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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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On-the-Record Presentation

6

February 9, 2006
Jefferson City, Missouri
Volume 7

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10 In the Matter of the Tariff Filing)
11 of Aquila, Inc., to Implement a)
12 General Rate Increase for Retail)
13 Electric Service Provided to) Case No. ER-2005-0436
14 Customers in its MPS and L&P)
15 Missouri Service Areas)

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

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

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22 REPORTED BY:

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

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

2 JUDGE WOODRUFF: Welcome everyone. We're
3 here today in Case ER-2005-0436, which is the general rate
4 increase of Aquila, Incorporated for its electric service.
5 And we're here today for a question and answer session and
6 on-the-record presentation concerning the Stipulation &
7 Agreement that's been filed in this case. We'll begin
8 today by taking entries of appearance, beginning with
9 Aquila.

10 MR. SWEARENGEN: Thank you, your Honor.
11 Let the record show the appearance of James C. Swearengen
12 and Janet E. Wheeler on behalf of Aquila, Inc. Thank you.

13 JUDGE WOODRUFF: And for Staff?

14 MR. WILLIAMS: Nathan Williams, Senior
15 Counsel, P.O. Box 360, Jefferson City, Missouri 65102.

16 JUDGE WOODRUFF: Thank you. And for Public
17 Counsel?

18 MR. MILLS: Lewis Mills appearing on behalf
19 of Office of the Public Counsel and the public. My
20 address is Post Office Box 2230, Jefferson City, Missouri
21 65102.

22 JUDGE WOODRUFF: Thank you. For AARP? I
23 don't see Mr. Coffman here.

24 All right. We'll go on then to Ag
25 Processing and Sedalia Industrial Energy Users.

1 MR. CONRAD: Your Honor, on behalf of those
2 parties, please let the record reflect Stuart W. Conrad's
3 appearance.

4 JUDGE WOODRUFF: Thank you. Let me clarify
5 something. Ag Processing is in the steam case only; is
6 that right?

7 MR. CONRAD: No. Your Honor, they
8 intervened in the electric case also, but they did --
9 SIEUA obviously is not in the steam case.

10 JUDGE WOODRUFF: Okay. All right. Thank
11 you. Anyone here for Calpine? I don't see anyone.

12 City of Kansas City?

13 MR. COMLEY: Judge Woodruff, let the record
14 reflect the entry of appearance of Mark W. Comley, Newman,
15 Comley & Ruth, 601 Monroe, Suite 301, Jefferson City,
16 Missouri 65101 on behalf of the City of Kansas City.

17 JUDGE WOODRUFF: Thank you. City of
18 St. Joseph?

19 MR. STEINMEIER: Thank you, your Honor.
20 Let the record reflect the appearance of William D.
21 Steinmeier and Mary Ann (Garr) Young of William D.
22 Steinmeier, PC, on behalf of the City of St. Joseph.

23 JUDGE WOODRUFF: For Empire District?

24 MR. KEEVIL: Yes, Judge. Appearing on
25 behalf of the Empire District, Jeffrey Keevil, law firm of

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1 Stewart & Keevil, LLC, address 4603 John Garry Drive,
2 Suite 11, Columbia, Missouri 65203.

3 JUDGE WOODRUFF: For the Federal Executive
4 Agencies?

5 MAJOR PAULSON: Appearing for the Federal
6 Executive Agencies, Major Craig Paulson. My address is as
7 indicated in the record.

8 JUDGE WOODRUFF: And for the Department of
9 Natural Resources?

10 MS. WOODS: Good morning, your Honor.
11 Shelley A. Woods, Assistant Attorney General, Post Office
12 Box 899, Jefferson City, Missouri 65102, appearing on
13 behalf of the Missouri Department of Natural Resources.

14 JUDGE WOODRUFF: Thank you. And
15 Mr. Coffman has just arrived, so I'll give you a chance to
16 enter your appearance.

17 MR. COFFMAN: John B. Coffman. Address is
18 871 Tuxedo Boulevard, St. Louis, Missouri 63119, appearing
19 on behalf of AARP.

20 JUDGE WOODRUFF: All right. Thank you. I
21 believe that's all the parties. I don't have any
22 Commissioners here at the moment. Is there anything
23 anyone wants to bring up before I go off the record to
24 find the Commissioners?

25 (No response.)

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1 JUDGE WOODRUFF: All right. With that,
2 then, we will adjourn for 5 minutes, and we'll come back
3 at 20 minutes 'til 10.

4 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

5 JUDGE WOODRUFF: We're back from break, and
6 the purpose of today's proceeding, of course, is for the
7 Commissioners to ask questions about the Stipulation &
8 Agreement, so we'll begin with Chairman Davis. Do you
9 have any questions, sir?

10 CHAIRMAN DAVIS: Okay. Mr. Swearengen,
11 there are a few things that are in the stip and many
12 things that are not in the stip. I guess this stip puts
13 \$140 million worth of plant into rate base; is that
14 correct?

15 MR. SWEARENGEN: I believe that's correct.

16 CHAIRMAN DAVIS: Does the stip say where
17 that plant is?

18 MR. SWEARENGEN: It does not.

19 JUDGE WOODRUFF: Mr. Swearengen, if you'd
20 use your microphone.

21 CHAIRMAN DAVIS: So if we approve this
22 settlement, are we, in fact, approving the siting,
23 construction and prudence of the South Harper peaking
24 facility?

25 MR. SWEARENGEN: I do not believe so.

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1 CHAIRMAN DAVIS: Do any of the other
2 attorneys here have a view to the contrary? Feel free to
3 raise your hand.

4 JUDGE WOODRUFF: Mr. Coffman?

5 MR. COFFMAN: I don't have a view to the
6 contrary, but in fact I would like to point out that I
7 think that the Commission would in fact be prohibited from
8 approving the siting or prudence or reasonableness at this
9 time, given the fact that the South Harper facility is
10 under an injunction not to operate and that doing so would
11 violate 393.135.

12 CHAIRMAN DAVIS: So you're reassuring me
13 that this is not prejudgment?

14 MR. COFFMAN: Yeah, that's my opinion. I
15 agree with Mr. Swearengen.

16 CHAIRMAN DAVIS: Mr. Coffman, can a plant
17 be used and useful when there's a court order to tear it
18 down?

19 MR. COFFMAN: I do not believe so.

20 CHAIRMAN DAVIS: Isn't there a court order
21 to tear this plant down?

22 MR. COFFMAN: Yes.

23 CHAIRMAN DAVIS: So if there's a -- so I
24 guess explain this to me. Is the legal theory that at one
25 time the plant was used and useful, therefore they're

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1 entitled to recover something in rate base, or can you
2 explain how this thing is supposed to work?

3 MR. COFFMAN: I believe some of the
4 language in the stipulation, which by the way I did not
5 sign, but was present for some of the sausage making, at
6 least some of the language refers to some accounting
7 procedures and some numbers that will be calculated and
8 put into certain accounts relating to the South Harper
9 facility.

10 But it is my understanding that it is clear
11 to the parties that this is a black-box settlement, and
12 there is no agreement as to what exactly is in the rate
13 base or in the revenue requirement, that this is a
14 settlement for settlement purposes. I think there's some
15 general agreement that \$140 million would be a reasonable
16 amount of rate base for this utility to have, but that
17 there is no agreement as to what is in that number.

18 CHAIRMAN DAVIS: So is this like free-range
19 plant that they can move around to other parts of their
20 territory?

21 MR. COFFMAN: Others may have a different
22 way to describe it, but the way I understand it is that it
23 is a generic rate base that will be on their books at this
24 point in time, and if the issues relating to the current
25 facility are litigated in the future, it would be -- every

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1 argument would be fair game again.

2 CHAIRMAN DAVIS: Okay. Thank you,
3 Mr. Coffman. It's going to take me a few moments to
4 digest all this information on this.

5 Mr. Mills, you did not sign the
6 Stipulation & Agreement either, did you?

7 MR. MILLS: That is correct.

8 CHAIRMAN DAVIS: Okay. Now, if --
9 Mr. Swearingen, if I get into HC material here, please
10 feel free to stop me at any time and we can maybe go
11 in-camera for a short period.

12 But as part of the stipulation, Aquila has
13 agreed to fund a pension liability that -- or I guess
14 something that they -- they characterized it as an
15 accounting error. You might have characterized it
16 differently. Is that fair to say?

17 MR. MILLS: That's fair to say.
18 Technically, though, I believe it's OPEBs rather than
19 pensions, other post-employment benefits.

20 CHAIRMAN DAVIS: So it was other
21 post-employment benefits, not pensions?

22 MR. MILLS: Right.

23 CHAIRMAN DAVIS: Okay. I appreciate you
24 making that clarification to me. So if you're not signing
25 onto this stip, but the stip has language in it that says,

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1 if this settlement's approved, then that complaint's going
2 to go away; is that correct?

3 MR. MILLS: Well, if Aquila deposits an
4 additional \$1.4 million into their trust fund for OPEBs,
5 then we agree to dismiss our complaint that is Case
6 No. EC-2006-0171.

7 CHAIRMAN DAVIS: Okay.

8 MR. MILLS: They have already funded
9 7 million. There was a dispute among the parties, with
10 Staff and the company believing that the total due was
11 about 7 million. We calculated it differently, thought it
12 was about 8.4. So this makes up the difference and
13 deposits the entire amount that we felt was underfunded
14 when we filed the complaint.

15 CHAIRMAN DAVIS: Mr. Swearengen, if
16 somebody at Aquila makes an 8.4 million or a \$7 million
17 mistake, what happens?

18 MR. SWEARENGEN: Beats me, Judge. You have
19 to be a little more specific.

20 CHAIRMAN DAVIS: Well, I mean, you're
21 paying \$7 million for pension or OPEB, other -- what do we
22 call that?

23 MR. MILLS: Other post-employment benefits.

24 CHAIRMAN DAVIS: Other post-employment
25 benefits. I mean, this is 7 or \$8 million of employee

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1 benefits that wasn't funded. I mean --

2 MR. SWEARENGEN: Judge, I think our
3 position on that is we responded or answered in the
4 complaint case was that we believe that the statute was
5 not violated, that the statute that the Public Counsel has
6 cited has to do with setting up the fund, first of all,
7 and then making payments from the fund. I think the
8 question that we got into was the timing of contributions
9 and how much those contributions should be.

10 So that's -- that was the issue before the
11 Commission, and is the issue before the Commission in the
12 complaint case, and I think we have just come up with a
13 way to resolve that. And the way Mr. Mills characterized
14 it, if and when we make that additional payment, he's
15 willing to dismiss the complaint. So I wouldn't
16 characterize it as a mistake.

17 CHAIRMAN DAVIS: Okay. All right. So
18 you're not going to characterize it as a mistake. But
19 ultimately, Mr. Mills, if this settlement gets approved,
20 then you will withdraw your complaint on their -- they'll
21 pay -- if this settlement is approved and they pay an
22 additional 1.4 million, then you'll withdraw your
23 complaint?

24 MR. MILLS: Right, because at that point
25 the only relief pending would be penalties, and we will

1 have gotten all the monetary relief, all the money in the
2 fund that we thought was due. So that's the reason we're
3 willing to withdraw our complaint is the funding is
4 complete.

5 CHAIRMAN DAVIS: All right.

6 Mr. Swearengen, this stipulation doesn't say anything
7 about the employee bonuses that were recently, I guess,
8 paid, announced, however you want to phrase it. Are the
9 shareholders picking up the tab for all of those?

10 MR. SWEARENGEN: You know, I'm not aware
11 that that was an issue in this proceeding. My
12 recollection would be that that was something that would
13 have occurred outside the test year in this case. I could
14 be mistaken on that.

15 CHAIRMAN DAVIS: Were there any bonuses
16 paid during the test year?

17 MR. SWEARENGEN: I'm sure that there were,
18 and I can't tell you how they may have been handled in
19 this for ratemaking purposes.

20 CHAIRMAN DAVIS: Mr. Coffman, Mr. Conrad,
21 Mr. Mills, anyone want to take a -- do you have any
22 thoughts? You know, are employee bonuses part of this
23 stip? If so, when, what were they, were they paid, were
24 they not paid, who's paying for them?

25 MR. MILLS: From my perspective -- and we

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1 didn't get as deeply into the revenue requirement -- if
2 there were dollars included in the revenue requirement for
3 any significant management bonuses, we would have been
4 opposed to including those. I think when you're talking
5 about a black-box settlement, you can't say there is X
6 amount for bonuses, X amount for paper clips. It's all
7 just a lump. But we certainly would not have supported
8 paying out any management bonuses from ratepayer funds.

9 CHAIRMAN DAVIS: Okay. So let me just --
10 so there's no real way of knowing for sure, but to the
11 best of your knowledge, there are no ratepayer funds being
12 spent on bonuses?

13 MR. MILLS: There is no explicit payment of
14 funds for bonuses in the settlement that the signatory
15 parties have arranged. As I said, there's no way of
16 knowing what that money is spent on. They could tomorrow
17 go out and fire half their work force and give the money
18 to their management.

19 The dollars, as I understand the
20 calculation, didn't include bonuses, but that doesn't mean
21 that from Aquila's point of view that they are in there or
22 from other parties' point of view that they're in there,
23 because it's simply a dollar amount and Aquila can use
24 that money to whatever -- within its discretion it
25 chooses.

1 CHAIRMAN DAVIS: Mr. Mills, we've got part
2 of the stip, there's \$140 million worth of plant that may
3 or may not be South Harper. Are -- I'm trying to think of
4 the way to phrase this here. So was South Harper within
5 the -- was South Harper within the test year?

6 MR. MILLS: The operational dates for the
7 South Harper turbines I believe were met within the test
8 year as updated.

9 CHAIRMAN DAVIS: Does anybody have anything
10 contrary to say to that?

11 (No response.)

12 CHAIRMAN DAVIS: Okay. So, Mr. Swearengen,
13 do you have an opinion as to how good or how bad Aquila
14 did in siting the location of the South Harper peaking
15 facility?

16 MR. SWEARENGEN: I think that the -- and of
17 course, once again I need to be careful here because this
18 will be an issue, I think, before the Commission in the
19 certificate case that we filed a couple of weeks ago to
20 certificate South Harper. But I think the evidence in
21 that case will show that they were careful and did a good
22 job in determining a location and a site for that plant.

23 CHAIRMAN DAVIS: If the board of Aquila --
24 Mr. Swearengen, if the board of Aquila is going to reward
25 management with bonuses for good performance, should they

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1 punish management for bad performance?

2 MR. SWEARENGEN: I think they certainly are
3 capable of doing that. Whether they should or not would
4 be a decision that they would have to make.

5 CHAIRMAN DAVIS: If they chose not to,
6 should we as the Commission do something about it, if we
7 feel there's bad management?

8 MR. SWEARENGEN: I think that within your
9 statutory authority you can take whatever action you deem
10 appropriate, based on the circumstances that are presented
11 to you in a case.

12 MR. MILLS: Mr. Chairman, if I may?

13 CHAIRMAN DAVIS: Certainly, Mr. Mills.
14 Feel free to chime in here.

15 MR. MILLS: I think -- and I'm a little
16 leery about speaking about something that hasn't happened
17 yet. I have been working on and had hoped to file before
18 today a request that the Commission initiate a management
19 audit of Aquila. I plan to file that, depending on how
20 long we stay in here today, either tomorrow or early next
21 week. I think that will give the Commission the
22 opportunity to explore in detail and in depth whether or
23 not there are significant failings at Aquila's upper-level
24 management.

25 MR. SWEARENGEN: And if I could add to

1 that, I think there is some precedent for this Commission
2 making what has sometimes been referred to as management
3 efficiency adjustments, both positive and negative, in the
4 context of rate cases based on evidence presented in those
5 cases. So I would say that to that extent you certainly
6 have some authority to do something in this general area.

7 CHAIRMAN DAVIS: But not in this case if we
8 approve this stip, do we?

9 MR. SWEARENGEN: I would agree with that.

10 CHAIRMAN DAVIS: Mr. Swearengen, this
11 stipulation is silent as to fuel costs, correct?

12 MR. SWEARENGEN: I believe that's true.

13 CHAIRMAN DAVIS: So what -- help me
14 understand what is the state of Aquila's fuel cost
15 recovery today.

16 MR. SWEARENGEN: Well, if this stipulation
17 is approved, the interim energy charge will terminate.
18 There will be a one-time credit of approximately a million
19 dollars, I believe, for the St. Joe Light & Power
20 customers, the L&P customers, and then they will be --
21 they, Aquila, will recover its fuel costs through the base
22 rates that would be approved in this case.

23 CHAIRMAN DAVIS: And what are -- what are
24 the base rates included?

25 MR. SWEARENGEN: Well, once again, I think

1 that this is a black-box settlement, so it will be unclear
2 and subject to some discussion as to how much fuel costs
3 are actually embedded in this case. But that's the reason
4 that the company wants the opportunity to come back and
5 file another case as early as July of this year, should
6 this stipulation be approved, in order to recover what it
7 anticipates will be escalating fuel costs in the future.

8 CHAIRMAN DAVIS: Mr. Swearengen, would you
9 be opposed or do you think your client would be opposed to
10 sophisticated customers like those represented by
11 Mr. Conrad just purchasing their own coal and having it
12 delivered to the plant?

13 MR. SWEARENGEN: I have no idea. I've
14 never discussed that topic with them, so I don't know what
15 their reaction to that would be.

16 CHAIRMAN DAVIS: I know the industrial
17 consumers are very concerned about their fuel costs, and I
18 thought, well, maybe that would be one way that we could
19 better manage it, if we would allow them to directly
20 purchase their coal and have it delivered to the plant.

21 MR. SWEARENGEN: It might be. Might be a
22 good way to go. I don't know.

23 CHAIRMAN DAVIS: So we don't know what the
24 fuel costs, what the return on equity or anything other
25 than what's in -- what's said in the stip here. Is that

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1 what people are going to tell me today?

2 MR. SWEARENGEN: That's what I would tell
3 you, and I'm assuming that's what everyone else would tell
4 you. It is a black-box settlement.

5 MR. WILLIAMS: Chairman, the Staff can tell
6 you the numbers it was relying on for entering into the
7 Stipulation & Agreement.

8 CHAIRMAN DAVIS: Mr. Williams, please tell
9 me the numbers that Staff was relying on entering into
10 this agreement.

11 MR. WILLIAMS: I think Mr. Schallenberg
12 would be the person to do that.

13 CHAIRMAN DAVIS: Okay. We'll --

14 JUDGE WOODRUFF: Mr. Schallenberg, come
15 forward, if you want to go ahead.

16 CHAIRMAN DAVIS: Yes. Let's go ahead
17 and -- let's go ahead and get Mr. Schallenberg up here.

18 (Witness sworn.)

19 JUDGE WOODRUFF: You may ask your
20 questions.

21 ROBERT SCHALLENBERG testified as follows:

22 QUESTIONS BY CHAIRMAN DAVIS:

23 Q. Mr. Schallenberg, what numbers did Staff
24 rely on for fuel in recommending that this settlement be
25 approved?

1 A. The Staff would have used the preliminary
2 numbers that were coming from its true-up as to the prices
3 for -- and the big drivers for fuel was natural gas prices
4 and purchased power. It would have been using the prices
5 that it would have seen through
6 the -- I think it's October of this -- of 2005. It would
7 have relied on those prices to develop its cost of service
8 estimate, which it did not finish in terms of the true-up,
9 but it was developing that for this case at the time the
10 Stipulation & Agreement was drafted.

11 Q. So roughly what was the price of natural
12 gas in October 2005?

13 A. Well, there's the hurricane effect that was
14 being discounted at the time the Staff was developing its
15 case. We would have been looking at gas prices in some
16 cases, even hedged gas prices in excess of \$8 an MCF, and
17 I think we were looking at some purchased power prices as
18 high as -- I think there were some parties and some
19 arguments for purchased power prices in excess of \$50 a
20 megawatt hour. And you need to look at both of those
21 because --

22 Q. Right.

23 A. -- if purchased power is cheaper, it
24 doesn't matter what the gas price is, you won't buy the
25 gas and put it in the generator. So it's the interaction

1 of what Aquila can buy from the market and what the price
2 is of natural gas, because it will take the cheaper of the
3 two sources and that's what ends up in your fuel expense.

4 Q. And is this predicated on what kind of ROE?

5 A. The Staff's return on equity in its case up
6 through its true-up, its high was 9.5 ROE. I think the
7 low was in the 8s. The stipulation does have a provision
8 in it regarding what they can book as an allowance for
9 funds during construction in the period that it's agreed
10 to, and in that calculation, the stipulation specifies
11 they can use a 10 percent return on equity for calculation
12 of AFDC to be added to construction projects while the
13 Stipulation & Agreement is in effect.

14 Q. Mr. Schallenberg, do you recall what
15 Aquila's ROE was in their recent -- I think it was Kansas
16 that they had a rate case? Did they have a rate case in
17 Kansas here in the last year or so?

18 A. They had a -- they've had a case in Kansas.
19 I remember their fuel adjustment was an issue, and fuel
20 purchasing. As I recall, the KCC awarded a return on
21 equity. It was in the 10 to 10 and a half. I know it
22 was -- it was 10 or greater. And I don't believe it was
23 outside 10, though. So it would have been in the 10 to
24 10 and a half range, as I recall.

25 Q. Mr. Schallenberg, do you think this

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1 settlement's a good deal for the ratepayers? Do you think
2 it's a fair deal?

3 A. I think it's -- it's a fair settlement. I
4 don't believe that ratepayers will perceive it as a good
5 deal because I don't think they'll have all the
6 information to evaluate all that went into arriving at it,
7 but I believe it's a -- will result in just and reasonable
8 rates, based on conditions as they exist today.

9 CHAIRMAN DAVIS: Okay. Judge, I don't have
10 any questions of Mr. Schallenberg, but I think probably
11 you ought to defer to my colleagues, in case they want to
12 ask Mr. Schallenberg any questions while he's up here.

13 JUDGE WOODRUFF: Does anyone else want to
14 ask any questions of Mr. Schallenberg? I'm sure he'll
15 still be here.

16 COMMISSIONER MURRAY: I might ask one or
17 two while he's here.

18 QUESTIONS BY COMMISSIONER MURRAY:

19 Q. Mr. Schallenberg, in terms of Aquila's use
20 of any fuel adjustment clause or ISRS clause, is that
21 dealt with at all with the Stipulation & Agreement?

