okay. And --

12 JUDGE WOODRUFF: You moved admission of
13 514, Doug?

14 MR. MICHEEL: Yes. I thought I did. If I
15 didn't, I would move the admission of 514.

16 JUDGE WOODRUFF: 514 has been offered into
17 evidence. Is there any objection?

18 (No response.)

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

21 (EXHIBIT NO. 514 WAS RECEIVED INTO
22 EVIDENCE.)

23 BY MR. MICHEEL:

24 Q. And AmerenUE actively -- or I guess its
25 agent, the affiliated company's actively still marketing

1 that capacity, is it not?

2 A. Yes, we are.

3 Q. The new proposal that you have in your
4 surrebuttal testimony regarding the off-system sales --

5 A. That Mr. Lyons has?

6 Q. That Mr. Lyons has. I'm sorry.

7 Has the base position regarding the
8 appropriate level of off-system sales margins changed in
9 connection with this new sharing proposal?

10 A. Are you asking is 202.5 the appropriate
11 level?

12 Q. Yes.

13 A. Yes.

14 Q. Okay. Are you familiar with AmerenUE's
15 annual fuel budget process?

16 A. Peripherally.

17 Q. Okay. Have you seen the 2007 fuel budget?

18 A. I have seen parts of it.

19 Q. Were you here when the off-system sales
20 part of the budget was -- the number was HC? Were you
21 here when -- let me just back up.

22 Are you familiar with what the State's
23 recommendation is in this case?

24 A. The budget.

25 Q. And are you familiar with that budget?

1 A. I'm familiar with the number that they
2 used, yes.

3 Q. Okay. And there was testimony, I think by
4 Mr. Baxter, that that number was a stretch. Do you recall
5 that?

6 A. I was not here for that.

7 Q. Do you know how the market energy prices
8 are estimated for purposes of that fuel budget?

9 A. To the best of my understanding, it was a
10 price that was based on day one and Cinergy price.

11 Q. And who prepared that fuel budget?

12 A. I don't know specifically who prepared
13 that.

14 Q. Well, whose department would be in charge
15 of doing that?

16 A. I believe generally that is in corporate
17 planning.

18 Q. Did you give any input in the fuel budget?

19 A. We give input on what we think prices may
20 be.

21 Q. And did you give input on what you thought
22 prices may be for purposes of the 2007 fuel budget?

23 A. I gave input, yes.

24 Q. And what was that input?

25 A. Remember the input comes over a long period

1 of time, and so our input was in reference to what the
2 Cinergy price is and the concerns with us being able to
3 achieve prices that forward markets may have.

4 Q. When you say the Cinergy price, what does
5 that mean?

6 A. Cinergy is a hub price that is utilized,
7 and when you look at both inside the Midwest ISO, it's a
8 hub in the Midwest ISO. It's also an actively traded hub,
9 and in both cases it's kind of a liquid forward-looking
10 price that you can look at and see versus looking at
11 AmerenUE, there's not a liquid forward price for our
12 location, nor is there for Minnesota.

13 Q. And for that budget -- for budgeting
14 purposes, the company didn't use an average of the 2003 to
15 2005 off-system sales pricing, did it?

16 A. No, it did not.

17 Q. Does the company contemplate energy market
18 prices in 2007 that are higher than your 35 -- well, now
19 you changed it, didn't you? Was it --

20 A. 38.04 is the current price.

21 Q. The 38.04 number.

22 A. Do I contemplate prices higher where and
23 when?

24 Q. In '07.

25 A. That question is -- I mean, there are hours

1 where prices will be higher. There is hours when prices
2 will be lower. I don't know what they will average out to
3 be.

4 Q. Well, are you giving us an average of
5 38.04?

6 A. That's what I'm giving for the test case,
7 yes, that's correct.

8 MR. MICHEEL: Just a minute.

9 BY MR. MICHEEL:

10 Q. Would you expect that the annual average
11 for '07 will be higher or lower than the 38.04?

12 A. At what location?

13 Q. For AmerenUE.

14 A. I do not know.

15 MR. MICHEEL: Thank you very much for your
16 time, sir.

17 JUDGE WOODRUFF: Cross by Public Counsel?

18 MR. MILLS: Yes sir, I have some cross.

19 CROSS-EXAMINATION BY MR. MILLS:

20 Q. Good afternoon, Mr. Schukar.

21 A. Good afternoon.

22 Q. Can you tell me exactly which Ameren entity
23 you work for?

24 A. I work for Ameren Energy.

25 Q. And where does Ameren Energy fit on the

1 organizational chart of the Ameren family of companies?

2 A. I really couldn't tell you that, sir.

3 Q. Have you seen a copy of Exhibit 510 in this
4 case, which is part of the organizational chart? If I
5 show that to you, can you point out to me where AE is?

6 A. Yes.

7 MR. MILLS: May I approach?

8 JUDGE WOODRUFF: Yes, you may.

9 THE WITNESS: It reports up through Ameren
10 Corporation.

11 BY MR. MILLS:

12 Q. And just while you've got that there, can
13 you also find for me on that chart where AEM is?

14 A. It would be under Ameren Energy Development
15 Company.

16 Q. And this may be a little hard to describe
17 on the record, but looking at this chart, Ameren Energy is
18 sort of over here on the left side down about midway
19 (indicating); is that correct?

20 A. Could you bring it back over here?

21 Q. Yeah. Sorry.

22 Can you circle Ameren Energy and Ameren
23 Energy Marketing? And if the Commission is interested, we
24 can provide a copy that shows where these two are.

25 A. (Indicating.)

1 Q. Okay. Thank you. Moderately
2 technologically challenged here. So the circle at the top
3 directly under Ameren Corporation is Ameren Energy?
4 A. Yes.
5 Q. And that's who you work for?
6 A. Correct.
7 Q. And lower down on the middle to right side
8 is Ameren Energy Marketing; is that correct?
9 A. Yes.
10 Q. Okay. And what is it that Ameren Energy
11 does?
12 A. Ameren Energy markets and trades the Union
13 Electric portfolio and puts the assets into the Midwest
14 ISO marketplace.
15 Q. And what does Ameren Energy Marketing do?
16 A. They are an unregulated arm that markets
17 for the unregulated assets.
18 Q. And they are -- do they market any Missouri
19 generating assets?
20 A. I do not know.
21 Q. But in any event, they don't market any of
22 Union Electric's generating assets?
23 A. No, they do not.
24 Q. So you're both essentially in the energy
25 marketing business?

1 A. Correct.

2 Q. How come they got the good name? Never
3 mind. I'll withdraw the question.

4 Now, does Ameren Energy market capacity or
5 energy for any entities other than Union Electric?

6 A. No.

7 Q. Do you know how long Ameren Energy has been
8 marketing capacity and energy for Union Electric?

9 A. Yes.

10 Q. How long?

11 A. We started in the middle of 2006.

12 Q. Okay. And how long have you been working
13 for Ameren Energy to perform that function?

14 A. I believe I started with Ameren Energy in
15 2005.

16 Q. I believe you said that the only Ameren
17 entity that you work for is Ameren Energy; is that
18 correct?

19 A. Yes.

20 Q. Do you know why Union Electric set up a
21 separate company to act as its agent in marketing capacity
22 and energy for Union Electric?

23 A. Not specifically.

24 Q. Can you tell me generally?

25 A. I think generally it had to do with the JDA

1 was set up, but I'm not specifically sure.

2 Q. Do you know of other regulated utilities
3 that market their capacity and energy without having a
4 separate affiliate do it for them?

5 A. Yes.

6 Q. How long has Ameren Energy been in
7 existence?

8 A. I do not know.

9 Q. Was it before your time there in 2005?

10 A. Yes.

11 Q. What was its function prior to 2006 when it
12 began to market energy and capacity for Union Electric?

13 A. Prior to the middle of 2006, which is when
14 we knew that the Joint Dispatch Agreement was going away,
15 the role of Ameren Energy was to trade the short-term
16 position of the JDA assets, and so that was -- when I say
17 short term, that was anything top month, plus 12, so
18 within the next 13 months, anything within that period of
19 time we would trade into the marketplace.

20 Q. And since the middle of 2006, the focus has
21 been to more aggressively market the output of those
22 assets on longer-term basis; is that correct?

23 A. That is correct.

24 Q. Now, before the middle of 2006 when this
25 change came about, would AE have had a fiduciary

1 responsibility as UE's power marketing agent to market
2 capacity and energy for Union Electric?

3 MR. LOWERY: Objection, it calls for a
4 legal conclusion.

5 MR. MILLS: In his capacity of vice
6 president of Ameren Energy, I think he's entitled to
7 testify about what he believed his role was and what
8 duties and responsibilities he had.

9 MR. LOWERY: That's a different question.

10 JUDGE WOODRUFF: Would you like to clarify
11 your question? I think you just did.

12 MR. MILLS: Okay.

13 JUDGE WOODRUFF: If the question is
14 clarified, we'll stand the objection as overruled. I
15 guess the objection was sustained and there's a second
16 question.

17 MR. MILLS: Okay. So just so I'm clear, is
18 this witness not to be allowed to testify about his
19 fiduciary duties?

20 JUDGE WOODRUFF: No. I believe the initial
21 question was, did the corporation have a -- or did the
22 corporation have a fiduciary or did somebody have a
23 fiduciary duty to make a -- on behalf of the corporation,
24 which sounds like a legal conclusion.

25 Your second question was, do you -- what's

1 your understanding of your role?

2 BY MR. MILLS:

3 Q. What is your understanding of your role and
4 your responsibility in charge of Ameren Energy in terms of
5 marketing the power, the capacity and energy for Union
6 Electric?

7 A. For what period of time?

8 Q. For any period, for all periods of time
9 since you've been in there.

10 A. Initially, we had an agency agreement that
11 was based on doing the short-term trading of the JDA.
12 There was an agency agreement with UE and AEG under the
13 JDA assets. Subsequent to that, we now have an agreement,
14 agency agreement with Union Electric where our
15 responsibility is to market and trade the Union Electric
16 assets.

17 Q. So do you believe that your responsibility
18 in running the company has changed since the middle of
19 2006?

20 A. Yes.

21 Q. Okay. And is it your testimony that what
22 brought about that change was the termination of the JDA?

23 A. And the change in the agency agreements,
24 yes.

25 Q. Now, does Ameren Energy do anything other

1 than market capacity and energy for UE?

2 A. We trade in the marketplace.

3 Q. So AE sometimes purchases capacity and
4 energy that UE does not need in order to make a margin on
5 reselling that capacity or energy?

6 A. We have not.

7 Q. You have never done that?

8 A. Not purchased capacity, no.

9 Q. Do you ever purchase energy?

10 A. Yes.

11 Q. Can you purchase energy for resale?

12 A. Yes.

13 Q. Can you give me an example of how that
14 would work, a purchase of energy for resale?

15 A. I'm sorry. I'm not following your
16 question.

17 Q. Well, you said you don't purchase capacity
18 for resale but that you sometimes do purchase energy for
19 resale. Can you give me an example of that type of
20 transaction?

21 A. I would go to a counterparty and say that
22 we wanted to buy July, August at the Cinergy hub. We
23 would buy July, August at the Cinergy hub and you would
24 either do it through a broker or you can do it direct.
25 You have to do it under different agreements based on who

1 you're dealing with.

2 Q. And has Ameren Energy done it both directly
3 and through brokers?

4 A. Yes.

5 Q. Now, are you personally involved in efforts
6 at Ameren Energy to more aggressively market UE's capacity
7 and energy in the last few months, half a year?

8 A. Yes.

9 Q. Can you tell me generally what those
10 efforts consist of?

11 A. Well, initially because we had not been in
12 the marketplace, it's just making contact with other
13 entities, trying to find out what it is they would be
14 interested in, because there's a multitude of products
15 could be bought and sold in the marketplace. And then
16 also getting agreements in place with counterparties such
17 that you can transact if you can come to an agreement on
18 what you buy and sell.

19 Q. Now, you testified that the change in focus
20 at AE was brought about primarily because of the change in
21 the agency's agreements and the discontinuation of the
22 JDA; is that correct?

23 A. That's correct.

24 Q. Did the commitments that UE made in its
25 recent IRP docket in front of the Missouri Commission play

1 into that at all?

2 A. I believe that that was one of the things
3 that was considered.

4 Q. Was that a factor in the change of focus?

5 A. Yes.

6 Q. And in the IRP docket in which UE committed
7 to more aggressively market Union Electric's capacity and
8 energy, why did you do so?

9 A. I do not know.

10 Q. You weren't involved in the IRP process at
11 all?

12 A. No, I was not.

13 Q. If the Taum Sauk facility is rebuilt and
14 becomes part of UE's supply portfolio in 2009, how will
15 that impact the amount of margin from capacity and energy
16 that can be made by UE?

17 A. I think there is a lot of factors that
18 affect that.

19 Q. Assume that -- and this is probably not a
20 valid assumption, but assume that it's built so that it
21 runs just as it did before.

22 A. Right. The assumptions of the fact what
23 market prices are doing.

24 Q. Okay. Have you made projections of market
25 prices in 2009?

1 A. I have not.

2 Q. Do you anticipate that you will be able to
3 market capacity and energy from Taum Sauk in 2009?

4 A. Energy, yes. Capacity, I'm not sure.

5 Q. Now, is it your understanding that in this
6 case UE used fuel modeling to estimate the amount of
7 energy sales that would take place if Taum Sauk was still
8 in service and a part of its system?

9 A. That is correct.

10 Q. Did Mr. Finnell perform these fuel modeling
11 calculations?

12 A. Yes, he did.

13 Q. Has anyone at UE attempted to quantify the
14 additional capacity sales that UE would be able to make if
15 Taum Sauk was still in service and part of the system?

16 A. Not that I'm aware of.

17 Q. Have you ever had any conversations with
18 other UE personnel or Ameren personnel where discussions
19 about that topic have taken place?

20 A. About how much?

21 Q. About how much or whether to try to
22 calculate the impact of Taum Sauk on capacity sales?

23 A. I have not.

24 Q. Are you aware that any of those
25 conversations have taken place?

1 A. No.

2 Q. I believe you testified that AE and AEM,
3 that being Ameren Energy and Ameren Energy Marketing, are
4 both involved in similar power marketing businesses; is
5 that correct?

6 A. Similar, yes.

7 Q. What happens when AEM and AE are competing
8 against each other for purchases of sales and capacity in
9 energy?

10 A. I assume whomever has the better price
11 wins.

12 Q. When that happens, are you generally aware
13 that you're competing against AEM?

14 A. It depends.

15 Q. So there are occasions when you do know
16 that you're competing against AEM?

17 A. On occasion, yes.

18 Q. And on occasion does AEM know that it's
19 competing against you?

20 A. I do not know.

21 Q. Do both AE and AEM update senior Ameren
22 executives on sales and purchase possibilities?

23 A. What was the question again?

24 Q. Do both AE and AEM provide updates to
25 senior Ameren executives on sales and purchase

1 possibilities?

