

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

April 4, 2007  
Jefferson City, Missouri  
Volume 5

In the Matter of the Tariffs of )  
Aquila, Inc., d/b/a Aquila )  
Networks - MPS and Aquila )  
Networks - L&P Increasing Electric ) Case No. ER-2007-0004  
Rates for the Services Provided )  
to Customers in the Aquila )  
Networks - MPS and Aquila )  
Networks - L&P Service Area )

CHERLYN D. VOSS, Presiding  
REGULATORY LAW JUDGE  
JEFF DAVIS, Chairman,  
CONNIE MURRAY,  
STEVE GAW,  
ROBERT M. CLAYTON, III  
LINWARD "LIN" APPLING,  
COMMISSIONERS

REPORTED BY: Monnie S. VanZant, CCR, CSR, RPR  
Midwest Litigation Services  
3432 W. Truman Boulevard, Suite 207  
Jefferson City, MO 65109  
(573) 636-7551

1                                   A P P E A R A N C E S

2   For Staff of the Missouri Public Service Commission:

3                   Mr. Kevin A. Thompson  
4                   Mr. David Meyer  
5                   Mr. Nathan Williams  
6                   Mr. Dennis L. Frey  
7                   Public Service Commission  
8                   200 Madison Street  
9                   P.O. Box 309  
10                  Jefferson City, MO 65102  
11                  (573) 751-6514

12                   For Office of Public Counsel:

13                   Mr. Lewis Mills  
14                   Mr. Michael Dandino  
15                   Office of the Public Counsel  
16                   P.O. Box 2230  
17                   200 Madison Street  
18                   Jefferson City, MO 65102

19                   For Federal Executive Agencies:

20                   Captain Frank Hollifield  
21                   139 Barnes Drive, Suite 1  
22                   Tyndall AFB, FL 32403  
23                   (850) 283-6348  
24                   frank.hollifield@tyndall.af.mil

25                   For AARP:

26                   Mr. John Coffman  
27                   Attorney at Law  
28                   821 Tuxedo Boulevard  
29                   St. Louis, MO 63119  
30                   (314) 424-6779

31                   For Department of Natural Resources:

32                   Ms. Shelley A. Woods  
33                   Office of the Attorney General  
34                   221 W. High Street  
35                   P.O. Box 899  
36                   Jefferson City, MO 65102

1 For SIEUA/AGP:

2 Mr. David Woodsmall  
3 Finnegan, Conrad & Peterson  
4 428 E. Capitol, Suite 300  
5 Jefferson City, MO 65101

6 Mr. Stuart W. Conrad  
7 Finnegan, Conrad & Peterson  
8 1209 Penntower  
9 3100 Broadway  
10 Kansas City, MO 64111  
11 (816) 753-1122

12

13 For Aquila, Inc.:

14 Mr. Paul A. Boudreau  
15 Mr. James C. Swearengen  
16 Mr. L. Russell Mitten  
17 Ms. Janet Wheeler  
18 Brydon, Swearengen & England  
19 312 E. Capitol Ave.  
20 Jefferson City, MO 65102-0456  
21 (573) 635-7166

22 For City of St. Joseph:

23 Mr. William D. Steinmeier  
24 Ms. Mary Ann (Garr) Young  
25 William D. Steinmeier, PC  
2031 Tower Drive  
Jefferson City, MO 65109  
(573) 659-8672

For Kansas City, MO:

Mr. Mark W. Comley  
Newman, Comley & Ruth  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102-0537  
(573) 634-2266

24

25

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

2 JUDGE VOSS: All right. Good morning. We are  
3 here in the case of Aquila, Inc., d/b/a, Aquila  
4 Networks - MPS and Aquila Networks L&P Increasing Electric  
5 Rates for the Services Provided to customers in the Aquila  
6 Networks - MPS and Aquila Networks - L&P Service Area,  
7 Commission Case No. ER-2007-0004.

8 We'll begin by taking entries of appearance,  
9 beginning with Aquila.

10 MR. BOUDREAU: Thank you. Appearing on behalf  
11 of Aquila, Inc., let the record reflect the appearances of  
12 Paul Boudreau, Jim Swearngen, Russ Mitten and Janet  
13 Wheeler, with the law firm of Brydon, Swearngen &  
14 England, 312 East Capitol Avenue, Post Office Box 456,  
15 Jefferson City, Missouri.

16 JUDGE VOSS: The Commission Staff?

17 MR. WILLIAMS: Kevin A. Thompson, General  
18 counsel, Nathan Williams, Deputy General Counsel, Dennis  
19 L. Frey, Senior Counsel, and David A. Meyer, Senior  
20 Counsel, P.O. Box 360, Jefferson City, Missouri, 65102.

21 JUDGE VOSS: Office of the Public Counsel?

22 MR. MILLS: On behalf of the Office of Public  
23 Counsel and the public, my name is Lewis Mills. Appearing  
24 with me is Mike Dandino. Our address is Post Office Box  
25 2230, Jefferson City, Missouri, 65102.

1 JUDGE VOSS: On behalf of Sedalia Industrial  
2 Energy Users Association and -- I have the abbreviations  
3 instead of full names -- AGP?

4 MR. WOODSMALL: Thank you, your Honor. Let  
5 record reflect the appearance of Stuart Conrad and David  
6 Woodsmall of Finnegan, Conrad & Peterson, 428 East  
7 Capitol, Jefferson City, Missouri, 65101.

8 JUDGE VOSS: Missouri Department of Natural  
9 Resources?

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

14 JUDGE VOSS: AARP?

15 MR. COFFMAN: John B. Coffman, 871 Tuxedo  
16 Boulevard, St. Louis, Missouri, 63119, appearing on behalf  
17 of AARP.

18 JUDGE VOSS: The Commercial Group? I will say  
19 that Mr. Chamberlain had spoken with me and asked that  
20 since they only have one issue in this proceeding that is  
21 not going to be addressed until the end to save money for  
22 his client if he could reserve the right to do an opening  
23 statement before the issue at the end of the hearing.

24 Do any of the parties object? That will be  
25 granted.

1 Federal Executive Agency?

2 CAPTAIN HOLLIFIELD: Appearing for the Federal  
3 Executive Agency, Captain Frank Hollifield -- Captain  
4 Frank Hollifield, 139 Barnes Drive, Suite 1, Tyndall Air  
5 Force Base, Florida, 32430.

6 JUDGE VOSS: AmerenUE? Jackson County? City of  
7 St. Joseph?

8 MR. STEINMEIER: Thank you, your Honor. Please  
9 let the record reflect the appearance of William D.  
10 Steinmeier and Mary Ann Garr Young, William D. Steinmeier,  
11 PC, on behalf of the City of St. Joseph, Missouri.

12 JUDGE VOSS: On behalf of Kansas City?

13 MR. COMLEY: Good morning, Judge Voss. Mark W.  
14 Comley, Newman, Comely & Ruth, 601 Monroe Street, Suite  
15 301, Jefferson City, Missouri, 65101, on behalf of the  
16 City of Kansas City.

17 JUDGE VOSS: At this time, I'll ask everyone to  
18 turn off cell phones and blackberries. That's not just  
19 turn them down. They apparently interfere with the  
20 web-casting capability of the equipment. So if you could  
21 turn them off and check them during the breaks, I'd  
22 appreciate it.

23 There are some primary issues to address.  
24 First, it's my understanding that several parties wish to  
25 have a general opening statement and reserve the right to

1 do small opening statements before each issue. Does  
2 anybody object to that? Then that's what we shall do.

3 Next, I have Staff's Motion for Leave to late  
4 file a schedule to Mr. Featherstone's direct testimony.  
5 Does anyone have an objection? That motion will be  
6 granted.

7 Next, I have Public Counsel's Motion to Amend  
8 the Issues List and Aquila's Response in opposition  
9 thereto. Before I rule on the motion, do any other  
10 parties that didn't have an opportunity to respond have a  
11 statement on this issue?

12 MR. MILLS: Judge, at this point, and I'm not  
13 sure exactly where we are in the process, but that -- that  
14 is one of the issues that will be addressed by the  
15 stipulation and agreement that is in the process of being  
16 signed, and I assume will be filed within minutes.

17 And assuming that the Commission accepts that  
18 stipulation and agreement, then that issue is moot. So I  
19 would request that the Commission simply reserve ruling on  
20 it until such time as we real -- as we find out whether or  
21 not it's a real issue or not.

22 JUDGE VOSS: Does anyone object to that issue?  
23 Okay. We'll reserve ruling on that motion. I understand  
24 today that we'll be hearing testimony on the AAO issues,  
25 presuming it's not settled, and depreciation issues?

1 MR. MILLS: There are --

2 JUDGE VOSS: There are other --

3 MR. MILLS: There are several issues, right.

4 JUDGE VOSS: I understand today we'll be hearing  
5 testimony on the AAO and depreciation issues and possibly  
6 from Mr. Brubaker?

7 MR. WOODSMALL: Yes, your Honor. Mr. Brubaker  
8 filed testimony on the issue of lime losses and how they  
9 would be applied in event of a fuel adjustment clause.  
10 He's only available this week. And since all his other  
11 issues settled, we'd like to address him first thing this  
12 morning.

13 JUDGE VOSS: Does anyone have an objection to  
14 that?

15 MR. BOUDREAU: Just so I -- so what you're  
16 proposing is we take Mr. Brubaker first?

17 MR. WOODSMALL: Yes.

18 MR. BOUDREAU: Okay.

19 JUDGE VOSS: And just his issue as related to  
20 the fuel adjustment clause. Okay. Then that will --  
21 we'll start with Mr. Brubaker and then go to the AAO  
22 issues and depreciation after opening statements.

23 I also understand that there is an issue with  
24 availability for Mr. Gorman, and he's only available -- is  
25 it Monday?



1                   MR. WOODSMALL: Yes, your Honor. Currently,  
2 rate of return is scheduled for Friday and Monday. Three  
3 parties filed testimony. All three with -- with expert  
4 witnesses that need to be brought in. We're only  
5 proposing to bring Mr. Gorman in on Monday rather than  
6 both days, and that also avoids a conflict he has.

7                   So to the extent possible, we'd like to have him  
8 up on Monday to deal with ROE as well as his testimony on  
9 depreciation.

10                  JUDGE VOSS: Do any parties have an objection to  
11 letting Mr. Gorman testify as to depreciation on Monday?  
12 Hearing none, that will be fine.

13                  Are there any other witness availability issues  
14 that need to be addressed?

15                  MR. BOUDREAU: There probably are witness  
16 availability issues. I'm not sure that they need to be  
17 addressed right now. There's a couple of items on  
18 subsequent issues where we have limited availability.

19                  I think so far we've been able to work through  
20 it. And my suggestion would be just as we approach these  
21 issues that we keep the Bench advised.

22                  JUDGE VOSS: Okay. But just make sure because  
23 the Commission will want to make sure to have an  
24 opportunity a day in advance to review issues and prepare  
25 their questions on the different issues.

1 MR. BOUDREAU: Understood. Thank you.

2 JUDGE VOSS: Okay. The pre-filed exhibits are  
3 already marked. If you could please give a copy to the  
4 court reporter as the witness is brought -- or they're  
5 offered.

6 Let's see. And as I said earlier, attorneys,  
7 please control your witnesses. Limit them to responsive  
8 answers, but don't let them ramble on and ask that they be  
9 stricken -- or that -- and do not then ask to strike as  
10 non-responsive later. Cut them off at the onset.

11 MR. WILLIAMS: Judge, I believe the prefiled  
12 exhibits have not actually been marked on the exhibits.  
13 At least Staff's.

14 JUDGE VOSS: Okay. Well, I have them noted on  
15 mine. Well, she'll stamp them as you give them to her.

16 MR. WILLIAMS: We have provided an exhibit list  
17 and it's the same as the list, but the exhibits don't  
18 actually have the list on them.

19 JUDGE VOSS: It's my understanding she'll have  
20 to mark them when you bring the witness up anyway.

21 Okay. All right. I will send a message to the  
22 commissioners in about five minutes, and we'll start with  
23 opening statements.

24 (Break in proceedings.)

25 JUDGE VOSS: All right. We'll go ahead and go

1 back on the record. Opening statements will begin with  
2 Aquila. There we go.

3 OPENING STATEMENT

4 BY MR. BOUDREAU:

5 MR. BOUDREAU: Good morning. May it please the  
6 Commission. I'm going to keep my opening comments very  
7 brief, indeed. I just wanted to make a couple of  
8 observations about the case which was filed on July 3rd,  
9 2006, wherein the company requested a \$94.5 million  
10 increase in base rates for Aquila Networks - MPS and a  
11 \$24.4 million increase for Aquila Networks L&P.

12 For the MPS division, the need -- the need for  
13 additional capacity and increases in the price of fuel and  
14 purchase power were the primary reasons for the filing.  
15 And as for the L&P division, fuel and purchase power costs  
16 and lower levels of off system sales were the primary  
17 considerations.

18 It's interesting to note if one looks at the  
19 residential customer's bill over the period 1983 to 19 --  
20 or to 2006, it is the increase in usage per customer and  
21 not necessarily the increase in price of the service that  
22 has been the driving factor in the increased amount of a  
23 customer's bill.

24 Now, the original filing included a revenue  
25 place holder, for lack of a better term, for the possible

1 purchase by Aquila of a 585 megawatt combined cycle power  
2 station known as the Aries power station out of the  
3 Calpine bankruptcy proceedings.

4 But the company was not the ultimate successful  
5 bidder, and its capacity needs were covered by two  
6 contracts totalling 300 megawatts of firm capacity as of  
7 year end 2006.

8 And the reason I mention this is that the  
9 practical effect of that series of developments was to  
10 reduce the requested increase for MPS for the MPS  
11 division, that is, to -- or from 94.5 million to  
12 55.7 million and with a lesser adjustment for the L&P  
13 division from the original 24.4 to 24.1.

14 Now, where do we stand today? Well, as you can  
15 tell from the discussions this morning, it's been a fairly  
16 fluid environment. But it appears that we have many of  
17 the issues -- although it looked originally, we had many  
18 issues to try the case that the situation today is quite  
19 different.

20 The parties differences have been substantially  
21 narrowed through the hard work of the company and the  
22 Staff. All my colleagues and the respective clients and  
23 the forbearance of the Commission, I might add, in  
24 delaying the commencement of this hearing to allow that to  
25 play itself out. So thank you for that.

1           As a result, I think at this point with the  
2     pending stipulation eminently to be filed, there are  
3     really only four contested issues remaining to be  
4     presented to the Commission for its decision.

5           My understanding at this stage is that those  
6     issues will be -- the -- the ever popular return on -- on  
7     common equity. Another, major issue for the Commission  
8     will be the company's fuel cost recovery proposal under  
9     legislation in 2005, Senate Bill 179 specifically.

10          A couple of other issues are continued rate base  
11     treatment for the unadvertised portion of the Sibley and  
12     western coal conversion accounting authority orders and,  
13     also, a proposed adjustment to depreciation rates for  
14     other production plants, and it includes specifically  
15     Account Nos. 342 through 346.