22 A. No. There have been no approvals or
23 concessions made to Aquila as to fuel adjustment clause or
24 any type of fuel recovery mechanism. The only thing the
25 Stipulation & Agreement addresses is the termination of

1 the old interim energy charge, or old -- I mean, still in
2 effect. It addresses the termination of that charge, and
3 then the settlement of the potential refund obligation.

4 Q. And this leaves Aquila with all of their
5 legal rights that they would otherwise have for either.
6 The ISRS or the fuel adjustment clause in the future; is
7 that correct?

8 A. It would for a fuel adjustment clause, the
9 ISRS is usually for gas companies and water companies.

10 Q. That's right.

11 A. But the fuel --

12 Q. I get these confused.

13 A. There are a lot of -- but there's a lot of
14 acronyms. But the fuel adjustment clause, Aquila has the
15 same rights -- there's nothing in the agreement that
16 either increases or decreases Aquila's rights regarding
17 asking for any type of fuel recovery mechanism under
18 SB 179.

19 Q. All right. And then what is your
20 understanding of -- I believe it's paragraph of the
21 Stipulation & Agreement that -- anyway, it's the one on
22 fuel study, that Aquila agrees to do a study. It's
23 No. 16.

24 A. Is that in the St. Joe, for the St. Joe?

25 Q. At the Sibley and Lake Road generating

1 stations, will study the economics and operational issues
2 associated with using the various fuels. How do you
3 understand that will be done?

4 A. First, Aquila will -- because -- under the
5 stip, will meet with everybody who declares themselves to
6 be an interested party, and then will look at the
7 economics which will be, in essence, the anticipated costs
8 and benefits, as well as impact on the Sibley and Lake
9 Road plants of utilizing these different sources as fuels
10 at the power plant.

11 So the first part will be is, there will be
12 a meeting with everybody that's -- declares themselves to
13 be interested, and then a study will be conducted based on
14 the scope that comes from that meeting, and then the
15 results will be produced in a report.

16 Q. And do you have any kind of a time line for
17 that?

18 A. There's none specified. I would -- I would
19 say that with the input from interested parties, time line
20 is usually one of the items that is discussed. As
21 somebody who's done this a lot, there's what you think it
22 will take, and then it usually takes something different
23 from that, but the input will address the timeline, but
24 there's none established as of today.

25 Q. Do you know when the first meeting will be?

1 A. No.

2 COMMISSIONER MURRAY: I believe that's all
3 I have for you, at least right now. Thank you.

4 JUDGE WOODRUFF: Any other Commissioners
5 want to ask any?

6 CHAIRMAN DAVIS: I've got one more.

7 FURTHER QUESTIONS BY CHAIRMAN DAVIS:

8 Q. What was the maximum fuel recovery
9 permitted under the IEC in Aquila's last rate case? Was
10 it \$4.75 premium BTU; is that correct?

11 A. I don't -- I don't remember the actual
12 number per rate. I know it was about 16 million for the
13 MoPub district, and it's about 2.4 million per year on the
14 St. Joe district. That's about the amount of revenue.

15 Q. Right.

16 A. I don't recall the exact number, but we can
17 get that.

18 Q. Okay. And what would the numbers be now?

19 A. I think the growth, the growth that's
20 occurred since our last settlement would probably be
21 generating a couple of hundred thousand dollars greater
22 than the numbers I just gave you. So they're still
23 producing revenues. The IEC was producing revenues
24 slightly a couple hundred thousand greater than the
25 16 million and the 2.4 million. That's the MoPub

1 districts and St. Joe district respectively.

2 Q. What does this respective settlement do
3 over and above that?

4 A. What this does is it eliminates that
5 surcharge off the customers' bill, and then in lieu of
6 that, they will raise the permanent rates on the bill by
7 the amounts that are specified in here. For example, if
8 you take just the MoPub district, the \$16-plus million
9 that they're collecting from the surcharge will go away.

10 Q. Right.

11 A. And they will raise their permanent rates
12 by 38.5 million. So customers will see basically a
13 \$22 million increase in their bills from what exists today
14 with the present IEC, or what some of us call is we're
15 rolling the IEC into permanent rates and then adding about
16 another \$22 million to the permanent rate increase.

17 So there's a difference between what the
18 customers will actually see as out-of-pocket expense,
19 which in the MoPub district is about 22 million, versus
20 what we are actually raising the permanent rates to do,
21 because the IEC will be an offset. The surcharge will be
22 off their bills.

23 CHAIRMAN DAVIS: Okay. I think that's all
24 the questions I've got for this witness, unless -- here we
25 go.

1 COMMISSIONER CLAYTON: I think I want to
2 follow up.

3 QUESTIONS BY COMMISSIONER CLAYTON:

4 Q. Mr. Schallenberg, I want to make sure I'm
5 writing this down. You had as a fuel expense in the old
6 MoPub district 16 million, and then the St. Joe district
7 2 million. Did I hear you correctly?

8 A. 2.4.

9 Q. 2.4 million. And then what did you say in
10 this case that the equivalent number would be?

11 A. What's going to happen is, first of all,
12 that's not fuel. That's what the IEC --

13 Q. That's what the surcharge is?

14 A. That's what the surcharge --

15 Q. It's not a total fuel expense?

16 A. Right. That's a part to recover a portion
17 of their total fuel.

18 Q. Do you recall what the total fuel expense
19 was, including the surcharge, in the old case?

20 A. I don't, but I know we could get that
21 information today.

22 Q. Well, I think you said it was -- you
23 concluded your last statement with the Chairman by saying
24 it was a \$22 million increase, I believe; is that correct?

25 A. What I was saying is, of the increase

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1 that's in this Stipulation & Agreement, the customers, for
2 example, in the MoPublic district will see an increase in
3 their bills of \$22 million, which is they'll see the
4 38.5 million increase that we will raise the permanent
5 rates, but they will experience no longer paying the
6 surcharge, which is generating somewhere in excess of
7 16 million. So that's where the 22 million is the
8 out-of-pocket additional cost to the consumers in the
9 MoPub district.

10 Q. Okay. That's just in the L&P district.
11 What is the increase there?

12 A. I think it's -- I probably should look that
13 up. I think it's 6 something. According to --

14 Q. An increase of 6 or a total of 6?

15 A. I'm going to look and see what the --
16 it's -- on page 2 of the Stipulation & Agreement, it says
17 that they will be raising the permanent rates 6.3. So
18 given that the IEC is 2.4, they'll see about an
19 out-of-pocket additional cost of about \$4 million in the
20 St. Joe district.

21 Q. See, I'm confused here. That's the total
22 increase. That's not just -- I thought you were talking
23 about fuel and those other figures.

24 A. No. All I was mentioning was that the IEC,
25 which is a recovery of some portion of fuel, will in

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1 essence terminate.

2 Q. And you're rolling that figure into the
3 overall base rates?

4 A. Rolling it into the overall increase that's
5 being proposed in this Stipulation & Agreement. So the
6 customer will not pay -- is already paying the surcharge,
7 so the net cost to the consumer is the difference between
8 those two items.

9 COMMISSIONER CLAYTON: Okay. I'll wait for
10 the rest. Thank you.

11 JUDGE WOODRUFF: All right. Thank you,
12 Mr. Schallenberg. You can step down.

13 MR. WILLIAMS: If I might?

14 JUDGE WOODRUFF: Okay.

15 MR. WILLIAMS: Commissioner Murray, you
16 were asking about impacts of the agreement on fuel
17 adjustment clauses. One potential impact is, if you would
18 have to seek one in a general rate increase case, because
19 there is a moratorium until July 1. I did want to point
20 that out.

21 JUDGE WOODRUFF: All right. Chairman Davis
22 has left the room for a moment. So we'll go on to
23 Commissioner Murphy, if you want to go ahead and start
24 asking your questions.

25 COMMISSIONER MURRAY: Thank you, Judge. My

1 first question is for Ms. Woods, and I just want to
2 clarify, DNR did sign the Stipulation & Agreement; is that
3 correct?

4 MS. WOODS: That's correct.

5 COMMISSIONER MURRAY: The copy I have
6 doesn't show your signature. And then my next question is
7 for Mr. Conrad and Major Paulson, for both of you,
8 regarding the class cost of service and rate design issue.
9 And can you explain, can each of you explain -- and I
10 don't care who goes first -- how close this comes to the
11 treatment that you would prefer? Can you give me some
12 idea?

13 MR. CONRAD: Well, let me take a stab at
14 that. I think as is -- as is true with any compromise,
15 it represents something of the middle ground. Otherwise
16 it's -- you know, it's a concession or somebody just gives
17 up and falls away.

18 We were not -- as we worked through this,
19 we were not unsatisfied or dissatisfied with the shift. I
20 think if you were to look at it -- and I don't want to
21 perhaps go too far into it, Judge -- but I think it's
22 probably in the middle of the shifts that we had -- had
23 advocated something like about half, halfway.

24 But it -- that's obviously from -- from our
25 perspective, and someone else's perspective is going to

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1 differ on how much that that movement is because we were
2 starting in some instances from slightly different --
3 slightly different bases.

4 COMMISSIONER MURRAY: Okay.

5 MR. CONRAD: I'm trying to be responsive,
6 but without getting into the trade. I mean, we're -- we
7 were sufficiently satisfied with this that we felt it was
8 appropriate to get on board with it.

9 COMMISSIONER MURRAY: And is it your
10 position that this does move at least somewhat closer to
11 actual cost of service?

12 MR. CONRAD: Yes.

13 COMMISSIONER MURRAY: Okay. Thank you.
14 Major Paulson?

15 MAJOR PAULSON: Yes, ma'am. From our
16 perspective, it's reasonable, and if you look at the
17 settlement as a package, taking the whole thing as a
18 package, we think it's a reasonable settlement, and we
19 think it does move towards cost of service. One of the
20 things that we looked at was that, you know, it's not --
21 you don't necessarily in a cost of service case get
22 everything you want right away, so that was -- we thought
23 this was a very good first step.

24 COMMISSIONER MURRAY: Okay. Thank you
25 both. I don't think I have any other questions. Thank

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1 you.

2 JUDGE WOODRUFF: We'll come back to
3 Chairman Davis then.

4 CHAIRMAN DAVIS: I apologize for that.
5 Maybe we can just get a show of hands here or something.
6 When Aquila was building gas-fired generation back in the
7 decade of the '90s or even the early 2000s, did anyone
8 here object and say maybe that's not such a good idea? I
9 am -- wait. Mr. Coffman?

10 MR. COFFMAN: I do recall resource planning
11 meetings during that time where there was some concern
12 voiced at that time. I'm not speaking for AARP, but --

13 CHAIRMAN DAVIS: Right. In your previous
14 capacity?

15 MR. COFFMAN: Yeah. I do recall that there
16 was some discussion at that time, and it has increased
17 over time, and I am --

18 CHAIRMAN DAVIS: Certainly it's heightened
19 to a fever pitch now; is that correct?

20 MR. COFFMAN: And I can say, I am
21 authorized to say that AARP does share the concerns of
22 others about Aquila's resource planning over the last few
23 years and is concerned about whether they have become too
24 reliant on natural gas. That is true, you know, and I
25 don't think this stipulation really resolves those issues

1 one way or the other, but I think it is, again, fair and
2 that it is supportable by the record and by any of the
3 positions that AARP has taken in this case.

4 CHAIRMAN DAVIS: Is there any record of
5 those IRP meetings that we could refer back to? I see
6 Mr. Conrad wanting to get in on this action. Mr. Conrad,
7 we'll get to you in just a second. I'm sorry. Go ahead,
8 Mr. Conrad. I guess Mr. Coffman's done. I just wanted to
9 give --

10 MR. CONRAD: I'll give John a breather.
11 Judge, from our client's perspective to your question, we
12 typically have not been -- and I intend no criticism by
13 this, but we typically have not been invited to the party,
14 the IRP party. It often is a proceeding that is done on
15 submissions by the utility to the Staff, rather than a
16 filing. No docket as such is initiated. There may be an
17 EF or some kind of a tariff number or some tracking
18 number, I guess is more proper under the EFIS system.

19 But we typically don't get notice of that
20 and don't get involved at that level, and I'm learning to
21 use the term granularity now.

22 The thing I think that we probably did
23 observe from the 30,000-foot view over the period of time
24 that you talked about is encompassed in your Honor's
25 statement about, and some others, in the shift of this

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1 company's focus from being that of a provider to captive
2 customers of the service territory to wishing to shift its
3 focus into the competitive market as that was being
4 perceived developing.

5 And at that time, you know, we really
6 didn't have control over those things. Obviously you
7 can't put a pin in the calendar and say, ah-ha, if I had
8 seen this coming, perhaps you would have run screaming and
9 waving your arms. But we really didn't have the
10 opportunity to do that. And I don't mean to be critical
11 of that process. We're not uncomfortable with Staff, and
12 I believe Public Counsel often participates in that
13 process and quite rightly so.

14 But there really has not been a forum
15 provided for the other customers in most cases to have
16 involvement in that. In more recent times, your Honor
17 will recall the respective packages concerning Empire
18 District and Kansas City Power & Light, in which the IRP
19 process was expanded to include some other parties besides
20 the Staff and Public Counsel.

21 CHAIRMAN DAVIS: Okay. Thank you,
22 Mr. Conrad. Mr. Steinmeier?

23 MR. STEINMEIER: Well, your Honor, since
24 you asked the question as generically as you did, I do
25 want to just mention that on a national level in various

1 forums since the very early '90s, I personally have raised
2 continuing concerns about over-reliance on natural gas as
3 all that was going on in the '90s and into this decade.

4 Having said that, that is not directed to
5 Aquila nor to the issues in this case nor to the matters
6 reflected in this Stipulation & Agreement, and this would
7 be the first Aquila matter to my recollection in which
8 I've been involved.

9 CHAIRMAN DAVIS: Now, I'm sorry,
10 Mr. Steinmeier, you're representing?

11 MR. STEINMEIER: The City of St. Joseph.

12 CHAIRMAN DAVIS: The City of St. Joseph.
13 Mr. Comley, you're representing Cass County, correct?

14 MR. COMLEY: I'm representing the City of
15 Kansas City.

16 CHAIRMAN DAVIS: Oh, you're representing
17 the City of Kansas City. I apologize. I thought you were
18 representing Cass County.

19 MR. COMLEY: I am familiar with that
20 client.

21 CHAIRMAN DAVIS: But you're not here
22 representing Cass County today?

23 MR. COMLEY: No, but I can tell you that
24 the City of Kansas City, as many other parties are
25 interested, too, would be making sure that Aquila is

1 lawfully serving all of its customers with lawfully
2 certificated plants and facilities.

3 CHAIRMAN DAVIS: Mr. Comley, is there
4 anything unlawful in this stip? Is there anything
5 unlawful in this Stipulation & Agreement?

6 MR. COMLEY: I don't believe there is.

7 CHAIRMAN DAVIS: Okay. Well --

8 MR. COMLEY: I think that -- you asked the
9 question earlier about whether or not this stipulation
10 would interfere or be a factor in other decisions the
11 Commission may make in other cases. I think that's the
12 way it was.

13 CHAIRMAN DAVIS: Yes.

14 MR. COMLEY: Speaking then as a student of
15 the stipulation, perhaps, I see this as a way of
16 hypothetically creating a generation plant for the Staff,
17 the company and all the other parties to review. And this
18 hypothetical plant has characteristics that resemble one
19 that's very much involved in the press and in the Court of
20 Appeals, but it is adopting or not accepting as lawful the
21 construction and location of that plant. That is how I
22 view this stipulation.

23 There are other provisions in the
24 stipulation that I think they seem common, but I think
25 it's paragraph 18, the Commission may want to take a look

1 at more closely -- excuse me -- paragraph 19. Every
2 stipulation that I have seen in this Commission contains a
3 section of paragraphs on contingent waivers. The common
4 waiver is that nothing in the Stipulation & Agreement will
5 bind or prejudice the rights of the company or other
6 parties by the terms of the stipulation.

7 And in this particular paragraph, there is
8 specific mention that none of the parties are prejudiced
9 or bound by the way the South Harper facility was treated
10 in the stipulation. I think Mr. Coffman's also pointed
11 out the provisions of Chapter 393, specifically 393.135
12 and how it would play a factor in this stipulation.

13 CHAIRMAN DAVIS: Mr. Comley, let me follow
14 up here. We have a statute on the books that requires
15 plant to be used and useful, is that correct, before you
16 put it in rate base?

17 MR. COMLEY: That's my understanding.

18 CHAIRMAN DAVIS: Okay. That's your
19 understanding. So we're on the same page so far. So can
20 we include the \$140 million in a stipulation for a, quote,
21 hypothetical plant?

22 MR. COMLEY: My understanding is that I
23 think you're authorized to approve the settlement on the
24 terms that have been presented to you.

25 CHAIRMAN DAVIS: That doesn't make it

1 lawful, does it?

2 MR. COMLEY: I think you'd be authorized to
3 approve the settlement on the terms that you have in front
4 of you.

5 CHAIRMAN DAVIS: Mr. Coffman, do you want
6 in on this action?

7 MR. COFFMAN: Yes. I think it does deserve
8 some discussion, because the wording of the stipulation is
9 rather confusing, and I don't in fact blame the press for
10 misunderstanding it. But again, I don't believe that any
11 of the parties nor the Commission would be bound in any
12 way, as far as -- or agreeing or conceding or in any way
13 addressing whether the South Harper facility is in this
14 rate base or reflected in the revenue requirement or is
15 sited in the proper place.

16 And as to the wording of the statute, it
17 specifically says that electric plant could not be
18 included in rate base unless it was fully operational and
19 used for service. And so, again, I think that the intent
20 of those who signed the stipulation, surely they were
21 aware of this statute when they signed it and they knew
22 that the Commission would not lawfully -- at that time
23 they were aware of the current order from Judge Danderand
24 in Cass County.

25 However, AARP, and I think other parties,

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1 have been able to get to the bottom line, and if the
2 revenue requirement and rate base numbers that are
3 actually part of what would be approved in this
4 stipulation, they've been able to get to those numbers
5 even under the assumption that the South Harper plant is
6 not in rate base. I understand that may be part of
7 Staff's calculations or may be part of Aquila's
8 calculations in supporting it.

9 The beauty of a black-box settlement is
10 that everybody is able to reach those numbers based on
11 their own positions and their own numbers, and AARP's
12 experts have run their calculations. And we have decided
13 not to oppose the stipulation, not to object nor request a
14 hearing because we think that, based on our position,
15 including our position that the South Harper plant is not
16 prudent or reasonable, we would still get to our
17 recommended revenue requirement based on what we know now
18 under what's in the record.

19 And so although we may have wished for a
20 different result or a longer moratorium or slightly
21 different rate design, we think it's supportable and it
22 would be a reasonable set of rates to approve.

23 CHAIRMAN DAVIS: Mr. Coffman, in the
24 tariffs that are part of this stip, there are what I would
25 call some declining block rates, is that correct, where as

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1 you purchase more electricity, the price actually gets
2 cheaper. Is that fair to say, or did I just misread that?

3 MR. COFFMAN: I'm not sure if I would
4 describe it that way.

5 CHAIRMAN DAVIS: Okay. So -- and that's
6 fine if you wouldn't describe it that way. Maybe they're
7 recovering some of their administrative costs in the first
8 block of rates that, you know, aren't in additional. I
9 don't know.

10 MR. COFFMAN: It's my understanding that
11 the -- that the actual block structure that's now in place
12 would not be changed. To the extent that that does occur,
13 those relationships have not changed with the proposed
14 tariff.

15 CHAIRMAN DAVIS: Okay. Mr. Mills, did you
16 want to add something there?

17 MR. MILLS: Well, I think you're correct.
18 There is -- there is -- for residential space heating,
19 there is a declining block rate for the winter period.

20 CHAIRMAN DAVIS: Okay.

21 MR. MILLS: It's .0469 for the first hund--
22 for the first thousand kilowatt hour blocks, and then
23 .0336 for the usage over that mark.

24 CHAIRMAN DAVIS: Mr. Mills, are you
25 concerned at all that, you know, with -- obviously we're

1 having one of the warmest winter heating seasons on record
2 here, and we're very thankful for that, but if we were to
3 have a really cold winter, could that declining block rate
4 structure, you know, be a threat to Aquila's financial
5 operations?

6 MR. MILLS: Well, that's not really for me
7 to say. I think from my point of view the declining block
8 structure is beneficial to ratepayers who use space heat,
9 electric space heat. I can't imagine we'd be here today
10 if Aquila thought that that was a significant danger to
11 their well-being.

12 CHAIRMAN DAVIS: Okay.

13 MR. MILLS: And Mr. Chairman, if I may go
14 back to one of your earlier questions about whether or not
15 there's any documentation of parties challenging Aquila's
16 reliance on natural gas generation, I can't say sitting
17 here today that we have documentation of that. I would be
18 very surprised if the Office of Public Counsel didn't
19 raise the issue in meetings and didn't have some
20 documentation to show that that issue was raised and
21 discussed, and I would be happy to search our files to see
22 if we can come up with something to that if you wish.

23 CHAIRMAN DAVIS: Certainly.

24 MR. MILLS: Thank you.

25 CHAIRMAN DAVIS: Mr. Swearngen, I notice

1 that on the application that Aquila filed, they asked for
2 approximately a \$69 million increase for the MPS territory
3 and about a \$9.4 million increase for the L&P territory,
4 and then as part of this stipulation, there's
5 approximately 6.3 million for the L&P territory, which is
6 about two-thirds of what they requested, maybe even a
7 little more, and then the 69.2 million was reduced roughly
8 to 38.5 million, which just ballpark is going to be a
9 lesser percentage than that. I haven't done the math, but
10 55, 56, somewhere in there. Can you explain why the
11 St. Joe Light & Power territory is paying a higher
12 percentage in this case than the Missouri Public Service
13 territory?

14 MR. SWEARENGEN: I would prefer to defer
15 that to one of the Aquila representatives who's here
16 today, Denny Williams or Gary Clemmens. I think they are
17 in a better position to answer that than I would be.

18 CHAIRMAN DAVIS: Okay. I will defer that
19 question. Judge, remind me not to -- don't let
20 Mr. Williams or Mr. Clemmens get away before we ask them
21 that question.