2 A. When you say senior executives --

3 Q. Tom Voss, Gary Rainwater, Warner Baxter,

4 Michael Moehn?

5 A. I questions the -- I update my boss.

6 Q. And who is your boss?

7 A. Tom Voss.

8 Q. And you would consider him to be a senior

9 Ameren executive?

10 A. Yes.

11 Q. Okay.

12 A. But to be clear, I don't update him on

13 every sales opportunity.

14 Q. Okay.

15 A. We update them on what we think our sales

16 will be.

17 Q. Is there some definitive point at which you

18 decide that a prospect has gone from a possibility to what

19 you think sales will be or it just depends?

20 A. Yes.

21 Q. I'm sorry. I asked you a compound

22 question. Is there a definitive point at which you know

23 that it has gone from a possibility to a probability such

24 that you would report on it?

25 A. Once again, it depends.

1 Q. I thought that's what you said, but my
2 question wasn't clear, so I wanted to clarify. Other than
3 Mr. Voss, do you report to anyone else?

4 A. No.

5 Q. Do you ever do updates at risk management
6 steering committee meetings?

7 A. Past activities, yes.

8 Q. Only about past activities?

9 A. As far as the volumes and sales, yes.

10 Q. Are both AE and AEM representatives present
11 when updates are given?

12 A. No.

13 Q. Does AEM have a contract where it purchases
14 power from the EEInc Joppa plant at market-based rates?

15 A. I believe it has a contract. I'm not --
16 I'm not certain I know what the details of that contract
17 are.

18 Q. How did you become aware of this contract?

19 A. From what I heard.

20 Q. From whom?

21 A. In the marketplace.

22 Q. Do you know how many megawatts of capacity
23 AEM gets from this contract?

24 A. No.

25 Q. Is it your understanding that AEM combines

1 the capacity and energy that it gets from the EEInc Joppa
2 contract with other capacity and energy that AEM has
3 access to from Ameren's non-rate-regulated power plants?

4 A. Please ask the question again.

5 Q. Let me see if I can break it down. Is it
6 your understanding that AEM gets capacity and energy
7 through the Joppa contract that we just talked about?

8 A. Yes, that's my understanding.

9 Q. And for purposes of marketing, is it your
10 understanding that it compares that capacity and energy
11 with all the other capacity and energy that it has from
12 Ameren's non-rate-regulated plants?

13 A. It compares it.

14 Q. I'm sorry. Did I say compares? It
15 combines it with that for the purposes of marketing?

16 A. I assume they do.

17 Q. Okay. Did you review any quarterly reports
18 of market-based wholesale transactions that AEM or EEInc
19 file at FERC?

20 A. No.

21 Q. Do you know whether EEInc is making
22 market-based sales to any parties other than AEM?

23 A. No.

24 Q. Is generally monitoring that type of market
25 information part of the knowledge that you need to do your

1 job at AE?

2 A. I think part of what I need to know is
3 who's in the market transacting, and because there are
4 certain parties that I'm limited with how I can transact,
5 I don't pay a lot of attention to that.

6 Q. Okay. And is EEInc one of those parties?

7 A. Any affiliate is one that you have to get
8 approval from FERC to do that kind of activity.

9 Q. Now, I believe you talked earlier in
10 response to a question from Mr. Micheel about the
11 corporate planning group; is that correct?

12 A. Yes.

13 Q. Can you describe for me who runs that group
14 and what they do?

15 A. I can tell you who runs that group. I'm
16 not certain of everything they do.

17 Q. Okay.

18 A. Michael Moehn is over that group.

19 Q. As far as your interaction goes with them,
20 what do you know they do?

21 A. Well, they do some of the fuel runs that we
22 talked about. We also have a group that is involved with
23 the resource planning that goes on. They have a group
24 that supports us from if we need analytics conducted.
25 That's the groups I'm probably aware of.

1 Q. Do they have any role in reviewing your
2 transaction proposals or providing input to you regarding
3 possible transactions?

4 A. Yes.

5 Q. And what role do they have in reviewing
6 your transaction proposals?

7 A. If we desire pricing for a product, say
8 it's a load shape product that we need some analytics done
9 because there's variabilities in the load that may cause
10 it to be higher or lower, we'll have them run the numbers
11 associated with that.

12 Q. And how about with providing input
13 regarding possible transactions, the same thing?

14 A. When you say the transactions, it's kind of
15 limited. When we're trading in the marketplace, you're
16 trading against what the price is out there, and so in
17 general, what our market knowledge is. What I use them
18 for is structuring products and things like that.

19 Q. Now, I mentioned briefly earlier the risk
20 management steering committee. Can you tell me your
21 understanding of what that group is?

22 A. It's a group that oversees the risk policy
23 and compliance with the risk policy at Ameren.

24 Q. Okay. Do you sometimes make presentations
25 to the risk management steering committee?

1 A. Yes, I do.

2 Q. Were all the presentations that you make
3 made on behalf of Ameren Energy?

4 A. Since I've been at Ameren Energy, yes.

5 Q. Do you regularly attend the meetings of
6 their risk management steering committee?

7 A. Only to make my presentations.

8 Q. Does the risk management steering committee
9 make policy decisions that impact the operations of Ameren
10 Energy?

11 A. Yes.

12 Q. Who are the members of the risk management
13 steering committee?

14 A. I do not know that I could name them all.

15 Q. Just tell me the ones that you do know.

16 A. Warner Baxter, Steve Sullivan, Tom Voss,
17 Jerry Birdsong. That's the four I can remember.

18 Q. Okay. Do you believe that the group is
19 much larger than that or is that most of them?

20 A. It's a lot larger. I'm not remembering
21 who's there. Quite often they're not all there.

22 Q. Are there another one or two members or are
23 there another dozen members?

24 A. No, there's not another dozen.

25 Q. Okay. Have there been any changes in the

1 risk management steering committee membership over the
2 last year or two?

3 A. I believe so.

4 Q. And what have those changes been?

5 A. The one that I'm most aware of is an
6 individual who just left the company, who's no longer
7 there.

8 Q. And who is that?

9 A. David Whitely.

10 Q. And was Mr. Whitely replaced?

11 A. I do not -- we have not had an RMSC meeting
12 since that time.

13 Q. During 2006, has the risk management
14 steering committee made any decisions that have enabled
15 Ameren Energy to generate additional earnings for UE?

16 A. Ask the question again.

17 Q. During 2006, has the risk management
18 steering committee made any decisions that have enabled
19 Ameren Energy to generate additional earnings for UE?

20 A. They've made changes in policy that I
21 believe will allow us to improve our margins, yes.

22 Q. Did you or some other representative of
23 Ameren Energy present proposals to the RMSC that led them
24 to present these new policies?

25 A. I believe so.

1 Q. If it's not highly confidential, what were
2 those decisions?

3 A. I'm uncertain of which ones were all in
4 2006. We've made changes in how we can trade into the
5 marketplace, and those are the specific changes that were
6 approved in the risk management policy.

7 Q. And when you say you're not sure which ones
8 in 2006, do you believe some might have been in 2005 or
9 some might have been in 2007?

10 A. I take that back. I think we just got one
11 approved in 2007, but there was none in -- I'm not sure of
12 any in 2005. There was only one in 2007 that I'm aware
13 of.

14 Q. Now, do those decisions help enable Ameren
15 Energy to generate additional earnings during the first
16 half of 2006?

17 A. I'm not sure that we did.

18 Q. How about for the second half of 2006?

19 A. I believe that we may have.

20 Q. How about so far in 2007?

21 A. With the same approval as are in place?

22 Q. My question is, did those decisions enable
23 Ameren Energy to generate additional margins for UE?

24 Q. They gave us the opportunity to, yes.

25 Q. And have you been successful in pursuing

1 that opportunity?

2 A. I'm not sure.

3 Q. Now, going back to the fuel model that's
4 run by Tim Finnell, is it correct that Mr. Finnell's fuel
5 models reflect the hedged cost of fuels that will be used
6 for generation?

7 A. That is my understanding.

8 Q. Does Mr. Finnell provide fuel model runs
9 that are used in projections of the amount of off-system
10 sales margins that would be generated by AE?

11 A. He makes fuel runs for Union Electric.

12 Q. And do those fuel runs include projections
13 of the off-system sales margins generated by AE?

14 A. Yes.

15 Q. Did Mr. Finnell perform model runs to make
16 the 2007 budget projections of the off-system sales
17 margins that will be generated by AE in 2007?

18 A. That was my understanding.

19 Q. Did he perform model runs for 2007 budget
20 projections under a range of assumptions?

21 A. I do not know.

22 Q. Did you provide to him any information to
23 make those model runs?

24 A. I believe so.

25 Q. Did you provide him with different levels

1 of wholesale market prices, wholesale sales margins, or
2 did you simply provide him with one set of inputs?

3 A. No. He gets the market prices as he -- and
4 I believe the market prices come from Cinergy. We give
5 him input. He puts in whatever market price that he puts
6 in at the time of the run.

7 Q. So what inputs do you give him?

8 A. I would give him information if I had
9 completed a transaction that he put into the model or
10 something like that.

11 Q. So that the information you gave him is
12 essentially actual information on actual transactions that
13 you're involved in?

14 A. Uh-huh.

15 Q. And you gave him, I believe you said,
16 information about -- do you give him information about
17 projected sales or transactions?

18 A. No. Not projected, no. No.

19 Q. Now, when Mr. Finnell performs model runs
20 to make those budget projections for AE, does his modeling
21 reflect the hedged wholesale sales of megawatt hours for
22 the budget year?

23 A. Actuals would have been hedged, yes.

24 Q. Actuals would have been hedged. Okay.

25 Now, did you provide the projected or normalized level of

1 wholesale market prices that the fuel model uses to
2 determine when UE's excess energy is in the money?

3 A. Ask the question again, please.

4 Q. Did you provide the projected or normalized
5 level of wholesale market prices that the fuel model uses
6 to determine when UE's excess energy is in the money?

7 A. For this rate case?

8 Q. Yes.

9 A. Yes.

10 Q. And to price the sales that are made with
11 this excess energy?

12 A. The price that was included in the model is
13 what I provided. And let me be clear. I provided him an
14 annual average price. Mr. Finnell then applied that
15 price. All I provided him was a price.

16 Q. And then from there, the fuel model matches
17 up to revenues from sales with the costs of making the
18 sales to determine the amount of off-system sales margins
19 that would be generated; is that correct?

20 A. That's correct.

21 Q. Now, if AE had already hedged some of those
22 future sales, would it be appropriate to take the hedged
23 sales into account in the fuel modeling?

24 A. AE against a portion of which sales?

25 Q. If AE had hedged a portion of the sales

1 that would be made in 2007, would it be important to
2 include those in the model?

3 A. In what case, sir?

4 Q. In this case.

5 A. I'm not sure.

6 Q. Okay.

7 A. I think it becomes a question of what is
8 and is not included, and I'm not certain what point in
9 time you include data and what point in time you don't.

10 Q. If you had actual hedged sales amounts for
11 2007, would it be your opinion that those actual amounts
12 should be included in the fuel model that comes up with
13 the budget, the fuel budget for 2007?

14 A. For the fuel budget for 2007?

15 Q. Yes.

16 A. Yes.

17 Q. Let me step back a little. Do you believe
18 that the fuel budget for 2007, that the amount of
19 off-system sales in that budget should be used to set
20 rates in this case?

21 A. No.

22 Q. I didn't think so.

23 Has AE entered into any transactions on
24 UE's behalf to hedge future power sales made by AE?

25 A. Ask that one more time, please.

1 Q. Has Ameren Energy entered into transactions
2 on UE's behalf to hedge future power sales?

3 A. Yes.

4 Q. Now, the next couple of questions I'm going
5 to ask you have to do with capacity length. Can you
6 explain to me your understanding of the term capacity
7 length?

8 A. Yes. AmerenUE has a certain portion of
9 capacity associated with our generating units and the
10 resources that we have, like APL, and so that's a
11 capacity, and then we maintain a capacity reserve over and
12 above our load.

13 So just to use simple numbers, if we had
14 10,000 in generation and 8,000 in load, and you had a
15 15 percent reserve margin above that, whatever that number
16 comes out, the difference between those two would be the
17 excess capacity we would have to sell in the marketplace.

18 Q. Now, at the current time, can you describe
19 for me a brief description of the capacity length of UE?

20 MR. LOWERY: Your Honor, I'd like to ask
21 Mr. Schukar whether or not some of these numbers might be
22 highly confidential, if we're going to talk about specific
23 capacity length.

24 BY MR. MILLS:

25 Q. And it's possible they may be, but if you

1 can give a general description.

2 A. Because I can't give you the specific
3 number at any one time. I don't have the most current
4 up-to-date number.

5 MR. LOWERY: Very well, just --

6 THE WITNESS: I can tell you that we do
7 have some excess capacity. It's more in the shoulder
8 months. I don't believe that we have any, or if we have
9 any left for the summer, it's very little.

10 BY MR. MILLS:

11 Q. Okay. Did UE's capacity length change
12 significantly when the Taum Sauk plant went out of
13 operation?

14 A. It was reduced.

15 Q. By how much?

16 A. 440 -- around 400 megawatts.

17 Q. Now, it's a big part of your job to market
18 that capacity length, is it not?

19 A. It's a portion of my job.

20 Q. Would you be able to give any meaningful
21 description of how you are -- how you are doing that
22 portion of your job in specifics, without getting into
23 highly confidential information?

24 A. Sure.

25 Q. Okay. Please do so.

1 A. I think as I mentioned before, we go out
2 and we contact counterparties to find out what their
3 position is in the marketplace and to see if they are
4 interested in buying capacity where we have it. Most of
5 that activity goes on with folks who work for me and the
6 Ameren Energy Corporation, but I do from time to time
7 interact with counterparties.

8 Q. Okay. And if I wanted to get into some
9 specific counterparties and specific contracts and dollar
10 amounts, that would all be highly confidential?

11 A. Yes, it would.

12 Q. We'll do some of that later. But there
13 have been some deals that you've made?

14 A. Yes.

15 Q. You, not just you certainly, but you
16 meaning Ameren Energy; is that correct?

17 A. That's correct.

18 Q. And do you know and can you tell me without
19 breaching highly confidential information approximately
20 how much margin is expected from those sales of capacity
21 in 2007?