16          I do want to point out that there is -- as  
17     important as the things that are included in the case are  
18     the things that are not included in the case. And the  
19     company did not include in its case as filed executive  
20     bonuses and incentives or bonuses and incentive components  
21     for calculating the SERP arrangements for the company.  
22     Restructuring costs have been excluded, certain specific  
23     costs related to the South Harbor peaking facility and  
24     costs that have resulted from Aquila being non-investment  
25     grade.

1           I'm not going to address at this point any of  
2   the specific issues to be litigated in this case.  Aquila  
3   has reserved the right to make a short issue opening  
4   statement as the case progresses to more specifically  
5   frame the issue being tried.

6           And the company has presented its points of view  
7   on those issues in its prehearing brief and also in its  
8   statement of position which was filed on the 29th,  
9   Thursday of last week.

10          I will say this.  The company's filing was  
11   carefully structured to present only solid legitimate  
12   costs of providing service to its customers.  The fact  
13   that fuel costs continue to be a significant driver in  
14   Aquila rate cases gives significant -- special  
15   significance, I think, to the request that the Commission  
16   approve the company's proposed fuel adjustment clause  
17   which will ensure that it timely recovers prudently  
18   incurred fuel and purchase power expenses.

19          I believe that approval of this mechanism will  
20   result in fewer rate increase filings by Aquila, and,  
21   also, something of a lesser regulatory burden on the  
22   Commission and the Public Counsel in the years to come.

23          So with that, I'll conclude any remarks, and I  
24   thank the Commission.

25          JUDGE VOSS:  Thank you.  Commission Staff?

1                                   OPENING STATEMENT

2       BY MR. THOMPSON:

3                   MR. THOMPSON: Thank you, your Honor. May it  
4       please the Commission. I have a piece of demonstrative  
5       evidence here for you. I like to make charts at home in  
6       any spare time.

7                   JUDGE VOSS: In Easter colors.

8                   MR. THOMPSON: Thank you. I appreciate that.  
9       Yeah. It's kind of a spring thing. This is -- we have so  
10      many rate cases going on at this point that it's kind of  
11      like that old joke about the American tourists in Europe,  
12      you know, where if it's Tuesday, it must be Brussels.  
13      Well, if it's Wednesday, it must be the Aquila rate case  
14      starting, and here we are.

15                  In opening remarks, since we're going to be  
16      doing little thematic openings, I think before each issue,  
17      it's appropriate to address the large policy issues. Yes.  
18      There are four issues that are contested that remain for  
19      Commission decision. And Staff has strong feelings only  
20      about two of those. That's not to say we don't have  
21      positions on the others. We do. But we are eagerly  
22      litigating two of those issues.

23                  One of them is return on equity. The other one  
24      is the fuel cost recovery mechanism. Starting with the  
25      issues that you will hear today, with respect to the

1     accounting authority orders, the Staff agrees with the  
2     company. The Staff's position is that those accounting  
3     authority orders approved by the Commission in prior cases  
4     should continue.

5             With respect to depreciation, which you'll also  
6     hear today, it is the Staff's view that although the lives  
7     are probably too short, no change should be made until an  
8     -- a full-blown depreciation study has been conducted. So  
9     it is our position that there should be no change in this  
10    case.

11            In the area of the fuel cost recovery mechanism,  
12    Staff's view is that the Commission should give Aquila an  
13    IEC rather than a fuel adjustment clause or a FAC. We  
14    believe the IEC should be structured similarly to the IECs  
15    that this Commission has given other utilities in the past  
16    such as Aquila and Empire.

17            We believe there are some very important policy  
18    reasons that underlie that, and that's what I'd like to  
19    point your attention to. If fuel costs become a hundred  
20    percent pass-through, which is what the company proposed,  
21    then the company will no longer have any incentive to  
22    operate efficiently and to purchase its fuel prudently  
23    because all the risks will be borne by the ratepayers.

24            It is Staff's position, and my personal opinion  
25    whole-heartedly, for that matter, that after the FAC,



1 prudence reviews of fuel purchasing practice are  
2 meaningless. They are a toothless regulatory technique.  
3 And I just have to remind you of the various cases that  
4 have come to you in the past several years, two of them  
5 recently, in which you have been asked to do prudence  
6 reviews with respect to gas purchases under the ACA  
7 process.

8 I'm not aware that the Commission has been  
9 disallowing gas purchases. I don't think that the after  
10 the fact prudence review represents much of a protection  
11 at all to Missouri ratepayers.

12 I urge you, therefore, to adopt the interim  
13 energy charge mechanism because it balances the interests  
14 of the company and its shareholders as well as the  
15 interests of the ratepayers. There is protection. There  
16 is shared risk. There is shared benefit.

17 I think if you will consider those public policy  
18 principles that you will agree with Staff's position that  
19 an interim energy charge is the better way to go.

20 And I will finish talking -- with a discussion  
21 of return on equity, always the most contentious issue in  
22 a rate case. That's what my chart addresses. On my  
23 chart, we have plotted out, in Easter colors, as you  
24 pointed out, the positions that have been espoused by the  
25 various parties' expert witnesses.

1           Dr. Hadaway, a very experienced and  
2 well-qualified return on equity witness, who is the  
3 company's expert witness, initially suggests a return on  
4 equity at 11.5 in his direct testimony.

5           In his rebuttal testimony, he adjusted that  
6 suggestion and brought it down to 11.25. I don't think  
7 it's any coincidence that his adjustment brought his  
8 recommendation within the zone of reasonableness that this  
9 Commission has defined and has used as its primary  
10 analytical tool with respect to common equity return in  
11 the past several rate cases.

12           You will hear evidence that the average for the  
13 year 2006 was 10.36, which is this livid purple line here.  
14 And so the zone as this Commission has defined it, extends  
15 100 basis points on either side of that average upwards to  
16 11.36, downwards to 9.36. Right? Or excuse me. To  
17 9.36.

18           I get confused by numbers. I apologize. The  
19 other two recommendations, one by Mr. Gorman, working for  
20 three different intervenors, and the other by Staff's  
21 expert, Mr. Parcell, are both below the average, below the  
22 average, but within be the zone of reasonableness.

23           Mr. Gorman recommended ten, this point here.  
24 Mr. Parcel recommended a range. He said that the correct  
25 answer is somewhere in a range extending 9 up to 10.25

1 with a mid point at 9.625.

2 Now, part of his range, the lower part is,  
3 indeed, below the zone of reasonableness. But most of it  
4 and his mid point are comfortably within the zone that the  
5 Commission has defined.

6 In a wording, a return on common equity, then,  
7 the Commission needs to consider certain things. What is  
8 there about Aquila's performance that would cause you to  
9 award them an ROE above the average?

10 In the several rate cases that you have recently  
11 heard and in the evidence will you hear in this case, the  
12 two drivers that have been primarily referred to by the  
13 parties, by the experts are risks and reward.

14 Remember in the Kansas City Power & Light case,  
15 we heard all about what a good company they were and how  
16 they should perhaps get a higher REO in recognition of  
17 their efficiency and their just good, good business  
18 practices? And you listened to them, and you gave them an  
19 award, I recall, at 11.25, which would be right here,  
20 right where Dr. Hadaway's revised recommendation is.  
21 11.25. And that was the highest ROE awarded in the year  
22 2006 by any utility regulatory Commission in the United  
23 States.

24 So what is it about Aquila that would entitle  
25 them to an award equivalent to what you gave Kansas City

1 Power & Light, higher than any other company but Kansas  
2 City Power & Light received during the last calendar year?  
3 Well, if it's not that they're such a great company, then  
4 it can only be because they're such a risky company.

5 And when we talk about risks, we have to  
6 remember two things. The first thing is that all of the  
7 calculation methods employed by these experts measure  
8 risk. So risk is already built into these  
9 recommendations. It's a big part of how they have already  
10 arrived at their numbers.

11 The second big risk is that Dr. Hadaway has, in  
12 fact, used an adder. In his original recommendation, he  
13 had an adder of 25 basis points. Twenty-five basis points,  
14 took him from 11.25 up to 11.5, his original  
15 recommendation, and it was to reflect construction risks  
16 and the fact that Aquila is rather a smaller company than  
17 those in his comparison group.

18 In his revised recommendation he goes up to a 50  
19 basis point adder, a 50 basis point adder to get him from  
20 10.75 up to 11.25. I suggest to you that those are  
21 awfully large adders.

22 I think that the Commission, in considering both  
23 the history of this company, which has been, shall we say,  
24 somewhat troubled, and considering the fact that risk is  
25 already reflected and included in these recommendations,

1 in these numbers, I think that the Commission will  
2 determine that a fair return on equity, in fact, is in the  
3 zone of reasonableness and, indeed, in the lower half of  
4 the zone of reasonableness where Mr. Gorman and Mr.  
5 Parcell have placed it. Thank you very much.

6 JUDGE VOSS: Thank you. Office of the Public  
7 Counsel?

8 OPENING STATEMENT

9 BY MR. DANDINO:

10 MR. DANDINO: Your Honor, with the Commission's  
11 indulgence, may I make the opening statement from here?

12 JUDGE VOSS: That is fine.

13 MR. DANDINO: Thank you, your Honor. May it  
14 please the Commission. Public Counsel is addressing the  
15 framework and context of the case in terms of the  
16 unresolved issues.

17 We're going to give you this overview, and I  
18 always like to show, like to discuss the context to remind  
19 the Commission what factors they should look at as they --  
20 they hear the evidence.

21 Now, everyone in this room has been -- is very  
22 familiar with the Public Service Commission Act adopted in  
23 1913. And as the Supreme Court said in the Sedalia water  
24 case, that the -- the Act is an elaborate law bottomed on  
25 the voice power.

1           And I think more important, they made a -- a --  
2   a statement, which I think has to be -- it can't be said  
3   often enough. The Court said, the law recognizes that  
4   every expenditure, every dereliction, every share of stock  
5   or bond or note issued as surety is finally reflected in  
6   rates and quality of service to the public, as does the  
7   moisture, which arises in the atmosphere finally descend  
8   in rain upon the just and unjust willy-nilly.

9           Now, in a polite way, the Court is saying that  
10   the law recognizes that every business feature of a  
11   regulated utility, however invisibly, becomes part of the  
12   rates and are paid for by the customers.

13           This reflection in rates of -- in rates and  
14   quality of service is as sure as the rainfall. If the  
15   Public Service Commission adopts Aquila's proposals,  
16   especially the fuel adjustment clause and its -- and fails  
17   to factor in the risks in the ROE and fails to -- and  
18   adopts Aquila's position and the Sibley AAO, then we're  
19   certainly -- then the ratepayers are certainly going to  
20   suffer from a heavy rainfall.

21           And while the customers are getting soaked,  
22   Aquila will be protected by a large umbrella provided by  
23   the Public Service Commission.

24           In looking at each of the issues, we have  
25   accounting issues, the AAO issues. Mr. Ted Robertson from

1 our office, CPA, with 18 years of experience in public  
2 utility accounting, has relied upon generally accepted  
3 accounting principles. The purpose of an AOA (sic), the  
4 lateness of rate base treatment of an AOA as a basis of  
5 his testimony and recommendation that the Sibley AAO  
6 expenses be taken out of the rate base, but that if you  
7 approve deferred income taxes be retained as an offset to  
8 the rate base.

9           Once again, if you adopt Mr. Robinson's  
10 recommendation, you're providing an umbrella over the --  
11 over the customers and not just over Aquila.

12           On the rate of return issue and fuel adjustment  
13 clause issue, I'm going to try to address that -- those  
14 together because in the testimony of -- of Ryan Kind and  
15 Russ Trippensee in our office, they -- both of their  
16 testimonies interact with those points.

17           First of all, I've got to -- I have a real  
18 problem with the FAC, being the fuel adjustment clause,  
19 FAC referring to that. That is much too benign for what  
20 really happens and for the true nature and implications of  
21 the FAC.

22           I -- I think it would be better to -- from a  
23 customer's point of view is the FAC means fees and  
24 charges. These are fees and charges that the customers  
25 pay outside the established rate case and responsible --

1 well, it makes them completely responsible for additional  
2 fees and charges related to fuel and even its  
3 transportation.

4 Aquila wants the customers to pay fees and  
5 charges 100 percent of their -- of the increase in their  
6 fuel costs. That's what FAC is to ratepayers.

7 Now, on the flip side, FAC to Aquila and  
8 utilities, especially Aquila in this case, means free and  
9 cheap. It is free risk for the fuel costs, and it has an  
10 automatic provision that makes it very cheap to extract  
11 these fees and charges from the ratepayers.

12 I think the Commission has to realize what  
13 exactly these fees and charges in this free and cheap  
14 method of -- mechanism means to the delicate balance,  
15 which is our -- the current rate-making provisions.

16 I think it -- it -- you -- Mr. Trippensee and  
17 Mr. Kind in their testimony discuss the -- the  
18 implications, the -- the reasons why the FAC is contrary  
19 to public interest in this case.

20 Yes. The legislature has provided an SB-179 for  
21 a fuel adjustment clause. Notice, say they app --  
22 provided for a fuel adjustment clause. They didn't  
23 provide it for free and cheap.

24 Now, the Commission -- this fuel adjustment  
25 clause is not an entitlement for the company, not at 100



1     percent, not at 1 percent. It is up to the Commission's  
2     discretion to look at the facts and decide whether it is  
3     appropriate, whether it is proper, whether it is just and  
4     reasonable to -- to employ a fuel adjustment clause in  
5     this case.

6             Mr. Kind, in his testimony, has outlined a  
7     number of factors that the Commissioners should consider  
8     in making this determination of whether a fuel adjustment  
9     clause, these fees and charges, are appropriate.

10            Public Counsel is asking the Commission to make  
11    Findings of Fact for -- on specific reasons why the FAC is  
12    appropriate and just and reasonable in this case if you so  
13    decide to do it. I -- certainly, that you should put in  
14    the reasons and specific findings of fact if you decide  
15    that it is inappropriate, which Public Counsel fully  
16    recommends.

17            I think it is important -- this is one of the  
18    early cases in the FAC that I think is for the Commission  
19    to spell out what is or is not important for consideration  
20    and what they looked and give some guidance not only to  
21    the company and to the Staff and to the public on how to  
22    -- how to pursue this issue in the future, but I think  
23    also is to disclose, as is proper, to the public the basis  
24    of your decision.

25            Now, Aquila's -- now, Aquila has proposed their

1 own free and cheap plan. What they're looking for, their  
2 plan, has been dissected by Mr. Kind and Mr. --  
3 Mr. Trippensee. And I urge you to look at that testimony.  
4 And when they're up here on the stand, please question  
5 them. You'll find that their testimony is -- is  
6 persuasive and very credible.

7           And, once again, Public Counsel asks that --  
8 that whatever the conditions, if you decide to approve an  
9 FAC and if you -- those conditions or those parts of  
10 Aquila's plan that you adopt or any provision of an FAC  
11 that you adopt, once again, the Commission should make  
12 Findings of Fact on the specific reasons and facts why the  
13 evidence, the competent and substantial evidence supports  
14 the FAC as just and reasonable and appropriate in this  
15 situation.