22 Okay. Who's here on behalf of DNR today?

23 MS. WOODS: I am, Mr. Chairman, Shelley
24 Woods.

25 CHAIRMAN DAVIS: Okay. Ms. Woods. Page 4

1 of the stipulation, Item No. 5, Aquila will provide annual
2 funding for energy efficiency and weatherization programs
3 in the amount of \$193,000 annually. Is Aquila paying for
4 that or are the ratepayers paying for that?

5 MS. WOODS: It's my understanding that
6 Aquila is paying for that.

7 CHAIRMAN DAVIS: So that would be the
8 shareholders of Aquila and not the ratepayers of Aquila?

9 MS. WOODS: That's my understanding.

10 CHAIRMAN DAVIS: Does anyone have an
11 objection to that statement? Does anyone agree with that
12 statement?

13 MR. MILLS: Well, now you got me. I
14 certainly don't have an objection to that statement. I
15 don't know that I can agree with it. This is a black-box
16 settlement, as we discussed before, and you can't really
17 say specifically that these -- that the bonuses that go to
18 management are in the 38.5 million or they're not. You
19 can't really say that this 139,000 is in the rates or not.
20 There was not an explicit adjustment to the rates that the
21 parties agreed to for this amount.

22 So I think you could certainly make the
23 argument that it's not included in rates, and it certainly
24 is not included explicitly in rates, but you can't say
25 certainly, from this date forward, that this is not being

1 recovered in rates.

2 MR. SWEARENGEN: Judge, if I could respond
3 to that briefly on behalf of Aquila. I think if you look
4 at paragraph 5 of the stipulation on page 4, certainly the
5 intent and understanding of Aquila that that first
6 sentence means what it says, that the agreed-to rate
7 increases provide no rate recovery of any contribution for
8 weatherization or any other programs proposed by Kansas
9 City and/or MDNR, and that would be our position on that.
10 I understand what Mr. Mills said and I understand his
11 view. Thank you.

12 CHAIRMAN DAVIS: For, okay, no rate
13 recovery of any contribution for weatherization or other
14 programs. So essentially then you're saying that -- you
15 infer that that statement means that the shareholders of
16 Aquila are financing this program?

17 MR. SWEARENGEN: Yes, your Honor.

18 CHAIRMAN DAVIS: Okay. Now, that statement
19 could be read to mean that, you know, Aquila could not
20 seek a co-pay or contribution for -- from the
21 beneficiaries of the weatherization program; is that
22 correct?

23 MR. SWEARENGEN: I think you could read it
24 that way, that's true.

25 CHAIRMAN DAVIS: Okay.

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1 MR. SWEARENGEN: The rate increase doesn't
2 provide for that. And I --

3 CHAIRMAN DAVIS: The rate increase doesn't
4 provide for that?

5 MR. SWEARENGEN: That's correct. And I
6 think, you know, Mr. Mills is correct. This is a
7 black-box settlement, and nothing is binding except as
8 provided herein. I don't think some of the parties would
9 have agreed to this increase if they felt we were
10 including these contributions in the revenue we're
11 recovering. And it's not our belief that we are. It's
12 our belief that the shareholders are picking up this
13 \$193,000.

14 CHAIRMAN DAVIS: Okay.

15 MR. SWEARENGEN: And once again, if this
16 issue would be litigated, the company's position would be
17 that the shareholders should not pick up any of those
18 dollars.

19 CHAIRMAN DAVIS: Okay. Mr. Swearengen, as
20 a matter of public policy, if Aquila pays to -- I mean,
21 first of all, I guess, where does this weatherization
22 money go?

23 MR. SWEARENGEN: You know, I can't answer
24 that.

25 CHAIRMAN DAVIS: Ms. Woods?

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1 MS. WOODS: There are several local
2 community action groups, and that's where the money goes.
3 Primary among them is the City of Kansas City's group.

4 CHAIRMAN DAVIS: And so when it goes to the
5 City of Kansas City's community action group and they
6 disperse those funds, does that go to put new insulation
7 in people's homes?

8 MS. WOODS: Frequently it depends on -- I
9 think usually they go and they look at the home and they
10 try to determine how to get that best to -- bang for the
11 buck.

12 CHAIRMAN DAVIS: Uh-huh.

13 MS. WOODS: And oftentimes it is
14 insulation. Sometimes it's -- there are a number of
15 options.

16 CHAIRMAN DAVIS: They install new HVAC
17 equipment at times?

18 MS. WOODS: Occasionally. Not often.
19 That's -- there are certain federal guidelines that do
20 apply. And again, as I said, it's kind of a where they
21 get the most bang for their buck.

22 CHAIRMAN DAVIS: Do we have any estimate on
23 what the utility is paying per average? I know there are
24 waiting lists at all the community action agencies,
25 correct?

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1 MS. WOODS: That's correct.

2 CHAIRMAN DAVIS: And I know that -- do you
3 know what the average, you know, payment per customer that
4 the utility makes or that, you know, that is expended by
5 the community action agencies?

6 MS. WOODS: 2,050 per home is about an
7 average.

8 CHAIRMAN DAVIS: And do we know what --
9 what savings the customer realizes on average from that
10 \$2,000 expenditure?

11 MS. WOODS: I'm advised it depends on
12 whether it's natural gas or electric or some combination
13 of the two, but there's about a 30 percent savings on
14 average.

15 CHAIRMAN DAVIS: So, Ms. Woods, do you
16 think these people who are receiving this benefit, that
17 they ought to be paying a co-pay or anything, or do you
18 think that they should just get all this weatherization
19 for absolutely free?

20 MS. WOODS: You mean a co-pay or --

21 CHAIRMAN DAVIS: Uh-huh.

22 MS. WOODS: In terms of it coming out of
23 the rates or a co-pay at the time that they obtain the
24 service?

25 CHAIRMAN DAVIS: I'm -- well, obviously if

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1 they're receiving a \$2,000 -- approximately on average if
2 they're receiving a \$2,000 benefit that, you know, could
3 translate into them saving approximately 30 percent on
4 their electric bill, don't you think they ought to be
5 willing to maybe kick a dollar or two back to the
6 community action agency for additional programs or
7 something?

8 MS. WOODS: That's certainly something to
9 look at. I really don't have an opinion. There are a
10 number of arguments both ways. One is that by getting
11 these homes weatherized, it's an overall benefit to
12 everyone, including the utility, because people aren't
13 incurring costs to collect the past due bills and the rest
14 of the ratepayers aren't having to.

15 CHAIRMAN DAVIS: And it is important to
16 remember that these are low-income families?

17 MS. WOODS: Yes. That is important to
18 remember.

19 CHAIRMAN DAVIS: That I would -- is it safe
20 to say that most of them are 150 percent of poverty level
21 or below?

22 MS. WOODS: Yes, that is in fact part of
23 the federal requirements.

24 CHAIRMAN DAVIS: That's part of the federal
25 requirements?

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1 MS. WOODS: And this program is and will
2 continue to be operated according to those requirements.

3 CHAIRMAN DAVIS: Now, Ms. Woods, you're
4 here representing the Department of Natural Resources
5 today, correct?

6 MS. WOODS: That's correct.

7 CHAIRMAN DAVIS: Okay. So Attorney General
8 Jay Nixon's office has not sought to intervene in this
9 case at all; is that correct?

10 MS. WOODS: That's correct.

11 CHAIRMAN DAVIS: Why?

12 MS. WOODS: I'm not privy to those
13 discussions. I wouldn't know.

14 CHAIRMAN DAVIS: You would certainly agree
15 with the statement that Attorney General Jay Nixon is
16 capable of intervening in this case, wouldn't you?

17 MS. WOODS: Oh, yes, I would agree with
18 that statement.

19 CHAIRMAN DAVIS: Are you aware that he has
20 intervened or attempted to intervene in other cases
21 involving utility customers in Cass County?

22 MS. WOODS: I can't say that I am.

23 CHAIRMAN DAVIS: Ms. Woods, you did not
24 sign onto this agreement on behalf of your clients,
25 correct?

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1 MS. WOODS: That's correct.

2 CHAIRMAN DAVIS: Why?

3 MS. WOODS: Basically because I was told
4 not to by my office.

5 CHAIRMAN DAVIS: Your office directed you
6 not to sign onto it?

7 MS. WOODS: That's correct.

8 CHAIRMAN DAVIS: Who is your client in this
9 case?

10 MS. WOODS: The Department of Natural
11 Resources.

12 CHAIRMAN DAVIS: And so are you
13 representing the client or are you representing the
14 Attorney General Jay Nixon in this case?

15 MS. WOODS: I'm representing the client.

16 CHAIRMAN DAVIS: And he's directed you not
17 to sign onto this?

18 MS. WOODS: Well, I was directed not to
19 sign onto this and to make arrangements so that the
20 Department could sign onto it.

21 CHAIRMAN DAVIS: Did you attend these,
22 quote, black-box settlement negotiations?

23 MS. WOODS: I attended some of them, yes.

24 CHAIRMAN DAVIS: Some but not all?

25 MS. WOODS: No, not all.

0080

1 CHAIRMAN DAVIS: Were you present when they
2 talked about fuel costs, return on equity?

3 MS. WOODS: I confess, those were topics I
4 attempted to avoid.

5 CHAIRMAN DAVIS: Okay. So the Attorney
6 General's Office was avoiding the issue of fuel costs and
7 return on equity in this case?

8 MS. WOODS: I, as representing the
9 Department of Natural Resources, was avoiding those.

10 CHAIRMAN DAVIS: So there was no one from
11 the Attorney General's Office present at all representing
12 the State, you know, in discussions about fuel costs,
13 return on equity, the rates that the State of Missouri
14 would be asked to pay in the Aquila territory; is that
15 fair to say?

16 MS. WOODS: That is fair to say.

17 CHAIRMAN DAVIS: Ms. Woods, does silence
18 constitute acceptance of this agreement?

19 MS. WOODS: I would say that normally from
20 a contract standpoint, there has to be some overt act, and
21 that silence in and of itself would not be acceptance.

22 CHAIRMAN DAVIS: Do you concur with that,
23 Mr. Mills?

24 MR. MILLS: Well, I think it depends on the
25 context, as Ms. Woods pointed out. I think there are

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1 certainly situations in which silence can constitute
2 acceptance, and I'm not sure in this particular context
3 whose silence you're talking about and acceptance of what.

4 CHAIRMAN DAVIS: For instance, does the
5 fact that the Office of Public Counsel and AARP and --
6 does that, you know, implicit -- implicit in the fact that
7 you're not objecting, is that acceptance of this proposed
8 Stipulation & Agreement?

9 MR. MILLS: Acceptance perhaps. Agreement
10 or support, certainly not. I'm certainly not speaking for
11 AARP or anyone else. I'm speaking only for myself and my
12 office.

13 CHAIRMAN DAVIS: Mr. Coffman?

14 MR. COFFMAN: Your Honor, my understanding
15 of the Commission's rules regarding nonunanimous
16 stipulations, 4 CSR 240-2.115, is that when a party does
17 not sign but yet does not object and request a hearing on
18 a nonunanimous stipulation, the Commission is then free to
19 then treat that nonunanimous stipulation as unanimous for
20 the purpose of not necessarily having a hearing and some
21 of the procedural requirements, and that there is some
22 distinction between actual consent and agreement in the
23 signature.

24 So I think that certainly for procedural
25 purposes, you can now treat this nonunanimous stipulation

1 as unanimous, but it's my understanding that neither AARP
2 nor the Office of the Public Counsel have actually agreed
3 with an affirmative signature on the document. Some
4 subtle distinction.

5 CHAIRMAN DAVIS: Some.

6 MR. MILLS: As a practical matter, I
7 understand that by not opposing it, pursuant to the
8 Commission rules, that it's very likely to be adopted by
9 the Commission and that I will have to live with the
10 consequences of that. So in that sense, not signing it
11 and not opposing it means that I'm willing to live with
12 the agreement. In that sense, I accept that.

13 MR. COFFMAN: And I would say for AARP that
14 we have satisfied ourself that this would not be an unjust
15 or unreasonable result and that we are willing to live
16 with the result if the Commission does adopt the
17 stipulation.

18 CHAIRMAN DAVIS: So, Ms. Woods, is it fair
19 to say that not signing but not applying to intervene in
20 this case, not applying to object to the settlement in
21 this case is an indication of the Attorney General's
22 willingness to go along with the settlement in this case?

23 MS. WOODS: I really don't know. I don't
24 know what the -- all I know is that the Attorney General's
25 Office did not elect to intervene in this case. The

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1 Department of Natural Resources did.

2 CHAIRMAN DAVIS: Right. And refresh for my
3 recollection that this was a case where Aquila was
4 originally seeking to raise their rates by approximately,
5 what was it, \$75 million; is that correct?

6 MS. WOODS: Somewhere -- somewhere in that
7 range. The only thing that I specifically recall was, I
8 believe that the MPS territory was something in the
9 neighborhood of 69 million. I do recall that figure.

10 CHAIRMAN DAVIS: No further questions at
11 this time, Judge.

12 JUDGE WOODRUFF: All right. Commissioner
13 Murray, do you have anything further?

14 COMMISSIONER MURRAY: No, I don't.

15 JUDGE WOODRUFF: Commissioner Gaw?

16 COMMISSIONER GAW: Are we going to keep
17 going?

18 JUDGE WOODRUFF: We can if you want to.

19 COMMISSIONER GAW: I'll need just a second.

20 JUDGE WOODRUFF: Okay. Let's go ahead and
21 get started. Well --

22 CHAIRMAN DAVIS: We do want to break for
23 lunch, don't we?

24 JUDGE WOODRUFF: Let's go ahead and get
25 started.

1 COMMISSIONER GAW: I just want to work
2 through this stip sort of methodically. The first
3 questions will have to do with rates, and I'm still a
4 little unclear about the amount of the increase here.
5 First of all -- and I don't care who answers these
6 questions, as long as there's not disagreement. The
7 increase for MPS is stated at \$38,500,000. Is that a
8 gross amount or a net amount when considering the interim
9 energy charge that was previously in place?

10 MR. WILLIAMS: That would be the increase
11 without considering the interim energy charge. So it's
12 over base rates that currently exist.

13 COMMISSIONER GAW: All right. And then if
14 I take into consideration the elimination of the interim
15 energy charge, albeit subject to refund, what amount of
16 net would I have?

17 MR. WILLIAMS: According to
18 Mr. Schallenberg earlier, it's about 22 million.

19 COMMISSIONER GAW: All right. Now, go to
20 the L&P for me and tell me what that figure would be on
21 the net, considering the interim energy charge's
22 elimination.

23 MR. WILLIAMS: I think it's about
24 4 million, if I recall Mr. Schallenberg's testimony
25 correctly.

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1 COMMISSIONER GAW: I know this is a
2 black-box settlement, but help me to understand what the
3 principal drivers are from Staff's standpoint, that causes
4 them to believe that the end result of an increase of
5 \$38,500,000 in base rates is appropriate. What are the
6 drivers that made you believe that that was an appropriate
7 amount to settle the case on?

8 MR. WILLIAMS: I think the short answer is
9 primarily fuel and purchased power costs.

10 COMMISSIONER GAW: Fuel and purchased
11 power. So on that subject, just real quickly, if that's
12 the primary driver, does that -- reconcile that with me
13 with the -- what appears to be some credit, some degree of
14 credit on the interim energy charge back from its set
15 position in the last case where that was set.

16 MR. WILLIAMS: You're referring to the
17 \$1 million?

18 COMMISSIONER GAW: Yes.

19 MR. WILLIAMS: Based on the information
20 that Staff had available to it, it believed that -- and
21 still believes that the Aquila Networks - MPS customers
22 will not get any refunds, and the Aquila Networks L&P
23 customers were likely to be getting some refund post
24 April 20th.

25 COMMISSIONER GAW: Okay.

1 MR. WILLIAMS: And the parties ultimately
2 reached an agreement to do a refund in lieu of going all
3 the -- well, first of all, you're going to have an early
4 termination of the interim energy charge as a result of
5 rates in this case, if they go into effect earlier than
6 the set ending of the IEC. And the parties in lieu of
7 going through the true-up process and agreeing -- reaching
8 an agreement or bringing it in front of the Commission as
9 to what the amount of the refund should be, agreed to a
10 refund now that will go into effect when -- shortly after
11 rates are set under this agreement.

12 COMMISSIONER GAW: That refund amount was
13 based upon some figure as of October of last year; is that
14 correct or incorrect?

15 MR. WILLIAMS: I think there's been
16 tracking. There's, I know, a disagreement between Aquila
17 and Staff as to how the IEC refund was -- or whether or
18 not there was a refund, how it was to be calculated on
19 whether it was to be by division or netted company-wide
20 within Missouri.

21 So what I'm saying is there was -- there
22 were some disputes that were resolved as well, but under
23 Staff's view, I think our number was something like
24 1.4 million, but we recognized that that number had been
25 dropping as time had passed because of what happened with

1 fuel costs.

2 COMMISSIONER GAW: Okay. But was the time
3 frame that you were looking at in coming up with your
4 number through October of '05 or through some time in
5 October of '05?

6 MR. WILLIAMS: I believe the most current
7 number we have was at the end of October of '05.

8 COMMISSIONER GAW: And you're telling me
9 that if the dates had been brought forward from that, that
10 the number would have been smaller?

11 MR. WILLIAMS: That's what we were
12 anticipating, certainly.

13 COMMISSIONER GAW: You didn't look at it,
14 but you anticipated that; would that be accurate?

15 MR. WILLIAMS: Based on what was happening
16 with fuel and purchased power cost, we anticipated, but
17 no, we didn't come up with numbers.

18 COMMISSIONER GAW: In regard to the fuel
19 costs issue, for MPS itself, was there some -- there was
20 not a credit. Does that mean that there was some
21 under-recovery prior to that time?

22 MR. WILLIAMS: You're referring to the IEC?

23 COMMISSIONER GAW: Yes, only the IEC.

24 MR. WILLIAMS: According to the information
25 Staff had, Staff believed there would never be a refund to

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1 the customers of the MPS area.

2 COMMISSIONER GAW: Okay. And the reason
3 why there would be for L&P and not MPS, does that have to
4 do with fuel mix or something else?

5 MR. WILLIAMS: I would have to defer to
6 someone on Staff to answer that. I don't know offhand.
7 Probably Mr. Featherstone could provide that answer.

8 COMMISSIONER GAW: Whoever's available.

9 JUDGE WOODRUFF: Mr. Featherstone, if you'd
10 like to come forward.

11 (Witness sworn.)

12 JUDGE WOODRUFF: You may be seated. You
13 can answer the Commissioner's questions if you know it.

14 CARY FEATHERSTONE testified as follows:

15 QUESTIONS BY COMMISSIONER GAW:

16 Q. What do you do, Mr. Featherstone?

17 A. I work in the audit department out of the
18 Kansas City office.

19 Q. For who?

20 A. With the Public Service Commission.

21 Q. How long have you done that, approximately?

22 A. About 26 years.

23 Q. All right. Did you have opportunity to
24 look at the -- at the issue of fuel costs in this case?

25 A. I did.

1 Q. All right. Now, back to my question, give
2 me some perspective on why it would look like there was a
3 refund perhaps due under the IEC for the St. Joe customers
4 and not for MPS. Tell me what the driver is with those --
5 with that difference.

6 A. They are two distinctively different
7 systems, and they have two different fuel mixes with
8 different generators.

9 Q. So it would be accurate to say that the
10 distinction or the difference in the fact that L&P appears
11 to have been owed a refund was due to the difference in
12 fuel mix between both systems?

13 A. Yes.

14 Q. And is that -- would it be also accurate to
15 say that the difference in fuel mix between L&P and MPS is
16 that L&P has a greater percentage of base load or not?

17 A. L&P has a greater percentage of base load.

18 Q. Generation, I mean?

19 A. Generation. And MPS relies on more gas.

20 Q. So L&P has greater percentage of coal
21 generation as compared to MPS?

22 A. Yes.

23 Q. I suppose there could be some distinction
24 because of differences in load, but would you say the
25 driver is still generally the difference in generation

0090

1 fuel mix?

2 A. Yes.

3 Q. Okay. So if MPS were in a better position
4 in regard to the amount of base load generation that it
5 had, there might be a different result in regard to the
6 costs of fuel in that system?

7 A. Yes. There were for MPS, however, some
8 what we, I think, point in our testimony as unusual events
9 that occurred that affected the MPS system in greater
10 amount than the L&P system.

11 Q. Do you want to give me some basic view --
12 overview of that?

13 A. There was an issue with regard to a Sibley
14 outage that occurred just shortly after the rates went
15 into effect in the last case. And in fact, the -- the
16 outage actually occurred at the time the rates were in
17 effect, but there was an extension of the outage that
18 caused a greater reliance on purchased power and also gas
19 generation.

20 Q. I see.

21 A. That put them almost from day one of the
22 new rates in the IEC to be under-recovering because there
23 was a greater cost than was anticipated.

24 Q. Sibley is what? What is Sibley?

25 A. Sibley is a coal-fired generating unit that

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1 is owned by Missouri Public Service.

2 Q. Okay.

3 A. MPS.

4 Q. All right. And that unit was out for how
5 long, approximately?

6 A. I'm going from memory, but I believe it was
7 in excess of eight weeks. The original outage was
8 scheduled for three, I believe.

9 Q. Okay.

10 A. The other event that I think was a
11 significant factor was the breach of a coal contract by a
12 supplier -- it's referred to as CW Mining -- and that
13 resulted in some under-recovery, substantial underrecovery
14 of the IEC on the MPS side.

15 Q. How so?

16 A. The replacement coal was substantially
17 greater, almost double the price. I believe these are
18 highly confidential numbers, so I won't get into the
19 amounts.

20 Q. I won't ask you right now what those are.

21 A. But they were significantly greater than
22 the original contract provided.

23 Q. You say this was a breach of the contract?

24 A. I believe it is Aquila's position -- they
25 can speak to this -- that they had a contract, it was

1 negotiated with their supplier, and their supplier ceased
2 to provide or perform, and there is a suit pending in the
3 state of Utah.

4 Q. The results of that suit will not have any
5 impact on this settlement; is that correct?

6 A. That is correct.

7 Q. Would you tell me whether or not if Aquila
8 were successful, would be successful in that lawsuit,
9 would it have changed the numbers in regard to the interim
10 energy charge sufficiently to have generated a refund or
11 credit potentially to MPS customers?