22 A. No.

23 Q. No, you can't tell me or no --

24 A. No, I do not know.

25 Q. You don't. How about for 2006?

1 A. 2006, I don't believe there was any.

2 Q. There wasn't any?

3 A. No.

4 Q. Okay. Have you been very heavily involved
5 in the processing of this rate case on behalf of AmerenUE?
6 Has this been a big chunk out of your time?

7 A. More than I would like.

8 Q. Okay. That seems to resonate with the
9 folks in the room.

10 Have you had difficulty keeping up with
11 both the rate case and your work buying and selling
12 capacity and energy for UE?

13 A. As I mentioned, most of that work is done
14 by others in the organization. So I don't believe that's
15 impacted.

16 Q. So the rate case really isn't having any
17 impact on the timing of finalizing the power marketing
18 transactions at AE?

19 A. I do not believe so, no.

20 Q. Has anyone discussed with you the
21 desirability of postponing deals until the rate case is
22 over or almost over?

23 A. No.

24 MR. MILLS: Your Honor, I think probably
25 the rest of my cross will be highly confidential.

1 JUDGE WOODRUFF: Okay.

2 MR. MILLS: So if we can go into camera --
3 well, before we do, let me just go ahead and I'll mark an
4 exhibit, but then when we get around to talking about it,
5 I think it will have to be in-camera.

6 JUDGE WOODRUFF: All right. I believe your
7 next number is 417.

8 (EXHIBIT NO. 417 WAS MARKED FOR
9 IDENTIFICATION BY THE REPORTER.)

10 BY MR. MILLS:

11 Q. Mr. Schukar, can you identify what I just
12 handed you and what's been marked as Exhibit 417?

13 A. It looks like it's OPC Data Request, OPC
14 2212.

15 Q. Is there a response to that Data Request
16 response?

17 A. There's several pages attached to it, yes.

18 Q. Did you prepare that response?

19 A. Yes.

20 Q. Is the document that I just handed you and
21 just marked the same as the response that you gave to us?

22 A. As far as I know.

23 Q. Is that response true and accurate?

24 A. I do not remember everything that got
25 submitted in the hundreds of Data Requests.

1 Q. You're welcome to take all the time you
2 need to to authenticate it, but I need you to authenticate
3 it before I can offer it.

4 A. I believe that it is.

5 MR. MILLS: With that, I'd like to offer
6 Exhibit 417.

7 JUDGE WOODRUFF: All right, 417 has been
8 offered. Any objections?

9 MR. LOWERY: No objection, but it should be
10 417HC, I believe, your Honor.

11 MR. MILLS: That is true.

12 JUDGE WOODRUFF: All right. 417 has been
13 offered and -- 417HC, excuse me, and it will be received
14 into evidence.

15 (EXHIBIT NO. 417HC WAS RECEIVED INTO
16 EVIDENCE.)

17 MR. MILLS: And now I believe we need to go
18 in-camera.

19 JUDGE WOODRUFF: All right. We will go
20 in-camera.

21 (REPORTER'S NOTE: At this point, an
22 in-camera session was held, which is contained in
23 Volume 20, pages 1242 through 1328 of the transcript.)

24

25

1 JUDGE WOODRUFF: Okay. We've come out of
2 in-camera just long enough to announce that we're going to
3 go on break. We will adjourn now for a dinner break and
4 for the Commission to go to agenda session. We'll come
5 back at six o'clock and we'll plan to go to nine o'clock.

6 MR. BYRNE: Your Honor, could I talk about
7 a scheduling thing before we go off the record? Warner
8 Baxter was scheduled to be a witness tomorrow on -- I
9 guess he was sort of a high level witness on demand side
10 management and low income programs, and he has a conflict
11 that will prevent him from being here, and -- but he is
12 going to be here the next week, and so I'm hoping to the
13 extent parties have questions of him on low income and DSM
14 issues, they can ask him next week when he will be there.
15 So I guess I'd like to raise that issue and ask the
16 parties' indulgence and the Commission's indulgence.

17 JUDGE WOODRUFF: You can discuss it with
18 the parties during dinner, then. What are the parties'
19 plans for tomorrow? Do we want to go ahead and set this
20 issue aside, assuming we don't finish it tonight, and
21 that's highly unlikely? Do we want to go ahead with low
22 income programs and voluntary green and demand side
23 management and get those out of the way and then pick this
24 up later in the day?

25 MR. MILLS: If it helps, I've got

1 15 minutes or less left on this issue.

2 JUDGE WOODRUFF: And what have you got?

3 MR. FREY: 15 minutes to a half hour.

4 MR. MICHEEL: Your Honor, I'd like to try
5 to get Mr. Brosch on today on this issue, if possible, so
6 he can go. He's been here all week.

7 JUDGE WOODRUFF: This would be his last
8 appearance?

9 MR. MICHEEL: For this week. Then he's
10 coming back next week on EEInc.

11 JUDGE WOODRUFF: And I understand
12 Mr. Proctor's already had to leave for the day?

13 MR. FREY: He has. He'll be here tomorrow
14 morning.

15 JUDGE WOODRUFF: Let's plan on finishing
16 Mr. Schukar, and then we'll go to Mr. Brosch after dinner.

17 MR. MICHEEL: Great.

18 MR. FREY: And then we'll pick up with
19 Dr. Proctor presumably tomorrow, or whoever's next.

20 JUDGE WOODRUFF: Whoever's next. Depends
21 how optimistic you are.

22 (A BREAK WAS TAKEN.)

23 (REPORTER'S NOTE: At this point, an
24 in-camera session was held, which is contained in
25 Volume 20, pages 1331 through 1342 of the transcript.)

1 JUDGE WOODRUFF: And we're back in regular
2 session. And this is 422.

3 MR. MILLS: This is 422.

4 (EXHIBIT NO. 422 WAS MARKED FOR
5 IDENTIFICATION BY THE REPORTER.)

6 MR. MILLS: May I proceed?

7 JUDGE WOODRUFF: Yes.

8 BY MR. MILLS:

9 Q. Mr. Schukar, we have just marked and
10 handed you a copy of a Form 8-K for Ameren Corp filed
11 February 15th, 2007 with the SEC. Do you have a copy of
12 that?

13 A. Yes.

14 Q. Are you familiar with the filings that
15 Ameren makes with the SEC?

16 A. Familiar? No, not specifically.

17 Q. Do you ever in the course of your work have
18 reason to look at Form 8-Ks or 10-Ks that are filed with
19 the SEC?

20 A. I will look at them from time to time.

21 Q. Can you identify this as a Form 8-K for
22 Ameren Corporation?

23 A. Yes.

24 MR. MILLS: With that, I will offer
25 Exhibit 422 into the record.

1 JUDGE WOODRUFF: 422 has been offered. Are
2 there any objections to its receipt?

3 MR. LOWERY: No objection.

4 JUDGE WOODRUFF: Hearing none, it will be
5 received.

6 (EXHIBIT NO. 422 WAS RECEIVED INTO
7 EVIDENCE.)

8 BY MR. MILLS:

9 Q. And let me turn you, if you will -- and
10 this, like some of our exhibits, we've identified
11 sequential page numbers at the bottom, and if I can get
12 you to turn to page 12 of 36.

13 A. Okay.

14 Q. And read the first sentence of the first
15 full paragraph on that page.

16 A. The one starting with, in 2007?

17 Q. That's correct.

18 A. In 2007, earnings for the Missouri
19 regulated segment are expected to approximate 305 million.

20 MR. MILLS: Thank you. Hang on one second.

21 BY MR. MILLS:

22 Q. I've just conferred with your attorneys,
23 and they confirm that at least as far as that one figure
24 is concerned on page 38 of Exhibit 421 is no longer to be
25 considered highly confidential. So can you confirm for me

1 that the figure on page 38 under AmerenUE net income
2 100 percent matches the figure in the SEC filing?

3 A. Yes, it does.

4 Q. They're both 305 million expected earnings?

5 A. Yes.

6 MR. MILLS: I think that's all I have.

7 JUDGE WOODRUFF: Thank you, Mr. Mills.

8 MR. MILLS: Thank you.

9 JUDGE WOODRUFF: Then we'll move to Staff
10 for cross-examination.

11 CROSS-EXAMINATION BY MR. FREY:

12 Q. Good evening, Mr. Schukar.

13 A. Good evening.

14 Q. I understand that Mr. Mills used up some of
15 my time, so I'll be quite a bit more brief. Probably
16 won't even have to work up a sweat.

17 A. Thank you.

18 Q. That is if I can find my first question.

19 Okay. I think in your discussion with Mr. Mills or
20 perhaps with Mr. Micheel, I'm not sure with whom, you
21 mentioned that the company engages in bilateral
22 transactions, I think you said for energy; is that
23 correct?

24 A. Yes.

25 Q. Okay. And are those -- are profits from

1 those transactions reflected in AmerenUE's production cost
2 modeling for purposes of this case?

3 A. I'm not sure I follow the question, sir.

4 Q. To the extent that those transactions
5 occurred, for example, during the test year, would you be
6 picking up those profits or that result from those
7 transactions, would you be reflecting them either in your
8 production cost model or in your cost of service for this
9 rate case?

10 A. The production cost model did not look back
11 at the actual transactions for the test year.

12 Q. And they wouldn't be reflected anywhere
13 else in cost of service, to your knowledge?

14 A. The -- I think that where I'm struggling a
15 little bit here is the transactions for that test period
16 are part of what you determine or could determine market
17 price from, and so we just determined the market price and
18 that's what we used. We did not plug in any transaction.

19 Q. How about transactions where you just buy
20 and sell? I think you indicated you do those as well, you
21 buy for wholesale?

22 A. Yes, we do. No.

23 Q. You're answering the question I'm about to
24 ask you.

25 A. You said how about the one, I thought is

1 what I heard you say.

2 Q. Yes.

3 A. I said no.

4 Q. No what?

5 A. I'm sorry.

6 Q. I didn't think I'd asked.

7 A. I'm sorry.

8 Q. With respect to those transactions, do the

9 profits show up in the rate case?

10 A. Neither profits or the losses.

11 Q. If I might ask, in the test year, did the

12 gains outstrip the losses from those types of transactions

13 or vice versa?

14 A. The 2005 to 2006 test year, I'm not sure.

15 Q. Do you know if the revenues from this type

16 of transaction would be included in the calculation for

17 the FAC proposed by AmerenUE?

18 A. When you say the transaction, if you're

19 talking about bilateral transaction --

20 Q. Yes.

21 A. -- that was utilized for a hedge for the

22 generation or the load, yes, it would be.

23 Q. There was some discussion earlier about the

24 Illinois auction. Do you recall that?

25 A. Yes.

1 Q. And with respect to that, I believe it
2 occurred sometime around September of last year; is that
3 correct?

4 A. I believe that is true.

5 Q. Can you tell us what the -- what the
6 closing price was, auction price?

7 A. The clearing price.

8 Q. Clearing price. I'm sorry.

9 A. I do not remember what that was.

10 Q. Do you have a -- can you approximate it?

11 A. No, sir.

12 Q. If I might ask, does \$62 a megawatt hour
13 sound familiar?

14 A. It sounds like a number.

15 Q. Are you generally familiar with the
16 scheduled outages for the company's coal plants?

17 A. Yes.

18 Q. And can you tell us how long it is
19 generally between scheduled outages for the coal plants?

20 A. I think it varies.

21 Q. Again, can you give us a ballpark or a
22 typical length of time?

23 A. Could you ask the question again, sir?

24 Q. How long does it -- is it generally between
25 scheduled outages for your coal plants?

1 A. I don't know specifically.

2 Q. Do you have your surrebuttal testimony with
3 you, Mr. Schukar?

4 A. Yes, I do.

5 Q. And can you please turn to Schedule 17-2
6 attached to that testimony?

7 A. Yes, sir.

8 Q. And there you show how native load costs
9 and off-system sales margins would change for a number of
10 alternative combinations, do you not?

11 A. As an illustration, yes.

12 Q. And those would involve on-peak price and
13 natural gas dispatch costs, off-peak coal dispatch costs
14 and AmerenUE fuel costs. Do I have that right?

15 A. That is correct.

16 Q. And from that you calculate for each of
17 these combinations whether native load fuel risk decreases
18 or increases as a result of including the revenues from
19 off-system sales; is that correct?

20 A. Calculate the reduction variance.

21 Q. Okay. And the variance you referred to as
22 fuel risk, did you not, native fuel risk?

23 A. It's a fuel net risk.

24 Q. Okay. And you looked at the total of
25 27 different calculations, did you not?

1 A. That is correct.

2 Q. Are the high and low scenarios in your
3 Schedule 17-2 similar to the high and low scenarios
4 presented in Dr. Proctor's rebuttal testimony, in that
5 they represent extreme cases?

6 A. When you say the high and low, are you
7 talking the high high high and the low low low?

8 Q. Yes.

9 A. They're similar, yes.

10 Q. Do you have a copy of Dr. Proctor's
11 testimony with you?

12 A. No, sir.

13 Q. Okay. Well, I'm just going to give you one
14 page from that testimony. It's the one that Dr. Proctor
15 presented yesterday. It's page 9, and he presented it
16 because he corrected some headings on one of the tables.

17 MR. FREY: May I approach the witness, your
18 Honor?

19 JUDGE WOODRUFF: You may.

20 BY MR. FREY:

21 Q. Does that appear to be page 9 of
22 Dr. Proctor's rebuttal testimony, Mr. Schukar?

23 A. It does.

24 Q. And I would note that the numbers on this
25 that appear on the tables on this page are highly

1 confidential, but I do not believe my questions are going
2 to get into the HC realm.

3 I would just ask, can you locate the high
4 and low cases on the table on page 9 of Dr. Proctor's
5 rebuttal testimony, and in particular on the truncated
6 distribution?

7 A. I believe I can, yes. The top and the
8 bottom row.

9 Q. Yes. The ones that are more heavily
10 shaded?

11 A. Yes.

12 Q. Do you agree that Dr. Proctor also
13 presented intermediate scenarios in his rebuttal that
14 represent less extreme cases, that is, cases that are
15 closer to normal or the mean?

16 A. I would say that they were less extreme.

17 Q. And Dr. Proctor assigned a much higher
18 probability to these intermediate scenarios than he
19 assigned to the extreme high and low cases, did he not?
20 It would be that middle column.

21 A. You're talking about the distribution?

22 Q. Yes.

23 A. The distribution is different. Could you
24 ask the question again? I'm sorry.

25 Q. Did he not assign higher probabilities to

1 those intermediate cases between the extremes there?

2 A. If you're talking about the truncated
3 distribution, yes.

4 Q. And they're considerably higher, are they
5 not?

6 A. They're twice as high.

7 Q. Now, returning to Schedule 17-2 of your
8 surrebuttal testimony --

9 A. Yes.

10 Q. -- that table is titled Illustration of
11 OSS, meaning off-system sales, Margins as Fuel Costs Hedge
12 Under All Cases. Did I read that correctly?