16           Now, the other aspect of the FAC is how it  
17 affects the ROE. And I don't have any -- any description  
18 for the ROE, just rate -- return on equity.  
19 Mr. Trippensee identifies that in the ROE, there is a -- a  
20 factor is in there for risk. And he describes the risk  
21 elements and how it operates in his testimony. And I  
22 think it's very important for the Commission to consider  
23 that testimony of the, once again, that delicate balance  
24 where the risk is decided, the company, the shareholders,  
25 the management of the company, the shareholders and the

1     ratepayers.

2                     And Mr. -- Mr. Trippensee urges the Commission  
3     to -- if you grant an FAC, to make an adjustment in the  
4     rate of -- the return on equity. It's important to  
5     reflect that image. And I'm also urging -- or Public  
6     Counsel is also urging the Commission not to make any --  
7     any combined or composite ROE.

8                     We think it's very important on this FAC that  
9     the -- the change in risk. I think it needs to be spelled  
10    out and reflected in your decision. And Public Counsel  
11    urges -- urges the Commission to, once again, make a  
12    Findings of Fact or the specific reasons and why you have  
13    chosen a certain risk factor adjustment based on the --  
14    on the provision of an FAC.

15                    I think it's -- it is an important part of the  
16    decision, and I think it is a very relevant factor.  
17    Public Counsel has identified very relevant factors when  
18    considering the FAC, the ROC -- ROE and -- and AAO.

19                    And -- and with all these acronyms, I feel like  
20    I'm back in the telephone area. But we're going to, once  
21    again, ask the Commission -- we want fair and just rates.  
22    We want fair and just treatment. And I think that the --  
23    the Commission, if you follow the recommendations of  
24    Public Counsel, that can be achieved. Thank you.

25                    JUDGE VOSS: Thank you. Sedalia Industrial

1 Energy Users Association and AG Processing?

2 MR. WOODSMALL: Thank you, your Honor.

3 OPENING STATEMENT

4 BY MR. WOODSMALL:

5 MR. WOODSMALL: Good morning, Commissioners.

6 I'll be very brief. I've been tied up in stipulation  
7 discussions, so I'm going to pretty much just wing this.

8 As Mr. Thompson mentioned, we have -- there are  
9 four issues left in this case. Of those four issues,  
10 SIEUA and AGP will present testimony on three of them.

11 One will you hear today is depreciation.  
12 Depreciation in this case is somewhat unique. Usually,  
13 when you get into a depreciation case, you have a battle  
14 of experts, experts talking about what is the average  
15 service life of certain assets.

16 Now, while our witness, Mr. Gorman, has  
17 presented that -- has presented what the average service  
18 life is for Accounts 342 through 346, the company has  
19 responded with nothing. The company has responded with,  
20 in essence, we didn't want to do a study. We just did  
21 one. Everything's good.

22 And Staff takes a somewhat different approach.  
23 Staff looked at the accounts that we are complaining about  
24 and agrees with us. They say, You're right, the average  
25 service lives are too short. But we didn't have the

1 chance to do the whole study, so we don't want to do that.  
2 As Mr. Conrad reminded me yesterday, basically, this is a  
3 case of the perfect getting in the way of the good.

4           So I'd like you to consider whether you should  
5 leave a depreciation rate that all experts agree is  
6 faulty, leave that alone just because you didn't have an  
7 opportunity to address the others.

8           The depreciation rate in comparison to those of  
9 other Missouri utilities is clearly excessive and needs to  
10 be a adjusted.

11           Secondly, the issue of fuel adjustment clauses.  
12 SIEUA and AGP strongly assert there's no evidence in this  
13 case to show that Aquila needs a fuel adjustment clause.  
14 The fuel adjustment clause was initially authorized by the  
15 General Assembly in SB-179. And that was done shortly  
16 after we saw a spike in gas prices.

17           Gas prices had spiked as a result of hurricanes.  
18 Gas prices are now returning to normal. Volatility is  
19 down to lower levels. And because of that, we don't have  
20 this overwhelming need to give adjustment mechanisms  
21 outside of a rate case.

22           Instead, I would urge you to think about the  
23 incentives that are inherent in regular rate-making, that  
24 is, you set fuel prices as at a certain level, and you  
25 give utilities something to shoot for. Every dollar that

1     they save under those fuel costs will go to their pocket.

2                 If you set gas prices at \$7 and they're able  
3     through hedging and other expertise able to get gas prices  
4     down to \$6, they are pocketing that difference.

5     Rate-making as it exists in Missouri provides overwhelming  
6     incentives, incentives that have led to Missouri having  
7     historically low rates as compared to other states.

8                 That said, however, we recognize that the  
9     Commission probably, if nothing else, would like to at  
10    least look at a fuel adjustment clause and see how one  
11    should be intelligently designed.

12                With that in mind, we presented rebuttal  
13    testimony -- rebuttal testimony of Don Johnstone.  
14    Mr. Johnston developed a fuel adjustment clause that is  
15    agreed to by many parties as superior to that of Aquila's.

16                This fuel adjustment clause, the alternate fuel  
17    adjustment clause, retains many of the incentives, many of  
18    the power economic aspects of typical rate-making and  
19    apply that to a fuel adjustment clause.

20                By retaining those incentives, we ensure that  
21    the company act in a least cost manner, that they will  
22    have an opportunity to try to beat the market and make  
23    more money rather than, as Mr. Dandino said, just pass on  
24    all the costs to the ratepayers.

25                I -- I would urge you -- we're going to put

1 Mr. Johnstone up next week. And I'd urge you, if for no  
2 other reason, to engage in an academic exercise with him  
3 about rate-making and about the incentives in rate-making  
4 and how you should capture those going forward.

5 Finally, the issue of ROE. About three years  
6 ago, this Commission stepped on a slippery slope, a  
7 slippery slope that now puts us in a position of this  
8 Commission granting the highest ROEs in the nation.

9 How did we get here and what have we got for our  
10 money? Typically, the industrial customers don't offer  
11 ROE testimony. That issue has been done by Staff and  
12 Public Counsel, and this Commission has granted reasonable  
13 ROEs.

14 But now, like I say, we're in a position where  
15 this is the highest ROE in the nation. What have we got  
16 for the money? Nothing tangible that I see. Think about  
17 where this money goes. This is money that goes directly  
18 to the bottom line, that goes into the pockets of  
19 shareholders, shareholders that largely aren't in  
20 Missouri, institutional investors in New York City, money  
21 coming out of pockets or ratepayers and going to New York  
22 City to shareholders.

23 You don't see increased reliability. You don't  
24 see anything tangible for that money. What you see is  
25 stock prices going up for these utilities. You see

1 shareholders benefitting. You see KCP&L taking their  
2 11.25 ROE and using it to buy Aquila. That's what you're  
3 getting for your money. Now, in this case, ask yourself,  
4 Do they deserve the money? What has Aquila shareholders  
5 done to deserve this type of money?

6           What they've done is attempt to beat the market.  
7 They gambled on deregulated operations and put themselves  
8 in a state of financial distress. Now, whether they  
9 attempt to ring fence their utility operations, that  
10 hasn't been successful.

11           They have the highest cost of debt in Missouri.  
12 They have poor resource planning. They have an  
13 overabundance of gas generation, largely because they are  
14 in financial distress. So, clearly, in response to  
15 Mr. Thompson's questions, this company doesn't deserve  
16 that kind of money.

17           Finally, I ask you to consider when you  
18 determine the ROE your role in economic development as an  
19 agency in this department of economic development.  
20 Consider that. Don't consider this case entirely in a  
21 vacuum. Consider economic development. Consider the City  
22 of Joplin and what the ratepayers have received there.

23           In the last three years, they've received two  
24 huge awards for Empire. They received two huge awards  
25 from their gas company, MGE. Now their water company is



1     also in.

2                 In three years, every one of their utilities has  
3     seen massive rate increases.     Think of St. Joe.     Many of  
4     my clients received two large electric rate increases.  
5     They received two large gas case rate increases from MGE.  
6     And now Missouri American is also looking for a rate  
7     increase.

8                 Across the street, everywhere we go, we see the  
9     utilities lined up at the bank vault.     And where is  
10    business interest considered?     I urge you to consider all  
11    these factors.     Don't look at this case in a vacuum.  
12    Think about where you're headed and what you're getting  
13    for your money and who is pocketing that money.

14                As I mentioned earlier, Mr. Brubaker is here to  
15    talk about the limited issue, about lime losses as it  
16    applies to fuel adjustment clause.

17                As I said, it is not our position that you  
18    should grant a fuel adjustment clause.     There just hasn't  
19    been a need shown.     That said, in your fuel adjustment  
20    rules, you dictate it that lime losses shall be applied.  
21    And Mr. Brubaker has put in testimony as to what the level  
22    of those lime also should be.

23                He's the first one up today.     And if you have  
24    any questions on that, he's available.     I thank you for  
25    your time and look forward to the rest of the hearing.

1 JUDGE VOSS: Thank you. Commercial Group?  
2 Federal Executive Agencies?

3 OPENING STATEMENT

4 BY CAPTAIN HOLLIFIELD:

5 CAPTAIN HOLLIFIELD: Good morning. May it  
6 please the Commission. And I promise that the stickies in  
7 those have nothing to do with quoting.

8 But they do tell us one thing. And that is in  
9 this hearing, we see a lot of facts, figures, opinions,  
10 conjectures, and we fortunately distill what we're talking  
11 about to four or five issues.

12 But let's not get away from two very basic  
13 fundamental human concepts that are at the root of this.  
14 Those are concepts of responsibility and motivation.

15 Responsibility is simply the accountability for  
16 what, one, a company or corporation should do in their  
17 line of business and their line of duty and motivation.

18 How do we get there? How do we get those people  
19 to do what they should do? These two concepts work in  
20 tandem. You use motivation as a tool to get those to  
21 stand up and be responsible for what they should do, to  
22 act responsibly, to fulfill their obligations and duties  
23 in a responsible manner. Motivation is both a tool and  
24 it's a tool that's both effective and should be used.

25 Now, that begs the question. You know, it's a

1    very cute, pithy distillation. What does it have to do  
2    with this situation? Well, we have a relationship between  
3    a service provider and consumers. Each side has their  
4    responsibility. The consumers' responsibility is easy  
5    enough. They act as consumers. They pay their bills on  
6    time. They don't mess up the equipment. They don't abuse  
7    the services that's given to them.

8               The other side, the utility acts as responsibly  
9    as a corporation. They make prudent decisions. They do  
10   the right thing, they're good stewards of their money, and  
11   they do their best to insulate their consumers from, you  
12   know, those slings and arrows of outrageous portion,  
13   whether it be fuel prices, you know, disasters that happen  
14   economically or at their physical plants. But they have  
15   that responsibility to provide the service and provide it  
16   in a way that doesn't soak the customers.

17              This begs a balance. On the one end of the  
18   scale, if you tip the scale on one end, as Office of  
19   Public Counsel said, you soak the customers. And that's  
20   not a good thing. Soaking the customers can mean that  
21   your average John Q. Citizen has to pay a heck of a lot of  
22   more money out of pocket for something that, you know, is  
23   an essential.

24              The other -- and you can do the same thing as to  
25   industrial agencies as well. And they have budgets. The

1 other end is also something that we don't want to do.  
2 None of us want to put the utility under. None of us want  
3 to put the thumb screws to the utility. But we have to  
4 maintain a balance. And in maintaining that balance, we  
5 have to look at who holds the responsibilities, and we  
6 have to make sure the decisions that are made here today,  
7 for the rest of this week, next week, however long, use  
8 that motivational tool effectively.

9           Probably the best analogy that I could come up  
10 with, and I hate to say it, it's a personal one, is  
11 somebody made fun of me when I first got an ATM card about  
12 constantly running to the bank and just punching into the  
13 bank. It was literally a money machine.

14           The fortunate thing was, I was on a limited  
15 budget. I'd even have some money just constantly putting  
16 money in and allowing me to get into pattern of just being  
17 a spend thrift. That's what we need to do. The small  
18 analogy does apply to the big.

19           We have to encourage -- through the decisions  
20 that are made before the Commission today, this week and  
21 next week, encourage fiscal responsibility. Yes. Keep  
22 the utility on its feet. Don't soak the customers, but do  
23 so in a way that encourages fiscal responsibility.

24           And I'm going to shamelessly use an exhibit that  
25 Mr. Thompson put up.

1                   MR. THOMPSON: Please do.

2                   CAPTAIN HOLLIFIELD: You know, you've got this  
3 zone of reasonableness. And you've got your top  
4 performers here at 11.25 percent, and then have you an  
5 average of 10.35 percent, and then you have the rest of  
6 the zone of reasonableness.

7                   It's another hundred basis points below. The  
8 decision that comes out in this example on return on  
9 equity, where are we going to teach or impart that lesson  
10 of fiscal or financial responsibility?

11                  Are we going to reward good, bad, indifferent  
12 business practices before by total immediate gratification  
13 bail out on the top end of this scale, or are we going to  
14 opt for sustained growth?

15                  There's not a disaster below 10.36 percent.  
16 That is not a closure of operations. It's just a lack of  
17 instant gratification. There's also another one that's at  
18 play, and I don't think I ever could have put this as  
19 eloquently, as succinctly and as plainly as Mr. Johnstone  
20 put it as regards to the fuel adjustment clause, and that  
21 is, skinning the game.

22                  Motivation in the fuel adjustment clause, you  
23 know, we can either award it as a hundred percent  
24 pass-through and take away that motivation for the utility  
25 to stand up and be responsible, or we can give them the

1 skin in the game. Or we could make them have the skin in  
2 the game.

3 Ladies and gentlemen, I would urge you to look  
4 at each of these decisions, whether it's depreciation, the  
5 accounting authority order, the fuel adjustment clause or  
6 the return on equity and look at what in the long-term is  
7 going to make those who are responsible motivated to act  
8 responsibly.

9 Now, I'd be a hypocrite if I didn't stand up  
10 here and tell you what my responsibility is. My  
11 responsibility is I'm a representative of the federal  
12 taxpayers. There are no two ways about it. And we  
13 operate on a budget just like everybody else in this room  
14 whether you're talking about the advocates for AARP, who  
15 are representing the retired people in the state, or you  
16 talk about the industrials who are here for the state.

17 We all operate on a budget. It is absolutely  
18 crucial in our circumstances -- I will tell you from a  
19 personal standpoint that our budgets are absolutely  
20 choking us on utilities alone.

21 So we have to get up here not only on behalf of  
22 Whiteman Air Force Base, but on behalf of everybody in  
23 this state, everybody in this room and everybody in this  
24 country and ask that we keep this within reason.

25 Keep the operations going, but don't tip the

1 balance on the end of soaking the customers. We're  
2 fighting a war on two fronts. If we can't pay the bills,  
3 just for stuff like utilities, we lose the ability to fly,  
4 fight and win as members of your United States military,  
5 and, indeed, to serve you as your Federal Executive  
6 Agencies. Thank you.