12 A. Staff did not believe so, and I think that
13 the information that we have been receiving on a monthly
14 basis since the last case was also provided to other
15 parties, and without going into a lot of details behind
16 the settlement, I think there was a consensus that there
17 was a belief that there wasn't really anything that was
18 going to create the opportunity for a refund under the MPS
19 system.

20 Q. All right.

21 A. I would point out --

22 Q. Go ahead.

23 A. I don't know if it went to your question or
24 not, but the settlement, the global settlement, not just
25 the IEC piece of it, but the global settlement, the

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1 \$38.5 million and the \$6.3 million for L&P -- because CW
2 Mining relates to also the L&P system -- there's no amount
3 that was called for or put in those numbers. So the CW
4 Mining contract did not affect the settlement at all.

5 Q. Okay. In regard to the setting of rates
6 going forward on fuel costs, I think there was earlier
7 some indication that the fuel costs amounts were
8 considered to be certain amounts by Staff in their
9 analysis of whether or not to sign off on this agreement.
10 Can you refresh my memory a bit about that?

11 A. We, of course, during our audit when we
12 presented our direct case in October, we had certain
13 amounts in for gas and coal and purchased power. As we
14 then went through the negotiations with the company and
15 the settlement process and even post filing in the
16 prehearing process, you're always making adjustments to
17 those amounts.

18 In addition, we had started doing some
19 preliminary work on the true-up that was to be done
20 post-hearing, and those amounts were coming in at for gas
21 probably in the 7.50, the \$7.50 per MCF or MMBtu range.
22 Purchased power was -- spot purchased power was
23 approximately \$49 in our direct filing, and it had gone up
24 significantly. I believe it was probably closer to the
25 high 50s or 60s, low 60s.

1 We had a significant increase for a freight
2 rate on one of the coal suppliers, that was to a -- I
3 believe taken to effect on September 1. So that that was
4 another amount that Staff considered in its -- in its
5 analysis.

6 Q. Okay. So are you telling me that there was
7 a range that you were looking at in deciding the
8 reasonableness of the settlement rather than the specific
9 figures?

10 A. We had specific figures that we used for
11 our direct filing. During the prehearing conference, some
12 additional information was provided to us that we took
13 into account, in consideration, so those numbers changed
14 from the direct filing. As we started to do the true-up, ---
15 we were moving the direct filings based upon June 30th as
16 our update, and as we started to do the true-up, then, the
17 numbers were coming in as of the end of October, which was
18 the true-up date of 2005, I should say.

19 Q. All right. So was it a range or are there
20 updated figures that caused you to believe this portion of
21 the settlement was reasonable?

22 A. The number that we used for the true-up --
23 again, I must add that it was a work in process, it wasn't
24 finished -- generated -- that the true-up would have
25 generated specific numbers. Our gas price for the true-up

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1 probably was in -- I think, going from memory, I believe
2 it was \$7.60, 65 cents per MMBtu. I believe the spot
3 price was about \$61 per megawatt hour.

4 Q. Okay. Where are you getting the spot
5 price, by the way? What is your source?

6 A. The energy department, the Staff witness
7 David Elliott did -- he does a pretty comprehensive and
8 extensive analysis. He performed the analysis for the
9 direct case as of June, and then for the true-up, then he
10 would have moved that to October 31.

11 Q. And these were spot prices that were
12 utilized?

13 A. Yes.

14 Q. So they did not take into account any known
15 figures on bilateral contracts or other things that might
16 have been in place?

17 A. They have some contracts, and when he does
18 his analysis, he separates the analysis from the spot
19 market versus the contract market, the capacity agreements
20 that they have.

21 Q. All right. But the actual amount that was
22 utilized in Staff's analysis of this settlement was the
23 spot price?

24 A. No, he uses both.

25 Q. He uses both. Can you tell me how he

1 weighs those together?

2 A. No, I really can't.

3 Q. All right. That's okay. In this case,
4 Staff is supporting putting the rates charged for fuel and
5 everything back into base rates and not going forward with
6 an interim energy charge. Can you tell me why that is --
7 whether Staff believes that is more appropriate in this
8 case?

9 A. I think the long answer is, through
10 negotiations, the parties reached that determination. It
11 was -- I know you're probably going to get tired of
12 hearing that it was a black-box settlement, but it was, or
13 is. The company had made an offer sometime in probably
14 November of 2005, and the parties were evaluating that
15 offer with additional information that was requested. As
16 they went through the remaining part of the year and the
17 first of this year, the parties -- and it was primarily
18 given by the customer groups, not the Staff -- made a
19 proposal, two proposals to the company. One was with an
20 IEC and one was without.

21 Q. Okay.

22 A. And the company was really given the
23 option. They made that determination that they would take
24 the proposal without, and I can't go to really why they
25 did that or chose -- chose that.

1 Q. Okay. And I don't want to get too much
2 into your negotiation, but you're telling me the option,
3 the offer that was extended by Staff; is that correct?

4 A. No. It was really -- we were present, and
5 we were involved in the negotiations, but it was really
6 the customer groups who made the determination as to the
7 amount, and they made the presentation to Aquila.

8 Q. Has Staff taken any position in regard to
9 the appropriateness of Aquila's fuel mix in MPS currently,
10 or do you know that?

11 A. We did not challenge it in this case. We
12 certainly have encouraged them to, one, build generation.
13 We certainly have taken positions in prior cases and this
14 case with that regard, to have ownership as opposed to
15 purchasing and being at the mercy of the market. That
16 doesn't really address the fuel mix question.

17 The fuel mix is obviously something that
18 several utilities need to look at, and the Staff has
19 encouraged those utilities to look more at base load
20 generation, and Aquila has certainly been encouraged to do
21 that. And I must say that they are involved in the
22 Iatan 2 project, as I'm sure you're aware of.

23 Q. Does Staff believe that MPS is currently
24 short on base load generation in comparison to their load
25 needs?

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1 A. I'm not sure I'm the one that would
2 answer -- best answer that question.

3 Q. That's okay. That's okay if you don't.
4 That's fine.

5 This settlement is -- I think,
6 Mr. Featherstone, that's probably all I have right now.
7 Maybe someone else might have some questions for you.

8 JUDGE WOODRUFF: Do any of the other
9 Commissioners have questions for Mr. Featherstone?

10 (No response.)

11 JUDGE WOODRUFF: All right. Then,
12 Mr. Featherstone, you can step down.

13 COMMISSIONER GAW: I may need some more,
14 but I don't have it right now.

15 Staff, back on this question about time of
16 this -- of this rate case, I'm having a little difficulty
17 understanding again the rationale behind what appears to
18 be pretty mainly an agreement that another rate case is
19 going to be filed in just a couple months, and I'm not
20 sure how that all fits together with this particular
21 settlement. Can you explain this to me?

22 MR. WILLIAMS: I'm not quite sure what you
23 mean. There's an agreement that Aquila will not file
24 before July 1 of this year, and there's a requirement that
25 they will file within two years of when rates become

1 effective.

2 COMMISSIONER GAW: What is the reason that
3 we're dealing with the possibility of an additional rate
4 case within just a few months of this agreement?

5 MR. WILLIAMS: I think from, and I --
6 Aquila can correct me if I'm misspeaking, but I think
7 their interest was -- and I think Mr. Swearengen may have
8 stated it before -- concern with fuel costs, and I think
9 probably also the possibility of a fuel clause adjustment
10 becoming available to them.

11 COMMISSIONER GAW: Mr. Swearengen, you want
12 to revisit that?

13 MR. SWEARENGEN: I'll be glad to, your
14 Honor. I think the first point we'd like to make is that
15 we had hoped that, in the context of this case, the one we
16 have in front of you now, we could get a fuel adjustment
17 clause. We found that the interim energy charge
18 mechanism, we've tried it and we just don't find that to
19 be satisfactory.

20 Through the course of the discussions with
21 the other parties in this case, I think we concluded that
22 the question of whether or not we could get a fuel
23 adjustment clause in this case would lead to litigation
24 and litigation risk which we could not stand. And as a
25 result, we decided to capture our fuel costs in base

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1 rates.

2 But because of the potential for increasing
3 fuel costs in the immediate future, we couldn't close the
4 door to come back as early as July 1 with another rate
5 case. So it's simply the desire to protect ourselves in
6 the event of the anticipated increase in fuel costs. And
7 hopefully in that next rate case we can get a fuel
8 adjustment clause.

9 COMMISSIONER GAW: And the concern about
10 the availability of the fuel adjustment clause was what
11 again? What's the specific concern from a legal
12 standpoint?

13 MR. SWEARENGEN: The argument that was
14 presented to us by others in the context of this case was
15 that until this Commission promulgates rules for a fuel
16 adjustment clause, that we would not be entitled to one,
17 and should we have brought that issue to the Commission
18 and litigated it and prevailed, we face litigation risk
19 and those dollars that we are recovering through that fuel
20 clause tied up pending that litigation. So that's
21 something that this company and probably any other utility
22 company in this state could not stand.

23 COMMISSIONER GAW: Did you -- did your
24 client agree with that position in regard to whether or
25 not that fuel adjustment surcharge was available?

1 MR. SWEARENGEN: I think it's our view that
2 it was available, and that perhaps the Commission could
3 authorize it, but because of the position taken by other
4 parties --

5 COMMISSIONER GAW: I understand the
6 litigation risk issue. I'm just really asking about
7 whether you had a different position from a legal argument
8 standpoint.

9 MR. SWEARENGEN: Well, the statute says
10 that if it's effective January 1 of this year, and it also
11 says that the Commission shall promulgate rules, and those
12 haven't been promulgated, so there is the issue.

13 COMMISSIONER GAW: Okay. Regarding the
14 fuel price, did Aquila have some particular fuel price
15 figures in mind when it entered into this settlement
16 agreement?

17 MR. SWEARENGEN: Well, I think I would ask
18 you to defer that, if you would, please, to one of the
19 company representatives. I mean, we would have had a
20 litigation position, obviously, if we had tried that issue
21 as to what those fuel costs would have been, but because
22 this is a black-box settlement, I just don't think you can
23 dig into it to find out what those numbers are.

24 COMMISSIONER GAW: So are you telling me I
25 should ask them whether there was some figure, or are you

0102

1 telling me it's a useless waste of time for me to ask?

2 MR. SWEARENGEN: What I'm telling you is
3 you may be able to get more out of them than you can get
4 out of me.

5 COMMISSIONER GAW: That's normally the
6 case. Well, let me try one of them. Let's see. After
7 hearing your remarks, I suspect it is a useless waste of
8 time, after they heard the remarks.

9 JUDGE WOODRUFF: Do you wish to call a
10 witness?

11 COMMISSIONER GAW: Who is it that knows
12 that?

13 MR. SWEARENGEN: Either Mr. Williams or
14 Mr. Clemmens probably.

15 COMMISSIONER GAW: Let me try Mr. Clemmens.
16 I might have other questions for Mr. Williams about
17 whether he's gotten any recent memos or e-mails that he
18 hasn't opened.

19 (Witness sworn.)

20 JUDGE WOODRUFF: You may be seated. You
21 can ask your questions.

22 GARY CLEMMENS testified as follows:

23 QUESTIONS BY CHAIRMAN GAW:

24 Q. I'll just get right on with it here. I'm
25 not even going to try to qualify, but you might tell me

0103

1 who you work for.

2 A. Gary Clemmens. I work for Aquila, director
3 of regulatory for Missouri.

4 Q. Okay. Do you know anything about this fuel
5 mix issue?

6 A. Yes, I'm acquainted with it.

7 Q. How are you familiar with it?

8 A. I provided some of the information that
9 Mr. Featherstone referred to on the IEC calculations
10 mostly.

11 Q. Okay. And how do you have to do with that
12 as director of regulatory affairs or whatever your
13 position is?

14 A. We report reporting -- the requirements to
15 the Staff. We provide those.

16 Q. Okay. Do you calculate them?

17 A. Under my supervision.

18 Q. Okay. So when you-all entered into this
19 settlement, did you have some fuel numbers in mind in
20 believing -- to come to the conclusion that the settlement
21 was reasonable?

22 A. We had hedged gas prices of about \$8.42 for
23 about two-thirds of our gas for 2006.

24 Q. Okay.

25 A. Purchased power price was for spot in the

0104

1 60 to \$70 range.

2 Q. Okay. Were those the figures you were
3 relying on in entering into this agreement?

4 A. Yes, sir.

5 CHAIRMAN DAVIS: I'm sorry. Could you have
6 the witness state that one more time, Commissioner?

7 COMMISSIONER GAW: Sure.

8 BY COMMISSIONER GAW:

9 Q. Go ahead.

10 A. We have hedged about two-thirds of our gas
11 for 2006 at about \$8.42, approximately, and that was --

12 Q. And then you utilized the figure of 60 to
13 \$70 on purchased power?

14 A. Purchased power.

15 Q. Is that pure spot or did that include --

16 A. That was the spot price. I don't have the
17 average price of what we have under contract.

18 Q. Okay. What is the fuel mix right now
19 percentages -- I can't recall off the top of my head -- in
20 MPS from coal and gas and whatever else that's there?

21 A. We have about -- these are, again,
22 estimates, around 600 megawatts of base load.

23 Q. Is that all coal?

24 A. That's coal. That's between MPS and
25 Jeffrey.

0105

1 Q. Okay.

2 A. For MPS. And then we have probably a
3 couple hundred megawatts of intermediate, and the rest
4 would be peaking. We peak at about 1200 megawatts
5 annually.

6 Q. And how much peaking then would that be, do
7 you think?

8 A. About 400, 4 to 500.

9 Q. So about half of what you have is base load
10 and the other half is intermediate and peaking?

11 A. Peaking.

12 Q. And is the intermediate gas?

13 A. Yes. Some of those are purchased power
14 contracts. They're not all owned.

15 Q. Does that include the South Harper facility
16 in those numbers?

17 A. Yes. Or at 300 peaking, it does right now.
18 Currently, it would include that 300 megawatts.

19 Q. The 400 includes the 300-some-odd?

20 A. Right.

21 COMMISSIONER GAW: Okay. Thank you, sir.

22 Anybody else have any questions of this witness while he's
23 here?

24 JUDGE WOODRUFF: Anyone else have any
25 questions for this witness?

0106

1 CHAIRMAN DAVIS: Okay.

2 QUESTIONS BY CHAIRMAN DAVIS:

3 Q. You've got two-thirds of 2006 hedged at
4 that 8.62?

5 A. 8.42.

6 Q. 8.42. And are you just month to month on
7 the rest of it or --

8 A. Yeah. We would buy spot, spot gas.

9 Q. Spot gas. Do you think that's -- I mean, I
10 understand that, you know, when I last checked yesterday,
11 I believe the NYMEX exchange March contracts were in the
12 7.75 to \$8 range. Is that roughly correct?

13 A. My knowledge is in that range, yeah.

14 Q. But, you know, I've seen -- I have seen
15 projections from EIA and others that predict that gas is
16 going to be in the \$9 range this year. Don't you think it
17 would be prudent to lock in a little more of that natural
18 gas or do you think you can purchase power more cheaply?
19 I'm just -- you know, I mean, if we're -- if this
20 agreement's only going to give you \$8.42 per MMBtu, I
21 would think you'd want to lock in as much as you can at or
22 below that rate. But you tell me if I'm wrong.

23 A. You're a little bit out of my expertise on
24 the policies that we have for hedging, and I probably have
25 to defer to someone else that would have that policy.

0107

1 Q. And who might that someone else be?

2 A. No one -- we didn't bring that person down
3 with us.

4 CHAIRMAN DAVIS: All right. I see
5 Mr. Conrad with his hands up back there. I think he's
6 volunteering to help you. He takes it back. All right.
7 I don't have any questions else for this witness right
8 now.

9 JUDGE WOODRUFF: All right. You can step
10 down, sir.

11 I'm sorry. Do you have any more questions
12 for this witness?

13 COMMISSIONER GAW: Just one, I think.

14 FURTHER QUESTIONS BY COMMISSIONER GAW:

15 Q. And that is, you said you have about 1,200
16 peaking load. And if I -- if I just round these numbers
17 that you gave me, you've got 1,200 megawatts of capacity?

18 A. That's our annual peak, around 1,200.

19 Q. That gives you no additional reserve
20 margin?

21 A. We have a 15 percent reserve margin.
22 Again, I was using round numbers.

23 Q. So it actually would be a little greater --

24 A. Right.

25 Q. -- than the numbers you gave me on the

0108

1 generation capacity you have?

2 A. Right. With the contracts, yes.

3 Q. Including the contracts?

4 A. Yes.

5 Q. How much of that total 1,200 in generation
6 was off of contract?

7 A. Currently we have a 275 megawatts would be
8 under contract.

9 Q. And that is what kind of generation?

10 A. 75 is base load with NPPD contract, and
11 200 is with Calpine, which is -- energy would be peaking.

12 Q. Is that the -- is that the Calpine
13 intermediate facility -- no, that's not that facility.

14 A. Yes, it's that facility, but it's --

15 Q. In Cass County?

16 A. Yes,

17 Q. So that's running currently?

18 A. That is available for us for this summer.

19 Q. It is available?

20 A. End of the current contract. Now, whether
21 that's -- with the situation with their legal
22 difficulties, if that's going to be fulfilled, but at this
23 point it is.

24 MR. SWEARENGEN: Judge, if I could just
25 interject at this point. I'm not sure whether these

0109

1 numbers we're getting into are part of the contracts that
2 are highly confidential or not.

3 BY COMMISSIONER GAW:

4 Q. That's a possibility. So I don't know the
5 answer to that, obviously. We'll try to avoid the actual
6 numbers, but the Calpine facility is contemplated to be a
7 part of your generation mix for the summer?

8 A. For the summer, correct.

9 COMMISSIONER GAW: Okay. Thank you.
10 That's all I have right now of this witness.

11 JUDGE WOODRUFF: All right. You may step
12 down.

13 (Witness excused.)

14 COMMISSIONER GAW: In regard to -- well,
15 let me go on to rate design, then I'll come back to this
16 question. The rate design numbers here that have been
17 signed off have percentages attached to them without any
18 additional revenue increase. I'm not sure whether that --
19 I'm not sure if it matters on the percentages once you add
20 in the revenue increase, but I'm looking for the figures
21 on what the average consumer is going to pay when I
22 include rate design shifts on top of the rate increases,
23 and I want to start with residential customers and then
24 work through the other classes. Could somebody give me
25 these numbers?

0110

1 MR. WILLIAMS: I think -- I think James
2 Watkins probably can do that.

3 JUDGE WOODRUFF: If Mr. Watkins could come
4 forward.

5 (Witness sworn.)

6 JUDGE WOODRUFF: You may be seated.

7 JAMES C. WATKINS testified as follows:

8 QUESTIONS BY COMMISSIONER GAW:

9 Q. State your name, please.

10 A. My name is James C. Watkins.

11 Q. What do you do, Mr. Watkins?

12 A. I'm the manager of economic analysis in the
13 energy department.

14 Q. All right. And how long have you held that
15 position?

16 A. A couple of years. Been with the
17 Commission for 23.

18 Q. That's great. Okay. Now, tell me what
19 your -- how long have you been dealing with this case?
20 Never mind. Strike that.

21 You're familiar with this case, aren't you?
22 Mr. Watkins, you're familiar with this case?

23 A. Yes, I am.

24 Q. Let me ask you this, then. If you've got
25 the figures, give me -- give me the rate impact to

0111

1 residential customers as a result of this stipulation.

2 A. For the Light & Power division, we're
3 calculating that the impact on residential customers would
4 be an increase of 6.26 percent.

5 Q. 6.26 percent?

6 A. Yes. And for the Missouri Public Service
7 division, it would be 8.82 percent.

8 Q. 8.82 percent. Now, is that including or
9 excluding the interim energy charge?

10 A. That's from what they will be paying if the
11 Stipulation & Agreement is approved to what they are
12 currently paying, including the interim energy charge.

13 Q. Including. So if I -- what's the
14 percentage of increase in base rates, excluding the
15 interim energy charge?

16 A. I believe that's 8.72 percent for Light &
17 Power.

18 Q. 8.72. And for MPS?

19 A. 13.49.

20 Q. 13.49 percent. Okay. And give me, if you
21 could, the average customer dollar figures of before and
22 after.

23 A. I don't have that one handy.

24 Q. Did you calculate it?

25 A. I did not.

0112

1 Q. Could you provide it for us later?

2 A. Yes, we will.

3 Q. And do both for me, if you would.

4 A. Both Light & Power and MPS for residential?

5 Q. And both including and excluding the IEC.

6 A. We will do that.

7 Q. All right. And then if you would please go

8 on to whatever the next category you want to go on to, and

9 go through the list for me.

10 A. Category being?

11 Q. Of customers.

12 A. For Light & Power, the increase considering

13 the IEC, the overall impact will be 3.91.

14 Q. To whom?

15 A. Small general service.

16 Q. Thank you.

17 A. Light & Power.

18 Q. Small general service. Okay. Go ahead.

19 A. 3.91 percent.

20 Q. 3.91. All right.

21 A. It will be more convenient for me if I can

22 tell you -- the order to tell you would be what the total

23 increase is in permanent rates for the small general

24 service class of Light & Power next. Is that all right?

25 Q. That's fine. We just need to catch up with

0113

1 you. Small general. I thought that's what you just gave
2 me actually.

3 A. I gave you small general service for
4 Light & Power, the bill impact of 3.91 percent.

5 Q. Okay.

6 A. Which includes the effects of the IEC.

7 Q. All right.

8 A. The 6.35 percent is the actual increase in
9 the tariffed rates or permanent rates.

10 Q. Okay. Now I'm following you. That's L&P
11 for small general service. Okay. Go ahead.

12 A. For L&P large general service --

13 Q. Large general service. Okay.

14 A. -- the corresponding numbers for the total
15 increase in the bill, the one that includes the IEC and
16 the one that they would get after the Stipulation &
17 Agreement goes into effect, that increase would be
18 2.64 percent.

19 Q. Okay.

20 A. The actual increase to the permanent rate
21 levels is 6.35 percent.

22 Q. All right.

23 A. For the large power service customers at
24 Light & Power, the net effect on the bill would be a
25 reduction of .59 percent.

0114

1 Q. Minus 5.9 percent?

2 A. No. Minus 0.59. And the actual increase
3 in the permanent rate is 2.10 percent.

4 Q. All right.

5 A. For the remaining customers, lighting and
6 other, the bill impact is 4.58 percent. The actual
7 increase in the permanent rates would be 6.35 percent.