13 A. Yes, you did.

14 Q. And would you agree that the word all which
15 appears in the title of your Schedule 17-2 is not meant to
16 imply that evaluated intermediate scenarios like those
17 presented in Dr. Proctor's rebuttal testimony?

18 A. I believe in my surrebuttal I indicated
19 that this was a portion of the numerous different
20 scenarios that could be presented.

21 Q. Would you also agree that Schedule 17-2
22 only includes three alternatives for each component, a
23 high extreme, a normal level and a low extreme?

24 A. Yes.

25 Q. Similar to these statistically based

1 probabilities that Dr. Proctor assigned to scenarios in
2 his rebuttal testimony, do you know or can you assign a
3 statistical probability to each of the 27 scenarios
4 described in your Schedule 17-2?

5 A. No.

6 Q. Thanks. Could you please turn now to
7 Schedule 14 attached to your surrebuttal?

8 A. Yes.

9 Q. And there you plot in index form several
10 years of natural gas prices, electricity prices and coal
11 dispatch prices, along with the company's average cost of
12 delivered coal; is that correct?

13 A. Correct.

14 Q. Those plots do not show any monthly data,
15 do they?

16 A. No, they do not.

17 MR. FREY: I need to mark an exhibit,
18 Judge.

19 JUDGE WOODRUFF: All right. Staff's next
20 number is 257. Is this HC?

21 MR. FREY: Yes.

22 (EXHIBIT NO. 257HC WAS MARKED FOR
23 IDENTIFICATION BY THE REPORTER.)

24 BY MR. FREY:

25 Q. I've handed you a graph, Mr. Schukar.

1 Would you agree that it appears to contain plots of both
2 monthly coal dispatch prices and monthly delivered coal
3 for Ameren for 2004 to 2006?

4 A. Yes.

5 Q. And also included what appear to be plots
6 of the actual averages of those monthly prices for each of
7 the past three years; is that correct?

8 A. Yes.

9 Q. Can you confirm that the prices appearing
10 in the graph, which is -- I'm sorry, I forgot the number.

11 JUDGE WOODRUFF: 257.

12 BY MR. FREY:

13 Q. That the numbers appearing in that graph
14 which has now been marked Exhibit 257 are monthly prices
15 and corresponding annual averages for AmerenUE that are
16 contained in your work papers submitted in support of your
17 Schedule 14? And I can help you with that if you need it.

18 A. I'm sorry. Do you have that with you?

19 MR. FREY: Yes. May I approach, your
20 Honor?

21 JUDGE WOODRUFF: Certainly.

22 THE WITNESS: Thank you. Yes, I can
23 confirm that.

24 BY MR. FREY:

25 Q. Okay. Thank you. And in looking at those

1 plots, the averages between 2004 and 2005, between those
2 two years the average coal dispatch price increased
3 significantly, did it not?

4 A. Between 2004 and 2005?

5 Q. Yes.

6 A. Yes.

7 Q. And that significant price jump relative to
8 2004 coal dispatch price can be attributed to the rapid
9 increases to monthly coal prices in the latter half of
10 2005; is that correct?

11 A. I believe so.

12 Q. Would you please identify what caused the
13 dispatch price to rapidly increase in the latter half of
14 2005?

15 A. What caused the dispatch to increase in the
16 latter half of 2005?

17 Q. Yes.

18 A. I'm not specifically sure.

19 Q. Could it have been those rail disruptions?

20 A. Well, it could have been rail. It could
21 have been SO2 allowances, or it could have been coal
22 costs. They all get incorporated.

23 Q. Or some combination of the three?

24 A. Correct.

25 MR. FREY: Okay. I have just a few more

1 questions, and I think we have to go -- excuse me.

2 BY MR. FREY:

3 Q. Would you say the rail disruptions
4 increased the cost of the coal during that time period?

5 A. I'm not sure.

6 MR. FREY: Okay. I have just a few more
7 questions, your Honor, and I think we have to go in-camera
8 for these.

9 JUDGE WOODRUFF: We need go in-camera now,
10 you mean?

11 MR. FREY: Yes.

12 (REPORTER'S NOTE: At this point, an
13 in-camera session was held, which is contained in
14 Volume 20, pages 1357 through 1362 of the transcript.)

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1 JUDGE WOODRUFF: And while we were
2 in-camera, Mr. Frey completed cross-examination for Staff,
3 and now we're ready to come up to the Bench for questions.
4 Commissioner Gaw?

5 COMMISSIONER APPLING: Want me to warm you
6 up a little bit?

7 COMMISSIONER GAW: Go ahead.

8 QUESTIONS BY COMMISSIONER APPLING:

9 Q. How you doing, sir?

10 A. Good. Thank you.

11 Q. When I read your rebuttal and your
12 surrebuttal testimony and read Mr. Wood's and
13 Dr. Proctor's testimony, it seem like it's a little
14 sprinkle of disagreement between you, Dr. Proctor and
15 Mr. Wood on OSS and FAC?

16 A. Yes.

17 Q. Okay. Just wanted to make sure that I
18 understood that. I have five lightweight questions that
19 I'd like to run down that I didn't seem to get an answer
20 when I read the information. Let me ask you this four or
21 five questions right quick. Okay?

22 A. Okay.

23 Q. In the last run of AmerenUE production
24 model is what I want to talk about. I don't know whether
25 it's in your surrebuttal. I didn't see it there. Maybe

1 the answers are in there someplace, but if you can answer
2 these questions for me, how much energy was produced in
3 the last run? Do you have that information available?

4 A. Total energy or for sales?

5 Q. How much energy, yes, was produced?

6 A. I've got so much stuff up here now.

7 Q. Take your time.

8 A. I can't find it, sir.

9 Q. Okay. Why don't -- you're going to be
10 around for a while probably 'til nine. Maybe plan to be
11 here tomorrow even. Maybe we can find it. I'm looking
12 for the total amount that was produced. I'm also looking
13 for what the cost of it was. And a couple more questions
14 surrounding that, if you will.

15 A. I'm sorry, sir. I have the total costs,
16 but I do not have the total megawatt hours.

17 Q. Okay. What was the total cost?

18 A. Do you want it by the generating plant, is
19 that what you want?

20 Q. Do you have anything that reflects the
21 total?

22 JUDGE WOODRUFF: I assume this is not
23 highly confidential. We're not in -- we're in regular
24 session right now, so just keep that in mind.

25 MR. LOWERY: I don't believe so, your

1 Honor. These are modeling results of a normalized test
2 year, I believe, so I don't believe they are.

3 BY COMMISSIONER APPLING:

4 Q. I'm just trying to clear up some questions
5 that I couldn't find in the rebuttal testimony between you
6 and Dr. Proctor, but if you can't find it right now,
7 rather than us --

8 A. The total cost of the fuel, if that's what
9 you were looking for, for the Callaway, Labadie, Meramec,
10 Rush Island, Sioux and CTGs was 583,593,000.

11 Q. Okay. What was the purchased power cost?
12 Do you have that information on the same sheet?

13 A. Yes, it was 28,590,000.

14 Q. Okay. What was off-system sales revenue?

15 A. 343,246,000.

16 Q. Okay. Last question on that area. What
17 was off-system sales margin?

18 A. 202.5 million.

19 Q. Is there a -- this is the next to the last
20 question I'm going to ask you. Is there a positive
21 correlation between the price of coal and the spot market
22 prices of electricity?

23 A. There's a positive correlation between the
24 prices of coal and the off-peak spot prices, yes.

25 Q. There is a positive correlation?

1 A. Yes.

2 Q. Okay. How about is there a positive
3 correlation between the price of natural gas and the spot
4 market price of electricity?

5 A. I want to make sure I answer the question.

6 Q. Is there a positive correlation between the
7 prices of natural gas and the spot market price of
8 electricity?

9 A. The on-peak spot price of electricity and
10 natural gas have positive correlation, yes.

11 Q. Last question. You and Dr. Proctor
12 somewhat disagree on off-system sales, and Mr. Voytas made
13 the statement in his testimony that Ameren doesn't need an
14 FAC because he thinks that the OSS will mitigate the cost
15 of the price of fuel. Give me your thought on that.

16 A. My thought, what I said in my surrebuttal
17 is, while there are times where it mitigates, there are
18 times where it does not.

19 Q. Uh-huh.

20 A. And so you can find examples of both that
21 exist, and I think that there is as much uncertainty
22 around whether gas prices and coal prices and are actual
23 coal prices and the price of electricity are all going in
24 move in the same way in the same manner in the same
25 percentages, which is what really was behind Dr. Proctor's

1 analysis, which would say that they are actually going to
2 offset, and so I don't believe that that would be a reason
3 to reject the FAC.

4 Q. If this Commission doesn't give you an FAC,
5 what are you going to do?

6 A. What am I going to do? You know, I think
7 that we will do the best we can with whatever is ordered.

8 Q. You're not going to fold your tent and go
9 home, are you?

10 A. I'm sorry. I didn't understand the
11 question.

12 Q. I see you haven't served in the military
13 before.

14 A. No, sir, I did not.

15 COMMISSIONER APPLING: But I'll leave it.

16 Thank you.

17 THE WITNESS: Thank you, sir.

18 JUDGE WOODRUFF: Commissioner Gaw?

19 COMMISSIONER GAW: Thank you.

20 QUESTIONS BY COMMISSIONER GAW:

21 Q. Good evening, Mr. Schukar.

22 A. Good evening, Commissioner.

23 Q. I want to apologize. Some of these
24 questions could be duplicative. This afternoon's been
25 kind of crazy.

1 A. I understand.

2 Q. I'm going to have to just review and then
3 I'll probably wish I'd asked you questions, so this may
4 cut both ways for you. I want to just get a little bit of
5 an understanding on a few fronts here, and we might as
6 well start out with this document that I was looking at
7 the other day.

8 COMMISSIONER GAW: Is this 511, Judge
9 (indicating)?

10 JUDGE WOODRUFF: I believe so, yes.

11 COMMISSIONER GAW: Could someone give
12 Mr. Schukar 511?

13 MR. MILLS: Is that AG/UTI 507?

14 COMMISSIONER GAW: Yes.

15 BY COMMISSIONER GAW:

16 Q. One of your coworkers told me that you were
17 the guy to ask about this -- these different numbers on
18 this chart.

19 A. I appreciate that.

20 Q. I figured you would. I'll let you guess
21 who it was. There was -- there were a number of things on
22 here that I was asking about the other night, but some of
23 the questions revolved around the -- if you'll turn to the
24 second page where it's talking about 2002-2006.

25 A. Okay. With the plants on the side?

1 Q. Yeah.

2 A. Okay.

3 Q. And go down there. I'm going to have you
4 go on down to the purchases.

5 A. Okay.

6 Q. Do you see that?

7 A. Yes, I do.

8 Q. And if you could, as we're going down
9 underneath purchases, give me an idea about what those
10 categories are, if you would. AMS is the first line. Do
11 you see that?

12 A. Okay. The AMS 417 and 98 would be
13 purchases made through like bilateral contracts.

14 Q. Okay.

15 A. The MISO charges and 555, those are charges
16 from the Midwest ISO, and let me find my one schedule that
17 can kind of tell you what most of them are.

18 Q. Okay. That's part of the reason I wanted
19 to go through this, is just so that I can understand what
20 these categories represent.

21 A. Okay. The MISO charges 555 would include
22 deviations.

23 Q. Which means what?

24 A. Whenever -- in the MISO whenever your unit
25 is outside of a dead band, then there is a charge that is

1 allocated for that.

2 Q. Okay. Is that -- and that's something that
3 doesn't pick up until 2005 because it wasn't -- MISO
4 wasn't functioning --

5 A. Correct.

6 Q. -- in the day two market until then?

7 A. That is generally one of the things to
8 recognize with some of the MISO charges and not all of
9 them, but some of them were buried in things like plant
10 cost --

11 Q. Yes.

12 A. -- that we may not have been able to see or
13 cut transactions that in the past we would have a
14 transaction cut that we would have lost the sale and just
15 wouldn't have been able to sell. In this case you may
16 have picked up things like whenever you had start up and
17 no load costs that we just would bury into -- that would
18 be built into our generation cost. Well, now you pick
19 them up as like RSG cost.

20 Q. You're anticipating some of my questions
21 here, and I appreciate you doing that.

22 A. I get asked this a lot.

23 Q. I am sure you do. When we get through this
24 list, I do want you to tell me where those things were
25 before and how -- and how they've been eliminated in

1 places for purposes of this rate case, because that is not
2 clear to me at this point. And I'm sure I may be the only
3 one it's not clear to.

4 But go ahead down through there. The
5 interchange sales is the next one, I think.

6 A. Let me get through the R-- because that was
7 a very small portion of 555.

8 Q. Okay. Go ahead.

9 A. 555 also includes inadvertent, and on the
10 system previously we would pay back inadvertent, and so
11 you would take it in or you would pay it out. Well, now
12 it's all financial, and so if we had a net balance and had
13 to buy, then we would pay for it through this inadvertent
14 account.

15 Q. Okay. Are these figures net?

16 A. The number that is on here is a net number
17 for all of these, yes.

18 Q. Okay.

19 A. It would also include losses, where
20 historically we just provided losses from our generation,
21 so you would have seen that in our generation number,
22 which would have reduced off-system sales. This is an
23 increased financial cost that we see now.

24 Q. Okay.

25 A. Revenue neutrality uplift. And revenue

1 neutrality is really what makes the Midwest ISO whole of
2 all of their costs. The largest portion of that real-time
3 congestion and, there again, that's similar to what I was
4 talking about when you would have transactions cut and you
5 may lose those opportunities or whatever.

6 Revenue sufficiency guarantee, that is the
7 uplift for generators that cannot cover their startup no
8 load costs in the marketplace. I think you understand
9 what that one is. And then this item also includes
10 purchased power from the Midwest ISO. All right?

11 Q. Okay.

12 A. And that should be the total for that
13 555 account.

14 Q. Okay. Are those figures, by the way, on
15 that one, are they broken out somewhere else?

16 A. Yes, they are. I can give you an idea on
17 what they are, how much.

18 Q. Okay.

19 A. There's really four large ones. The four
20 large ones are the losses and the revenue sufficiency, the
21 revenue neutrality, and the purchases from the MISO.

22 Q. Is there a trend on any of those charges
23 that you've witnessed since the beginning of the MISO day
24 two market?

25 A. Well, the RSG charges is one that I watch

1 very closely, and at the start of the market, they were
2 outrageous. They trended down for quite some period of
3 time and have popped up here of late. We've been working
4 with Midwest ISO to understand why that's occurring.