7 JUDGE VOSS: Thank you. AARP?

8 OPENING STATEMENT

9 BY MR. COFFMAN:

10 MR. COFFMAN: Good morning. May it please the  
11 Commission. I am here today representing AARP, who  
12 represent retired folks and more than retired folks  
13 generally, folks who are over 50 years old, and there are  
14 many thousands of these folks who are served by Aquila in  
15 the MPS and L&P service areas.

16 And we are here today because AARP is very  
17 concerned primarily about the Commission being on the  
18 precipice of adopting a new paradigm, the -- the danger  
19 that you might adopt a fuel adjustment clause in this  
20 case.

21 We are generally very concerned as well about  
22 the -- the increases that the customers in this area have  
23 suffered. Many of our members are -- are older, are on  
24 limited incomes. Many of them live -- have tried to live  
25 on very tight budget in a way that a volatile change in

1     their rates would create a hardship and be something that  
2     would be very difficult to address.

3             And so I'm here to urge you, when you're  
4     balancing the interest of this very powerful utility, a  
5     utility that has tremendous financial power, tremendous  
6     political power that you balance that against those who  
7     don't have that power, and, at least to some degree,  
8     retain the incentives and protections that are in the  
9     current system that try to hold Aquila accountable for its  
10    bad decisions and rewarded for its good decisions.

11            Please, to some degree, leave some skin in the  
12    game. We were here in the last case and did not oppose a  
13    settlement that granted, for many customers, a double  
14    digit increase. And we have signed the stipulation that  
15    would settle many of the issues in this case.

16            We certainly believe that Aquila should be  
17    treated fairly. But where they have gone, I think, beyond  
18    the pail and are, I think, letting greed somewhat dictate  
19    their decisions in asking for what I think is a very high  
20    and unreasonable return on equity and for a -- a fuel  
21    mechanism that would give them 100 percent pass-through  
22    that would dump on the consumers 100 percent of the risks  
23    that they have been subject to managing over the last few  
24    years.

25            And I don't need to belabor the issues that some



1 of the speakers have talked to you about before. The  
2 Commission does not need to be reminded that Aquila  
3 investment status is downgraded and that they have had  
4 some serious misadventures into the area of energy trading  
5 and in the unregulated area, the allegations of  
6 manipulation in the natural gas marketplace.

7 And I certainly hope that the Commission keeps  
8 these issues about Aquila in mind when they're deciding  
9 whether or not to unleash all cost of service protections  
10 over the fuel and generation planning area.

11 I know they'll tell you, Well, the prudence  
12 reviews will protect the consumers. We don't have as much  
13 faith in that, have not seen a prudence disallowance for  
14 as long as I can remember in this area.

15 They say, Well, gosh, so many states are already  
16 doing these fuel mechanisms and Wall Street favors them,  
17 but they really don't quantify what the benefit there is  
18 or how Wall Street values a fuel adjustment clause.

19 We have talked at length, and I don't want to  
20 belabor because I'll have another chance to belabor it  
21 later. The -- the single issue aspects of this is why  
22 that's harmful to consumers, and the volatility in why  
23 consumers are not in the position that a utility is to  
24 manage volatility. They don't have the hedging and the  
25 other tools.

1           I want to primarily focus because I think it is  
2   the most important issue in the case, most important issue  
3   to -- to consumers, and that is the fact that a 100  
4   percent pass-through would erode the incentives to be  
5   efficient and the natural pressures that are now on them  
6   in between rate cases to do good fuel procurement policies  
7   and to plan generation into the future in a -- a prudent  
8   way.

9           We are going to present evidence from a former  
10   Commissioner, Nancy Brockoway, regarding the fuel  
11   adjustment clause issues. And I certainly urge you to ask  
12   her questions about her research and her experience with  
13   these mechanisms.

14           Obviously, our preference is that you not adopt  
15   any fuel mechanism. But if you do, we have laid out a  
16   couple of alternatives.

17           We didn't address the interim energy charge, but  
18   that is a mechanism that does have some merit, and we will  
19   try to address that Staff approach in our brief. But,  
20   certainly, because of the danger that you might lose into  
21   this new area of pass-through, we just urge that if you  
22   adopt such a mechanism that you at least don't go as far  
23   as Aquila wants to go and that you do retain some skin in  
24   the game.

25           You know, here in their first opportunity, I can

1 understand they must be giddy about the prospect of a fuel  
2 adjustment mechanism. But, again, their proposal for a  
3 100 percent pass-through is -- is far too unreasonable.  
4 The legislature gave you the authority to accept, reject  
5 or modify. And I think it's clear from that statute that  
6 you have the option of taking a middle approach for not  
7 giving them 100 percent risk-free pass-through and that  
8 you -- that as you -- if you are to wade into these waters  
9 that you don't just simply jump in over your head and that  
10 you retain some of the benefits and protections that are  
11 in the current system.

12           And our second best option if you go in this way  
13 has been something called 50/50 sharing. And 50 percent  
14 of the variations up and down are recognized and 50 -- 50  
15 percent, then, are understood to be recovered in the base  
16 rates the way they are now.

17           Now, if you read the testimony and the briefs of  
18 Aquila, they make several shrill arguments. They say, My  
19 gosh, you'll be denying us prudently incurred fuel costs  
20 if you share the risk with consumers, and we'll address as  
21 legal arguments, which I think are unfounded.

22           But I think you can simply use your common sense  
23 and understand that if there is something unlawful about  
24 sharing 50/50 the risk and the pass-through, then the  
25 current rate of return, cost of service regulation is

1 unlawful.

2           And that's not the case. We also have a -- an  
3 approach in your testimony that has been approved in  
4 Wyoming, which is not a simple -- I'm a big fan of simple.  
5 I think that you could simply take a 50/50 deviation  
6 recognition -- or 50 percent reconciliation as opposed to a  
7 100 percent reconciliation, and that would be easier to  
8 understand and that would be fair.

9           But there are other approaches that have been  
10 taken where you put in a dead band and have graduated  
11 sharing up and down. And that is what the Wyoming tariff  
12 does in a fairly sophisticated way.

13           We also in looking at the Johnstone approach  
14 believe that it also has a lot of merit. So on these  
15 issues, you'll find that small consumers come down fairly  
16 closely with the large consumers. And we -- we certainly  
17 think that Johnstone has done a very sophisticated and  
18 very reasoned approach to this.

19           And so if you do feel that you must succumb to  
20 the pressure, you need to adopt some type of fuel  
21 mechanism, definitely urge you to first take a look at  
22 Mr. Johnstone's approach.

23           We think that is the type of approach that would  
24 be fair and share the risk somewhat between consumers and  
25 Aquila. So with that, I thank you.

1 JUDGE VOSS: Thank you. Department of Natural  
2 Resources?

3 OPENING STATEMENT

4 BY MS. WOODS:

5 MS. WOODS: Good morning, Commissioners. The  
6 Department, once again, intervened to address the energy  
7 efficiency or the demand site management issues. Those  
8 issues, I am pleased to report, have been settled by the  
9 parties and are reflected in the stipulation and agreement  
10 that I believe will be filed any minute now.

11 So I would like to, with the Commission's  
12 permission, defer any additional comments I might have on  
13 those issues until the on-the-record presentation, which I  
14 understand had been scheduled later in this hearing, if  
15 that's agreeable.

16 JUDGE VOSS: That's fine. And I will say that  
17 it has shown up in EFIS, so it has officially been filed.

18 MS. WOODS: Thank you.

19 JUDGE VOSS: City of Kansas City?

20 OPENING STATEMENT

21 BY MR. COMLEY:

22 MR. COMLEY: May it please the Commission, I  
23 think in previous filings by the city of Kansas City and  
24 cases involving Aquila, the Commission would recall that  
25 the City does operate a low income weatherization program,

1 and because of the operations and the extent of those  
2 operations has found these cases very important.

3 And as Ms. Woods indicated, demand side  
4 management was an issue that was raised by Department of  
5 Natural Resources. And as it turned out, their voice in  
6 this proceeding, Brenda Wilpers, happened to have a  
7 position quite consistent with that which would be taken  
8 by the City of Kansas City.

9 We did not sponsor a witness in this case. And  
10 I will join her in saying how pleasant it was saying that  
11 a stipulation concerning those issues had been reached.

12 The issues are to the satisfaction of the City  
13 of Kansas City. And although it will not be signing the  
14 stipulation, I can register here and will do so in writing  
15 later that we have no objection to that part of  
16 stipulation or the stipulation itself and will not be  
17 requesting any hearing about that.

18 Because that is primarily the issue that the  
19 City had in this case and the one that it was watching  
20 most closely, I was going to mention to the Commission  
21 that it is unlikely that I will have any other  
22 cross-examination for witnesses in this case, and it is  
23 unlikely that you will see me here.

24 So in the event I do not answer the call for  
25 cross-examination, I hope that explanation will suffice.

1 JUDGE VOSS: Thank you. City of St. Joseph?

2 OPENING STATEMENT

3 BY MR. STEINMEIER:

4 MR. STEINMEIER: Judge Voss, members of the  
5 Commission, the City of St. Joseph has sought to be  
6 actively engaged in this case. With limited resources, we  
7 have not sponsored witnesses. We have been an active  
8 participant in -- in discussions and negotiations and are  
9 a signatory to the stipulation and agreement, which has  
10 been signed this morning and has either now been filed or  
11 is in the process of being filed.

12 And we would commend that stipulation and  
13 agreement to the Commission for its favorable  
14 consideration.

15 At the end of the day, the interests of the City  
16 of St. Joseph are very similar to those of the Commission  
17 itself. The City needs a financially viable electric  
18 utility providing safe and adequate service at just and  
19 reasonable rates.

20 It needs a utility that controls costs, that  
21 plans intelligently for the future, that keeps electric  
22 rates affordable for its customers and their families and  
23 that helps the local economy by assuring reasonably priced  
24 and dependable power available to the businesses and  
25 industries that provide employment into the community.

1           In the interest of conserving the City's tax  
2 supported resources, counsel for St. Joseph, as counsel  
3 for Kansas City, would respectfully request to be  
4 generally excused from the remainder of the hearing,  
5 although we may be back from time to time. Thank you very  
6 much.

7           JUDGE VOSS: Jackson County? AmerenUE? I think  
8 that concludes the opening statements. Unless anyone  
9 particularly needs a bio break at this point, I would  
10 suggest moving on with Mr. Brubaker.

11           I have Mr. Brubaker's testimony marked as 500-NP  
12 and 500-HC; is that correct?

13           MR. WOODSMALL: Correct. And he has two other  
14 pieces, 501 --

15           JUDGE VOSS: Is that the revenue requirement,  
16 and then the rate design is 501?

17           MR. WOODSMALL: 501.

18           JUDGE VOSS: And supplemental direct HC and NP  
19 502; is that correct?

20           MR. WOODSMALL: Correct. Thank you.

21           MS. WHEELER: Judge Voss, I have copies of the  
22 stipulation to pass out.

23           JUDGE VOSS: That's fine. Is the witness ready  
24 to be sworn?

25           MR. WOODSMALL: Yes, your Honor.



1 MAURICE BRUBAKER,  
2 being first duly sworn to testify the truth, the whole  
3 truth, and nothing but the truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WOODSMALL:

6 JUDGE VOSS: Your witness.

7 MR. WOODSMALL: Thank you, your Honor.

8 Q (By Mr. Woodsmall) Would you state your name  
9 for the record, please?

10 A My name is Maurice Brubaker.

11 Q And, Mr. Brubaker, who are you testifying on  
12 behalf of?

13 A On behalf of Federal Executive Agencies, Sedalia  
14 Industrial Energy Users Group and AG Processing with the  
15 St. Joe Industrial Group.

16 Q And have you been -- have you caused to be filed  
17 in this case what has been marked Exhibits 500, 501 and  
18 502?

19 A Yes.

20 Q And is that testimony true and accurate to the  
21 best of your knowledge and belief?

22 A Yes.

23 Q Just by way of background, Mr. Brubaker, can you  
24 tell me the interplay between your testimony and  
25 Mr. Johnstone's testimony on the fuel adjustment clause?

1           A     Yes. Most of the issues I addressed were  
2     settled in the stipulation. So the remaining issue is the  
3     simple issue of the appropriate lime loss factor to  
4     recognize the different costs by voltage level that would  
5     be incorporated into any fuel adjustment mechanism that  
6     the Commission might choose to adopt.

7           Q     And in your -- I believe it's Exhibit No. 501,  
8     you address the lime loss issue; is that correct?

9           A     I do.

10          Q     And in that testimony, you present one method of  
11     accounting for lime loss. Can you tell me if that's still  
12     your recognized method? Or has anything changed on that?

13          A     It has not. The basic numbers contained in that  
14     proposal were and are correct. But as a result of  
15     discussions among the parties, we have come up with a -- I  
16     hesitate to say new and improved, but a simpler and more  
17     accurate way of reflecting lime losses in the fuel  
18     adjustment clause.

19          Q     And have you reduced that new method, that  
20     adjusted method to an exhibit?

21          A     I have.

22                 MR. WOODSMALL: Okay. I'd like to mark an  
23     exhibit, your Honor. 510.

24                 JUDGE VOSS: This isn't the one that was filed  
25     in EFIS, is it?

1 MR. WOODSMAL: No, no.

2 Q (By Mr. Woodsmall) Could you identify what's  
3 been marked as Exhibit 510?

4 A Yes. This summarizes the delivery voltage  
5 adjustment factors that would be incorporated on page 3 of  
6 Schedule 1 to Mr. Johnstone's rebuttal testimony. His  
7 filed exhibit simply has XX because we didn't have the  
8 values. And at that point in time, these would be the  
9 numbers that would be substituted for those placeholders.

10 Q And you say this has been reached as an  
11 alternative method after discussion with various parties;  
12 is that correct?

13 A That's correct.

14 MR. WOODSMALL: Okay. Your Honor, I'd move for  
15 the exhibit of Exhibits 500-HC and NP, 501, 502-HC and NP  
16 and Exhibit 510.

17 JUDGE VOSS: Are there any objections to the  
18 admission of these exhibits? Hearing none, they'll be  
19 admitted.

20 (Exhibit Nos. 500-HC, 500-NP, 501, 502-HC and  
21 502-NP were offered and admitted into evidence.)

22 MR. WOODSMALL: No further questions, your  
23 Honor.

24 JUDGE VOSS: Let's see. Okay. On the order of  
25 cross, I have the Commercial Group, who I don't believe is

1 represented by counsel today. Next would be AARP.

2 CROSS-EXAMINATION

3 BY MR. COFFMAN:

4 Q Good morning, Mr. Brubaker.

5 A Good morning, Mr. Coffman.

6 Q I just want to ask a couple questions and make  
7 sure I am clear on where your numbers are coming from.  
8 The Exhibit 510, the new calculation of these factor, are  
9 these still derived -- they are derived from the numbers  
10 that are on your Table 1 of page 4 in your -- your direct  
11 testimony?

12 A Yes, sir, they are.

13 Q Okay. So you haven't changed the numbers from  
14 your direct testimony. You've simply put them into a -- a  
15 formula to give a factor?