8 Q. Okay.

9 A. Now, if we switch back down to the Missouri
10 Public Service division --

11 Q. All right. Go ahead.

12 A. Beginning with SGS, the bill impact would
13 be an increase of 5.97 percent. The actual increase to
14 permanent rate would be 11.27 percent. For the large
15 general service class, the bill impact would be
16 1.46 percent. The actual increase to the permanent rate
17 levels would be 7.85 percent. For the large power class,
18 the bill impact would be an increase of .52 percent.
19 That's 0.52.

20 Q. Okay.

21 A. The actual increase to the permanent rate
22 levels would be 6.82 percent. For lighting and other, the
23 bill impact would be 7.57 percent increase. The actual
24 increase to the permanent rates would be 11.27 percent.

25 COMMISSIONER GAW: Okay.

0115

1 JUDGE WOODRUFF: Does anyone else have any
2 questions?

3 QUESTIONS BY CHAIRMAN DAVIS:

4 Q. Mr. Watkins -- I'm sorry. I was going to
5 call you Proctor, but I apologize. Which one of those
6 categories is the State of Missouri in, in terms of if we
7 have office buildings in Aquila's territory? Would you
8 speculate?

9 A. I would have to speculate. I do not know
10 all of the buildings that they have. I would guess that
11 predominantly they would be large general service.
12 There's a possibility they could have some buildings that
13 would qualify for the large power service, but I do not
14 know for sure.

15 CHAIRMAN DAVIS: Okay. Thank you,
16 Mr. Watkins.

17 COMMISSIONER MURRAY: Just one.

18 JUDGE WOODRUFF: Commissioner Murray?

19 QUESTIONS BY COMMISSIONER MURRAY:

20 Q. Mr. Watkins, you may have answered this
21 when I was out of the room just a short while, but did you
22 go into the residential class?

23 A. I'm not sure.

24 Q. The impact?

25 A. Oh, I'm sorry. Yes, I did.

0116

1 Q. Would you mind just -- you don't have to
2 give the actual increase, if you'd just give the impact to
3 the residential in each area.

4 A. Certainly. The bill impact for the Light &
5 Power division would be 6.26 percent. The bill impact for
6 the Missouri Public Service division would be
7 8.82 percent.

8 COMMISSIONER MURRAY: Thank you. That's
9 all, Judge.

10 JUDGE WOODRUFF: Commissioner Clayton?

11 QUESTIONS BY COMMISSIONER CLAYTON:

12 Q. Mr. Watkins, I wanted to verify the
13 information that you're going to report back to
14 Commissioner Gaw. I believe he asked for a computation of
15 what these percentages mean, at the very least for
16 residential customers; is that correct?

17 A. That's correct, in terms of dollars, rather
18 than as a percentage.

19 Q. And how are you going to compile that? Is
20 that based on an average usage per month basis, or what is
21 your plan?

22 A. I plan to have the people that normally do
23 that do that. I believe that both the company and the
24 Staff have agreed on what they will use for a typical
25 customer, and that has a certain amount of usage in each

0117

1 month and an annual equivalent. So that when we say it
2 will be one thing, it's equivalent to when -- underlying
3 customers the same, so that when they're talking about
4 that customer and we're talking about that customer, we're
5 talking about the same one. So we will use that customer
6 and his bill, apply these percentages and convert it to
7 dollars.

8 Q. Do the people that do that, who normally do
9 that, do that also for all the different customer classes
10 or is it normally just done for residential?

11 A. It's normally done for residential because
12 the press release that accompanies the rate filings are
13 typically including, here's what happens to the typical
14 residential customer from this rate increase request. And
15 I don't believe that that normally includes what's
16 happening to other customer classes.

17 In part that's because it's even more
18 difficult for other customer classes to determine what a
19 typical customer is, and plenty hard enough within
20 residential.

21 Q. Well, do you know if the people who
22 normally do these calculations, who know how to do these
23 calculations on what the actual dollar impact would be on
24 a particular customer, would it indicate on those classes
25 of customers where there is a -- where there's a decrease

0118

1 in rates, would it be a decrease in dollars?

2 Let me try to clarify. Large general
3 service operators, I think in MPS you said was a negative
4 .5 percent or decrease of .5 percent, that that would
5 equate with a dollar reduction in what they normally pay
6 for their power service. Is that what that means?

7 A. That would be large power service at
8 Light & Power.

9 Q. I squeezed all these numbers into a tiny
10 little margin and it makes absolutely no sense, so --

11 A. I --

12 Q. There were two of them that had negative
13 amounts. There were two of them that had negative
14 amounts. I'm interested to know if those negative amounts
15 actually reflect a reduction in actual dollars on
16 projected bills.

17 A. Yes.

18 Q. They do?

19 A. Yes.

20 Q. And that would be large general service
21 customers under L&P?

22 A. Large power service.

23 Q. Large power service, and what does that
24 mean, large power service?

25 A. Typically your larger industrial customers.

0119

1 Q. And that's under L&P and MPS?

2 A. I only show decreases for the large power
3 customers in the Light & Power division. The large power
4 customers in the MPS division have about a half percent
5 increase.

6 Q. That was the .52 percent increase?

7 A. Yes, that was an increase.

8 Q. But there were two negatives. There was
9 one other, or maybe I am mistaken. The only decrease is
10 for large general service -- excuse me -- large power
11 service in L&P?

12 A. That's correct.

13 Q. Even though they have a 2.1 percent
14 increase in what their tariffed base rates would be?

15 A. That's correct. I would clarify that I
16 understood Commissioner Gaw's question to be to convert
17 the percentage amounts to dollars for only the residential
18 class. We do have a concept of what the typical
19 residential customer means, but not for the other classes.
20 But yes, the percentages do convert to dollars.

21 Q. I'm having difficulty reading my writing,
22 and I just wrote it. When you do these calculations, do
23 you do a calculation or do you have a figure or a chart
24 that shows revenue impact on these on these amounts by
25 class?

0120

1 A. No.

2 Q. You don't do that. Okay. Do you have any
3 idea of what that .05 percent reduction for large power --
4 large power service customers in L&P, what that
5 .05 percent actually means in total dollars reduced in
6 that class?

7 A. Yes.

8 Q. Hallelujah. What have you got?

9 A. That's \$167,179.

10 Q. 166?

11 A. 167,179.

12 Q. 179. Okay. And that's in L&P, correct?

13 A. Uh-huh.

14 Q. And do you know the total amount of
15 revenue -- well, if I -- that amount is .05 percent of
16 what the total amount of, what revenue is generated
17 through gas?

18 A. Yep, including the IEC.

19 Q. Okay. I was told there would be no math,
20 but that's okay. Thank you.

21 JUDGE WOODRUFF: Let me ask a clarifying
22 question. This is probably for Staff counsel. This
23 additional information about average customer effects, is
24 that something that can be provided this afternoon or is
25 that something that has to be filed later?

0121

1 MR. WILLIAMS: Actually, that's probably
2 better directed to the witness.

3 JUDGE WOODRUFF: All right. Mr. Watkins?

4 THE WITNESS: I would think that would be
5 available today. I'm not sure what you meant by this
6 afternoon, but -- okay.

7 JUDGE WOODRUFF: Well, eventually we're
8 going to take a break here. Okay. That's my only
9 question. That's my only question. Commissioner Gaw, we
10 are approaching lunch time.

11 COMMISSIONER GAW: You told me you didn't
12 want to break.

13 JUDGE WOODRUFF: Do you want to break for
14 lunch?

15 COMMISSIONER GAW: I don't care. I just --
16 yeah. I don't care.

17 JUDGE WOODRUFF: I know you have something
18 later in the afternoon. Should we take a short break,
19 45-minute break?

20 We'll take a break for lunch now and come
21 back at one o'clock.

22 (A BREAK WAS TAKEN.)

23 JUDGE WOODRUFF: We've had our lunch break
24 and we're ready to go back on the record. Mr. Williams,
25 did you have something you wanted to offer?

1 (EXHIBIT A WAS MARKED FOR IDENTIFICATION BY
2 THE REPORTER.)

3 MR. WILLIAMS: Yes. Mr. Watkins provided
4 some numbers. What I have -- that's been marked as
5 Exhibit A is a sheet that includes a table that has all
6 those numbers. And for purposes of this on the record on
7 the Stipulation & Agreement, the Staff would offer
8 Exhibit A.

9 JUDGE WOODRUFF: All right. I believe
10 other counsel have had an opportunity to see this also.
11 Exhibit A has been offered into evidence. Any objection
12 to its receipt?

13 (No response.)

14 JUDGE WOODRUFF: Hearing none, it will be
15 received into evidence.

16 (EXHIBIT A WAS RECEIVED INTO EVIDENCE.)

17 JUDGE WOODRUFF: And when we left off,
18 Commissioner Gaw, you were asking questions, so I'll come
19 back to you.

20 COMMISSIONER GAW: Thank you, Judge.

21 In regard to the weatherization program,
22 can somebody enlighten me on what, if anything, Aquila had
23 been contributing prior to this case for any
24 weatherization, conservation or efficiency efforts?

25 MR. SWEARENGEN: We'll see if we can get

0123

1 that number.

2 MS. WOODS: I actually believe I have that
3 number. Aquila prior to -- prior to this case was
4 contributing I believe it was 93.5, \$93,500 for energy
5 efficiency programs. And I believe it was 50,000 of that
6 was going directly to low-income weatherization,
7 specifically to the City of Kansas City.

8 COMMISSIONER GAW: Okay. And is this
9 amount that's contained in the stipulation in addition to
10 that amount or does it replace that amount?

11 MS. WOODS: It replaces that amount. It
12 includes that amount and adds about another, I think it
13 comes to 99, something like that, thousand.

14 COMMISSIONER GAW: Was there a Change a
15 Light program in the previous rate case?

16 MS. WOODS: That's where some of the money
17 did go, yes.

18 COMMISSIONER GAW: Okay. And these
19 commercial audits, is that something new or --

20 MS. WOODS: No. We had the commercial
21 audit, just not funded at quite this level.

22 COMMISSIONER GAW: Okay. Can you break the
23 numbers down for me and provide them so that they match
24 the categories that you have in this stip and just provide
25 it sometime today or tomorrow, perhaps?

0124

1 MS. WOODS: You mean the numbers that --

2 COMMISSIONER GAW: The categories,
3 weatherization, commercial audits, Change a Light.

4 MS. WOODS: And what you're asking for is
5 what Aquila was spending prior to?

6 COMMISSIONER GAW: Yes, what they were
7 spending prior to the implementation of this stip, if it's
8 adopted.

9 MS. WOODS: As I said, I know the 50,000
10 was specifically earmarked for low-income weatherization.

11 COMMISSIONER GAW: That's why I'm asking
12 you to do it afterwards, since you don't have the
13 information currently.

14 MR. WILLIAMS: Commissioner Gaw, I believe
15 Staff may be able to provide that information.

16 COMMISSIONER GAW: That's fine.

17 MR. WILLIAMS: In the rebuttal testimony of
18 Lena Mantle, on page 1, it reflects that the "Change a
19 Light, Change the World" program was being funded at
20 20,000 annually.

21 COMMISSIONER GAW: Okay.

22 MR. WILLIAMS: I don't see the current
23 commercial audit.

24 MS. WOODS: Would that leave 23,500 for the
25 commercial audit?

1 you, Mr. Williams. What impact does this portion of the
2 stipulation have on the depreciation accounts of Aquila?

3 MR. WILLIAMS: That's -- I can't answer
4 that question.

5 COMMISSIONER GAW: I thought I'd just give
6 you a chance at it, if you want it. If not, should I ask
7 Mr. Schallenberg?

8 MR. WILLIAMS: I'm hopeful that he'll be
9 able to provide those.

10 COMMISSIONER GAW: I suspect he'll have
11 some insight about that.

12 JUDGE WOODRUFF: He's coming forward like
13 he knows the answer.

14 And you're previously sworn, so you're
15 under oath.

16 THE WITNESS: Yes.

17 ROBERT SCHALLENBERG testified as follows:

18 QUESTIONS BY CHAIRMAN GAW:

19 Q. Did you hear that question,
20 Mr. Schallenberg?

21 A. Yes. On Aquila's books is the South Harper
22 facility, which is rated at 315 megawatts, and it is in
23 accounts in the generation function that have prescribed
24 depreciation rates. So that amount, there is an amount on
25 the books. The number in the stipulation, the

0127

1 140 million --

2 Q. Yes.

3 A. -- there are agre-- there are conditions in
4 the Stipulation & Agreement that that number will go
5 through and be trued up as to what ultimately will be
6 allowed to remain in those accounts for the South Harper
7 facility.

8 COMMISSIONER GAW: Okay. I want to go -- I
9 want to ask you some more questions about that, but there
10 was a little bit of a confusing statement to me in the
11 stipulation. Mr. Williams, you may want to answer this
12 for me. I thought that I saw in one place in the
13 stipulation where it said there would be no true-up, but
14 then in the other part of the stipulation dealing with
15 this facility, it contemplates a true-up in a narrow
16 sense.

17 And I guess I'm -- just from the standpoint
18 of clarity, is there a contradiction of sorts in the way
19 the stip is written?

20 MR. WILLIAMS: I think the contemplation
21 was that there would be no further true-up proceedings in
22 this rate case, but there is contemplation of a true-up
23 with regard to the numbers that are going to be attributed
24 to the 315 megawatt -- megawatts of power that are -- and
25 Staff used as a proxy the South Harper facility to obtain

0128

1 the numbers that it's used for that 315 megawatts, which
2 in Staff's view is why there's a reference to South Harper
3 in there.

4 COMMISSIONER GAW: Okay. So in essence,
5 the way that the stip is drafted in regard to no further
6 true-up you think is accurate? It's not -- it's not a
7 contradiction?

8 MR. WILLIAMS: Correct. I mean, the
9 true-up is not for purposes of the rates in this case.

10 COMMISSIONER GAW: I can't remember where
11 that particular provision is. And I'm only raising it
12 just for the sake of clarification.

13 MR. SWEARENGEN: Judge, it's paragraph 7 on
14 page 5.

15 COMMISSIONER GAW: It says, there shall
16 be no true-up of any items in this case, and that's why
17 I'm -- that's why I'm a little troubled by the wording. I
18 don't think you-all are in disagreement in regard to what
19 you mean, but --

20 MR. SWEARENGEN: Well, it says other than
21 as provided in paragraph 6.

22 COMMISSIONER GAW: I see. I didn't read
23 far enough. Thank you. My confusion is now resolved.
24 Thank you.

25 BY COMMISSIONER GAW:

1 Q. All right. So Mr. Schallenberg, let me go
2 back then. The 315 megawatts are placed on the books of
3 Aquila to be depreciated out at what amounts of
4 provisional cost?

5 A. Right now, they will have booked the
6 amounts that they've closed to the work order, which is
7 the South Harper facility, on their books. That amount at
8 the time the stipulation was being prepared, the best
9 estimate of what we thought the number was was
10 \$140 million. With the -- the Staff and the Office of
11 Public Counsel are the only two entities I know that are
12 doing an active audit of all the specific charges, looking
13 for any legal fees, any costs for additional property.

14 I know landscaping is looked at and other
15 charges up through, I think the agreement specifies
16 through October 1st. There's an AFDC test power agreement
17 that's in the stip, and it will be trued up for that. So
18 we will do all of those things.

19 Then in the -- in that 140 million is also
20 an evaluation agreement as to the turbines that we
21 inherited. I know there should be a more technical term
22 from the non-regulated operations, and then that will
23 afford Aquila the opportunity to write off the portion of
24 the costs that aren't included in the true-up.

25 But the amounts that will be on their books

1 will be in that account, and I think -- I can't recall
2 exactly the depreciation rate, but it's in the schedule of
3 the rates for this case, and the Commission's approved
4 rate won't be the rate it will be depreciated on their
5 books.

6 Q. Okay. So isn't it -- it is pretty clear,
7 then, that this stipulation results in the South Harper
8 facility going into the recognized books, recognized by
9 the Commission from the standpoint of generation and
10 future ratemaking purposes. Is that true or not?

11 A. There's a couple pieces to that question.

12 Q. That's true. Go ahead and break it down.

13 A. Right now under our Uniform System of
14 Accounts --

15 Q. Okay.

16 A. -- they would be able to have and did book
17 any generating facility that they built into the plant
18 accounts. Now, their booking does not give them any
19 assurance that the amounts they book can be recovered in
20 rates or any guarantee, nor does it guarantee them that
21 the facility and the expenditures will be deemed prudent.

22 And then you have another threshold in
23 electric, and if it's found not to be fully operational
24 and used for service, even though the expenditures are
25 those dollar amounts and they were prudent expenditures,

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1 you can't prove it right.

2 So there's a disconnect between just what
3 they could do in their books and what will happen in
4 rates. There's a lot of other steps before you can get it
5 in rates. The agreement in the language you're looking at
6 is addressing what they'll do on their books.

7 Q. Okay.

8 A. But there is also a commitment on Aquila's
9 behalf that in future ratemaking proceedings, regarding
10 this 315 megawatt facility, the amount that they will seek
11 recovery on will be this trued up amount plus any
12 additions, construction additions done to that facility
13 after I think it's October 31st of 2005. But that puts a
14 limit on what Aquila will ask for in a future proceeding
15 for rate recovery. It doesn't assure rate recovery for
16 that amount.

17 Q. Okay. Now, it's difficult for me to
18 understand exactly what this portion of the agreement does
19 from Staff's viewpoint in arriving at the bottom line
20 rates in this black-box settlement. So what from Staff's
21 standpoint is contained in rates that relate to this
22 315-megawatt generating facility?

23 A. Staff's case was predicated and remains
24 today on the premise that the building of the 315-megawatt
25 facility was inadequate and that it should have been built

1 at an amount -- I think Staff's case says
2 525 megawatts. And so to create the amount of money the
3 Staff put in its case, it had to look at what would it
4 have cost to build a 525-megawatt facility.

5 We had a model to use, which is the South
6 Harper construction facility, because it in essence is
7 315, and so from that we used those cost numbers to
8 construct a cost estimate that we included in our case for
9 525 megawatts. Now, we didn't include market-based
10 purchased power agreements. So our case is predicated on
11 the assertion that the prudent course for Aquila to have
12 taken was to have built its own generation in the amount
13 of 525 megawatts.

14 Q. Of gas?

15 A. It's combined cycle, yes.

16 Q. Combined cycle or --

17 A. Excuse me. CTs.

18 Q. Okay. Combustion turbines?

19 A. Yes.

20 Q. Is Staff suggesting that it would have been
21 prudent for Aquila to have added 500 megawatts of -- over
22 500 megawatts of gas combustion turbines, as opposed to
23 adding additional base load generation?

24 A. Well, yes. At the time the option for
25 Aquila to have added 500 megawatts of base load capacity

1 was not an option that was available to Aquila within this
2 time frame.

3 Q. Because they had not done anything about
4 putting in any base load generation early enough to have
5 had it up and running by the date that this particular
6 combustion turbine could have been placed up and running?

7 A. That -- that is true in part. But it's
8 also, Aquila's size is such that when you say a base load
9 unit, you can build small coal units. That gives you base
10 load capacity, but their efficiency and their use is, at
11 least in Staff's review, they don't justify the
12 expenditures.

13 Aquila had in their plans or the MoPub
14 district had always looked at participation in Iatan 2,
15 and in the '90s Iatan 2 was projected to be in by the end
16 of the '90s or 2000. And without the Iatan 2 project
17 going forward, of which Aquila does not control the site
18 and cannot initiate on their own, they did not have that
19 opportunity.

20 Now, there have been discussions of them
21 building another coal facility, but they'd have to find a
22 new site to build a coal facility. They don't have an
23 existing site that has the multi-unit expansion capability
24 today. So the Staff's case is not based on accepting that
25 they had a reasonable opportunity to build a coal facility

1 to replace the expiration of the purchased power agreement
2 with the Aries unit.

3 Q. It's based on what set of assumptions then?

4 A. It's based on the assumption that Aquila at
5 the end of the five-year period for the Aries contract
6 should have ownership of generation to replace that
7 capacity, and the option that was within their control was
8 to build 525 megawatts, and you can get a different
9 configuration depending on what type of generation you buy
10 of CT capacity.

11 Q. Mr. Schallenberg, I understand where your
12 starting point is, but I'm not sure that I can stomach
13 starting at the same place. If there were decisions that
14 were not made by Aquila earlier in time and the decisions
15 that were not made or decisions that might have been made
16 placed them in a predicament, ratepayers I don't believe
17 should be responsible for that predicament.

18 So I guess I'm asking you whether or not
19 this particular recommendation that you have and the way
20 you calculated it was based upon a thorough analysis of
21 the prudence of Aquila's decisions for the years leading
22 up to this episode, and not just the months or -- the
23 months they might have had to respond, the couple of years
24 they might have had to have responded to the ending of the
25 combined cycle access at the Aries plant.

1 A. And the answer to that is, in the IRP
2 process with Aquila, other than the Iatan 2 project, the
3 only other -- there had been discussions at various times
4 in the '90s of a coal unit -- if it isn't Iatan 2, a coal
5 unit as early as 2008. Now, I do not have and I'm not
6 aware there was a practical option.

7 Now, when I say that, if you don't -- if
8 you -- depending how active you are finding sites and
9 working on it can limit what options you study. I can
10 make that a self-fulfilling prophecy, and I know that in
11 the Staff's efforts especially with other companies and
12 Aquila, we have -- emphasis is probably a gentle term --
13 pushed for more exploration of options.

14 But I do not -- I am not aware of a
15 practical option that was under their control to build a
16 coal unit that would have been efficient. Now, you can
17 build small ones, but that would cause a whole new host of
18 problems. I'm not aware that there was an option that
19 they could have exercised to have built coal, independent
20 of partners.

21 On the western side of the state, we do
22 not -- we are not served by any IOU that is large enough
23 to build a coal project on their own. Even KCP&L isn't
24 big enough to do that. AmerenUE is the only entity that
25 serves Missouri that is big enough, in terms of its size,

1 to decide to build a coal unit independent of partners.

2 One other thing I will add to that. I am
3 aware that they do seek and at times have had
4 opportunities for purchased power agreements that are base
5 load, and they do have some of those now, and we don't
6 discourage that, but those have finite dates and will
7 expire at various times.