5 Q. Do you know yet?

6 A. No, I do not.

7 Q. In regard to the proposals that you-all
8 have moving forward on these charges, if -- talking about
9 if we don't have a fuel adjustment, is there some sort of
10 an understanding or agreement about the level of those
11 charges and what they should be in regard to rates on this
12 category?

13 A. I'm not certain I understood your question.

14 Q. Well, if there's not a fuel adjustment
15 charge, I'm assuming there's going to have to be an
16 assumption about what this level should be.

17 A. Oh, what's in our fuel?

18 Q. Yes.

19 A. Yes, it would be in there.

20 Q. Are you and Staff and the other parties in
21 agreement on the level on this line?

22 A. I don't know.

23 MR. LOWERY: Commissioner Gaw, I can
24 probably help you with that. To my knowledge, there's no
25 disagreement about that number.

1 COMMISSIONER GAW: Sorry to be so myopic
2 here.

3 BY COMMISSIONER GAW:

4 Q. Okay. Go down to the next line.

5 A. The interchange sales?

6 Q. Yes.

7 A. The interchange sales is really when we had
8 the JDA in place, which is year 2006, a certain portion of
9 our purchases went to native load and a certain portion of
10 our purchases went to off-system sales, and so what this
11 line does is reduce out the purchase amount that went to
12 off-system sales.

13 Q. Okay. And then boundary line?

14 A. The boundary line agreements are agreements
15 that we have with other utilities where, while a customer
16 may be in our jurisdictional boundary, they may be closer
17 to one of their lines, and so we hook up to their line and
18 it's a way that we pay them for the electricity with that.

19 Q. What does that mean, boundary line, again?
20 When you say they hook up to our boundary line?

21 A. They hook up to our -- so say it's in
22 AmerenUE's jurisdictional area, but they have a line
23 that's running closer to it.

24 Q. Yes.

25 A. Okay. So we would then connect up to the

1 counterpart, the other utility's line, which would save us
2 cost from running a line all the way out to the customer.

3 Q. Now I understand. Thank you. Then EEI is
4 listed next?

5 A. Okay. I think we know what EEI is.

6 Q. I'm assuming that that's -- as I move
7 across there, of course, those numbers change, and there
8 is obviously a dramatic change in -- looks like it's '06,
9 correct?

10 A. That's right. The contract ended in '05.

11 Q. Okay. Was that -- did that contract run
12 again through the end of '05?

13 A. Yes.

14 Q. Now, down below there on the next one is
15 Genco native load plus interchange allocation?

16 A. Yes. Genco is what we purchased from under
17 the JDA. That was the amount that was purchased from the
18 Genco assets.

19 Q. Okay. What were those assets?

20 A. They were historically the CPS generators.

21 Q. And the next line is GMC?

22 A. GMC is -- I have to make sure I've got the
23 right line here. It ran out. Yes. It was an old Legacy
24 contract that was associated with the CIPS merger, and it
25 just ran through the end of sometime in '05. I don't

1 remember specifically.

2 Q. It's no longer a factor?

3 A. That's correct.

4 Q. And then Soyland?

5 A. Soyland, there again, they had several
6 units that were under contract associated with the JDA,
7 and so those -- when they were the lowest cost generators,
8 they would come to UE and we would buy from them.

9 Q. Let's jump down to the next category of
10 transmission expenses, 565 account. I'm assuming these
11 are nearly all MISO charges, but I want you to clarify
12 that for me.

13 A. Okay. The congestion charges are just what
14 you said, they're the congestion charges from the Midwest
15 ISO.

16 Q. Okay.

17 A. The financial transmission rights, that's
18 what we get back for holding the transmission in the FTRs.

19 Q. And ancillary services?

20 A. The ancillary services I believe is the
21 reactive power schedule.

22 Q. Okay. And next line?

23 A. The next line, it's labeled incorrectly.
24 It says power trading real time. If you look back on some
25 of the other pages, it has -- it's inadvertent RSG. The

1 way we were booking things previously, any charge that
2 came in was going to 555, and any credit that was coming
3 in was going to the 447, and so these are the credits that
4 came back associated with the inadvertent and RSG.

5 Q. Okay.

6 A. So, in essence, you should net those up
7 with some of the 555 charges.

8 Q. So is that what's being done on this? I'm
9 having trouble reading across there. If I'm reading it
10 correctly, there's no number in that category. Am I
11 looking --

12 A. You mean no megawatts?

13 Q. Yes.

14 A. There's no megawatts. It's just a reversal
15 of previous charges.

16 Q. Okay. Power trading real time?

17 A. That's the one -- that's the one --

18 Q. That's what you were just referring to?

19 A. -- that was mislabeled, that's correct.

20 And then that just sums up the transmission expense.

21 Q. Okay. And then same thing on down there
22 below, on transmission unbundled, transmission expense
23 565?

24 A. Transmission expense 565 is a sum of
25 everything above it.

1 Q. Okay. All right. Now, is there -- again,
2 is there any disagreement among the parties on these
3 numbers? Everybody's --

4 MR. LOWERY: I don't believe so, your
5 Honor.

6 MR. MILLS: I plan to ask some clarifying
7 questions in my next turn, though.

8 COMMISSIONER GAW: Okay.

9 BY COMMISSIONER GAW:

10 Q. I'm trying to understand, a number of
11 these -- okay. Let me ask you this: On ancillary
12 services, MISO is contemplating moving toward a market on
13 ancillary services and consolidating the balancing
14 authorities in the MISO region, correct?

15 A. That's correct.

16 Q. Is -- at least in theory, they're talking
17 about a significant amount of savings around the footprint
18 if they go to that?

19 A. In theory, they are, yes.

20 Q. Is any of that savings built into any of
21 the numbers that have been proposed by the parties in this
22 case, to your knowledge?

23 A. Not to my knowledge, no, sir.

24 Q. Now, when I look at these numbers up here,
25 you made the reference earlier to the fact that some of

1 these numbers, some of these charges are now -- we're now
2 able to see that you're paying MISO to do, where it used
3 to be buried, as I think you put it.

4 A. Uh-huh.

5 Q. When I look at these figures here, would
6 those -- would those figures start showing up or at least
7 reducing some of the numbers that are elsewhere on this
8 page, or would they be somewhere else when I'm looking at
9 the reductions to compensate for what is now set forth in
10 these specific categories under MISO?

11 A. Well, I think if you look in the \$3 million
12 number for the 555, if one of the areas would be about
13 37 million of purchased power, so that would just show up
14 in a purchased power line.

15 Q. Okay.

16 A. So that would just take it out of there and
17 put it into one of the other purchased power lines, if you
18 wanted to look back historically. About 30 million of it
19 is losses. And that's kind of difficult to match one to
20 one because losses are supplied at the market price and we
21 buy them financially, where historically we would have
22 generated those and that would have reduced our --

23 Q. Ability to do off-system sales?

24 A. -- ability for additional generation.

25 Right. It would have either affected

1 off-system sales or purchases, one or the other.

2 Q. All right. So if we're looking -- if we're
3 moving forward and gauging off-system sales based on
4 historical levels, we would want to take into account the
5 fact that if we're adding these MISO costs that the
6 off-system sales level historically might not properly be
7 representative of the net of that figure?

8 A. Historically they would have been
9 different, right. It's kind of hard to compare them,
10 that's correct.

11 Q. Okay. Any of the other numbers that would
12 impact some of the historical figures elsewhere?

13 A. I think the RSG numbers in essence in the
14 past we would have picked up those for purchased power,
15 because what happens in the world today, as you're aware,
16 we buy at the L&P and then the startup that doesn't get
17 covered gets uplifted to the market. So if we were
18 purchasing in that instance, we probably wouldn't have
19 bought at an L&P. We would have bought at a much higher
20 price.

21 Q. I see.

22 A. And so it's kind of hard to track it
23 because of the way it's allocated through the market, but
24 some of those costs, I believe, would have been shown up
25 through a purchased power.

1 Q. Okay. Thank you for those explanations.

2 A. Are we done with that schedule, sir?

3 Q. I think so for the most part, except are
4 you back on EEI later?

5 JUDGE WOODRUFF: This is his only
6 appearance.

7 MR. LOWERY: No.

8 COMMISSIONER GAW: So if I have a question
9 about that, I might want to go ahead and ask. Just a
10 second, because there was something on the chart I wanted
11 clarification on.

12 BY COMMISSIONER GAW:

13 Q. In regard to EEI, where was it in the order
14 of dispatch when it was a part of Ameren's -- AmerenUE's
15 system, at least by contract?

16 A. I want to be careful how I answer this
17 question because we really didn't dispatch the plant.

18 Q. Would that still be HC or not, talking
19 about things of that sort with EEI?

20 MR. LOWERY: No.

21 BY COMMISSIONER GAW:

22 Q. Okay. Go ahead.

23 A. Just to be careful.

24 Q. If you need to change my presumption of my
25 question, you can go ahead.

1 A. Because EEI was in their own control area,
2 which is outside of the MISO.

3 Q. Yes.

4 A. And so they dispatched and dispatched their
5 units down there, and so they would schedule power and it
6 would come in to us as a net scheduled interchange into
7 Ameren.

8 Q. What does that mean?

9 A. That's when you have a control area and you
10 balance the control area, the net schedule interchange is
11 the amount that is either coming into or out of that
12 control area. And so when we would show a schedule in
13 from EEI, that would be a net schedule interchange in to
14 us, and so it wasn't really a dispatch price, just to be
15 clear on that. I think the question you're asking is
16 where does it fit in the stack of things as we stack them
17 up.

18 Q. In essence, that is what I'm trying to get
19 to, yes. Thank you.

20 A. It changes over time, so it's not always
21 exact. But our cost is going to be the hydro, obviously,
22 almost no cost, then the nuclear, and then you would have
23 the coal-fired units. And we have, in essence, four
24 groups of coal-fired units, the Labadie, the Sioux, the
25 Rush Island and the Meramec. The Labadie and Rush Island

1 were traditionally the lowest priced, and the EEI would be
2 somewhere close to them. And so it would either -- it
3 would change from time to time, whether it would stack
4 within them or right above them or below them, but it
5 would be somewhere in the stack.

6 Q. Okay. Refresh my memory, if you would.
7 Was the contract with EEI contract for capacity or
8 contract for energy? Do you know?

9 A. I don't know specifically the contract
10 language, sir.

11 Q. That's okay. If you -- if you wanted or
12 needed the energy from EEI, was it always available when
13 you had the contract? And I mean you, I mean AmerenUE.

14 A. Well, there's two parts to that question, I
15 believe.

16 Q. That's okay. Go ahead.

17 A. One is, they schedule their outages, so it
18 wasn't available when they were on outage obviously.

19 Q. Okay. That's fair.

20 A. But then secondly, you would schedule ahead
21 of time the capacity and energy and say, this is what I
22 want, and it would generally be available for that period
23 of time.

24 Now, one of the things that complicated
25 that was when we went into the Midwest ISO, because prior

1 to the Midwest ISO you could schedule it short-term time
2 frame, but once we went into the Midwest ISO, because it
3 was outside of the market, you'd have to schedule in and
4 it was much more difficult and sometimes you couldn't get
5 it as quickly.

6 Q. So how -- you mean you had to have it --

7 A. Your schedule parameters were much tighter
8 in the Midwest ISO than what they were in the days when we
9 were just outside of that. If I needed it in 15 minutes,
10 I'd get it on in 15 minutes, which is different than what
11 it is today.

12 Q. And how much -- what was the full capacity
13 of EEI that AmerenUE could access when the contract was in
14 effect?

15 A. I don't know specifically. I know about
16 what it was, because there may be losses and things, but
17 it was upwards around 400.

18 Q. Around 400?

19 A. To AmerenUE.

20 Q. Do you know what the total capacity is of
21 the Joppa plant, coal plant?

22 A. Of the coal plant?

23 Q. Yes.

24 A. I don't know exactly. It's around 1,000.

25 Q. Around 1,000. And so aside from outages of

1 the plant, then, it was available for you to access -- I
2 say you again, I mean UE -- whenever it was needed?

3 A. Whenever they reserved it.

4 Q. And how much in advance was that normally
5 reserved before MISO and then how much after MISO?

6 A. We only -- I've only been there since '05.

7 Q. Yes.

8 A. So we only had that contract for a short
9 period of time, and I don't remember it well enough to
10 tell you all the exact details.

11 Q. How about after the MISO went into effect,
12 could you give me that?

13 A. Well, there was a reserving portion and
14 then the scheduling portion. What happened in the MISO
15 was day ahead you had to put your schedules in or you were
16 subject to RSG and things like that.

17 Q. Okay.

18 A. And so we would try to get the schedule set
19 a day ahead, and sometimes you're guessing on price,
20 especially on the off-peak, because they would tend to
21 be -- during several periods on the off-peak they would be
22 either in or out of the money, so you're trying to guess
23 that day ahead and schedule it in.

24 Q. Okay. Did AmerenUE during the period of
25 the contract use the full 400 megawatts that it had access

1 to, assuming that 400 is correct, all of the time?

2 A. I don't believe we did.

3 Q. When it was not being utilized, did UE have
4 the ability to sell the difference in what was being used
5 for native load and the total capacity it had access to in
6 the off-system sales market?

7 A. I don't think I followed your question.
8 I'm sorry.

9 Q. Okay. Well, if it wasn't -- UE was not
10 using the full capacity of EEI that it had access to, did
11 it sell the excess or did it have the ability to sell the
12 excess into the off-system sales market?

13 A. Okay. I'm sorry. I misunderstood your
14 previous question.

15 Q. That's okay.

16 A. We could sell it into the market if it was
17 not being used to serve AmerenUE load, I think is what
18 your question was.

19 Q. Yes. Okay. And was that done regularly?

20 A. Well, remember at that time we were also
21 under the JDA, so we were selling any excess that we had
22 into the market to the best of our ability.

23 Q. Okay. And how were the monies from those
24 sales at that time being handled? Who got credit for
25 those sales?

1 A. The sales -- the JDA is a very complicated
2 animal.

3 Q. Yes.

4 A. And what happens in the JDA -- what
5 happened in the JDA was we would take the AmerenUE assets
6 and stack them up against the AmerenUE load, and we would
7 stack the AEG assets against the requirements that they
8 had over there. And so then if there was excess left,
9 then you would look across and say, okay, where does the
10 excess flow to?

11 Q. Okay.

12 A. Okay. When that got done and all of those
13 contracts were served, then you sold it to the
14 marketplace. So whatever was left got sold to the
15 marketplace, and then that off-system sales was allocated
16 and I believe originally it was based on a load ratio, and
17 then last year, the last year it was changed to I think a
18 generation ratio.