16 A That is correct.

17 Q And what -- what have you changed in proposed  
18 methodology with using it from the time you filed your  
19 direct testimony?

20 A Originally, the concept was to work off of  
21 system average costs at the sales level that would include  
22 losses and to use a loss multiplier factor to recognize  
23 that at the secondary voltage level the factor would be  
24 above average and primary below average and we had  
25 originally proposed to do that with multipliers.

1           In discussions with Staff and other parties, it  
2   was pointed out that a more direct method would be simply  
3   to use voltage level lime loss factors and apply them to  
4   the quantities of generation.

5           And after discussing that, it seems to me to be  
6   a method approach that's frequently used as an alternative  
7   to the multipliers, which I think is probably a little  
8   more straightforward and perhaps a little more accurate  
9   because it automatically corrects for changes in the  
10   percentage of sales that occur at secondary versus  
11   primary. So I think it's a superior methodology.

12         Q     Well, you know I love simple.

13         A     That's --

14         Q     But does this change in methodology tend to  
15   increase or decrease the differential between the -- the  
16   customer classes and what changes would occur between  
17   those customer classes?

18         A     No. I think it would have no effect.

19         Q     Okay.

20         A     It's just a different mechanic.

21         Q     Would it change -- would it -- would it adjust  
22   more frequently --

23         A     It would not.

24         Q     -- the changes? All right. And then back to  
25   your table on page 4, you footnote the -- the loss -- lime

1 loss numbers there as coming from Case No. EO-2002-0384.  
2 And that case was dismissed by the Commission, correct,  
3 ultimately?

4 A I thought it was settled as part of the last  
5 Aquila rate case. I may have to defer to counsel for a  
6 more --

7 Q Okay. But --

8 A -- precise explanation of that.

9 Q Lime losses weren't litigated in that EO case,  
10 were they?

11 A It was a result of a settlement, so they were  
12 not.

13 Q And in the last Aquila rate case, the 436 case,  
14 issues of -- all issues relating cost of service and rate  
15 design were settled. Is that accurate?

16 A Let me back up a second. I think I agreed with  
17 you that they weren't litigated. We had full litigation  
18 of -- of that case. We went through hearings, briefing  
19 and everything else and litigated issues where there were  
20 differences.

21 And as I recall, there were no differences among  
22 the parties on the lime losses.

23 Q And the Commission reached no determination  
24 about lime losses. Would that be fair? No decision came  
25 out of this Commission regarding lime losses in the

1 EO-2002-0384 case?

2 A Not other than in the context of approving the  
3 overall settlement.

4 Q Well, did the -- the order approving the  
5 settlement have any statement in it from the Commission  
6 regarding lime losses?

7 A Not that I recall.

8 Q Okay. And in the -- the settlement of -- or the  
9 order adopting a stipulation in the last rate case, the  
10 436 case, the Commission didn't have any statement  
11 adopting any specific lime losses in that case, did they?

12 A No, they did not.

13 Q All right. There was a settlement about certain  
14 allocations, and the parties reached some agreement about  
15 shifts among customer classes, but they didn't actually  
16 specifically address lime losses; is that correct?

17 A That is correct.

18 MR. COFFMAN: Okay. That's all I have. Thank  
19 you.

20 JUDGE VOSS: Public Counsel?

21 MR. DANDINO: No questions, your Honor. Thank  
22 you.

23 JUDGE VOSS: City of St. Joseph?

24 MR. STEINMEIER: No questions, your Honor.

25 Thank you.

1 JUDGE VOSS: Kansas City I? Department of  
2 Natural Resources?

3 MS. WOODS: No questions. Thank you.

4 JUDGE VOSS: Commission Staff?

5 MR. FREY: Thank you. No questions. Aquila?

6 MR. MITTEN: Your Honor, as we indicated in our  
7 pre-filed surrebuttal testimony, Aquila has accepted  
8 Mr. Brubaker's recommendations regarding lime losses to be  
9 considered in any fuel adjustment clause.

10 I would only mention that with respect to  
11 Exhibit 510, which was introduced this morning, Aquila did  
12 not object to that, and we agree that the values that are  
13 reflected on that exhibit were intended to go into the  
14 proposed tariff that was part of Mr. Johnstone's rebuttal  
15 testimony.

16 That does not mean that we now agree with that  
17 tariff or waive our right to contest the position that  
18 Mr. Johnstone has taken regarding the fuel adjustment  
19 clause.

20 JUDGE VOSS: I understand.

21 MR. MITTEN: And with that, we have no questions  
22 of Mr. Brubaker.

23 JUDGE VOSS: Okay. Are there questions from the  
24 Bench? Commissioner Gaw, did you have any questions?

25 COMMISSIONER GAW: Hopefully, briefly.



1 CROSS-EXAMINATION

2 BY COMMISSIONER GAW:

3 Q Mr. Brubaker --

4 A Yes, sir.

5 Q -- I didn't hear a lot of questions on your  
6 position. Is it your understanding that everybody's in  
7 agreement with it at this point on lime losses?

8 A I can't speak --

9 Q Other than AARP, perhaps?

10 A I can't speak for everyone, Commissioner. I  
11 just -- it's been out there, and I have not had anyone  
12 tell me that they thought it was inappropriate or  
13 improper. That's as far as I can say. I can't speak for  
14 the parties further than that.

15 Q All right. You're just a little bit out of  
16 order, so I'm not quite caught up with you here.

17 A Yeah.

18 Q And let me ask just a few questions about -- how  
19 did -- how you came up with your calculations.

20 A Yes. The Commission's fuel rules, of course,  
21 say that lime losses by voltage level shall be specified.  
22 The calculations that you see on Exhibit 510 take the lime  
23 losses for primary voltage and secondary voltage from the  
24 cost of service case that we went through in great detail  
25 and put them into a format that's compatible with

1 Mr. Johnstone's tariff, which basically says you take the  
2 fuel costs at the generation level before losses and then  
3 apply loss factors to get it to the primary level and to  
4 the secondary level.

5 And that's all I've done is take the physical  
6 facts from the system and put them into a formula that  
7 will make that work.

8 Q Okay. So you didn't really come up with the --  
9 with the adjustments. You pulled them out of the other  
10 case?

11 A I pulled the lime loss factors out of the other  
12 case. That's correct.

13 Q All right. Is it your understanding that the  
14 Commission endorsed that -- those figures in that other  
15 case?

16 A I can't speak for the Commission, sir. All I  
17 can say is it was not a contested issue among the parties,  
18 and we stipulated the case.

19 Q Do you know how those figures were calculated  
20 originally in that case?

21 A I looked at the loss studies that the company  
22 had performed, their physical analysis where they go  
23 through the system and they look at lime losses over the  
24 -- the lines themselves and through the transformers that  
25 -- magnetic or core losses in the transformers, I think

1 they call them.

2 So it was -- my memory is it was a fairly  
3 typical engineering type study.

4 Q Didn't they vary that according to temperature?  
5 Do you know?

6 A It was -- they did peak losses, and they did  
7 average losses. These are average losses. It would  
8 reflect a whole cycle of sales over the entire year.

9 Q How did they calculate the average? Do you  
10 know?

11 A Based on meter kilowatt hour data at the input,  
12 output and various stages through the system.

13 Q I understand that. I was just wondering if it  
14 was weighted or not. In other words, when you were  
15 calculating the average, was it just during a particular  
16 -- each -- each day or each hour, each -- and then was  
17 there any consideration about -- about the importance of  
18 the shifts during peaking periods as opposed to -- to the  
19 -- to the other times of the year when we were on off  
20 peak?

21 A Well, my recollection, Commissioner, is that the  
22 -- these loss factors that I've used were the average over  
23 the entire year.

24 Q Yeah. But I guess -- and it may not be a fair  
25 question for you, Mr. Brubaker. But I'm just -- because

1 we don't have that in front of us and if it's not an issue  
2 and no one's really addressing, I won't pursue this much  
3 further.

4 But in regard to the question of the average and  
5 how it was calculated, do you know how that average was  
6 calculated? Was it a weighted average? Was it some sort  
7 of an average that was just taken with all things being  
8 considered equal on -- on time? Do you know?

9 A I don't recall the details. I believe that I've  
10 considered all factors across the year because I believe  
11 it was based on kilowatt hours metered over a period of 12  
12 months. That's my recollection anyway.

13 Q Uh-huh. Okay. So the only attribution, then,  
14 from one -- from one class to another is -- is based upon  
15 the -- tell me how this fits with the different classes.  
16 That's what I'm looking for.

17 A Okay. Most of the customers in all classes are  
18 served at secondary. There are some customers in the  
19 large power class --

20 Q Right.

21 A -- and perhaps in the large general service  
22 class that are -- that are served at the primary voltage  
23 level, higher voltage level.

24 Q So that's basically the -- that's basically the  
25 only distinguishing feature in this calculation is where

1 -- what they're served by?

2 A Yes, sir.

3 Q There is no additional adjustment based upon  
4 whether or not there may be something unique about the --  
5 the load being -- a road that is -- that is mostly --  
6 causes -- causes the peaking to occur or is utilizing  
7 energy during peaking periods where the load factor is  
8 lower rather than higher? None of those factors weigh  
9 into this calculation on load loss -- on loss of -- lime  
10 losses? Excuse me.

11 A No, sir. Not to distinguish one class from  
12 another because it's the average over the year.

13 Q Okay. I -- I think at least generally I follow.

14 A Okay.

15 Q Thank you very much.

16 A Yes, sir. Thank you.

17 JUDGE VOSS: Commissioner Clayton?

18 COMMISSIONER CLAYTON: No questions.

19 JUDGE VOSS: Commissioner Appling?

20 CROSS-EXAMINATION

21 BY COMMISSIONER APPLING:

22 Q Good morning, Mr. Brubaker.

23 A Good morning, sir.

24 Q How are you doing?

25 A I'm doing all right. Thank you.

1           Q     Last time you was in that seat I asked you to  
2     bring forth some wisdom.

3           A     I recall that.

4           Q     Okay. Well, are you going to be back here  
5     again?

6           A     No, sir. Not for this case.

7           Q     Okay. Well, then maybe I'll see you another day  
8     to talk about that.

9           A     All right. I appreciate the pass.

10           COMMISSIONER APPLING: Judge, I have no further  
11     questions for this witness. Thank you.

12           JUDGE VOSS: And I don't have any additional  
13     questions. I know that you're wishing to be excused. I  
14     want to double-check with Commissioners Murray and the  
15     Chairman to make sure that they don't have any additional  
16     questions.

17           MR. BRUBAKER: I'll be present until --

18           JUDGE VOSS: Until at least this afternoon?

19           MR. BRUBAKER: Uh-huh.

20           JUDGE VOSS: Thank you.

21           MR. BRUBAKER: Thank you. And I'd like to thank  
22     the Commission and the Judge and the parties for allowing  
23     me to go out of turn with this small issue.

24           JUDGE VOSS: I think we'll take a brief recess.  
25     Yes.

1           MR. WOODSMALL: Your Honor, since this is the  
2 first -- first witness, and just to set the ground rules  
3 after questions from the Bench, are you going to have  
4 recross and then redirect?

5           JUDGE VOSS: You know, you're right. I'm sorry.  
6 I'm too anxious, I guess. Is there any recross based on  
7 questions from the Bench? Redirect?

8           MR. WOODSMALL: No, your Honor.

9           JUDGE VOSS: I didn't think there would be  
10 questions, but you've got to watch the new judge. Okay.  
11 We'll take a brief break, and we'll come back at 25 after.

12           (Break in proceedings.)

13           JUDGE VOSS: Before we go back on the record --  
14 okay. We are back on the record. And I believe, Mr.  
15 Conrad, you said you had a preliminary issue?

16           MR. CONRAD: Yes, Judge. And I note and would  
17 direct the Bench's attention to now that the stipulation  
18 has been filed and appears on page 12, paragraph 23. But  
19 I did contact Mr. Finnegan, and he asked us to indicate  
20 verbally that Jackson County did not oppose the  
21 stipulation even though they are not a signatory thereto.  
22 So that's -- that's it.

23           JUDGE VOSS: Okay.

24           MR. CONRAD: Thank you.

25           JUDGE VOSS: All right. We'll begin with

1 opening statements on the accounting authority issues  
2 beginning with Aquila.

3 MR. BOUDREAU: Thank you.

4 OPENING STATEMENT

5 BY MR. BOUDREAU:

6 MR. BOUDREAU: May it please the Commission.  
7 Included in rate base in Aquila's filing are un --  
8 unamortized balances as of December 31, 2006, of the  
9 accounting authority order deferrals reflecting a return  
10 authorized by the Commission associated with the Sibley  
11 power plant rebuild and the Western Coal conversion  
12 projects which were authorized in Case Nos. EO-90-114 and  
13 EO-91-358.

14 Also, included in cost of service is an annual  
15 amount of associated amortization expense. The Staff  
16 adopted the test year amortization and included expense  
17 amortizations for each of the AAOs in its direct case.

18 Now, in the spirit of -- of continuing to narrow  
19 issues, I do have something of an update to advise the  
20 Commission about that there -- on this issue, there are  
21 really two components to the AAO deferral issue scheduled  
22 for trial today.

23 The first is OPC's position that the deferred  
24 costs included in the Sibley AAOs should be excluded from  
25 rate base treatment. And I'll return to that issue



1 momentarily.

2           The second component is related to the  
3 calculation of deferred income tax related to the costs  
4 deferred in the accounting authority orders. And OPC  
5 asserts that the deferred income tax balance should  
6 include the deferred tax related to depreciation expense  
7 in the AAO balances.

8           After discussion last evening, Staff and Aquila  
9 have agreed to adopt OPC's position on the deferred income  
10 tax component of this issue. MPS's rate base should be  
11 reduced by an additional \$166,657, which results in a  
12 revenue requirement reduction of \$18,282.

13           Now, I will point out that that is not an  
14 agreement that is reflected in the stipulation that was  
15 filed this morning.

16           The remaining issue to be tried today then is  
17 related only to whether the unamortized Sibley AAO  
18 balances should be included in rate base. And in that  
19 regard, in previous rate cases, the Commission has  
20 authorized a return on the unam -- unamortized balance of  
21 the AAOs and recovery of associated amortization expense  
22 consistent with the treatment proposed by Aquila.

23           Those were Case Nos. ER-90-101 and ER-93-37. I  
24 will also point out that in Aquila's 1987 rate case,  
25 proposal was in line with these decisions. And it was not

1 a contested issue, and that was Case No. ER-97-394.

2 As I noted, Public Counsel has recommended a  
3 disallowance of the unamortized balances from a  
4 determination of Aquila Networks MPS's rate base. Public  
5 Counsel, I think essentially is contending that a  
6 subsequent Missouri Gas Energy rate order in Case No.  
7 GR-98-140 in which MGE was denied rate base treatment for  
8 service -- for its service line replacement program costs  
9 somehow supersedes the treatment proposed by Aquila and  
10 Staff.