8 I think Mr. Clemmens mentioned a
9 75-megawatt purchased power contract that they have with
10 Nebraska Public Power District, and there usually is
11 access to base load capacity on a short-term basis, and
12 that can be up to five -- five years, unless you have an
13 existing one, especially up in Nebraska and Iowa.

14 And with the new units being built in Iowa,
15 there may be some more opportunities in the near future,
16 but those aren't long-term solutions. Those are only
17 short-term solutions.

18 Q. So are you telling me Staff is currently
19 satisfied with the generation mix, fuel mix of Aquila?

20 A. I would say no. I mean, I would say we are
21 encouraging -- we are encouraging more diversification in
22 their fuel mix towards other sources than gas.

23 Q. And you -- is there a documented -- has
24 there been documented to Staff all of the activity that
25 Aquila has engaged in to attempt to deal with what has at

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1 least in some opinions expressed has been a shortage of
2 base load generation in its MPS system?

3 A. I'm trying to -- the answer to your
4 question, I'm trying to remember -- are you asking me how
5 much -- do we have all the data that was created at Aquila
6 under our control? Is that what you're asking me?

7 Q. I'm asking whether or not you have access
8 to significant amounts of data that show all of the
9 efforts that Aquila has been making to try to address what
10 is perceived to be a shortfall in their base load
11 generation portfolio in the MPS system?

12 A. I would say we have enough to know what was
13 going on. Aquila in the MoPub district probably beginning
14 in the late '90s made a decision not to invest in
15 generation, and actually the Aries unit is in essence a
16 unit that they didn't own as a regulated unit. So they
17 weren't looking at owning any type of generation, base
18 load, peaker or combined cycle unit, until the current
19 facility was built, for at least five years.

20 Q. And you know the reason that was stated by
21 Aquila for not looking at owning additional generation to
22 meet their load needs?

23 A. I've heard multiple reasons.

24 Q. Well, why don't you give me the top ones,
25 if you could.

1 A. Well, one was they believed there was going
2 to be restructuring, and that with restructuring they felt
3 that any addition to the generation fleet only raised the
4 probability of stranded costs, which when they were
5 talking about restructuring stranded costs was one of the
6 topics within that general area. I've heard that it's
7 more economic not to build. And then I've heard the one
8 that we don't have those options.

9 Q. Okay. Do you agree with the second one,
10 that it's more economic?

11 A. To build?

12 Q. To not build?

13 A. No, not at all. And I say that, and I mean
14 in the long run. There are purchased power opportunities
15 that you can get that are economic, but as a matter of
16 just general course, I have not seen where an energy
17 provider does not keep control of the fixed assets that
18 meets their load. And in our meetings even with IPPs, we
19 had several with Calpine, even when we looked at
20 non-regulated providers, they held the same philosophy
21 that they did not run the risk of divorcing the load from
22 having physical generation to serve that load.

23 Q. Okay. Is it -- is part of the reason that
24 Staff believed that they need -- that Aquila needed
25 520 megawatts of additional generation, as opposed to just

1 315 megawatts, because of the expiration of the contract
2 dealing with the Aries plant?

3 A. Yes.

4 Q. Is that the reason?

5 A. Yes. I mean, because you had -- at peak
6 you had approximately 500 megawatts of capacity under
7 contract to meet the MoPub district's system peak
8 requirements, and with its expiration, it was -- it was
9 the Staff's position that you should have built and have
10 under control a fixed asset versus relying on purchased
11 power contracts.

12 Q. All right. Who owns legal title currently
13 to the South Harper facility, if you know?

14 A. I guess my answer would depend on how you
15 view the status of the Chapter 100 financing and under
16 Chapter 100 financing who owns title. I've heard both
17 answers even under Chapter 100 financing, whether the
18 governmental entity that's involved with the -- with the
19 Chapter 100 owns the facility or whether the utility owns
20 it. And --

21 Q. Well, okay. That's a legal question,
22 correct?

23 A. Yes.

24 Q. Legal question. I guess my -- what I'm
25 really asking you about is, if you know if there's been

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1 any late-breaking news about the current ownership of that
2 facility since the bonds that were issued on that facility
3 were determined to be void. Do you know whether or not
4 there's been any change in status of that facility?

5 A. No. And the 156 case that had the turbine
6 valuation in it and the Chapter 100 financing, I'm not
7 aware that we're addressing that issue actively right now.
8 I mean, I will say that the certificate case is probably
9 going to draw -- be treated as a higher priority right now
10 than the Chapter 100 financing will be.

11 Q. Okay. Now, I'm going to go back to what I
12 started out with here in regard to this depreciation. Is
13 there any way for me to see in this stipulation how much
14 of the rates are impacted by any allowed depreciation for
15 this 315-megawatt facility in the rates that are -- that
16 are resulting from this stipulation?

17 A. When you're saying rates, you mean the
18 customer's rates or depreciation rates?

19 Q. The customer rates now.

20 A. The Staff's cost of service will have in it
21 numbers somewhat earlier of the depreciation expense from
22 the plant accounts that had South Harper investments in
23 it. And on their books they will continue to depreciate
24 any balance in those accounts until there's an official
25 retirement on their books.

1 Q. But in these rates that you-all have agreed
2 to, is there any way for me to understand whether -- let
3 me say whether Staff was taking into account some
4 depreciation in coming to the conclusion that the rates
5 were just and reasonable in this stipulation?

6 A. Staff took into account in it arriving to
7 accepting the 38.5 -- because that's the MoPub district
8 and that's where the South Harper facility is --

9 Q. Yes.

10 A. -- it took into account its depreciation
11 estimate of its 525-megawatt unit.

12 Q. All right.

13 A. Now, on their books, when these rates
14 are -- assuming the Commission approves these rates, they
15 will book the revenues from the 38.5, but if the South
16 Harper facility is not retired, they will book
17 depreciation based on the investment that is booked in
18 those accounts, which will be trued up under this
19 \$140 million we discussed earlier in your rates. That's
20 the amount of depreciation that they will charge against
21 the rates that are in the stipulation that will be charged
22 to customers.

23 Q. Okay.

24 A. Because there's two levels of depreciation.
25 There's what will be on their books --

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1 Q. Okay.

2 A. -- and there's what was in the Staff's cost
3 of service for the Staff to say that the amount that's in
4 here is going to result in just and reasonable rates. We
5 had much more depreciation in our number than they did.

6 Q. Okay. Comparing those two things, one with
7 the Staff's 520-megawatt scenario and one if you just
8 assume that there really was a South Harper facility that
9 really was up and running and that really had been
10 approved by courts of competent jurisdiction, which we can
11 do more than assume on a couple of those, but not all of
12 them, which produces the highest rates, if everything else
13 is the same?

14 A. The highest?

15 Q. Rates to customers.

16 A. Oh. I guess I'm still missing -- the
17 highest rates to customers in the short run?

18 Q. Okay.

19 A. In the short run, in this case?

20 Q. Yes.

21 A. Would probably be -- from taking the
22 Staff's case, you would probably get a lower cost of
23 service if you put depreciation on a 315-megawatt unit
24 trued up for legal costs and landscaping and whatever.

25 Q. Yes.

1 A. And took what has currently been set for
2 the capacity to meet the other 200-megawatt shortfall by
3 buying a one-year market contract. That will give you a
4 lower cost of service in this case than it would to have
5 the 525-megawatt facility that the Staff has in its case.

6 Q. Yes. In the short run, Staff actually gave
7 more credit over to Aquila than the 315-megawatt scenario
8 in determining what rates were just and reasonable?

9 A. Yes. Our cost of service has more cost in
10 it at this time because of the selection of the assertions
11 that it was prudent to build a facility than Aquila will
12 incur in 2006.

13 Q. Yes. And, in fact, this stipulation does
14 call for the potential for a brand-new rate case to be
15 filed in June, which is a very short time away from now,
16 correct?

17 A. It allows them to file, I think it was
18 July.

19 Q. July?

20 A. July 1.

21 Q. I'll stand corrected.

22 A. But it allows them to file, but it requires
23 them to file in two years, and that's the fuel issue is,
24 they have the protection that they don't have to stay out
25 any longer than July, but they don't have to file. But

1 the other -- the other back side protection is, even if
2 fuel prices decline and no one files a complaint, they
3 have to file a case in two years.

4 Q. I understand. But in regard to just this
5 particular narrow issue --

6 A. Okay.

7 Q. -- the turn-around here is pretty short,
8 you know, especially if a rate case were filed in July.

9 A. Yes.

10 Q. So short-term can be pretty important in
11 this case because of that, in part because of that?

12 A. Yes. But I would say in that time frame
13 they only have under contract capacity for 2006 summer.
14 They will have to contract for capacity for 2007 and
15 beyond sometime before that summer hits.

16 Q. They have not done that yet, to your
17 knowledge?

18 A. To my knowledge, and to the Staff's
19 knowledge, they have not done it. That doesn't mean they
20 haven't.

21 Q. I understand. Is it -- is it accurate to
22 say that the amount of money that Aquila intends to pay to
23 its affiliates for the purchase of the three generating
24 units that are currently located at the South Harper
25 facility is, as a practical matter, zero?

1 A. Yes, in the sense if you're asking me will
2 there be a cash transfer from one account to another.

3 Q. Yes, that's what I'm asking.

4 A. The answer is yes. There's no -- it's done
5 on their books because the amounts are commingled.

6 Q. Okay. I'm going to give you a scenario,
7 and this may be a little convoluted, so if you need me to
8 repeat it, that would be fine.

9 If Staff had used an assumption that this
10 additional 315-megawatt capacity were available from an
11 affiliate of Aquila under an agreement that allowed them
12 to access that power and capacity at incremental cost,
13 what would that have done if that were the Staff's
14 position in regard to the bottom line, just and
15 reasonableness of the settlement?

16 A. When you say incremental cost, is it
17 Aquila's incremental -- the MoPub district's incremental
18 cost or the affiliate's incremental cost?

19 Q. The affiliate's incremental cost of that
20 generator.

21 A. That would result in a purchased power
22 agreement that would be cheaper than owning the facility
23 in the first year.

24 Q. And again, Staff did not look at it from
25 that standpoint in reaching its conclusion whether or not

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1 this result is just and reasonable that they've entered
2 into, correct?

3 A. That's correct. Staff's case is predicated
4 on ownership, with the understanding that ownership
5 usually is expensive in the first two to five years, but
6 then in giving -- I think our life on the units is about
7 25 years.

8 Q. Okay.

9 A. But then you look at -- and units are
10 living longer than we depreciate, the life we give them.
11 You're looking at 20-plus years where it will be cheaper.
12 So in order to take that position, we have to pay the
13 up-front cost for the four or five years to enjoy the
14 benefits for the 20-plus years.

15 Q. And in essence, the way Staff figured the
16 just and reasonableness of this settlements does exactly
17 that?

18 A. Yes. And I would expect that in this next
19 case that you asked me about a few minutes ago, Staff will
20 still include that facility, but it will be depreciated
21 with a couple of years and have deferred taxes on it, so
22 it will already be in a cost decline from what was
23 included in Staff's case in this case.

24 Q. And again, currently -- I think it's
25 already been made clear, currently there is an Order to

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1 tear this facility down in the next two months or so; is
2 that correct?

3 A. As I understand, the Order states that they
4 cannot produce electricity out of the facility right now.

5 Q. Okay.

6 A. Out of the South Harper facility. And if
7 they don't have the certificate either from one of two
8 sources, which I believe is the County or the Commission,
9 then I believe at May 31st the facility is -- is to be
10 removed.

11 Q. Dismantled or removed?

12 A. Yes. That's my understanding of the Order
13 that's applicable today.

14 Q. Okay. And when we're talking about this
15 facility, if I didn't say it in the question, we're
16 referring to the South Harper facility?

17 A. Yes.

18 Q. All right.

19 CHAIRMAN DAVIS: Commissioner, that's not
20 the hypothetical South Harper facility, that's the real
21 South Harper facility, correct?

22 COMMISSIONER GAW: I think it's the South
23 Harper facility that's hypothetically included in this
24 case. I think that's what it is.

25 CHAIRMAN DAVIS: Thank you.

1 BY COMMISSIONER GAW:

2 Q. Let me ask you on another topic,
3 Mr. Schallenberg, did you-all examine whether or not
4 Aquila's pension funds are currently adequately funded?

5 A. The answer would be yes. When you -- when
6 you say there's an ERISA minimum calculation that talks
7 about what the minimum amount that has to be funded to
8 meet that threshold.

9 Q. Yes.

10 A. We look at that as a matter of course in
11 every rate case.

12 Q. Yes.

13 A. And that is examined and that is always
14 considered by the Staff in terms of determining how much
15 pension expense is used in its case, and then we also look
16 at, as mentioned earlier, even in OPEBs we make sure that
17 the funds are actually being put in the fund, in the
18 related pension funds.

19 But Mr. Traxler did that area. I know he's
20 here if you want additional --

21 Q. I just wanted to get feedback from you in a
22 general sense, that there were no issues that you saw in
23 regard to there being adequate funding of the pensions
24 that Aquila has.

25 A. That's correct. At this juncture, we have

1 no outstanding issue with Aquila regarding the function of
2 its pension obligations.

3 Q. And I'm going to have to apologize that I
4 have to cut this short here. One other thing. Explain to
5 me what the Accounting Authority Order does in this case.

6 A. Is this the mark to market piece?

7 Q. Yes, I think it is. It's in Section 17 of
8 the stip, page 10. It is the mark to market.

9 A. What that does, there is an -- in
10 accounting terms it's called FASB 133. If you buy a
11 financial instrument related to a commodity, between the
12 time you buy it and the time it closes or settles, you are
13 required to adjust it on your books as to its market
14 value, unless it is tied to a physical transaction. In
15 fact, we call FASB 133, it's related to speculation.
16 You're buying financial instruments without having
17 physical transactions just hoping that the thing will
18 settle in the money or you'll sell it while it's in the
19 money. So you're just speculating on a financial
20 transaction without any physical control.

21 Our utilities, and that would include not
22 only electrics but natural gas, under risk management that
23 I'm aware of, they tie the financial transaction to the
24 physical transaction, so that if they've agreed to buy a
25 certain amount of gas at a certain time, they have gone

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1 and gotten a financial transaction to hedge that to a
2 price certain, not that the physical price will fluctuate,
3 but when you look at that and combine it with the
4 financial transaction, it will result in a price that's
5 fixed.

6 By making that connection, and that's what
7 this portion of the stipulation is, they do not have to
8 adjust their books based on the market value fluctuations
9 of that financial instrument. And so it was designed to,
10 one, allow Aquila to use what's called FASB 171, which is
11 a regulatory one, so they no longer have to do a mark to
12 market, and it also makes the connection between the
13 physical transaction and the financial transaction for
14 fuel expense more definite, so it can actually be booked
15 as fuel expense.

16 Q. And that's being done as an Accounting
17 Authority Order. Again, why is that mechanism needed to
18 accomplish the result that you're trying to accomplish?

19 A. Generally speaking, I'd say probably the
20 main cause for the need is that their external auditor
21 claims that they needed more documentation than we have.
22 The reason you won't normally see it is, most of the other
23 utilities' external auditors have not insisted on an
24 Accounting Authority Order.

25 Now, the practice that's reflected in this

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1 agreement is consistent with the practice that's taking
2 place in our other utilities. It's just that their
3 external auditors have not insisted on language in a
4 Commission Order to the same extent that Aquila has a
5 requirement.

6 Q. Is that because of the -- that the external
7 auditor has that particular requirement of all the
8 utilities it serves, if you know, or is it because we're
9 dealing with Aquila itself? Is it attributable to Aquila
10 or attributable to the external auditor that this is being
11 made?

12 A. It's attributable to the external auditor.
13 Now, whether the external auditor would have a different
14 opinion if it's a different company --

15 Q. Yes.

16 A. -- I don't know that.

17 Q. That's what I'm asking.

18 A. But I will tell you, we get different
19 issues from the same external auditor for the same company
20 case after case. I mean, from different cases. So I
21 can't tell you whether it's an Aquila financial condition
22 issue or it's just the individual auditor.

23 Q. Okay.

24 A. But I also want to point out, though, this
25 agreement has the benefit of tying the financial

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1 instrument as fuel expense so -- and without that, they
2 would actually book the financial instrument in another
3 account, and you would susceptible to the argument that
4 the financial instrument and the gain could be separated
5 from fuel expense.

6 COMMISSIONER GAW: Thank you,
7 Mr. Schallenberg. Thank you, Judge.

8 JUDGE WOODRUFF: Before we go to questions
9 from Commissioner Clayton, Mr. Williams, you just brought
10 up another document. Do you want to tell us what this is?

11 MR. WILLIAMS: Commissioner Gaw earlier
12 asked that the Staff, if it would -- if it could to
13 provide what the rate impact would be on a typical
14 residential customer, and what I've distributed is what
15 Staff's calculated for that.

16 JUDGE WOODRUFF: Okay. Do you want to mark
17 this as an exhibit again?

18 MR. WILLIAMS: Sure.

19 JUDGE WOODRUFF: We'll make it B. Do you
20 wish to offer it into evidence?

21 MR. WILLIAMS: Yes.

22 JUDGE WOODRUFF: Exhibit B has been offered
23 into evidence. Any objection to its receipt?

24 MR. COFFMAN: If you find this appropriate,
25 I would like to ask -- no, actually as I look at it, I

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1 think it tells me what I need to know. Never mind.

2 JUDGE WOODRUFF: Okay.

3 MR. COFFMAN: No objection.

4 JUDGE WOODRUFF: All right. Well, hearing
5 no objections, then the exhibit will be admitted into
6 evidence.

7 (EXHIBIT B WAS RECEIVED INTO EVIDENCE.)

8 JUDGE WOODRUFF: Commissioner Clayton, if
9 you have questions.

10 COMMISSIONER CLAYTON: Mr. Coffman, was
11 that no objection or were you remaining silent on this,
12 too?

13 MR. COFFMAN: No objection.

14 MS. WOODS: Judge Woodruff?

15 JUDGE WOODRUFF: Yes.

16 MS. WOODS: I think I have the answer to a
17 question that Commissioner Gaw had asked about how the
18 93,500 was allocated or spent by Aquila. Would this be an
19 appropriate time or would you rather wait until later?

20 JUDGE WOODRUFF: Let's go ahead and take
21 care of it now.

22 MS. WOODS: Okay. This is in Anita
23 Randolph's direct testimony at page 20, lines 11 through
24 21, and it's based on information provided by Aquila in
25 response to some discovery requests from the Department.

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1 The residential low-income weatherization was funded at
2 \$50,000 annually. Residential lighting program or the
3 Change a Light program was funded at \$20,000 annually.
4 And the commercial and industrial energy audits was funded
5 at \$23,500 annually.

6 And excuse me for interrupting,
7 Commissioner Clayton.

8 JUDGE WOODRUFF: Thank you. Commissioner
9 Clayton?

10 COMMISSIONER CLAYTON: Anything else?

11 JUDGE WOODRUFF: I think we're ready for
12 you.

13 COMMISSIONER CLAYTON: Is it Ms. Woods,
14 Wood, Woods?

15 MS. WOODS: Woods.

16 COMMISSIONER CLAYTON: Woods, plural.

17 Since you've given us this information, I may start with
18 you and ask you a couple of questions regarding these
19 programs.

20 First of all, is the amount of funding for
21 these programs in this stipulation at a similar level for
22 this size utility as it would be for other utilities in
23 this state or is it greater or lesser?

24 MS. WOODS: Well, to be perfectly honest,
25 we really haven't been doing that for -- for very long.

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1 But yes, we think it's about -- most of them have resulted
2 in about 5 cents, if you look at it from ratepayers -- let
3 me back up here.

4 Yes, we think it's about at this point --

5 COMMISSIONER CLAYTON: The ratepayers
6 aren't paying for it, so we can't do it by ratepayer
7 comparison?

8 MS. WOODS: No. But it is -- if you looked
9 at the ratepayer comparison for the number of people that
10 Aquila serves.

11 COMMISSIONER CLAYTON: So it is compared.
12 Let me ask you the question this way. One of the
13 Commissioners asked earlier what the average cost per home
14 would be for weatherization, and I believe you or somebody
15 responded that it was approximately \$2,000. Does that
16 sound close?

17 MS. WOODS: That sounds very close.

18 COMMISSIONER CLAYTON: So basically this
19 weatherization budget would weatherize about 54 homes?

20 MS. WOODS: Yes.

21 COMMISSIONER CLAYTON: How many homes
22 within the MPS district are beneath -- that would be
23 eligible, how many homes are eligible in this MPS
24 territory?

25 MS. WOODS: I believe that's in

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1 Ms. Randolph's direct testimony, but it's going to take me
2 a little time to find it.

3 COMMISSIONER CLAYTON: If you don't know,
4 you don't know. I didn't bring the testimony with me.

5 MS. WOODS: I can't tell you that right off
6 the top of my head. I know there are a number of people
7 who are eligible and a number of people who are on the
8 waiting list, but that's all I can -- without going
9 through the testimony.

10 With the additional amount, it would be
11 about 108 homes that would be weather -- yeah, that would
12 get weatherization.

13 COMMISSIONER CLAYTON: There's a match from
14 the City of Kansas City; is that correct?

15 MR. COMLEY: I think the federal government
16 matches what the utility has, and through the City of
17 Kansas City, certain administrative costs are deducted,
18 but I know that the City does itself make a contribution
19 to that.

20 COMMISSIONER CLAYTON: How much of the City
21 of Kansas City is actually within -- I guess what
22 percentage of Kansas City is served by MPS? Do you know?

23 MR. COMLEY: It's really not that much.
24 It's just that Kansas City represents a fairly large local
25 community center, and it has control over a several-county

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1 area for weatherization. So even though -- it can go well
2 into Aquila's service area to do its job.

3 COMMISSIONER CLAYTON: I guess the answer
4 is that it doesn't matter because the City of Kansas City
5 serves areas other than Kansas City?

6 MR. COMLEY: Exactly, with respect to this
7 program.

8 COMMISSIONER CLAYTON: Okay.

9 ROBERT SCHALLENBERG testified as follows:

10 QUESTIONS BY COMMISSIONER CLAYTON:

11 Q. Before you fall asleep up here,
12 Mr. Schallenberg, I'll go straight to you and go back to
13 this South Harper facility, and then perhaps you can go so
14 you can get off the hot seat.