19 Q. Yes. That sounds familiar.

20 In the numbers on this exhibit, in looking
21 back through the pages that specifically deal with each
22 year from 2002, 2003, 2004 and 2005 and 2006, when I look
23 over there in the columns that talk about percent load
24 generation, percent interchange intercompany on those
25 particular generator units, do you see those columns, kind

1 of in the middle?

2 A. Yes.

3 Q. How are those numbers derived in light of
4 what you were just discussing about the JDA?

5 A. Well, the portion that went to native load
6 would have been what I talked about initially. We would
7 dispatch to the native load and then we would see if there
8 was other availability. So anything that was utilized to
9 serve, so any of the AmerenUE resources that were utilized
10 to serve native load would be in the first column, percent
11 to native load. Anything that was transferred to supply
12 the AEG requirements or that was sold to the market would
13 have been the second column.

14 Q. Okay. So --

15 A. You're getting to the limit of what I know
16 about this, okay?

17 Q. And I'm really stretching here myself, but
18 I'm trying to understand in relation -- just to make sure
19 that I'm following, these numbers are representative of
20 what they appear to be, if you look at what these numbers
21 say -- and let's just take one off from the top there,
22 Meramec, it shows --

23 A. What page are you on, sir?

24 Q. I'm getting ready to tell you. In 2004 is
25 the page I happen to have open right now.

1 A. Okay.

2 Q. It shows Meramec native load generation
3 percentage at 24 percent and interchange and intercompany
4 at 76 percent. First of all, that means that 24 percent
5 of the generation used for Meramec in that particular year
6 was utilized for AmerenUE's native load?

7 A. Uh-huh.

8 Q. That's correct? Okay. But the JDA itself,
9 those numbers would have -- and the actual practice would
10 have been to spread all of the generation of the Ameren
11 system around all of the load or this first?

12 A. We always used AmerenUE generation and
13 resources to the UE load first.

14 Q. First. Okay.

15 A. And then it would see if there was any
16 other cheaper resources once the other stack got on.

17 Q. From other companies?

18 A. From AEG, JDA assets.

19 Q. Would it be fair to say this was a
20 three-step process that was being done in the JDA? First,
21 AmerenUE would make sure that all of its generation is
22 serving all of its load. To the extent that there was
23 excess generation, that would then be looked at on an
24 intercompany basis within Ameren, and if there was
25 additional generation needed in the AEG -- on the AEG

1 side, then the UE system could be utilized for that
2 purpose. And then if there was still excess UE
3 generation, it would be available to the off-system sales
4 market?

5 A. I think that's close.

6 Q. Okay. I noticed down below somewhere, if I
7 can find it -- stay on that same page with me, if you
8 would. I just want to understand what the numbers down
9 there next to EEI mean on this chart. It's showing under
10 that native load generation column 100 percent usage of
11 EEI for native load generation?

12 A. Yes.

13 Q. Now, does that mean that all of the EEI
14 generation capacity that UE had access to was utilized for
15 native load of AmerenUE or does it mean something a little
16 different than that?

17 A. I'm not sure on that part.

18 Q. Okay. Let me clear something else up real
19 quick here that wasn't cleared up the other night, just
20 for my benefit. Under the native load generation figures,
21 those figures are -- are those megawatt hours?

22 A. That's what they appear to be, yes.

23 Q. Okay. That's what was represented the
24 other night. It wasn't with complete certainty. All
25 right. So if -- do you believe that there was -- that

1 EEI's generation at least in 2004 there that UE had access
2 to was only utilized for native load, or is it possible
3 that that was just accounted for in a different way if
4 there was additional capacity that UE had access to but
5 sold elsewhere?

6 A. The problem I have is I don't know the UE
7 system back that far.

8 Q. Okay.

9 A. To know what kind of stacking would have
10 occurred.

11 Q. Well, if we go with the 2005 numbers, would
12 that help you?

13 A. 2005 was the only year I was there, yes.

14 Q. If you look at the 2005 numbers, it still
15 appears to be showing 100 percent on EEI on native load.

16 A. Yeah. But based on what I remember, I
17 wouldn't have expected it to have gone 100 percent to
18 native load.

19 Q. Is it possible that these numbers that are
20 showing up for EEI for some reason are just an indication
21 that whatever was pulled off of EEI for UE's native load
22 use is all that's being shown and we're not seeing any
23 additional numbers of generation that might have come off
24 of capacity of EEI that was sold in the off-system sales
25 markets?

1 A. I'm not -- I'm not certain, sir.

2 Q. If there were sales of EEI capacity that UE
3 had access to into the off-system sales market or into the
4 intercompany category, would there be somewhere else on
5 this page that it might show up?

6 A. I don't believe so.

7 Q. Okay. Is there someone else that you know
8 of that would know the answer to that, that's a witness in
9 this case?

10 A. No, sir.

11 Q. Okay.

12 A. I'm sorry.

13 Q. It's okay. It may not be that important,
14 but I'll try to ask some other witnesses if they can tell
15 me whether it's important to know that or not when I get a
16 chance.

17 All right. Let me move on, I think away
18 from this document finally -- oh, no. One more question
19 about this. Can't believe it, can you? On Taum Sauk --

20 A. Yes.

21 Q. -- your favorite topic, these figures have,
22 again, if you'll look at -- we might as well pick -- what
23 do you want, 2005 again, the last page we were on?

24 A. Okay.

25 Q. Taum Sauk is showing in that year

1 96 percent usage for native load generation?

2 A. Okay.

3 Q. In that year?

4 A. Uh-huh.

5 Q. I think in 2006 it's showing at
6 100 percent, but if I look back at 2004, it's shown at
7 47 percent native load?

8 A. Right.

9 Q. And then 5 percent interchange and
10 intercompany. Can you tell me why that varies so much?

11 A. I can tell you what I would expect that is.

12 Q. Yes.

13 A. If you remember, 2005 was the year when we
14 had really high prices and the price blowout. So what
15 ends up happening is our cost for that to pump the
16 reservoir back up is higher because we're using higher
17 cost. And then when you sell it into the marketplace,
18 it's going to be at a higher price than what our load
19 would have been, and so -- and the other portion of that,
20 I believe, is that we had the coal issue that year, which
21 would have caused our off-peak coal to have gone up.
22 Well, we basically put an adder in how much we were doing
23 there, which would impact it for the '05 year.

24 Q. Okay.

25 A. Historically I believe that the numbers in

1 the 50/50 range are probably more accurate than that the
2 2005 number.

3 COMMISSIONER GAW: Okay. Judge, can we go
4 in-camera real quickly, and I'll try to hurry this along.

5 (REPORTER'S NOTE: At this point, an
6 in-camera session was held, which is contained in
7 Volume 20, pages 1395 through 1398 of the transcript.)

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1 JUDGE WOODRUFF: All right. We're out of
2 in-camera, and we're due for a break. We'll come back at
3 eight o'clock.

4 (A BREAK WAS TAKEN.)

5 JUDGE WOODRUFF: We're back from break.
6 Mr. Micheel, you had something you wanted to discuss?

7 MR. MICHEEL: Yes, your Honor. I would ask
8 that Mr. Brosch just be put up for cross-examination on
9 off-system sales when he comes for EEInc, and he's been
10 here all week and he needs to get back to the office
11 tomorrow for other commitments, and I've got, I think,
12 agreement from at least the parties that are here, and
13 they seem to be the active ones.

14 JUDGE WOODRUFF: Yes, and he will be back
15 for EEInc next week, so if there are any questions from
16 the Commissioners, they can ask them at that point. So at
17 this point, then, Mr. Brosch is excused,

18 MR. MICHEEL: Thank you. And I thank the
19 other parties.

20 MR. LOWERY: I think he excused himself
21 already.

22 JUDGE WOODRUFF: All right. Commissioner
23 Gaw, you can continue with your questions.

24 COMMISSIONER GAW: Thank you.

25 BY COMMISSIONER GAW:

1 Q. This may predate you, and if it does, just
2 say. Are you familiar with any of the municipal contracts
3 that UE had prior -- other than the ones that currently
4 are in existence?

5 A. No, sir.

6 Q. Who would be familiar with those?

7 A. I'm sorry, sir, I do not know.

8 Q. Is there someone who has been with the
9 organization for longer than you have been that would be
10 somebody that you would now report to or at least discuss
11 off-system sales contracts with that perhaps would have
12 some knowledge about it?

13 A. You asked a lot of questions there.

14 Q. Yeah. Is there someone that you deal with
15 today that's been with the system -- with Ameren for
16 longer than you have that you discuss off-system sales
17 with?

18 A. There's individuals I talk with, but in
19 general, I don't talk with those -- I mean, the things
20 that we really discuss are if I'm going to design a
21 contract, how do I design that contract and things like
22 that.

23 Q. I see.

24 A. What's done in the past I generally don't
25 worry about too much because it doesn't affect a lot of

1 what's going to happen going forward because the market
2 has changed so much.

3 Q. Sure. Okay. Well, maybe I just need to
4 wait until we get back to -- we may get back to some other
5 witnesses that have been around a while.

6 A. I apologize.

7 Q. It's not your fault. There was some --
8 there was discussion on some municipal contracts, however,
9 that currently exist. Was that discussed in HC in closed
10 session or --

11 A. I believe it was.

12 Q. Okay. We'll just pass on that for now.
13 No. I do have to ask a question.

14 JUDGE WOODRUFF: All right. We need to go
15 in-camera?

16 COMMISSIONER GAW: Yeah, real quick.

17 (REPORTER'S NOTE: At this point, an
18 in-camera session was held, which is contained in
19 Volume 20, pages 1402 through 1403 of the transcript.)

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1 JUDGE WOODRUFF: All right. We're out of
2 in-camera, back in regular session.

3 BY COMMISSIONER GAW:

4 Q. There was discussion earlier with
5 Commissioner Appling and some others in regard to the
6 relationship of cost of fuel to prices of electricity on
7 the markets. You recall that generally?

8 A. Yes, sir.

9 Q. When -- in regard to that relationship, is
10 it your belief that that relationship in regard to --
11 let's take peaking prices of natural gas -- that that
12 relates to the spot price on natural gas or some other
13 pricing of natural gas?

14 A. It's my belief that the relationship is
15 it's a very complicated relationship. It's on a
16 shorter-term basis, and it changes from season to season.

17 Q. When we're looking at those fuel prices
18 dealing with natural gas and you say the relationship is
19 more complex and shorter term, what do you mean by that?

20 A. Well, the relationship of what is on the
21 margin at the time is what drives it, and so while on-peak
22 you would expect that more often a gas-fired unit is
23 online, if you look at the July/August time frame, you may
24 be into 10 or 11,000 heat rate units, where in a June time
25 frame it may be a 7,000 heat rate unit.

1 And so impacts associated with what unit
2 you're in affects how the on-peak price is related to the
3 gas price. The other thing that affects that also is
4 what's happening in other markets and what's on the margin
5 in those other markets, like Entergy or PJM, because power
6 obviously flows through those markets also. So I think
7 the relationship changes somewhat between periods of time.

8 Q. Okay. Is it -- if you're looking at making
9 decisions in regard to whether or not, if you have excess
10 capacity during a period of peak, you're going to put your
11 unit out the a particular price or be willing to sell at a
12 particular price, I assume that -- and tell me if this is
13 right or wrong -- you would be looking at your heat rate
14 also, you'd be pricing according to what natural gas
15 prices were that you had access to, would that be true or
16 not? And if you can, explain.

17 A. The gas and the electricity markets relate
18 well. If you see a run up in gas markets, you're going to
19 see changes in the electricity markets. But whenever I
20 sell into the marketplace, I really look at it for just
21 energy, just limit it to energy because there's other -- a
22 lot of other product.

23 Q. Yes.

24 A. But when I sell energy into the marketplace
25 and I'm trying to lock in a price, I look at what I think

1 that market price is going to be, whether it's going to go
2 up or down, and I look at a lot of things like have the
3 prices been trending up, have they been trending down, you
4 know, is there some fundamental change or is there risk
5 associated with it that I need to look at to make a
6 decision.

7 Q. You're not going to put the unit out at a
8 price that's below your cost, though, I assume?

9 A. I -- I would not. That is correct.

10 Q. So will you put it out at -- but you're
11 telling me, if I'm understanding you correctly, that you
12 may -- you're actually trying to anticipate prices when
13 you bid your unit in. It's not just, I'm going to put it
14 in at a margin a certain percentage above my cost. You're
15 actually following the pricing and anticipating what in
16 order to maximize your profits?

17 A. There's two different parts there.

18 Q. Go ahead.

19 A. I want to make sure I'm clear there.

20 Q. I'm asking these questions very generally
21 to get explanations.

22 A. Just so I'm clear because quite often when
23 I hear bid, I think about the MISO markets, and people
24 tend to mix that up with what I'm doing in the wholesale
25 market.

1 Q. And clearing that up would be helpful.

2 A. And so when I'm transacting like for a
3 financial swap, that's what I do. I look at where is the
4 price at, do I believe that's the best price I'm going to
5 get, and you know, if I'm 1,000 megawatts long, I have the
6 risk of generation falling off on load, so I wouldn't sell
7 that. I may sell a small portion of it, depending on the
8 time of year, and say, okay, here's what I'd be willing to
9 sell at given what I know at that time.

10 Q. Right. Okay. So if you're dealing -- do
11 you make a decision just generally? And if I get to
12 anything that's confidential, just please tell me. Just
13 generally, are you looking at what kind of options when
14 you're dealing with the peak periods on where you might
15 sell your natural gas, your generation?

16 A. What would I look at?

17 Q. Assuming you're long and assuming you've
18 got excess generation.

19 A. If I have excess generation, the first
20 thing I look at is what's in the money and what's out of
21 the money. So if the market price is \$70 for on-peak in
22 the summer period, I would look to see do I have
23 generation that's in the money or not.

24 Q. All right.

25 A. If it's in the money, then I would look at

1 that and say, okay, is there a risk with my portfolio? So
2 if there's a risk with it, I may not sell it. If there
3 isn't a risk and I think that the price is right, I would
4 sell it into the marketplace.

5 Q. Okay. When you say marketplace, are you
6 talking about the MISO market when you say that?

7 A. Either the bilateral or the financial swap
8 markets.

9 Q. So you're still not talking about the MISO
10 market at that point?

11 A. The MISO is a day ahead and real time
12 market.

13 Q. When do you choose to and how does that
14 interrelate with what you're doing on the financial and
15 bilateral transactions?

16 A. Oh, man. The MISO market -- in the MISO
17 market, a day ahead, we are required to bid in all of the
18 generation that is counted as capacity for our load, which
19 is all the AmerenUE resources.