11 It is our view that this theory is unfounded and  
12 unjustified. The report and order issued in Case  
13 No. EO-91-358 expressly notes that AAOs are fact-based and  
14 granted on a case by case basis.

15 So the MGE order has meaning only within the  
16 context of that company's accounting requests concerning  
17 -- concerning SLRP costs and the authorized deferral  
18 period. And it's not really relevant to the costs  
19 associated with the Sibley rebuild on the Western Coal  
20 conversion projects.

21 Additionally -- additionally, no language in the  
22 MGE decision suggests that it has any broader  
23 applicability than the topic that is specifically  
24 addressed therein.

25 And more importantly, with -- even if you look

1 at the MGE decision upon which OPC relies, that decision  
2 itself refutes the idea that -- that it represented a  
3 change this policy concerning unamortized amounts with  
4 respect to which rate base treatment already had been  
5 granted.

6 It's the company's view that the Commission  
7 should grant the same rate treatment to the Sibley AAOs as  
8 it did in Aquila's 1991 and 1993 rate cases. With that,  
9 I'll conclude my remarks on this topic.

10 Should I call my witness, or would you prefer to  
11 have opening statements from other parties at this time?

12 JUDGE VOSS: I think all opening statements  
13 upfront would be more helpful to the Commissioners.

14 MR. BOUDREAU: Very good. In that case, I'll  
15 return.

16 JUDGE VOSS: Commission Staff?

17 OPENING STATEMENT

18 BY MR. MEYERS:

19 MR. MEYERS: Good morning. The Commission made  
20 its decision on this issue when it first considered in the  
21 early 1990s based on public policy considerations that  
22 remain valid today.

23 At the time, the Commission determined that the  
24 projects in question would extend the life of the Sibley  
25 units by 20 years and match the payments of the costs of

1 rebuilding construction with the benefits that that  
2 construction would provide to ratepayers over that 20-year  
3 span.

4 The Commission determined that the usual  
5 practice was to include capital costs in rate base and  
6 that at the time that case was the situation where capital  
7 costs were being recovered.

8 These costs have been captured in AAOs because  
9 they were significant at the time. Indeed, the Commission  
10 found that the net income impact of the 1993 deferral was  
11 approximately 10 percent of the company's estimated net  
12 income during that time period.

13 The Commission drew the conclusion in 1990 and  
14 again in 1993 that matching costs and revenues for  
15 rate-making purposes was important and that including the  
16 Sibley deferrals and the cost of service did not violate  
17 test year principles.

18 Now we are again revisiting the question of  
19 whether to include the remaining unamortized cost of  
20 construction in rate base so Aquila can earn a return upon  
21 it.

22 Staff supports the Commission's prior conclusion  
23 that the capital expenditures captured by the AAOs at  
24 issue in this case should be treated just like any other  
25 capital expenditure and be given rate base treatment

1     permitting the company to earn a return on their  
2     extraordinary construction investment in the plant that  
3     has been permitted the Sibley facility to continue to  
4     provide adequate service.

5             Mr. Phil Williams from Staff is here to answer  
6     questions regarding Staff's view. Thank you.

7             JUDGE VOSS: Thank you. Public Counsel, would  
8     you like to do it from your seat?

9             MR. DANDINO: Yes, your Honor. Thank you.

10                             OPENING STATEMENT

11     BY MR. DANDINO:

12             MR. DANDINO: First of all, Public Counsel  
13     concurs in -- in the statement that Mr. Boudreau made  
14     concerning the settlement of the -- of the accrued  
15     deferred income tax balance.

16             Now, on to the issue of the deferred -- the  
17     deferred balance for the Sibley plant. Public Counsel is  
18     a bit confused with the Staff's position saying that  
19     they're following a -- the Commission's recommendation --  
20     or -- or decision entered when in Missouri Gas Energy Case  
21     GR-98-140, the Commission denied rate base treatment for  
22     -- for un -- unamortized balance of an AAO by MGE.

23             The reasoning they set out in there is  
24     applicable here as -- as there. AAOs are not intended to  
25     eliminate regulatory lag but are intended to mitigate the

1 costs incurred by the company because of mit -- of  
2 regulatory lag.

3           There is -- the treatment of -- of the -- the  
4 treatment of this as -- the AAO as rate base gives the --  
5 the company a -- an advantage by giving them a return on  
6 the ratepayers' investment. The ratepayers have -- have  
7 funded -- as I discussed in my opening, the ratepayers end  
8 up funding everything.

9           In these AAO balances, the -- the company is  
10 able to recover their costs. Now, by putting them in a --  
11 in the rate base, they're going to earn a return on those  
12 even though it's the -- the ratepayers that have provided  
13 those funds.

14           We think that's fundamentally unfair and believe  
15 that the proper way to -- to handle this unamortized  
16 balance of the AAOs for Sibley construction is to remove  
17 them from rate base consideration. It is -- the company  
18 -- that way, both the ratepayers and the shareholders bear  
19 the burden. Thank you.

20           JUDGE VOSS: I don't believe there's anyone else  
21 that has a position on this issue. Is there anyone else  
22 that wanted to give an opening statement on the AAO  
23 issues? Hearing none, Aquila, call your witness.

24           MR. BOUDREAU: Thank you. Call Mr. Klote to the  
25 stand, please.

1 JUDGE VOSS: How do you -- is it --

2 MR. KLOTE: Klote.

3 JUDGE VOSS: Klote?

4 MR. KLOTE: Yes.

5 RONALD KLOTE,

6 being first duly sworn to testify the truth, the whole  
7 truth, and nothing but the truth, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BOUDREAU:

10 JUDGE VOSS: Thank you. Your witness.

11 MR. BOUDREAU: Thank you.

12 Q (By Mr. Boudreau) Would you state your name for  
13 the court reporter, please?

14 A My name is Ronald A. Klote.

15 Q By whom are you employed and in what capacity,  
16 sir?

17 A I work for Aquila, Inc., and I am the Director  
18 of Regulatory Accounting Services.

19 Q Okay. Are you the same Ronald Klote that has  
20 caused to be prepared and filed in this case pre-filed  
21 direct and surrebuttal testimony marked respectively as  
22 Exhibits 018 and 019?

23 A Yes, I am.

24 Q Was that testimony prepared by you or under your  
25 direct supervision?

1           A     Yes, it was.

2           Q     Do you have any corrections to make to any of  
3 the testimony at this time?

4           A     No, I don't.

5           Q     If I were to ask you the same questions as are  
6 contained in both of those documents, would your answers  
7 here today be substantially the same?

8           A     Yes, they would.

9           Q     And would they be true and correct to the best  
10 of your information, knowledge and belief?

11          A     Yes, they would.

12               MR. BOUDREAU: With that, I will offer exhibits  
13 018 and 019 into the record and tender the witness for  
14 cross-examination.

15               JUDGE VOSS: Are there any objections to the  
16 admission of the two exhibits? Hearing none, they will be  
17 admitted.

18               (Exhibit Nos. 18 and 19 were offered and  
19 admitted into evidence.)

20               JUDGE VOSS: And first up that's in the room, I  
21 see Department of Natural Resources. Do you have any  
22 questions for this witness?

23               MS. WOODS: No, we do not. Thank you.

24               JUDGE VOSS: City of St. Joseph?

25               MR. STEINMEIER: No questions, your Honor.



1 JUDGE VOSS: Federal Executive Agencies?

2 CAPTAIN HOLLIFIELD: No questions, your Honor.

3 JUDGE VOSS: Thank you. Commercial Group?

4 Sedalia Industrial Energy Users Association and AG

5 producers?

6 MR. WOODSMALL: No, thank you, your Honor.

7 JUDGE VOSS: Staff?

8 MR. MEYER: Nothing. Thank you.

9 JUDGE VOSS: Public Counsel?

10 MR. DANDINO: I'm the only one left. Thank you,

11 your Honor.

12 CROSS-EXAMINATION

13 BY MR. DANDINO:

14 Q Mr. Klote, I don't think we've -- we've met each  
15 other, but it's a pleasure to meet you.

16 A Nice to meet you.

17 Q Would you agree, Mr. Klote, that the purpose of  
18 an accounting variance, accounting AAO, is to protect  
19 Aquila from adverse financial impact for -- of  
20 extraordinary expenses?

21 A Yeah. I believe that -- that the impact of AAOs  
22 and the reason that we have them is to defer costs from  
23 certain periods in order to defer those to when they can  
24 be recovered in rate cases. Yes.

25 Q Well, during the time that the AAOs, in fact --

1    you're able to recover some of the -- or you're able to --  
2    to mitigate the regulatory lag, correct?

3           A     Could -- I'm not sure I understand your  
4    question.

5           Q     Okay. Let me -- let me try. One of the objects  
6    -- or one of the reasons for the adverse impact --  
7    financial impact is the regulatory lag between the time  
8    you incur the expense and the time you can recover those  
9    expenses in a rate case; is that correct?

10          A     That is correct.

11          Q     Okay. And does the capture and recovery of  
12   costs -- would you agree that that's -- that's referred to  
13   as return of your investment?

14          A     Well, there's two parts included in -- that can  
15   be included. You can have a return on and you can have a  
16   return of.

17          Q     Well, I'm just talking about a return of. So if  
18   you capture and recover your expenses, that's a return of,  
19   correct?

20          A     Yes, it is. But there's also a component of  
21   carrying costs that can be included on there as well.

22          Q     But it's a return of? That's a return of,  
23   that's recovery of your costs?

24          A     Yes.

25          Q     Okay. Now, the return on is another matter,

1     isn't it?  That's --

2             A     Yes, it is.

3             Q     That's a return of -- of the invest -- it's a  
4     return -- rate of return on the investment; isn't that  
5     correct?

6             A     Yes, that's correct.

7             Q     Okay.  Now, whether or not these AAOs -- these  
8     two AAOs are included in the rate base, Aquila is going to  
9     recover those costs?  They're going to -- there will be a  
10    return of those costs?

11            A     They -- I -- I guess I slightly disagree with --  
12    with that statement.  We would recover, but we would be  
13    losing out on the time value of the money, yes.

14            Q     Well, you're still going to recover those costs.  
15    There's -- there's another factor -- time value of money  
16    comes under return on; isn't that correct?

17            A     That's correct.

18            Q     So you're achieving return on and then time  
19    value of money and -- and other factors are going to be  
20    the return on that investment, right?

21            A     That's correct.

22            Q     Okay.  Now, essentially, I'm -- if I understand  
23    it, your position is that since the Commission approved  
24    AAO -- these AAOs to be treated as part of the rate base  
25    in the prior MPS or Aquila cases that that should

1 continue?

2 A Yes. That's our position.

3 Q Okay. And is there anything that absolutely in  
4 the law that requires the Commission to continue to treat  
5 the AAO -- these AAOs as part of the rate base?

6 MR. BOUDREAU: I object on the grounds it calls  
7 for a legal conclusion.

8 MR. DANDINO: Well, I'll reword the question.

9 JUDGE VOSS: Okay. I was going to say that was  
10 sustained.

11 Q (By Mr. Dandino) Mr. Klote, what's your  
12 position with the company?

13 A I'm the regular -- excuse me -- Director of  
14 Regulatory Accounting Services.

15 Q And you're familiar with regulatory opinions and  
16 -- and the rules and regulations of the Public Service  
17 Commission as they apply to your company?

18 A Yes, I am.

19 Q And from time to time, you become aware of  
20 decisions affecting the way the -- your -- Aquila is  
21 required to maintain its books for regulatory purposes; is  
22 that correct?

23 A Yeah. That's correct.

24 Q Okay. And are you aware of any decision or any  
25 statute that would prohibit the Commission from continuing

1 to include the AAO in the rate base?

2 MR. BOUDREAU: I'm going to make the same  
3 objection. It's essentially asking for a legal opinion.

4 MR. DANDINO: Your Honor, I'm not asking for an  
5 opinion. I'm asking if he's aware of any. I'm not asking  
6 him the issue as a legal opinion.

7 JUDGE VOSS: Okay. Well, as an expert witness  
8 in this area, I would assume you would have some knowledge  
9 of the rules and regulations, the existence of, that could  
10 govern. You might try to reword your question so it  
11 doesn't call for a definitive answer as in --

12 MR. DANDINO: Oh, I'll be glad to do that.

13 Q (By Mr. Dandino) Mr. Klote, without rendering a  
14 legal opinion, are you aware of any decision or statute  
15 that would limit the -- the ability of the Public Service  
16 Commission from removing an AAO from rate base treatment?

17 MR. BOUDREAU: Well, just for the record, I'll  
18 make the same objection.

19 JUDGE VOSS: And the word that I was wanting you  
20 to change was the "could" or "might." You're saying that  
21 would limit and asking if he knows something that would  
22 limit would ask for a legal conclusion.

23 MR. DANDINO: Okay. I think I'll just withdraw  
24 the question, and we'll move on.

25 JUDGE VOSS: Okay.

1 MR. DANDINO: It's not worth it.

2 Q (By Mr. Dandino) In this case, Aquila has --  
3 has asked for a -- a 20-year amortization period; isn't  
4 that correct?

5 A Yes. It's a continuation of the 20-year  
6 amortization rate.

7 Q So that -- okay. That hasn't changed.

8 A Huh-uh.

9 MR. DANDINO: I think that's all I have, your  
10 Honor. Thank you.

11 JUDGE VOSS: Are there any questions from the  
12 Bench? Commissioner Murray?

13 COMMISSIONER MURRAY: Thank you.

14 CROSS-EXAMINATION

15 BY COMMISSIONER MURRAY:

16 Q Good morning.

17 A Good morning.

18 Q Depreciation has always been, I think, a very  
19 complex issue to get your hands around. And the AAOs and  
20 how they fit into that process is even more complex. So  
21 I'd like to go through with you, if I could, some  
22 questions that may help clarify what actually happens with  
23 an AAO such as this one.

24 When the asset construction was completed -- and  
25 it was over a period, an extended period of time; is that

1 correct?

2 A That is correct.

3 Q The amount of the expenditure was placed into  
4 rate base; is that correct?

5 A It was placed into service. It was not --

6 Q Placed into service.

7 A Yes. That's correct. But whenever you -- you  
8 say rate base, I would deem rate base as in the context of  
9 a rate case. And these were put into service prior to  
10 when the rate cases were filed.

11 Q And there was an AAO, which allowed an  
12 accounting treatment and explained what the accounting  
13 treatment was for the expenditure of, say, the first major  
14 expenditure?

15 A Sure. There -- the -- the Sibley rebuild and  
16 Western Coal conversion took depreciation expense,  
17 carrying costs, and on the first AAO property taxes,  
18 deferred those expenses forward. And the initial AAO left  
19 the rate-making treatment for the next filed rate case.

20 This -- this occurred over a period between 19  
21 -- the Sibley rebuild was between 1986 and 1993, but the  
22 AAOs covered a period -- first AAO covered a period of  
23 1989 to, I believe, September of 1990.