15 I am having difficulty understanding the
16 treatment for this facility, this hypothetical facility,
17 and how it and the costs associated with it are being
18 included in rates. You stated earlier that keeping books,
19 and in the future the numbers that are kept within those
20 books and those accounts may or may not be included in
21 rates, and that's up to future ratemaking cases, but
22 there -- this case, this stipulation places this
23 \$140 million into the rate base, does it not?

24 A. No.

25 Q. It does not?

1 A. No.

2 Q. Explain to me why not.

3 A. The 140 million is in essence addressing --
4 in this case, it addresses what they have authority from
5 this Commission to do for bookkeeping purposes, and it
6 will address in a future rate case what Aquila can
7 request, as kind of a cap on what Aquila can request
8 related to this facility in a future rate case.

9 Q. Is it the nature of this case because it is
10 a black-box settlement that there's not an established
11 rate base?

12 A. Yes. And the other piece is that while the
13 rates are in effect, there will be certain things that
14 will be recorded on their books as expenses that will
15 dictate what they record as profit or the level of profit
16 during the period these rates are in effect.

17 This item, this 140 million will address
18 what they have to book as depreciation expense and what
19 they will have to -- or what they can include as plant in
20 service during the period these rates are in effect.

21 Q. Is it identifiable the amount of expenses
22 that are included in this settlement that have monies that
23 have been spent to date in association with the South
24 Harper plant?

25 A. There's two -- there is no amount in the

1 settlement that you can tie a South Harper dollar to the
2 38.5. And I'm only talking about the MoPub district
3 because that's the only piece South Harper affects. There
4 is data in this case regarding how much cost had been
5 booked for the South Harper facility at various times. I
6 don't believe there's an October 31st date balance, but I
7 know there are balances in the filings as of June as to
8 what's booked for the South Harper facility.

9 Q. Well, all the expenses, all the capital
10 expenses would be booked, all the construction costs
11 developing the land, those would be booked, correct?

12 A. Yes. They would be charged to the -- they
13 would be charged to plant, yes.

14 Q. Charged to plant. How about, say, for
15 example, legal expenses associated with all the
16 difficulties in getting the plant constructed, are they
17 part of this?

18 A. My understanding is that there are some
19 legal expenses that were booked for the movement from
20 Cap Ranch to South Harper and some other legal expenses
21 for some of the activities to get the South Harper
22 facility built. As to the -- all the legal expenses that
23 -- like in the court proceedings and things like that,
24 it's my understanding that those have not been booked to
25 the costs of South Harper and have been booked as legal

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1 expenses, but in this true-up that's taking place --

2 Q. Before you move on, those legal expenses
3 would be an expense not part of any rate base calculation?

4 A. That's correct.

5 Q. And would be elsewhere. Okay. And then
6 I'm sorry, go ahead and finish.

7 A. But to ensure that that is -- that my
8 understanding is what is actually going to be in the
9 ultimate number, the Staff is going through all of the
10 charges that are booked for this facility. And one of the
11 items it specifically is looking for is any legal fees
12 charged to the cost of the facility for removal.

13 Q. If we make assumption on May 31st that not
14 enough action is taken and the judge requires the plant to
15 be dismantled, what happens regarding the terms associated
16 with this paragraph?

17 A. Well, it won't change the terms in the
18 paragraph if the plant's dismantled. If the plant's
19 dismantled, what would happen is, on their books, they
20 would have to make a choice as to whether they're going to
21 make a physical retirement to remove all of the South
22 Harper facility off of their books or -- and my
23 understanding is that at least the probable assumption is
24 that they will be moving the facility to another location,
25 so that what -- you know, and I'm not sure that they're

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1 actually going to book a retirement or they'll move it to
2 another facility and then record any incremental costs.

3 That would be the -- if South Harper is
4 moved, one of the scenarios would be it would be retired
5 off their books because it doesn't exist any longer, and
6 then if they built the costs in and moved it to another
7 site, then those costs would be accumulated. Then when it
8 went into service, that would be added to plant in
9 service.

10 Q. Is there a cost of removing built into the
11 depreciation rate?

12 A. I believe there is a nominal amount
13 regarding the operation of a generating facility. There
14 is not a cost of removal estimate to do final or terminal
15 net salvage for any generating unit, including South
16 Harper.

17 Q. Are any of the other non-legal expenses
18 associated with the South Harper facility included within
19 this amount, or have any specific treatments, specifically
20 the expenditures that have occurred on the ground or with
21 the neighbors of the plant in Cass County, whether it be
22 house buyouts or any other activity?

23 A. Probably before -- to clarify another
24 point, you asked me about that paragraph. If they did
25 move it, there is within -- the argument about the 140,

1 that paragraph, there's a portion that says that covers
2 the 315-megawatt facility up until October 31st for any
3 liabilities or costs. Assuming one interprets that the
4 legal actions that caused it to be moved and dismantled
5 was a liability that existed before that, that paragraph
6 would limit Aquila's ability to come in and ask for any
7 additional costs caused by the move.

8 And then on the second thing that you asked
9 me, we are looking at the cost of -- I'll call it the
10 premiums paid for housing outside the plant's borders, and
11 it is my understanding -- well, the representation that we
12 have to date is that that is not booked in any of the
13 regulated accounts. It's booked as non-reg -- non-utility
14 property.

15 The landscaping, which includes the berm
16 and the trees and stuff onsite, and there's a question
17 about whether the plant includes any landscaping outside
18 the plant boundaries on individuals' property. That is
19 being looked at and is being examined in this true-up
20 process that's mentioned in that paragraph.

21 And what I say is we get -- one, we get a
22 representation from the company as to how those costs are
23 booked, but the work order is being examined by all
24 charges to make sure that that representation, even if
25 made, that it's not there, is not included in the cost.

1 And the Office of Public Counsel is participating in that
2 examination, because I think there is at least some
3 difference of opinion regarding how much of the
4 landscaping and trees should be allowed as the cost of the
5 facility and how much should be disallowed.

6 Q. Mr. Schallenberg, what is the most
7 important provision or can you point to an item within
8 this stipulation that would be the highest priority or the
9 best example of what represents Staff's position? Do you
10 understand the question?

11 A. Yes. I'm trying to think of a provision
12 that the Staff --

13 Q. Well, did Staff get anything it wanted out
14 of this deal?

15 A. I can't -- I'm thinking, because in Staff's
16 view, all we've done is terminated this case with an
17 expectation that exists is we're going to be starting up
18 again in another couple months. So, you know, it just
19 defers a lot of our issues that were pending in the case.

20 I can't think of -- I can't think of
21 something that in this agreement made it one that the
22 Staff, you know, said, this is the one or the two items
23 that made this deal so good that we had to sign and push
24 for it. I don't -- this is not that type of a
25 stipulation.

1 Q. So just not wasting time with a case that
2 will really only have an effect for the next six months,
3 it wasn't important to fight for certain issues that you
4 would fight for in -- I guess in a rate case under
5 different circumstances?

6 A. I'd say if you were -- the main value to
7 the Staff probably is that in the next -- we probably have
8 gained about a three to four-month window to handle our
9 other assignments, which we just had two new cases filed
10 and we have other investigations and other things. We've
11 gained the diversion of those resources to take care of
12 those matters before Aquila fi-- or can file the next rate
13 case to take advantage of trying to get a fuel adjustment
14 clause.

15 Q. Well, in that next rate case, will there be
16 more issues than just the fuel adjustment clause or will
17 that be the only issue that will be in dispute?

18 A. I would suspect that the issue that we've
19 talked, the building of a 500-megawatt facility versus the
20 315, even if South Harper stays at its present location,
21 would be another issue, even though in terms of the total
22 cost of service, I think that that issue will be worth a
23 decreasing amount, maybe 3 million or so.

24 And then I suspect rate of return will be
25 another issue that will linger going forward. So those

1 are the issues that I can recall, plus fuel. Those will
2 be the issues I think you would be -- have a high
3 probability of existing in the next case, and if we had to
4 design a fuel adjustment clause, that will be a new one.

5 Q. When does the 11 months -- what is the
6 effective date of the tariffs under consideration right
7 now? When is the 11 month run? Anyone know?

8 MR. MILLS: It's approximately April 22nd,
9 give or take a few days.

10 COMMISSIONER CLAYTON: Thank you,
11 Mr. Mills.

12 BY COMMISSIONER CLAYTON:

13 Q. Mr. Schallenberg, can you -- and if I ask
14 you questions that are out of your expertise, which there
15 probably aren't any, but --

16 A. There's a lot.

17 Q. There's a section in this stipulation
18 referencing transition costs associated with the merger
19 and the acquisition of St. Joe Light & Power. Are you
20 familiar with that provision?

21 A. Yes.

22 Q. I believe those transition costs are
23 holdovers from a prior case; is that correct? That amount
24 was identified in a previous case and it continues to be
25 amortized; is that a correct characterization?

1 A. I think it's amortized. That's the
2 bookkeeping. I would say it continues to come up in rate
3 cases going forward.

4 Q. And is that a -- is that a net cost? When
5 I say net, I mean have the identifiable savings of the
6 merger been deducted from those transition costs?

7 A. I think that's part of the issue that comes
8 up whenever the issue is brought up in a rate case is
9 whether it reflects all of the savings or whether the
10 savings have been, in essence, recorded separately from
11 the costs that are in this amount. So there's been an
12 issue regarding not only the nature of it being a
13 legitimate cost of service item, but as to the amount, and
14 that's one of those issues.

15 Q. Do you recall when the financial closing of
16 this acquisition occurred? I know that there was legal
17 wrangling that went on for some time. But can you
18 identify the time period of when the merger or the
19 acquisition was completed?

20 A. I don't recall. I know we can get it very
21 shortly. I don't recall that right now.

22 Q. Are you aware of whether -- and I suppose
23 this is what's the subject of this provision, but are
24 there -- were there savings identified on the whole or
25 actual increased costs associated with the merger now that

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1 four or five years have passed? I'm not sure how long
2 it's past.

3 A. I'd have to say, I think there would be a
4 difference of opinion as to whether there were savings
5 from that merger.

6 Q. What is Staff's opinion?

7 A. And I think there's a difference of opinion
8 even within Staff.

9 Q. What is your opinion? And if you have a
10 conflict, you need to get help.

11 A. Well, I have conflicts so I guess I need
12 help. I -- my personal opinion --

13 Q. Not speaking for the Staff?

14 A. -- not speaking for the Staff, would be is
15 I believe that the merger ended up costing the St. Joe
16 district more money. That's my personal opinion. Now, if
17 you look at overhead and do allocations at various times
18 and look at joint dispatch, you probably come up -- you
19 could come up with different answers. You could use that
20 same data to support my personal conclusion.

21 So I would say at this stage, I think it's
22 inconclusive whether the merger was a -- produced net
23 benefits or net costs to the St. Joe district.

24 To the MoPub districts, the answer may be
25 different. I believe that the MoPub district has

1 benefited from its affiliation with the St. Joe district
2 because of the way the power is -- the MoPub district has
3 access to the St. Joe district's power, whenever it's not
4 needed to meet the
5 St. Joe district's load requirements, and that's probably
6 resulted in an overall benefit to the MoPub district.

7 Q. Regarding the pension and other
8 post-employment benefits, it was the -- was the Staff
9 position adopted on this part of the stipulation or --

10 A. As I recall that issue is the Staff was
11 aware of the funding issue and the amount is funded as to
12 an amount that's acceptable to the Staff and the Office of
13 Public Counsel. I think there was a difference between
14 the Office of Public Counsel and the Staff as to what that
15 amount needed to be or should be, but the stipulation will
16 address the Staff's concerns.

17 COMMISSIONER CLAYTON: Okay. I don't think
18 I have any other questions for Mr. Schallenberg.

19 JUDGE WOODRUFF: Any other questions for
20 Mr. Schallenberg?

21 COMMISSIONER APPLING: Mr. Schallenberg,
22 two questions, very simple and very quickly.

23 QUESTIONS BY COMMISSIONER APPLING:

24 Q. I think I've heard you say this morning you
25 support this stipulation?

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1 A. Yes, I do.

2 Q. Okay. Second question, would you describe
3 for me, if you know, for the State of Missouri, how do
4 Aquila's rates for services compare to the rest of the
5 utilities in the state? Do you have any knowledge of
6 that? Is it high or low?

7 A. What I would say is at this stage Aquila's
8 rates -- and you have to use the MoPub district versus the
9 St. Joe district because the St. Joe district is cheaper.
10 The MoPub district rates are -- and it would depend on
11 where Empire is in a rate increase. Probably with this,
12 the MoPub district will probably be at or very close to
13 being the highest in the state. St. Joe will probably
14 still be less than Empire's rates. So that would be the
15 rate comparison.

16 COMMISSIONER APPLING: Okay. Thank you
17 very much.

18 JUDGE WOODRUFF: Mr. Schallenberg, you can
19 step down.

20 CHAIRMAN DAVIS: Can I ask Mr. Schallenberg
21 a couple more questions?

22 FURTHER QUESTIONS BY CHAIRMAN DAVIS:

23 Q. How would those rates compare to outside
24 the state, Mr. Schallenberg? Can you give us any idea on
25 that?

1 A. I think our rates at the highest level,
2 which as I mentioned earlier either at the Empire or the
3 MoPub district, are approaching or starting to exceed the
4 national average. So by that, it would mean that you'd
5 still have everybody above the national average, we'd
6 still be lower than all of those locations in the United
7 States, even at the --

8 Q. MoPub rate?

9 A. -- at the MoPub rate.

10 CHAIRMAN DAVIS: Okay. Thank you.

11 MR. WILLIAMS: Judge, if I might ask a few
12 clarifying questions.

13 JUDGE WOODRUFF: Go right ahead.

14 QUESTIONS BY MR. WILLIAMS:

15 Q. Mr. Schallenberg, you referenced in
16 response to or on follow-up of your response that Aquila
17 had indicated that it didn't want to build capacity
18 something about restructuring or electric restructuring.
19 Can you explain that a little bit, what you meant by those
20 terms?

21 A. Yes. In the mid '90s, and continuing I
22 think mostly through the rest of the '90s, there was
23 discussion of separating generation, and the production of
24 electricity from the distribution and retail sale of
25 electricity versus the vertically integrated model that

1 exists today and existed prior to that time in Missouri.

2 There was discussion of legislation. Some
3 states actually did it. Here in Missouri, while there was
4 some legislative attempts to do it, there were also some
5 regulatory cases to do it under the current regulatory
6 scheme as to physically allow the generation to be moved
7 into a separate subsidiary, and that's what I was
8 referring to.

9 Q. And there was also reference today to the
10 IRP process. Is that the IRP process under the
11 Commission's rules or something different, and if it's
12 different, is it something more formal or less?

13 A. Well, the integrated resource plan, or the
14 IRP process, is covered by the Commission's rules, but
15 there had been a waiver granted that in essence did not
16 require the filings that are specified in the rules, but
17 allowed or required as a condition of the waiver a
18 twice-a-year meeting regarding the specifics of load
19 forecasting, capacity supply or supply.

20 And there was -- there was discussions of
21 any demand-side management programs in those meetings with
22 the utilities that took place about every six months, but
23 they were informal meetings.

24 Q. And when was the waiver put into place,
25 approximately, if you don't know definitively, for

1 engaging in that process?

2 A. I would say approximately it's five years
3 ago, because the waiver is just expiring for Ameren, which
4 was Union Electric before. And UE just filed -- made an
5 IRP filing. Now, I want to say, in the prior Aquila case,
6 there's a stipulation has some requirements for Aquila to
7 make certain types of information available by virtue of
8 the condition in that stipulation closer to what the rule
9 required than what the waiver allowed.

10 Q. And would it sound right to you if I told
11 you that I've been informed that I think it was then
12 UtiliCorp's acquisition of St. Joseph Light & Power
13 company closed in December of 2000?

14 A. Yes.

15 Q. And you testified pretty extensively here
16 today, but I don't think anyone ever asked you any of your
17 qualifications or your position with the Commission.
18 Would you briefly cover that?

19 A. Let's see. My position with the Commission
20 is I am the director of the utility services division. My
21 qualifications would be I'm a certified public accountant.
22 I have worked for two regulatory bodies since 1976. Most
23 of that time has been with the Missouri Public Service
24 Commission. I had a brief stint with the Kansas
25 Corporation Commission. I worked primarily in the areas

1 of cost of service, prudence, contract evaluation. I did
2 some work for the Commission before the Federal Energy
3 Regulatory Commission, and I probably have worked on
4 probably close to 50 cases in my almost 30 years. And
5 someone reminded me, I've taken somewhere around
6 20 depositions, so that's what they used to say is my
7 experience.

8 Q. And I think I'll raise one more topic.
9 Early on I believe it was the Chairman was asking about
10 Aquila and bonuses to executives. What do you know about
11 what bonuses that the Staff would have included in its
12 case that was used for determining whether or not to enter
13 into the Nonunanimous Stipulation & Agreement?

14 A. There are specific bonuses that have been
15 mentioned in the fairly recent media regarding bonuses
16 that Aquila is paying its executives for the sales -- for
17 at least completing the sale process. That -- none of
18 those amounts were recorded in any of the cost of service
19 numbers generated by the Staff. So we would not have any
20 consideration of those amounts because they were never in
21 any of our cost of service runs or analysis.

22 As a matter of course, bonuses and
23 incentive comp is always looked at in every rate case, and
24 unless there is a direct benefit to the consumer, they are
25 normally excluded from the adjusted from the Staff's cost

1 of service recommendations.

2 MR. WILLIAMS: I don't have any further
3 questions.

4 JUDGE WOODRUFF: All right. You may step
5 down, Mr. Schallenberg.

6 (Witness excused.)

7 JUDGE WOODRUFF: Back to Commissioner
8 Clayton.

9 COMMISSIONER APPLING: You've got a
10 question there.

11 MR. COFFMAN: There were a couple of quick
12 points I was hoping to make primarily with regard to the
13 transition costs. I could make them later, but I was
14 hoping to have an opportunity to --

15 JUDGE WOODRUFF: You mean with
16 Mr. Schallenberg?

17 MR. COFFMAN: No, not with
18 Mr. Schallenberg, but just on the record.

19 JUDGE WOODRUFF: Okay. We'll give you a
20 chance later.

21 COMMISSIONER CLAYTON: Is everyone
22 comfortable with Mr. Schallenberg's credentials? Anyone
23 want to raise an objection?

24 MR. CONRAD: I would offer to stipulate to
25 Mr. Schallenberg is well qualified as an expert.

1 COMMISSIONER CLAYTON: Office of Public
2 Counsel, Mr. Mills, what is the value that OPC takes out
3 of this stipulation? What is your most important
4 provision if you can identify one or two, if any?

5 MR. MILLS: Frankly, we're not a party to
6 this stipulation.

7 COMMISSIONER CLAYTON: So is there anything
8 in here that you like?

9 MR. MILLS: There are some things in here
10 that trouble us less than other things. There's --

11 COMMISSIONER CLAYTON: So the answer would
12 be, no, there's nothing in this that you like?

13 MR. MILLS: No. No. I won't say that.
14 There are some things in here I like. I think it's a good
15 resolution of our complaint about the trust, the funding
16 of the OPEBs. That is one provision in here that I do
17 like. I think that's a good resolution. It gets the --
18 gets all the money into those trusts that we think needs
19 to be there.

20 COMMISSIONER CLAYTON: What does VEBA stand
21 for?

22 MR. MILLS: Voluntary Employee Benefits
23 Association or something close to that, Beneficiary
24 Association.

25 COMMISSIONER CLAYTON: And when was that

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1 complaint case filed?

2 MR. MILLS: The case number is
3 EC-2006-0171, so it would have been September or October,
4 I believe. I don't recall the exact date it was filed.

5 COMMISSIONER CLAYTON: And --

6 MR. MILLS: Of 2005.

7 COMMISSIONER CLAYTON: And you are
8 satisfied with the treatment of those accounts the way
9 they're dealt with in this stipulation?

10 MR. MILLS: Yes.

11 COMMISSIONER CLAYTON: Now, what is most
12 offensive to you in this stipulation? And if you answer
13 it by saying the things we like the least, it's going to
14 be very difficult to follow you.

15 MR. MILLS: It's hard to say because
16 there's so many -- in any negotiation, you play off this
17 demand for that demand and you settle for somewhere in the
18 middle. To me, it's really -- it's the interplay of the
19 amount of the rate increases, the short amount of time
20 between when the rate increase is granted and when Aquila
21 can ask for more, and the fact that the parties have
22 agreed to try and get this particular rate increase put in
23 place quicker than the operation of law date.

24 So all of those three things together to me
25 add up to be not such a great deal for ratepayers.

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1 COMMISSIONER CLAYTON: So why not object?

2 MR. MILLS: Well, the one --

3 COMMISSIONER CLAYTON: Those are all
4 significant points that you bring up.

5 MR. MILLS: They are, but -- and I can tell
6 you why we didn't object.

7 COMMISSIONER CLAYTON: Did Staff -- is it
8 resources, like what Staff says, we don't have enough
9 time?

10 MR. MILLS: A lot of it is that. The one
11 thing that, frankly, we went through, the thing that sort
12 of broke this camel's back was the moratorium. When we
13 got to the point where we couldn't get a stay-out period
14 any longer than July 1, that's when I decided I couldn't
15 possibly agree to this agreement as a whole, and that's
16 not something that I can get through litigation. I can
17 object to the Stipulation & Agreement, but I can't go to
18 the Commission and say, you've got to issue an Order that
19 prohibits Aquila for asking for rate relief because you
20 can't do that. That's something you can only achieve
21 through a negotiation.

22 And so it wouldn't do me any good to object
23 to the Stipulation & Agreement on that grounds and hope to
24 try to go hearing and try to achieve a better result on
25 that, because it's not possible. In terms of --

COMMISSIONER CLAYTON: That assumes --

MR. MILLS: Exactly. I was just addressing
issue. I couldn't do better on that issue
than I could -- than what's in this

What the Commission would have ultimately
on the evidence, I don't know, but there
d have been evidence presented to justify
. So trying to go to hearing just on the
fair amount of litigation risk.

MR. MILLS: Because I don't like it. It's
I'm not sure I can.

1 problem but I've got to vote one way or the other, you
2 know, up or down. Some of us don't have that option, but
3 it sends a mixed message. It's saying, you know, I don't
4 like some things, I like some other things. That's the
5 nature of compromise. And I'm going to ask the same
6 questions of Mr. Coffman back there.