20 Q. Right.

21 A. So we bid that in, and typically we bid it
22 in about cost.

23 Q. Okay.

24 A. Very seldom do we not bid in the cost, and
25 that generally has to do with peaking units. The MISO

1 clears it, and we either get the day-ahead price based on
2 what happens at that point in time or if we have a unit
3 that comes on in real time or deviates from what it was
4 scheduled to do day ahead, then we get the real-time
5 price.

6 Q. Okay.

7 A. Now, to get back to how does the financial
8 swaps work with that --

9 Q. Yes.

10 A. -- when I sell financial swaps, I sell
11 July/August and what I'm trying to do is hedge off my
12 July/August exposure by having a generator that's long. I
13 sell that financial swap and it settles against real time
14 generally.

15 Q. Okay.

16 A. And so if I sold at 70 and the real time
17 market clears at 69 --

18 Q. Yes.

19 A. -- I get a dollar for that.

20 Q. Okay.

21 A. Okay. Now, so that's a dollar associated
22 with what we would have hedged for our generation. The
23 thing to remember is, where I transact that is in the
24 energy hub, typically speaking.

25 Q. Okay.

1 A. That's the only real liquid hub in the
2 Midwest ISO that correlates well with the AmerenUE
3 generation.

4 Q. Okay.

5 A. All right. And then there is still a basis
6 between Cinergy and UE generation that I may or may not
7 get. Every day it changes. It averages out somewhere
8 between around a buck and a half just say.

9 Q. All right.

10 A. So if I had got on that financial swap with
11 the 70 and the 69 and my generation note actually cleared
12 at say 68, then my net net out of all of that activity is
13 68 plus a dollar, \$69.

14 Q. Okay.

15 A. That's what I would have received in. I'd
16 still have my cost associated with the generation.

17 Q. Okay. What if you're on the wrong side?

18 A. It costs me.

19 Q. It costs you?

20 A. Yeah.

21 Q. So you do a lot of work to make sure you're
22 on the right side of that equation?

23 A. We hope we are, but sometimes when you're
24 hedging, you know that you're going to be on the wrong
25 side but you're reducing your risk.

1 Q. Okay. And the same thing would apply
2 during periods of off-peak, or is it different then?

3 A. The only real difference is off-peak is not
4 as liquid.

5 Q. Okay. The bilateral transaction, are they
6 generally for longer periods of time?

7 A. No. You can still do bilaterals, but
8 bilaterals are generally done more often in markets that
9 are physical. So if we were to sell into TBA or into
10 Entergy or something like that, we typically do more
11 bilateral.

12 Q. Same thing would be true dealing with the
13 coops, for instance, is that a different deal entirely?

14 A. When you say coops, you're talking coops
15 internal to the MISO or coops --

16 Q. External?

17 A. External coops, then yes.

18 Q. Okay. And SPP, the same kind of thing, or
19 is that --

20 A. Similar, yes.

21 Q. Does that change with the opening of their
22 market at all?

23 A. Yes.

24 Q. Somewhat?

25 A. Yes.

1 Q. Okay. Now, how has the opening of the MISO
2 market impacted your off-system sales?

3 A. You know, I wasn't around long enough
4 before the MISO to know how that really impacted our level
5 of off-system sales. I think the difference in the MISO
6 is there is always a place to put your generation. You
7 know, it's a price risk that you have, where in the
8 previous bilateral markets, it was whether you could
9 schedule the market and get it scheduled out. I think
10 it's probably had some impact on the total volume, and we
11 talked earlier about some of the other issues.

12 Q. Has that made it easier or more difficult
13 for you to deal with your financial hedges that you were
14 describing earlier in trying to determine what price to
15 put them out?

16 A. The part that I think is more difficult is
17 the uplift, because in the past when we would hedge and
18 sell to a location, we knew exactly, we would hedge off
19 the transmission and you would know what price you were
20 getting and you were done. Within the Midwest ISO,
21 because I can hedge, that part I can account for, but I
22 can no longer account for RSG and RNU uplift kind of
23 charges.

24 Q. Is there any part of that you can see that
25 is beneficial on the standpoint of off-system sales?

1 A. I --

2 JUDGE WOODRUFF: Could you get a little bit
3 closer to the microphone?

4 THE WITNESS: I'm sorry.

5 All I can give you is the periods where
6 we've lost large amounts of generation in the past when
7 Ameren would go out and buy in the marketplace because we
8 were typically somewhat low, everybody would know and our
9 prices would go way up. In the MISO, they do not know if
10 you're buying or not, and so, in essence, if we lose a
11 large generator, I believe that's made it better for us.

12 The other thing is you have a very liquid
13 market, and so I think that's helped us in that way also.

14 BY COMMISSIONER GAW:

15 Q. Has the fact that Ameren is heavily -- has
16 a heavy generation mix of base load generation, has that
17 been -- has that been beneficial during periods of
18 increasing prices of electricity on the wholesale market?

19 Let me start over. I know what you're thinking.

20 During peak periods when you have excess
21 generation, does that help your margins on your sales as a
22 general rule on off-system sales?

23 A. Having base load generation?

24 Q. Yes.

25 A. If the base load generation is low cost, it

1 would be beneficial because you get a larger margin with
2 higher prices, yes.

3 Q. Okay. Again, can you tell me where in your
4 testimony or what schedule it is that shows the trends on
5 off-system sales? Do you have that in any of your
6 testimony?

7 A. The trends on off-system sales?

8 Q. Yes. Did you put together any schedule?

9 A. No, sir.

10 Q. Do you know if anyone from Ameren has done
11 that?

12 A. I'm not aware of -- you're asking like
13 historical off-system sales?

14 Q. Yes.

15 A. No, sir.

16 COMMISSIONER GAW: Is that -- can I ask the
17 attorneys, has that been -- is that in testimony from
18 someone?

19 MR. LOWERY: I honestly don't know. I'm
20 not recalling anything, but --

21 MR. FREY: I don't believe so.

22 BY COMMISSIONER GAW:

23 Q. Do you have any idea about what the
24 off-system sales numbers have been for AmerenUE since the
25 expiration of the JDA?

1 A. Since the expiration of the JDA?

2 Q. Yes.

3 A. That would be 2006?

4 Q. Yes.

5 A. Actually expired in 2007, so that would be
6 what sales have we had this year.

7 Q. Just the last few months?

8 A. January, February, yes.

9 COMMISSIONER GAW: Okay. We'll have to be
10 in closed session, Judge, if I ask the next question.

11 THE WITNESS: Make sure I -- in case we
12 don't have to go in there, that's the time period, but I
13 do not know the numbers.

14 COMMISSIONER GAW: Oh, then we don't.

15 JUDGE WOODRUFF: Saved us some trouble.

16 BY COMMISSIONER GAW:

17 Q. Do you know about the -- are the records of
18 the volumes of off-system sales reflected in the record
19 anywhere historically? Wouldn't that be in that exhibit
20 that we were looking at earlier, if we were to confine
21 off-system to include anything outside of UE?

22 A. I don't know that this shows the total
23 off-system, does it?

24 Q. I don't know. I thought maybe we could --
25 that's part of the reason I was asking, but I thought

1 maybe we could use those percentages times the total
2 volumes generated by the UE units.

3 A. I'm not sure, sir.

4 Q. Okay. In your fuel adjustment proposal
5 that you have, in regard to the off-system sales figures,
6 is that a floating number or a fixed number in the last
7 proposal? Do you know the answer to that?

8 A. I do not.

9 Q. All right. Do you know what number for
10 off-system sales Ameren is supporting in the event that
11 there is no fuel adjustment mechanism?

12 A. Our proposal is 202.5 million.

13 Q. And how is that number derived, if you can
14 tell me that in open session.

15 A. Yes. The production cost model was run
16 based on our normalized load, normalized generation
17 availability. Included in that was the price of \$38.04
18 for the off-system sales prices.

19 Q. And how -- again, how was that number
20 derived?

21 A. 38.04?

22 Q. Yes.

23 A. A regression was run, again, between gas
24 prices and on-peak prices and coal prices and off-peak
25 coal prices, and then based on that regression and using a

1 coal price and a gas price of 6.58 for the gas price, then
2 that gave us the on-peak and off-peak prices that we used.

3 Q. Okay. And were there averages over periods
4 of time or were they just instant peak period prices?

5 A. The regression was run over a four-year
6 period.

7 Q. Over four years. On what incremental time
8 basis within the model?

9 A. What period of time was our regression run
10 on?

11 Q. Yes. Within that four years, how often was
12 that --

13 A. Well, the data points for the off-peak was
14 monthly.

15 Q. Monthly?

16 A. And the gas prices and the on-peak was a
17 daily.

18 Q. Okay. I'll have a chance to ask
19 Dr. Proctor a few questions about that, too, I assume. In
20 regard to I wanted to ask you, and this is -- if you don't
21 know the answer, it's fine.

22 The demand response axis that you may have
23 within the tariffs of AmerenUE, are they -- are they
24 considered when you're dispatching your units, and if so,
25 how?

1 A. No.

2 Q. Okay. Mr. Schukar, are there any
3 individuals in the hierarchy of the Ameren system that
4 would be of your level or above that discuss with you who
5 you should be pursuing for contracts for bids for sales of
6 generation?

7 A. Well, I speak with my current boss,
8 Mr. Voss --

9 Q. Yes.

10 A. -- on that.
11 He doesn't really tell me who I should or
12 should not. We have -- our discussions are more around
13 what is the appropriate kind of customer or offering to
14 make. I'm sorry. And then based on offerings you would
15 look at who are the customers that you could or could not
16 offer that to.

17 Q. Okay. Anybody else?

18 A. Well, I think to the effect that when I go
19 to the RMSC, if I need a variance against risk management
20 policy or if I need approval, based on authority levels, I
21 would go to them and talk to them about a transaction, if
22 I had to put one in place. That's not really pre-judging
23 who I market to. It's really approving the transaction
24 after it's done.

25 Q. Okay. And again, who is the RMSC?

1 A. I'm sorry. The risk management steering
2 committee.

3 Q. I think you might have already testified
4 about who's on that, right?

5 A. Of the ones I can remember, yes.

6 Q. That's fine. Have you ever bid on a
7 contract that was also being bid on by an Ameren
8 affiliate?

9 A. Yes, I have.

10 Q. Okay. How frequently does that occur?

11 A. Not very often.

12 Q. When it has occurred, are you aware of it
13 when you're bidding or do you find out about it after the
14 fact?

15 A. Well, again, let's make sure we're talking
16 the same language.

17 Q. Sure. Go ahead.

18 A. When I bid, it's generally under an RFP.

19 Q. All right.

20 A. And the RFPs that I'm aware of that Ameren
21 Energy Marketing has been also bidding, that's generally
22 known publicly.

23 Q. Okay.

24 A. If I'm -- in talking to a customer and
25 bidding for their load and they're in talking to them and

1 bidding for a load, the only reason I know about that's if
2 they tell me.

3 Q. Okay. All right. Have you ever been in
4 the situation where the RMSC has rejected a proposed
5 contract for sale?

6 A. I've never had to take one to them yet.

7 Q. You haven't?

8 A. No, sir.

9 Q. Well, then, that solves that question, as
10 far as I know. All right. Let's see. On your off-system
11 purchases, do you have -- do you frequently make
12 off-system purchases?

13 A. We make them. It's -- here again, this is
14 a MISO issue.

15 Q. Yes.

16 A. If we sell external to the MISO, what
17 happens is, we sell it to generator, we buy at the border
18 and then we sell out that way. And so if you speak in
19 that manner, any time that we sell off-system we're
20 actually making a MISO purchase. So that's -- it's kind
21 of hard to follow through, but that's how it works.

22 Q. Does that show up as an off-system
23 purchase?

24 A. They net them together after the fact.

25 Q. Okay.

1 A. Otherwise you would have a large number.

2 Q. So as far as the numbers that we might have
3 seen in these exhibits, that's already netted out
4 somewhere?

5 A. It should be.

6 Q. Okay. But as far as excluding those kind
7 of events, what -- tell me about the frequency of your
8 off-system purchases.

9 A. You know, when we have unit outages and
10 even during a scheduled outage, you may have to purchase
11 to back fill for your units. There's periods of time
12 during the summer loads may have gone up higher than our
13 coal-based generation, but the prices may be softer than
14 our gas-fired turbines that we have for capacity, so we
15 would buy them off during that period of time. It's not
16 an everyday issue for us. We purchase from time to time.

17 Q. Your sales of energy far outweigh your
18 purchases, I assume?

19 A. Yes, they do.

20 Q. I think just one more thing, and that is
21 you said something earlier, I believe, about hold back
22 generation due to some experience with MISO, and I don't
23 remember if you specified the time frame. Do you recall
24 anything about that?

25 A. I hold back generation?

1 Q. Well, it might have been phrased that way,
2 that there was an issue about whether or not generation
3 was put into -- made available for MISO to dispatch
4 because of some issue with MISO. Did I understand that
5 incorrectly or do you recall discussing that?

6 A. The only two areas I remember talking about
7 with that is one with the limited resource units.

8 Q. Okay.

9 A. Okay. And the limited resource units, we
10 have to be careful how we offer those in because we need
11 to make sure we have the adequate resources, and that's on
12 our hydro.

13 Q. All right.

14 A. And then also on some of our gas plants
15 because you have to schedule gas at a time frame that
16 doesn't match up with the electric day. So there's times
17 that you have to be careful about how you offer them, and
18 also you may not offer them for the full day just to
19 protect yourself.

20 Q. Protect yourself from what?

21 A. Protect yourself from not having enough
22 gas. You would typically be worried about that when the
23 system is somewhat constrained and then you would get
24 pipeline penalties associated with gas supply.

25 COMMISSIONER GAW: Okay. I see. I'm going

1 to leave at that. Thank you very much, Mr. Schukar.

2 JUDGE WOODRUFF: All right. Anyone wish to
3 recross based on questions from the Bench?

4 (No response.)

5 JUDGE WOODRUFF: All right. Redirect?

6 MS. VUYLSTEKE: I'm sorry. I have a little
7 bit of recross based on Commissioner Gaw's questions. I
8 am really sorry.

9 JUDGE WOODRUFF: Go ahead.

10 RE-CROSS-EXAMINATION BY MS. VUYLSTEKE:

11 Q. Good evening, Mr. Schukar.

12 A. Good evening.

13 Q. Commissioner Gaw asked you about cost
14 productions related to the MISO ancillary services market?

15 A. Yes.

16 Q. Would you agree there is a great deal of
17 risk that MISO's projected savings from its proposed
18 ancillary services market may not be realized or at least
19 not realized by AmerenUE?

20 A. I would agree.

21 Q. Commissioner Gaw also asked you questions
22 about EEI. Did AmerenUE rely on EEI to meet its main
23 planning reserve requirement?