24 The second AAO covered two periods, the period  
25 from September 1990 to October of 1990 and then from

1 January 1992 to June of 1993.

2 Q Okay. And then following the first AAO, what  
3 was the date of the first rate case?

4 A I pause there. I can get that for you. Just a  
5 second. That -- yeah. I don't have the specific date.  
6 I've got a -- pages from that order. But the -- that rate  
7 case would have been filed in 1990. It was using a 1989  
8 test year.

9 Q Okay. And at that time, if you take the -- what  
10 had been depreciated through the accounting process in the  
11 AAO, the remaining amount then was placed in rate base; is  
12 that correct?

13 A That's correct.

14 Q So that any amount that had been depreciated to  
15 that point did not go into rate base. And the recovery of  
16 that initial amount, how was that recovery achieved?

17 A The -- the recovery of the depreciation expense  
18 that you talked about between the -- when the costs went  
19 into service versus when the rate case was filed, those  
20 were the amounts that were deferred.

21 And recovery was achieved through the inclusion  
22 of the amortization expense of that depreciation amount  
23 over a 20-year period, plus the inclusion of that amount  
24 in rate base.

25 Q Say that one more time. The inclusion of --



1           A     Yeah. The depreciation expense that was  
2 deferred as part of the AAO was included as part of your  
3 rate base, and it was amortized over a 20-year period.

4           Q     Okay. This is where -- this is where I get  
5 confused because the -- let's take, let's say, \$2 million  
6 and at the time of the first rate case, the amount that  
7 had been depreciated as a result of the AAO was 200,000.

8           A     All right.

9           Q     So you'd have 1.8 million remaining; is that  
10 correct?

11          A     That's correct.

12          Q     Now, what goes into rate base? What went into  
13 rate base if that had been the case, if those had been the  
14 numbers?

15          A     Well, when you file the rate case, as part of  
16 your rate base, you would have the 1.8 million as part of  
17 your plant rate base amount, and you would also have that  
18 \$200,000 amount as part of your AAO rate base amount  
19 because you weren't -- you weren't allowed -- since we  
20 started depreciating that prior to whenever the rate case  
21 was filed, we weren't allowed to earn a return on those  
22 funds.

23                     And that's why this AAO was -- allowed us to  
24 defer an amount on that and get a return on those.

25          Q     So the full amount is a return on -- you're

1     earning a return on the full amount?

2             A     That's correct.

3             Q     But the 200,000 that had been -- I -- I'm not  
4     using the right words, but through the accounting process  
5     have been set aside, recovered over an extended period of  
6     time?

7             A     Yeah. It was recovered over the 20-year  
8     amortization period that the AAO was set up for.

9             Q     Okay. Now, the plant would -- the 1.8 million  
10    that went into rate base under plant would have been  
11    depreciated differently over a different period of time?

12            A     It would be depreciated over the -- over the  
13    years of what asset class it went into. And you're  
14    dealing with different types of asset classes there, and  
15    they have different depreciation rates. But they would  
16    have been depreciated over that time.

17            Q     Okay. And the issue here that Public Counsel --  
18    Office of Public Counsel, if we just take these numbers  
19    that I gave you as if these were the numbers that we were  
20    looking at in this case, what is the amount that Office of  
21    Public Counsel is suggesting should not be going into rate  
22    base?

23            A     They -- they would say that the amount of  
24    200,000 should not be included in rate base.

25            Q     And they're saying that the company has already

1 recovered that amount through the -- that the ratepayers  
2 have already paid for that amount; is that correct?

3 A Yeah. That -- I think that's correct. They  
4 believe that you should only recover those 200,000 over  
5 the 20-year period and there should be no -- no return on  
6 that or no time value of those funds expended.

7 Q So purely the 200,000 should be spread over the  
8 20 years, but the unamortized amount should not be  
9 included, therefore, the company would be sort of  
10 extending a loan without any interest. Is that what it  
11 would amount to?

12 A That's correct.

13 COMMISSIONER MURRAY: Okay. Thank you.  
14 Appreciate it.

15 JUDGE VOSS: Commissioner Appling?

16 CROSS-EXAMINATION

17 BY COMMISSIONER APPLING:

18 Q Good morning, sir.

19 A Good morning.

20 Q One short question. I read your testimony and  
21 your rebuttal testimony this morning. But let's go  
22 through your rebuttal testimony if you have it before you  
23 on page 5 and line 13. And I -- I think that I have it,  
24 but I just wanted to make sure that I'm clear on this.

25 Do you see the question that you was asked what

1 is Mr. Robertson's main objection?

2 A Yes, I do.

3 Q Can you expound on that issue a little bit? And

4 then I'll give Mr. Robertson a chance to tell his

5 definition of that and -- when he comes to the Bench.

6 Could you expound on that a little bit for me --

7 A Yeah.

8 Q -- if that's a possibility to do that.

9 A Sure. From reading Mr. Robertson's testimony, I  
10 think his main objection is -- is that we were granted  
11 rate base treatment of the AAOs in 19 -- in the 1990 and  
12 1993 rate cases and it wasn't disallowed in the 1997 rate  
13 case.

14 And he has pointed to a -- a rate case that  
15 involves another Missouri utility in which they were not  
16 allowed rate base treatment. They had previously been  
17 allowed rate base treatment of their AAO cost. And in  
18 this case, they were not allowed for new costs going  
19 forward rate base treatment.

20 Now, there were unique circumstances, I think,  
21 in that case that -- that really supports the argument  
22 that these costs are looked at on a case by case basis.  
23 And in that MGE case, instead of using a 20-year  
24 amortization period, that amortization period was moved to  
25 a 10-year amortization period, and, basically, return of

1 those -- those amounts were sped up or the return of the  
2 capital was sped up.

3 So there were unique instances that -- that may  
4 have led to -- to that. And his objection is that -- that  
5 since in this other utility's case they didn't receive  
6 rate base treatment, then -- then that was precedence for  
7 all AAOs.

8 Q Do you ever recall whether the AAO issue was  
9 ever litigated in court or not?

10 A I'm -- I didn't quite hear that last -- in --

11 Q Was it litigated in courts sometime past?

12 A I'm --

13 Q The AAO issue.

14 A Was it litigated in --

15 Q In the courts.

16 A In the courts.

17 Q If you -- if it's no, that's fine.

18 COMMISSIONER APPLING: That's all the questions  
19 I have. Thank you very much.

20 Mr. KLOTE: No problem.

21 JUDGE VOSS: Commissioner Gaw, did you have any  
22 questions?

23 COMMISSIONER GAW: I don't think so right now.

24 Thanks.

25 JUDGE VOSS: I have a couple because like

1 Commissioner Murray, I also find this issue very  
2 confusing.

3 CROSS-EXAMINATION

4 BY JUDGE VOSS:

5 Q When you're talking about depreciation expense,  
6 that is the dollar value that the initial plant asset was  
7 depreciated between when each section of the plant went in  
8 service and when it ultimately went into rate base?

9 A I -- I believe that's correct. It's when it  
10 went into -- it was placed into service, depreciation  
11 began computed on that amount. And then a -- a test year  
12 for the next rate case was established, and it's the --  
13 it's the difference between the amount that had been  
14 depreciated up to the end of that test year.

15 Q And what I understand, what was different about  
16 your testimony -- or your -- this project was it was over  
17 a period of years because of the refurbishing of the plant  
18 and you wanted -- the company wanted to keep the plant in  
19 service during the peak periods?

20 A Yeah. That was the main objective is -- is how  
21 can we minimize, you know, the harm to customers and --  
22 and how can we meet our peak demand and -- and curtail  
23 some of the -- the generation that we're going to need  
24 going forward.

25 Q So small pieces of the plant went into service

1 each year, and you held back and put the AAO -- the amount  
2 that each -- that plant depreciated yearly until you were  
3 ready for a rate case?

4 A That's correct. Yes.

5 Q So if you would have filed an annual rate case  
6 every year during this process, each of these amounts  
7 would have been put into rate base, and you would not have  
8 lost -- or had the risk of not collecting the  
9 depreciation?

10 A That would have been one of the strategies we  
11 would have had to use to re -- to get a return on our  
12 investment, yes, is file rate cases.

13 Q That was just something I was trying to  
14 understand.

15 JUDGE VOSS: Are there any additional questions  
16 from the Bench at this time?

17 COMMISSIONER GAW: Yes.

18 JUDGE VOSS: Okay. Commissioner Gaw?

19 CROSS-EXAMINATION

20 BY COMMISSIONER GAW:

21 Q Have you mapped this out somewhere in your  
22 testimony comparing the numbers here so I can go down and  
23 see them side by side?

24 A Mapped -- mapped out the amounts that were  
25 deferred or --

1           Q     I'm talking about something that shows side by  
2     side what the differences are in the positions of the  
3     parties here as we work down from year to year in seeing  
4     what the bottom line is.

5           A     Well, the only differences in the party is the  
6     amount that remains to be unamortized.

7           Q     All right.

8           A     And that amount, which is \$1.7 million --

9           Q     Okay.

10          A     -- is -- the OPC does not believe we should  
11     include that as part of our rate base whereas the position  
12     of both Staff and company believe it should be part --  
13     included as part of rate base.

14          Q     Yeah. But that doesn't tell me anything by  
15     itself. I'm trying to understand historically what this  
16     is looking like. You all are citing cases that predate  
17     everybody on this Commission.

18                     And I'm sure everyone that's in this room knows  
19     exactly what you're talking about, but -- but me. But I  
20     want you to -- to go down there and tell me how this --  
21     how this compares in looking at the -- the positions of  
22     the parties. And there's -- there's three different  
23     scenarios.

24                     One would be where you'd be filing a rate case  
25     every year. And one would be taking the position that --



1     that OPC has in regard to how -- how this thing would have  
2     been handle -- should have been handled and should be  
3     handled going forward. And the other is the position that  
4     you have so I can see the numbers.

5           A     Sure.

6           Q     Have you done that?

7           A     There's -- there's nothing in testimony, no,  
8     that -- that includes a year over year of how much was put  
9     in service, how much was deferred. You know, testimony  
10    talks about the amount of the AAO that was -- was  
11    deferred.

12          Q     Right. But it doesn't give me any kind of an  
13    idea other than just general concept here of what you all  
14    are talking about. How difficult would that be to do? Is  
15    that -- is that a lengthy process?

16          A     Yeah. I think going back to, you know, the  
17    period of 1989 through '93 and looking at work orders on  
18    how much was put in service. Yes, it would -- it would be  
19    a process.

20          Q     All right. So give me some general -- then some  
21    -- give me some general idea over a shortened period of  
22    time, then, about how this -- how you think this ought to  
23    work.

24          A     Over a shortened period of time?

25          Q     Yeah. I'm trying to make it less complicated.

1           A     Sure.

2           Q     If that makes it more complicated, you can do  
3     every single year if you like and you could come back and  
4     talk to me tomorrow or something, whichever you'd prefer.

5           A     Well, from the period -- there were two AAOs in  
6     the process.    Okay?  There was a period -- the first AAO  
7     covered a period of 1989 through September of 1990.

8           Q     Okay.

9           A     The second AAO -- and included in those costs  
10    were depreciation expense, carrying costs and property  
11    taxes.

12          Q     Okay.

13          A     Those were the amounts that were deferred.

14          Q     All right.

15          A     Okay?  In the second AAO, it covered a period  
16    beginning January of 1992 through --

17          Q     What was the length of that first AAO supposed  
18    to be?

19          A     The length of it?  A 20 -- you mean a  
20    recovery --

21          Q     Yes.

22          A     The recovery period would be a 20-year  
23    amortization period.

24          Q     And what was the initiation date of that?

25          A     The -- it was rate case in 1990.  I don't have

1     that specific date. But there was a rate case filed in  
2     1990.

3           Q     That's when that -- that particular AAO was --  
4     was -- was started --

5           A     Yes.

6           Q     -- was in that rate case that --

7           A     Well, there was an AAO, which is a separate  
8     docket that establishes the AAO and allows you to defer  
9     those on the books.

10          Q     When was that?

11          A     December 28th of 1989.

12          Q     All right. Is that order in your testimony or  
13     referred to in your testimony?

14          A     It's referred to in my testimony. Yes.

15          Q     Okay. All right. Then did that AAO set out the  
16     -- the full parameters of -- of the recovery, or was that  
17     done in the rate case?

18          A     No. The -- the rate-making treatment was  
19     established in the next filed rate case.

20          Q     In the 1990 case?

21          A     Yes.

22          Q     All right. I -- I had interrupted you. What  
23     was the second AAO?

24          A     The second AAO covered a period from September  
25     -- or excuse me -- January 1992 through June of 1993.

1 Q All right. What was that?

2 A It -- it dealt with the exact same projects.  
3 And in the -- that case, the AAO deferred amounts were for  
4 depreciation expense and the carrying costs. There were  
5 no property taxes on that -- on that second AAO.

6 Q Is this on the same plant?

7 A Yes. They both involved the Sibley rebuild and  
8 the conversion to Western Coal.

9 Q So what was the difference between the first and  
10 second AAO? Was it a modification -- was the second one a  
11 modification of the first?

12 A Well, it was a different -- covered a different  
13 period, from 1998 through -- through September of '90.  
14 And then the next one established a new period of -- of  
15 January 1992 to June of 1993.

16 Q But there's a 20-year amortization in the first  
17 one?

18 A The first one was -- in the rate case, those  
19 costs in the 1990 rate case were agreed to be amortized  
20 over a 20-year period.

21 Q Okay. Now, how does the second one fit in with  
22 that 20-year amortization?

23 A The second AAO -- there was an EO docket that  
24 established, yes, company, you can defer these costs, but  
25 rate-making treatment will be decided in your next filed

1 rate case if you file before a certain date.

2 And then in 1992, we filed that rate case. And  
3 then in that rate case, a 20-year amortization period of  
4 those -- that new amortization period -- or the new  
5 deferral period was granted.

6 Q Okay. But -- okay. So were there new things in  
7 -- was -- was it -- was the period between 1990 and 1992  
8 just an update of the additional construction costs?

9 A Yeah. You had more construction costs coming  
10 in.

11 Q And then an adjustment to the 20-year  
12 amortization?

13 A No. They were treated separately. Two separate  
14 AAOs, two separate 20-year periods, one beginning in 1990,  
15 the other beginning in the 1993 time point.

16 Q And I'm sorry to belabor it. What was added in  
17 between the '90 and '92 case?

18 A What was added? It was just additional  
19 deferrals of the construction costs. So --

20 Q Which construction costs? What period of  
21 construction costs?

22 A The second AAO covered the period of January  
23 1992 to June of 1993, so the -- so the depreciation  
24 expense, the carrying cost, that occurred that occurred  
25 during that period.

1           For -- for amounts of plants were put into  
2   service, those amounts were deferred. And then rate base  
3   treatment was -- or excuse me -- rate case treatment was  
4   granted in the 1993 case.

5           Q     Okay. All right. So how much was added on the  
6   first case, and how much was added in on the second case?

7           A     On the 1990 AAO, there was approximately  
8   3.6 million. And on the 1992, there was approximately  
9   2.9 million.

10          Q     All right. Okay. And then, again, the  
11   amortization on the second one was 20 years from the date  
12   that it was established?