7 I understand your frustration with
8 different provisions, not being satisfied with those, but
9 from the position of the consumer, I mean, is it your
10 position that this is in their best interest to vote for
11 this?

12 MR. MILLS: Well, if I thought there was
13 some way I could get Aquila to stay out for a longer
14 period of time, then I would say yes.

15 COMMISSIONER CLAYTON: So if you would have
16 changed the moratorium date, you would have signed on this
17 stipulation?

18 MR. MILLS: Very likely. If nothing else
19 changed and we got them to stay out for a year, then I
20 probably would have signed on to it. And as I said,
21 that's just not something that I can achieve or that
22 you-all can achieve without Aquila being willing to go
23 along with it.

24 COMMISSIONER CLAYTON: Now, what level of
25 analysis did your staff do in this case? I know that

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1 Office of Public Counsel has to use a lot of the resources
2 of the Staff or take a lot of data from the Staff because
3 there's more staff, they've got more people, everything
4 else. Is Office of Public Counsel or are you, Public
5 Counsel, satisfied with the legitimacy of the numbers that
6 have been presented? What level of analysis did your
7 office do?

8 MR. MILLS: A fair amount. We have one of
9 our two accountants who spent a significant portion of his
10 time throughout this period on this case solely. We hired
11 a consultant to do a rate of return analysis. One of our
12 economists spent a significant amount of time looking at
13 the rate design. So as short-staffed as we are, we gave
14 as much resources to this case as historically we have to
15 almost any rate case.

16 I mean, two people almost full-time and a
17 consultant is for us a fairly significant commitment, and
18 I think with that kind of commitment, we have a high
19 degree of confidence in the numbers and our ability to
20 analyze the numbers and get comfortable with, if that
21 answers your question.

22 COMMISSIONER CLAYTON: Are you focusing on
23 the rate design portion? Obviously the stipulation does
24 not reflect the position of Public Counsel in the rate
25 design case.

1 MR. MILLS: That's true.

2 COMMISSIONER CLAYTON: Is Public Counsel,
3 are you satisfied that at least this rate design as set
4 out in the stipulation is at least supportable with some
5 data or some of the information that's been provided?

6 MR. MILLS: Yeah. I think if you look at
7 the evidence presented in the rate design case, there is
8 evidence from the industrials and the federal agencies and
9 Aquila that would support much higher shifts than this.
10 There's evidence from Staff and Public Counsel that would
11 support lower shifts than this. I think as Mr. Conrad, I
12 believe, pointed out earlier, this is fairly close to the
13 middle ground.

14 And frankly, I think -- again, from my
15 point of view, you have to analyze litigation. I think
16 there was a chance, had we delivered this to the
17 Commission, that we could have done much worse than that.

18 COMMISSIONER CLAYTON: So do you agree with
19 that statement from Mr. Conrad? And I'm not sure what
20 class of customer his clients fall into, but the large
21 general customers got a reduction as part of the -- a
22 .05 percent reduction, and one large power class of
23 customers in MPS got a .52 increase. You believe those
24 figures are middle of the road in terms of overall
25 make-up?

1 MR. MILLS: In terms of the evidence that's
2 presented to the Commission in this case and the rate
3 design case, yes.

4 COMMISSIONER CLAYTON: Were you satisfied
5 with -- satisfied with the low-income programs which are
6 part of this stipulation, the level of funding?

7 MR. MILLS: Yes.

8 COMMISSIONER CLAYTON: Or was that
9 something that you looked at? I'm not sure how you rate
10 your issues.

11 MR. MILLS: It is something that we do look
12 at, and we did look at it. In general we look at it, and
13 we did look at it specifically in this case. Yeah, I
14 think it's more than a doubling of the amount that was
15 spent before this case, and I think that's a reasonable
16 amount to spend. So yes, we're satisfied with that
17 amount.

18 COMMISSIONER CLAYTON: Does Public Counsel
19 have any objection to any of the provisions which relate
20 to the South Harper facility or the treatments of any
21 accounting principles associated -- with associated
22 generating units?

23 MR. MILLS: No, although as
24 Mr. Schallenberg pointed out, we're evaluating the costs
25 to true them up through October 31st, but in terms of the

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1 principles that are in the Stipulation & Agreement, we
2 don't have any objection to those.

3 COMMISSIONER CLAYTON: Okay. Mr. Coffman?

4 MR. COFFMAN: Yes, sir.

5 COMMISSIONER CLAYTON: Did you sign on to
6 the stipulation?

7 MR. COFFMAN: No, sir.

8 COMMISSIONER CLAYTON: Who do you represent
9 here?

10 MR. COFFMAN: AARP.

11 COMMISSIONER CLAYTON: Okay. And what is
12 AARP?

13 MR. COFFMAN: That is the name of the
14 organization. We've been through this. They no longer
15 use that acronym to refer to an organization of retired
16 persons. They prefer to simply go by the four letters
17 AARP.

18 JUDGE WOODRUFF: We had this conversation a
19 couple weeks ago.

20 COMMISSIONER CLAYTON: Sounds like the
21 artist formerly known as Prince.

22 MR. COFFMAN: Well, they represent so many
23 people that are not retired that --

24 COMMISSIONER CLAYTON: Do you have a card
25 for AARP?

1 MR. COFFMAN: They keep lowering the age,
2 but I am not quite eligible, not quite.

3 COMMISSIONER CLAYTON: I was going to make
4 a comment.

5 MR. COFFMAN: I think there are many here
6 who are.

7 COMMISSIONER CLAYTON: I feel in the
8 minority.

9 Coffman, what is -- did you get anything
10 out of this deal? I know you didn't sign on to it.

11 MR. COFFMAN: I think that the organization
12 I represent is of the opinion very similar to that which
13 you heard from Public Counsel Lewis Mills. We did not
14 feel comfortable signing a document that would very likely
15 not give us a reprieve but for just a few months, and then
16 we might all be back in here again.

17 COMMISSIONER CLAYTON: Would you have
18 signed on if the moratorium had been longer?

19 MR. COFFMAN: Perhaps.

20 COMMISSIONER CLAYTON: What else would it
21 have taken for you to sign on to this deal?

22 MR. COFFMAN: The rate increase is
23 sizeable, and there is a --

24 COMMISSIONER CLAYTON: Is it warranted? Do
25 you believe it's a warranted or justifiable increase?

1 MR. COFFMAN: That's what I'm getting to.
2 Even though it is a rate increase that is not going to be
3 welcome by most ratepayers, when we looked at the evidence
4 and we even looked at what would likely happen, even
5 assuming AARP were to win all of the issues that it was
6 prepared to litigate, we were not convinced that we would
7 receive a result as favorable as this. And I perhaps --
8 you know, I can't speak as to Aquila's strategy, but they
9 may -- or very likely will be back in here again within
10 the year. But based on the evidence before us, and fuel
11 cost is a big part of it, you know, based on what we
12 had -- what we know about fuel costs right now, this is
13 not an unjust or unreasonable rate increase.

14 COMMISSIONER CLAYTON: So then why not sign
15 on to it?

16 MR. COFFMAN: Because we did not feel
17 comfortable with it.

18 COMMISSIONER CLAYTON: What causes you
19 discomfort?

20 MR. COFFMAN: The size of the increase, the
21 rate design shift, the lack of a moratorium of any length
22 of period that would really -- the moratorium not only
23 provides stability and predictability but also provides
24 that lag, which is the real incentive that sends the right
25 signal to a regulated monopoly that they need to cut

1 costs, and we're not convinced that this is really a long
2 enough period.

3 We did have -- we did spend a great deal of
4 time. AARP has hired an expert in this case, as well as a
5 couple of utility analysts in Washington, D.C. And they
6 did go over this quite a bit before coming to the decision
7 to not request a hearing. We did weigh our options quite
8 a bit before we decided not to do that.

9 But we think we are satisfied with it,
10 and -- and I guess in addition, there are -- there is
11 language that is obviously confusing in here, both
12 relating to the hypothetical 350-megawatt proxy facility
13 and also as to transition costs, which I guess now that I
14 have seen the Staff's suggestions and heard
15 representations today from Aquila, I think I am more
16 comfortable with it.

17 But I think it bears repeating yet again,
18 with regard to the rate base amount, that no one here is
19 agreeing that any specific power plant is in the rate
20 base. If the Commission approves this, it is not an
21 agreement that the South Harper facility is included in
22 any way whatsoever or that it is prudent or reasonable to
23 have built it, to have built it where it is or to have
24 implemented it in the way they did, and that is still an
25 open question.

1 The three references in the documents are
2 for accounting purposes or for book making purposes. They
3 still leave open these issues, perhaps to be litigated in
4 the future and likely to be litigated in the future.

5 As to the transition costs, I would point
6 out that that sentence on -- in paragraph 12 binds only
7 Aquila and perhaps binds the Staff, but there's no
8 agreement that any transition costs are included in the
9 black-box revenue requirement settlement.

10 The agreement is simply that Aquila will
11 not seek in the future transition costs above a certain
12 amount that was agreed between it and Staff. And this is
13 an issue that AARP was prepared to litigate legally, but
14 there are several substantive reasons, policy reasons and
15 legal reasons why these costs should not be in the rates.

16 And that, as I understand, was simply an
17 agreement between Staff and Aquila and simply binds them
18 not to request something above a certain amount in a
19 future case, but does not affect the black-box nature of
20 the revenue requirements. In my understanding of the
21 stipulation, there is no agreement that there are any
22 transition costs in this Stipulation & Agreement.

23 COMMISSIONER CLAYTON: In all seriousness,
24 you say that AARP doesn't stand for anything or doesn't --
25 I don't know what, I don't know what that means. What is

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1 the mission of AARP?

2 MR. COFFMAN: I don't have the mission
3 statement in front of me, but it is essentially to
4 promote, to work for the benefit of older Americans over
5 50 years old, and to try to make their lives better. And
6 one of the ways they do that, they have a multitude of
7 services, and within the state of Missouri over 750,000
8 members, but one way that they do that is through various
9 types of advocacy.

10 COMMISSIONER CLAYTON: How many members of
11 AARP are customers of Aquila?

12 MR. COFFMAN: I don't know the exact
13 number. At one point we were trying to guess that, but I
14 believe it would be -- I think it was under 100,000, but I
15 don't know that we ever came up with a good estimate. But
16 a significant number. I think they also serve AARP
17 headquarters as well, which is in Kansas City.

18 COMMISSIONER CLAYTON: So Aquila does serve
19 part of the Kansas City --

20 MR. COFFMAN: Part of the Kansas City area.

21 COMMISSIONER CLAYTON: -- area.

22 If we approve this stipulation and grant
23 this rate increase for residential customers, which it is,
24 what is AARP going to explain to those 100,000 customers
25 or ratepayers living in this territory?

1 MR. COFFMAN: That this is a fair result,
2 that we have analyzed it and that it is possibly better
3 than the result that would have come through litigation.
4 We obviously don't know, but that it is -- that it is
5 supportable by evidence in the record.

6 And I might point out that as to the rate
7 design shift, you know, we -- there is going to be
8 somewhat of a longer reprieve on that. This does put
9 things to bed at least for now and I guess the next rate
10 case.

11 COMMISSIONER CLAYTON: You say that AARP
12 headquarters are in the MPS territory?

13 MR. COFFMAN: I'm not positive of that.

14 COMMISSIONER CLAYTON: Are they one of the
15 large general customers?

16 MR. COFFMAN: No.

17 COMMISSIONER CLAYTON: Getting a reduction
18 in cost of service?

19 MR. COFFMAN: I do not believe so.

20 COMMISSIONER CLAYTON: Ms. Woods, who is
21 the -- at DNR, who is your client, who is your liaison,
22 your person that you work with, work for?

23 MS. WOODS: Well, most of the time it's
24 Brenda Wilbers, but Anita Randolph, who's the director of
25 the energy center, I also work with her. And then there

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1 are a couple of other staff members, John Buchanan and Ron
2 Weiss.

3 COMMISSIONER CLAYTON: And what was DNR's
4 position with regard to the low-income provisions of this
5 settlement?

6 MS. WOODS: We're certainly in support of
7 them.

8 COMMISSIONER CLAYTON: But what was your
9 position prior to settlement, were they for higher
10 figures?

11 MS. WOODS: Yes, they were.

12 COMMISSIONER CLAYTON: How much higher?

13 MS. WOODS: I think the total was something
14 like 223,000 that we had asked for.

15 COMMISSIONER CLAYTON: So you're 30,000
16 short?

17 MS. WOODS: I'm sorry. Low-income
18 weatherization, we got what we asked for. The other
19 energy efficiency programs we had asked for 223,000, I
20 think so, yes, about.

21 COMMISSIONER CLAYTON: Were you involved in
22 any other issues?

23 MS. WOODS: No, not really.

24 COMMISSIONER CLAYTON: Not really or no?

25 MS. WOODS: Well, the idea of looking at

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1 the alternative fuel sources, particularly the waste tire,
2 we were in support of that, but that was the --

3 COMMISSIONER CLAYTON: Okay.

4 MS. WOODS: -- extent of it.

5 COMMISSIONER CLAYTON: Thank you.

6 Mr. Conrad, did you get everything you wanted out of this
7 deal?

8 MR. CONRAD: Oh, no. You could always
9 bless me with some more.

10 COMMISSIONER CLAYTON: Which section are
11 you least happy with?

12 MR. CONRAD: You know, I was thinking you
13 might ask me that, so I flipped ahead to paragraph 20,
14 where it talks about how the terms are interdependent, and
15 that suggests to me that I really have to kind of look at
16 it as a whole, and I can't cherry pick and say, well, I'm
17 particularly enamored of this section, but this other part
18 I don't like too much. You just kind of have to look at
19 it as a whole. It becomes --

20 COMMISSIONER CLAYTON: Settlement
21 negotiations are confidential.

22 MR. CONRAD: It becomes an evolving process
23 and you get to the end and say, you know, is it good
24 enough? And you say yes, no. And we said yes.

25 And I do think -- I think it's probably

1 appropriate to say for the benefit of the record that I
2 think the process that we went through here, we tried to
3 do things maybe a little differently. I don't know
4 whether it proved successful or not, but in the sense of
5 just the procedure of trying to get parties put together,
6 I think it has resulted in a package that is both
7 reasonable and would result in reasonable and just rates
8 if it were to be approved by your Honors.

9 COMMISSIONER CLAYTON: Okay. As much as I
10 want to cause Mr. Swearengen some grief, we'll see him in
11 six months, so I'll wait 'til then. No further questions.

12 JUDGE WOODRUFF: I believe --

13 CHAIRMAN DAVIS: I believe Commissioner
14 Appling said that he had to run upstairs for a phone call
15 but that he would be back in about ten minutes.

16 JUDGE WOODRUFF: Okay. Let's go ahead and
17 take a break.

18 CHAIRMAN DAVIS: Judge, I'm going to have
19 to leave here in a minute. I have someone waiting for me
20 upstairs.

21 JUDGE WOODRUFF: Go right ahead.

22 CHAIRMAN DAVIS: Is there anything that
23 anyone here thinks it's important that I know that hasn't
24 been made already apparent here in these proceedings?
25 This is the open-ended question where you get a chance to

1 say whatever's on your minds, counsel, so --

2 MR. CONRAD: I'll take that bait. The
3 question has come up in some of the earlier discussions as
4 to the disposition of EO-2002-384. It was not
5 contemplated that we would do -- that's the cost of
6 service case. It was not contemplated, I think, or really
7 discussed by the parties in resolving or seeking
8 resolution of this that we would do another stipulation,
9 but that there would just be an understanding by the
10 parties to the 384 docket, and I believe, Judge Woodruff,
11 are you not also --

12 JUDGE WOODRUFF: I am, yes.

13 MR. CONRAD: So it's probably appropriate,
14 you know whereof I speak, that there's not an identity of
15 parties. So I had thought that possibly what this might
16 be is a motion to dismiss that, since that does not have
17 an operation of law date associated with it and it had
18 been taken, really at the instigation of my clients, in a
19 case of a rate case about two cases, maybe now three ago,
20 but was spun off by virtue of a stipulation in that prior
21 docket. So it might be appropriate to at least give some
22 thought to that so that the docket, the Commission's
23 calendar can be cleared of that.

24 It certainly was not the intent if this is
25 acceptable and approved that that case continue. Now, I

1 would -- I would leave it to your Honor's sound discretion
2 to suggest to us any mechanism that would be appropriate
3 to do that, but obviously that would be contingent on the
4 acceptance of this package.

5 JUDGE WOODRUFF: When this -- or assuming
6 that this case is -- this Stipulation & Agreement is
7 approved, I'll make a further order in the EO case dealing
8 with it at that time.

9 MR. CONRAD: Show cause or something.

10 COMMISSIONER CLAYTON: I was going to
11 comment, wouldn't it be more prudent if a hearing was held
12 to consolidate, getting a final Report and Order out of
13 this case rather than just disposing of all that other
14 evidence that's been compiled? Maybe it didn't make any
15 difference. You-all worked awfully hard, and I hate to --

16 MR. MILLS: Public Counsel certainly would
17 have no objection to consolidation of the two cases.

18 MR. WILLIAMS: And as the Commission may
19 recall, the Staff sought consolidation.

20 MR. CONRAD: And as the Commission may
21 recall, I think that was opposed successfully by my
22 client. So let me reflect on that, but clearly the lines,
23 while once moving parallel, now at least have moved to a
24 point of convergence, Judge, so in that sense, your point
25 is perhaps well taken, and we would certainly look at

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1 that.

2 JUDGE WOODRUFF: Well, we don't need to
3 make any ruling on it today, so we'll wait for further
4 guidance on that.

5 MR. CONRAD: I don't know if that was
6 responsive to the Chairman's question, but I thought we
7 maybe ought to at least broach that topic briefly. Thank
8 you.

9 CHAIRMAN DAVIS: I want to just ask
10 Mr. Coffman and Mr. Mills, your -- well, first I guess Mr.
11 Coffman, your clients are largely individuals over the age
12 of 50 who aren't interested in any rate increases. Is
13 that a fair statement?

14 MR. COFFMAN: I think that would be fair.

15 CHAIRMAN DAVIS: Okay. Mr. Mills, your
16 clients are?

17 MR. COFFMAN: Those clients and more.

18 CHAIRMAN DAVIS: You have all of those
19 clients, plus you have -- essentially have everyone living
20 within the Aquila service territory between the ages of
21 zero and infinity. The customer that you -- the customers
22 that you are representing equally probably don't ever
23 approve of any rate increase. Would that be a fair
24 statement?

25 MR. MILLS: We occasionally hear from

1 customers at local public hearings that they think some
2 small rate increase may be justified, but in the main, I
3 think you're correct. There is no great sentiment that
4 rate increases are a good thing.

5 CHAIRMAN DAVIS: All right. And is it fair
6 to say when those customers do come to local public
7 hearings and testify and say that they are in support of a
8 rate increase, that they're often shareholders of those
9 companies?

10 MR. MILLS: The ones who are most loud in
11 support are almost invariably shareholders, yes.

12 CHAIRMAN DAVIS: Thank you, Mr. Mills. No
13 further questions.

14 JUDGE WOODRUFF: All right.

15 I'm sorry. Mr. Steinmeier?

16 MR. STEINMEIER: I had a moment ago in
17 response to your inquiry, your Honor, and I would just
18 like to take the opportunity, since you invited it, to
19 strongly encourage the Commission to approve the
20 Stipulation & Agreement in this case. Of course, as has
21 been alluded to, nobody likes rate increases. Never once
22 as a member of the Commission did I receive a thank-you
23 note from a consumer thanking me for voting in favor of a
24 rate increase. We all know that sometimes comes with the
25 territory.

1 But the parties to this case have worked
2 very, very diligently toward this resolution of a long
3 list of very complex and sometimes highly controversial
4 issues, and I am comfortable and confident that this
5 Stipulation & Agreement represents a very just and
6 reasonable resolution of those issues and I commend it to
7 the Commission.

8 JUDGE WOODRUFF: Thank you.

9 CHAIRMAN DAVIS: Judge, just a couple more.
10 4 CSR 40-2.115 says that each party -- roughly, this is
11 paraphrasing -- each party shall have seven days from the
12 date of filing of a Nonunanimous Stip & Agreement to file
13 an objection to that agreement.

14 For the record, no party -- first of all,
15 for the record, Mr. Swearingen, you filed the Stip &
16 Agreement on January 31st; is that correct?

17 MR. SWEARENGEN: I believe that's correct,
18 your Honor.

19 CHAIRMAN DAVIS: And has anyone filed any
20 objections to the Nonunanimous Stip & Agreement?

21 MR. SWEARENGEN: Not to my knowledge.

22 CHAIRMAN DAVIS: Is anybody here to voice
23 any objections?

24 (No response.)

25 CHAIRMAN DAVIS: And that seven-day time

1 period has passed, has it not, Mr. Swearengen?

2 MR. SWEARENGEN: It has, your Honor.

3 CHAIRMAN DAVIS: So we can treat this as
4 a -- the Commission has the discretion to treat this as a
5 Unanimous Stipulation & Agreement, doesn't it?

6 MR. SWEARENGEN: Under the rule, you may.

7 CHAIRMAN DAVIS: No further questions at
8 this time, Judge.

9 JUDGE WOODRUFF: All right. Thank you. I
10 just sent an e-mail up to Commissioner Appling to see if
11 he wanted to come down and ask questions. I haven't heard
12 back from him yet. Let's go ahead and take a five-minute
13 break. I'll go up and see if he wants to come down and
14 ask any questions. If not, we'll come back on the record
15 and adjourn at that time.

16 (A BREAK WAS TAKEN.)

17 JUDGE WOODRUFF: Commissioner Appling, did
18 you have any questions?

19 COMMISSIONER APPLING: I know it's going to
20 surprise everybody, Judge. I have no further questions.
21 You can be excused. Thank you.

22 JUDGE WOODRUFF: All right. Thank you.
23 With that, then, we are adjourned.

24 WHEREUPON, the hearing of this case was
25 concluded.

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EXHIBITS INDEX

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MARKED RECEIVED

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EXHIBIT A

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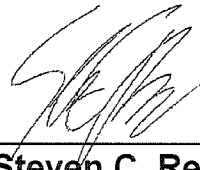
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STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 6th day of June 2012.

A handwritten signature in black ink, appearing to read 'Steven C. Reed', is written over a horizontal line.

Steven C. Reed
Secretary