24 A. Yes.

25 Q. Did AmerenUE rely on EEI as designated

1 network resource to meet its MISO Module E requirements?

2 A. I do not remember that. I'm sorry.

3 Q. Commissioner Gaw also asked you some
4 questions about Taum Sauk. If Taum Sauk were available,
5 would it have made an additional 400 megawatts of
6 regulatory capacity available to AmerenUE?

7 A. Approximately.

8 Q. To the best of your knowledge, do you know
9 whether the company's proposed off-system sales margin
10 includes the additional regulatory capacity sales AmerenUE
11 could have made if Taum Sauk was available?

12 A. No, there is no capacity sales.

13 Q. To the best of your knowledge, do you know
14 whether the company's proposed FAC adjustment includes the
15 additional capacity sales AmerenUE could have made if Taum
16 Sauk were available?

17 A. I do not know.

18 MS. VUYLSTEKE: Thanks, your Honor.

19 JUDGE WOODRUFF: Mr. Frey, did you have
20 some?

21 MR. FREY: Yes, thank you, sir. Just one
22 or two questions.

23 RE-CROSS-EXAMINATION BY MR. FREY:

24 Q. Mr. Schukar, Commissioner Gaw asked you
25 some questions about some historical data on off-system

1 sales. Do you recall that?

2 A. Yes.

3 Q. Do you monitor the monthly levels of

4 off-system sales that are made on behalf of AmerenUE?

5 A. I'm sorry. Do I monitor?

6 Q. Yes.

7 A. Yes.

8 Q. And for 2007, could those results be

9 produced?

10 A. Could the level of off-system sales be

11 produced?

12 Q. Yes.

13 A. I think they can for January. I don't know

14 that I've seen the February numbers yet.

15 Q. Do you know what they are for January?

16 A. (Witness shook head.)

17 Q. Approximately?

18 A. No, sir.

19 Q. Is there anyone -- is there any company

20 witness who does know these figures?

21 A. I do not know.

22 Q. Would you be willing to produce those

23 numbers as a late-filed exhibit?

24 MR. LOWERY: Objection. It's an improper

25 question. He's negotiating with the witness about

1 discovery that the Staff might or might not want to do.

2 JUDGE WOODRUFF: I'll sustain the
3 objection. You can discuss it with opposing counsel.

4 MR. FREY: That's all, your Honor.

5 JUDGE WOODRUFF: Redirect, then?

6 REDIRECT EXAMINATION BY MR. LOWERY:

7 Q. It's been so long since you started, I'm
8 not sure I can remember what to ask you.

9 Mr. Schukar, I think Mr. Micheel asked you
10 some questions about off-system sales volumes, and I can't
11 recall exactly what the questions were, but do you have an
12 understanding of the Staff's recommended level of volumes
13 versus the company's recommended level of volumes if you
14 ignore the EEInc issue in the case?

15 A. I think they're very close.

16 Q. And do you have an understanding of why the
17 off-system sales margin recommendation of Staff and the
18 company's recommendation are roughly \$37 million apart?
19 Is it essentially prices?

20 A. It is essentially the difference in our
21 prices.

22 Q. It's not driven by volumes or a different
23 view on what the volumes should be?

24 A. No, sir.

25 Q. I think Mr. Micheel also asked you some

1 questions that implicated or at least in your answers
2 discussed Cinergy price. How does the Cinergy relate or
3 compare to the prices that AmerenUE can actually realize
4 at its generators in making off-system sales?

5 A. I think I spoke to that with Commissioner
6 Gaw, and that was that there is a difference, a basis
7 difference between the Cinergy hub and what we can achieve
8 at the AmerenUE generators. It changes from time to time,
9 and averages somewhere it between \$1.50 and
10 \$1.60-something, but it does change, and it will change
11 from on-peak to off-peak periods.

12 Q. Cinergy's higher?

13 A. Cinergy is typically higher, yes.

14 Q. By that \$1.50, \$1.60 --

15 A. Yes.

16 Q. -- generally?

17 Does that mean that if you were calculating
18 trying to figure out what off-system sales might be and
19 you use the Cinergy price, that that would yield a
20 calculation that's higher that you could expect with UE
21 generators?

22 A. That is correct.

23 Q. I think Mr. Mills asked you some questions
24 about -- well, I know he did, the organization chart is
25 still up there -- about Ameren Energy and why it was a

1 separate organization. I don't think you really knew why
2 it was a separate legal entity versus just being a part of
3 Union Electric; is that right?

4 A. That is correct.

5 Q. Does that affect what you do and how you do
6 it in your job, the fact that it's a separate legal
7 entity?

8 A. No, sir.

9 Q. I think Mr. Mills also asked you some
10 questions about the Taum Sauk plant. What do you know or
11 not know about whether Taum Sauk will be in service in
12 '09, '10, '11 or any time?

13 A. I do not know when it will go into service.

14 Q. Do you know if there are a number of
15 contingencies that might have to be met before it would or
16 wouldn't be in service?

17 A. There are several approvals that would have
18 to be required.

19 MR. LOWERY: Your Honor, let me grab an
20 exhibit real quick.

21 BY MR. LOWERY:

22 Q. Mr. Schukar, you were asked a number of
23 questions about Exhibit 421HC, and that's the one that the
24 few pages were admitted into the record. I'm sure you
25 recall those, correct?

1 A. The one that was separated?

2 Q. Yes.

3 A. Yes.

4 Q. Could you find page 38 of that exhibit?

5 A. Yes.

6 (REPORTER'S NOTE: At this point, an
7 in-camera session was held, which is contained in
8 Volume 20, page 1430 of the transcript.)

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1 BY MR. LOWERY:

2 Q. Mr. Schukar, presumably, however that
3 number was calculated, there had to be an energy price
4 associated with that number; is that correct?

5 A. That is correct.

6 Q. Is the energy price that would correspond
7 to that number, what's your view about that? Is that your
8 view of what energy prices are going to be in 2007 or that
9 would be appropriate for this case?

10 A. That was not my view.

11 Q. You didn't supply that number?

12 A. No, sir.

13 Q. Mr. Mills also asked you some questions
14 about Exhibit 422, which was a Form 8-K filed by Ameren on
15 February 15th. Do you find that one?

16 A. Yes, sir.

17 Q. And he asked you to read -- first of all,
18 if you just turn to page 12, which is the same page
19 Mr. Mills asked you about --

20 A. Okay.

21 Q. -- I believe he asked you to read the first
22 sentence of the first full paragraph. Do you remember
23 that?

24 A. Yes.

25 Q. Would you read the next two sentences of

1 that same paragraph?

2 A. Starting with earnings?

3 Q. Yes.

4 A. Earnings for 2007 will be significantly
5 impacted by the ultimate outcome of the pending electric
6 and gas rate case. In addition, 2007 earnings are
7 projected to be affected by significant increases in
8 operating, depreciating and financing costs over 2006 and
9 related regulatory lag, the elimination of the Joint
10 Dispatch Agreement, reduced storm-related cost, a
11 scheduled Callaway plant refueling and maintenance outage
12 in the spring of 2006, energy prices for excess power
13 sales, lower emission allowance sales levels and decreased
14 costs associated with the Taum Sauk incident.

15 Q. That list of things that you just read,
16 would it be fair to say that those are all uncertainties
17 about what earnings would or wouldn't be that are unknowns
18 at this point in time?

19 A. Yes.

20 Q. Mr. Frey asked you some questions about
21 Schedule 17-2 to your testimony. Do you remember those?

22 A. Yes.

23 Q. And I think those pertain to the issue of
24 whether or not gas prices, coal prices and fuel costs all
25 track in lock step. Is that the general subject matter

1 that this deals with?

2 A. That's what this schedule deals with, yes.

3 Q. Of the 27 cases -- am I correct that there

4 are 27 cases illustrated on this schedule?

5 A. Yes.

6 Q. Of those 27 cases, how many of those

7 demonstrate that off-system sales do not act as a natural

8 hedge against fuel cost increases?

9 A. Six, I think. Hold on. Five, I guess.

10 Q. Five?

11 A. Five do not -- five show a -- do not show a

12 decrease. I'm sorry. The question again. I'm sorry.

13 It's getting late.

14 Q. It is getting late. How many of those

15 cases would indicate that off-system sales do not -- do

16 not act as a hedge?

17 A. Okay. I'm sorry. 22 do not.

18 Q. Which means five must -- five must show

19 that there might be a hedging effect, correct?

20 A. Yes.

21 Q. And of those five, in how many is a hedging

22 effect significant?

23 A. Two.

24 Q. So in 25 out of the 27, there's no hedging

25 effect or it's not significant; is that fair?

1 A. Yes.

2 Q. Mr. Frey showed you a page from
3 Mr. Proctor's surrebuttal testimony. Do you recall that?

4 A. Yes, I do.

5 Q. Do you need me to show it to you, or do you
6 remember essentially what it says?

7 A. I generally remember it.

8 Q. And he talked about -- I'm certainly not a
9 statistics whiz, but he talked about these truncated
10 distribution numbers, and I think they were discussed in
11 the context of probabilities. Do you remember?

12 A. Yes.

13 Q. What's your view of -- do you have some
14 concerns about these probabilities, and could you explain
15 what those might be?

16 A. I think what we were trying to show in
17 Schedule 17-2 is that all of the gas, coal and dispatch
18 prices do not always change in the same direction by the
19 same percentage. What that table showed was basically the
20 distribution of all of the gas, electric -- I'm sorry --
21 the on-peak price in gas dispatch, the off-peak gas
22 dispatch costs and the fuel costs.

23 And when you would look at the percentages,
24 they would all be lined up moving in same direction both
25 ways, and it's our belief that that's not what happens in

1 the marketplace, and I show that in my surrebuttal
2 testimony.

3 Q. Mr. Schukar, I just want -- I'm asking this
4 question for the purpose of just clarifying some answers
5 that I think you gave Commissioner Appling, because I
6 wasn't sure that it came through completely clear. He was
7 asking you about correlations between coal and off-peak
8 power prices and gas and on-peak power prices, correct?

9 A. Yes.

10 Q. Do you remember those? Is the -- is there
11 a correlation between coal and on and off-peak power
12 prices, or is the correlation just between coal and
13 off-peak power prices?

14 A. I believe that there's correlations to
15 both, but the correlation to the off-peak would be
16 stronger than to the on-peak. There would be some
17 correlation. I don't know how strong that one is.

18 Q. There's pretty clearly a correlation
19 between coal prices and off-peak power prices?

20 A. Yes, that's correct.

21 Q. And pretty clearly a correlation between
22 natural gas prices and on-peak power prices, correct?

23 A. That is correct.

24 MR. LOWERY: Thank you, your Honor. That's
25 all I have.

1 JUDGE WOODRUFF: Thank you. Mr. Schukar,
2 you can step down. And unless there's a witness we can
3 finish in the next two minutes, I guess we're done for the
4 night.

5 I did want to ask what we're going to do
6 starting tomorrow. For Friday, we're scheduled to go with
7 wind power, demand side management, low income programs
8 and voluntary green power. I'm assuming there won't be a
9 whole lot of questions for those witnesses; is that fair?

10 Although it's --

11 MR. BYRNE: That probably is fair.

12 JUDGE WOODRUFF: Of course, some of the
13 people that will be presenting that won't be here.

14 Commissioner Gaw, do you know if you're
15 going to have any questions on those?

16 COMMISSIONER GAW: On demand response I
17 will.

18 JUDGE WOODRUFF: Well, we'll take those up
19 first, then we'll -- I assume that's what the parties want
20 to do. Then we'll come back to off-system sales when
21 we're done with those. Is that what everybody was
22 anticipating?

23 MR. LOWERY: Well, I'll just speak for
24 myself. I guess I thought we would finish off-system
25 sales perhaps, but --

1 JUDGE WOODRUFF: It makes very little
2 difference to me. I'm just wondering what the parties had
3 intended.

4 MS. VUYLSTEKE: Your Honor, I think from
5 our perspective, for what it's worth, since we have
6 witnesses from out of town that are here just to address
7 the off-system sales issue, it would be nice for them to
8 get home, if we could finish.

9 JUDGE WOODRUFF: All right. Well, I guess
10 then we'll start with Dr. Proctor tomorrow.

11 MR. CONRAD: And, Judge, at some point I
12 thought we might see the reappearance of Mr. Lyons.

13 JUDGE WOODRUFF: Yes, and it's my
14 understanding he would be at the end of the off-system
15 sales.

16 MR. BYRNE: Your Honor, we do have
17 witnesses coming in from out of town on those other
18 issues. Should they still come in, do you think?

19 JUDGE WOODRUFF: For the wind power, demand
20 side management? I know you said Mr. Baxter wasn't
21 coming.

22 MR. BYRNE: He kind of touched on the
23 policy from a policy standpoint and he is not available
24 tomorrow. But there's the substantive witness on each of
25 those topics was planning on coming in tomorrow. Should I

1 maybe tell them it's unlikely we'll get to them and they
2 should -- I don't know, whatever you want to do.

3 JUDGE WOODRUFF: I assume we could move
4 them later on in the next two weeks sometime. Obviously,
5 we have to.

6 MR. BYRNE: I guess we'd have to, if
7 there's any time.

8 MR. MILLS: I think the cross-examination
9 tomorrow is going to be mostly UE asking questions of the
10 few remaining off-system sales witnesses, so depending on
11 how much you have, you ought to be able to judge whether
12 or not to tell the wind power and green power folks to
13 come or not come.

14 MR. LOWERY: Well, I don't think -- I'm
15 sorry. I don't think that -- I don't think we have
16 extensive cross-examination for the remaining off-system
17 sales witnesses. Honestly, the wild card that I don't
18 know is how many questions the Commissioners have. You
19 don't have to hide behind your -- I tried to be
20 diplomatic.

21 MR. CONRAD: I will have some, but it will
22 not be very long for Mr. Lyons when he comes back up on
23 the -- on Exhibit 104, and there may be others, because
24 that was what he was supposed to come really today, but --

25 JUDGE WOODRUFF: And the wild card, of

1 course, is a couple of these witnesses are for DNR and
2 they're not here to defend themselves.

3 MR. MILLS: I think it's at least possible
4 we can finish up off-system sales and finish those issues.

5 MR. BYRNE: Could I maybe tell the people
6 not to come until after lunch tomorrow?

7 JUDGE WOODRUFF: That would be fine.

8 MR. BYRNE: As opposed to having to get up
9 at 6 and be here at 8:30 and then there's ten hours of
10 off-system sales.

11 JUDGE WOODRUFF: I believe with that, then,
12 we are adjourned until 8:30.

13 WHEREUPON, the hearing of this case was
14 recessed until March 16, 2007.

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I N D E X

FUEL ADJUSTMENT CLAUSE

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