13          A     From the date rates went into effect. That's  
14   correct.

15          Q     Okay. And the treatment in those cases,  
16   according to -- to what your testimony is, the treatment  
17   was there's a return on and of that investment?

18          A     That is correct.

19          Q     Okay. Well, how was it determined what the  
20   return on the -- on the investment would be? Was it just  
21   based on whatever the rate cases established?

22          A     Yeah. It was included as part of your rate base  
23   and the ROR established in that case.

24          Q     And how was the depreciation handled on the  
25   investment?

1           A     The depreciation -- the depreciation component  
2     of the AAO was represented that the time between when that  
3     plant went into service and how much depreciation had  
4     occurred on that plant up to the time that that rate case  
5     was filed.

6           Q     Okay.

7           A     And that's the amount that was deferred in part  
8     of your AAO. So if you look at -- think of your rate base  
9     as two components of plant line and AAO line, well, the  
10    AAO line represented the depreciation expense that had  
11    already occurred that's not included -- or should be  
12    subtracted from your plant amount. And that's part of  
13    your cumulative amortization already. So you weren't --  
14    you weren't going to earn a return on those funds.

15          Q     I may have to come back to that. But what --  
16    what happened, then, going forward from there?

17          A     From there, you know, the 20-year amortization  
18    periods were established. And on our books, we have  
19    amortizing the deferred AAO costs over that 20 -- over the  
20    two 20-year periods.

21          Q     This -- this probably doesn't make sense, this  
22    question, but I'm going to ask it anyway because it -- it  
23    will help me, I hope.

24          A     Sure.

25          Q     This -- this -- why wasn't the -- the AAO, if I

1 understand you right, is dealing with this interim period  
2 in the depreciation is that the expense that was -- that  
3 was putting into the improvement and then there was a  
4 depreciation factor on that improvement in that period or  
5 not in this -- in this, was it netted out or not netted  
6 out?

7 A It was netted out as -- as you put a plant into  
8 service, depreciation begins on it.

9 Q Right. I understand that part.

10 A And the reason that this was a unique project  
11 was that it was spread out over a period of time so that  
12 we could keep the Sibley plant in service during the peak  
13 period, during the summer periods.

14 When you usually do a construction project, you  
15 start the construction project, take it out of service,  
16 and you complete it. So we had to spread -- spread the  
17 amount of time in completing the project because you  
18 couldn't work on it during the summer.

19 Q I guess what I'm struggling with here is -- is  
20 when you had a rate case, why didn't that just roll over  
21 into your -- into the value of the plant --

22 A Well --

23 Q -- instead -- as -- as would be the case in a  
24 normal rate case without the AAO?

25 A Usually, whenever you make a significant



1 investment in a plant, you can have -- you usually try and  
2 plant your rate cases so that you are able to recoup the  
3 value of that plant in that rate case.

4 Q I understand. But if -- why -- when you come  
5 upon a rate case, wasn't that just rolled over into the --  
6 into the value of the plant and not carried forward on a  
7 separate account?

8 A Because once the plant is put into service,  
9 depreciation expense must -- must be recorded, thus  
10 booked.

11 Q Right.

12 A Thus, that if you have a plant of 2 million as  
13 we talked about before and you have recorded 200,000 of  
14 depreciation, you only have a plant to earn a return on of  
15 1.8 million. You've already lost out on 200 of that  
16 \$2 million expenditure.

17 So this AAO allowed us to take those 200,000  
18 that we --

19 Q I understand that. I do.

20 A And include that as part of our AAO and that  
21 became a part of rate base. It was as if we filed that  
22 rate case when that 2 million went into service.

23 Q I guess what I -- what I'm struggling with here  
24 is why wasn't that just blended in at the time of the next  
25 rate case rather than continuing as a separate account?

1     Why wasn't it merged back in with your -- with your --  
2     with your rate base item on that plant?

3             A     In essence, it is blended back in because it's  
4     part of your rate base.

5             Q     It -- it ends up added back together, but why --  
6     why was it kept separate --

7             A     Well --

8             Q     -- after you come to the next rate case? Wasn't  
9     it just rolled back into that other account?

10            A     Sure. Well, there's accounting requirements  
11     that require you to depreciate an asset once it goes into  
12     service. And to follow those, you know, we asked for an  
13     AAO so that we could keep those separate. In essence, you  
14     have blended it back in. It's just --

15            Q     It continues to show as a separate item?

16            A     Yeah. It's just -- it shows up as an AAO line  
17     instead of at service -- at -- you would be, I guess, re  
18     -- reversing the depreciation expense that had occurred  
19     and putting them back in a plant where accounting rules  
20     don't allow you to do that, so --

21            Q     Those accountants?

22            A     That's why you need -- that's why would you come  
23     in for an AAO to get that established so that -- so you  
24     could get that treatment.

25            Q     This is just a strange kind of an AAO from my

1 perspective and what I've seen from most kinds of reasons  
2 to do AAOs.

3 A Sure.

4 Q So I apologize for this inquiry, but I'm trying  
5 to get a better grasp of why this was done to begin with.

6 Okay. So now, going forward from '93, would  
7 that be correct?

8 A Uh-huh.

9 Q What happened? When was the next rate case?

10 A The next rate case that was filed was in 1997.

11 Q All right.

12 A And in that case, we would have taken on the  
13 first AAO seven years of amortization off of that. The  
14 unamortized balance would have been included in rate base,  
15 and an annual amount of amortization including the cost of  
16 service.

17 On the second AAO, which was in 1993, you had  
18 four years of amortization --

19 Q Right.

20 A -- unamortized balance out of rate base annual  
21 amount of amortization. So, you know, had four in seven  
22 years have already depreciated.

23 In that rate case, it was not a contested issue.  
24 You know, there was no disallowance of those costs. And  
25 we have continued on our books to date to continue those

1 amortization periods to where, you know, we're now 14 and  
2 17 years into that amortization.

3 Q But -- but in -- just to be clear, on -- there  
4 -- were there any additional improvements after '93?

5 A Not -- not that were included as part of this  
6 AAO process. No.

7 Q Okay. So -- that helps me. All right. All  
8 right. And the treatment that Aquila is -- is asking for  
9 here, is it different than what you have received on this,  
10 in the rate cases that have occurred in the last -- since  
11 -- since '90 -- 1990?

12 A No. It's the same treatment that we received in  
13 the 1990 and '93 rate orders.

14 Q Well, what about -- I'm talking about the other  
15 rate cases subsequent to that.

16 A We -- we have filed -- you know, 14 years and 17  
17 years into it, we have filed the same position we were  
18 granted in 1990 and 1993.

19 The unamortized balance has been included in  
20 rate base in those cases, and annual amount of  
21 amortization expense has been included.

22 Probably the reason that you're hearing it now  
23 in this case is that in the last three rate cases that we  
24 filed in 2001, 2004 and 2005, they were settled cases.  
25 So --

1           Q     Was this an issue that was disputed in those  
2 cases prior to settlement?

3           A     Yes. In testimony, I believe OPC has had this  
4 position.

5           Q     Okay. How many -- were there any rate cases  
6 between '97 and the -- the ones that you just mentioned  
7 that were settled? Do you know?

8           A     Yeah. I think the 2001 -- '97 and I think the  
9 next case was 2001.

10          Q     Okay.

11          A     I don't have the schedule in front of me, but I  
12 believe that's correct.

13          Q     Now, normally, if you had had an improvement on  
14 a plant without an AAO -- and I'm going to ignore the  
15 circumstances that you were under in trying to keep Sibley  
16 working. Okay?

17                 But normally, if you had done that, placed the  
18 plant in service and it was a couple years before you had  
19 a rate case, let's say, what would happen with that  
20 depreciation in that -- in the interim period?

21          A     Let's say there was a two-year period between  
22 when a plant -- when an item went into plant, was  
23 depreciated for two years. That two years of depreciation  
24 becomes part of your accumulated amortization. The  
25 accumulated amortization offsets that gross plant amount.

1           Q     Okay.  Would you have earned a return on that --  
2     that depreciation in that interim period?

3           A     No, you wouldn't have.

4           Q     So, is that basically -- I'm not trying to make  
5     you give Public Counsel's position.  But so I can  
6     understand it, is that the basis of where they're coming  
7     from, in part?  Is that your understanding?

8           A     I believe that they -- they -- they believe we  
9     should just earn the actual amount of costs that were  
10    deferred and, you know, return on this money, no time  
11    value that was lost in the use of those funds.

12          Q     Over what period of time is this -- is this --  
13    is this issue dealing with when we're talking about a  
14    return on?  Where are we, just from now going forward to  
15    the next rate case?

16          A     Sure.  Well, they're 20-year amortization  
17    periods, and we're 14 and 17 years into them.  So you  
18    still have three and six years left to advertise that  
19    \$1.7 million that's part of that AAO balance now.

20          Q     All right.  Well, I -- I will stop this for the  
21    time being.  But thank you very much for helping.

22          A     You bet.

23          Q     Okay.

24                 JUDGE VOSS:  Commissioner Murray, you had  
25    additional questions?

1                   COMMISSIONER MURRAY: I have a couple more  
2 questions, please.

3                   MR. KLOTE: Sure.

4                               CROSS-EXAMINATION

5 BY COMMISSIONER MURRAY:

6           Q     Let's just say an ordinary rate case is filed  
7 right after the capital expenditure is made and the plant  
8 goes into service.

9           A     (Witness nods head.)

10          Q     The entire amount would go into rate base; is  
11 that correct?

12          A     That's correct.

13          Q     And then the depreciation would begin at that  
14 time?

15          A     Yes. That's correct.

16          Q     So that, annually, the rate base would be  
17 reduced by the amount that was depreciated each year?

18          A     That's correct.

19          Q     And the depreciated amount would be shown as an  
20 expense, and the company would get recovery of that amount  
21 in that way, is that correct --

22          A     Yes.

23          Q     -- as it's depreciated?

24          A     Well, they get recovery of the annual  
25 depreciation amount, and then they get a return on the --

1           Q     No. Stop. I'm just going to that point.

2           A     Okay. Fine.

3           Q     That's how the company would get recovery of

4     that amount, correct --

5           A     Yes.

6           Q     -- as its depreciated?

7           A     Uh-huh.

8           Q     And then by the entire amount, entire cost of

9     the plant going into rate base, the company is giving a

10    return on the entire amount of the cost of the plant; is

11    that correct?

12          A     That's correct.

13          Q     And that's through ordinary rate-making

14    treatment?

15          A     Yes, it is.

16          Q     And with the situation where you don't file a

17    rate case when a plant goes into service but you get an

18    AAO instead, that means that at that time, at the time you

19    get the AAO before you file a rate -- rate increase

20    request, nothing is -- is actually depreciated; is that

21    correct? There is an amount that is deferred for

22    depreciation?

23          A     That's correct. The depreciation expense that

24    was booked on your books had been deferred or, you know,

25    reclassified into your 1823 -- or 186, yes.



1           Q     And the same thing with the cost of the plant.  
2     Nothing actually goes into rate base at that time, is that  
3     correct, prior to the rate case being filed?

4           A     That's correct.  Yes.

5           Q     So that that is also deferred, the cost of --  
6     the -- the initial cost of the plant is deferred for later  
7     rate-making treatment?

8           A     Oh, excuse me.  No.  Once a plant goes into  
9     service, depreciation expense is computed on that amount.

10          Q     Computed.  But is it -- that --

11          A     Computed and booked so that if -- if a plant  
12     went into service in January of -- of any year, you would  
13     have twelve months of depreciation expense.  And at the  
14     end of that year, you would have a gross plant of  
15     \$2 million and then accumulated depreciation of 200,000.  
16     That gives you a net plan amount of 1.8 million.

17          Q     Okay.  But prior to filing a rate case, how is  
18     being able to actually book that depreciation expense --  
19     how does that has affect your bottom line?  I can see how  
20     deferring it --

21          A     I'm not sure.  I mean, are you -- I mean, that's  
22     -- I mean, this is just, you know, your normal plant in  
23     service accounting.  And depreciation -- you know, if  
24     rates were set on a rate base of -- of a billion dollars  
25     and -- and you've added plant to that amount until the

1 next rate case, you don't get recovery of those amounts  
2 until you have filed another rate case. So you have a  
3 significant investment in plant. You would plan a rate  
4 case around that in-service date of that plant.

5 Q Okay. We've got to go back to something very  
6 basic, though.

7 A Okay.

8 Q The plant goes into service Day 1. Also, on Day  
9 1, you have an AAO that has been approved regarding that  
10 plant.

11 A Okay.

12 Q That AAO provides that you defer depreciation  
13 expense into a separate account.

14 A Uh-huh.

15 Q But are you actually expensing that depreciation  
16 prior to filing a rate case?

17 A No. The -- because the amounts have been  
18 reclassified. That's correct. Yes.

19 Q Okay. So that plant goes into service. An AAO  
20 is in effect. At that time, prior to a rate case, nothing  
21 is going into rate base prior to the rate case?

22 A That's correct. Yes.

23 Q And nothing is actually being expensed for  
24 depreciation prior to the filing of the rate case. It's  
25 been held off in a separate account for accounting

1 purposes, but it's not being expensed; is that right?

2 A Not being expensed -- once your plant goes into  
3 service, it's being depreciated. Yes.

4 Q It is being depreciated. But what -- all right.  
5 At the time, then, that the rate was filed, the amount of  
6 plant that goes into rate base is the full amount minus  
7 whatever has been either expensed or recorded in books  
8 somewhere as depreciated off of that rate base?

9 A Yeah.

10 Q Off of that --

11 A Yes. Uh-huh.

12 Q Okay. So at that time, the amount that has not  
13 been amortized to that point, you are allowed going  
14 forward to earn a return on and a return of?

15 A That's correct. Yes.

16 Q And then the amount that has been treated  
17 through the AAO, which is the depreciation amount, also,  
18 it has been treated -- for Aquila over these past rate  
19 cases has also gone into rate base in a separate --

20 A The -- you know, let's get back to, I think,  
21 understanding. Get back to our example of that 2 million.

22 Q Right.

23 A What sits in that AAO is that 200,000 of  
24 depreciation expense that was booked. That -- that  
25 becomes part of your accumulated amortization and brings

1     that gross plant down. So you're only getting ultimately  
2     a return on with what we've had other than that \$2  
3     million, which is the 1.8 million of the plant -- the net  
4     plant existing plus the \$200,000 of depreciation that was  
5     part of your AAO.

6           Q     I knew I shouldn't have started this. But that  
7     200,000 that has been depreciated, you told me earlier is  
8     still a rate base amount, depreciated over --

9           A     A -- in your AAO line?

10          Q     Yes.

11          A     Yes.

12          Q     But in the rate cases is treated -- put back  
13     into rate base over 20 years?

14          A     That's correct. Amortized over 20 years.

15          Q     Okay.

16          A     And then -- and your plant life item, you had  
17     the 1.8 million that is depreciated over --

18          Q     Amortized over the plant?

19          A     Yeah. They're different amounts. They pass  
20     that class.

21          Q     But, basically, by allowing this treatment this  
22     is putting the company in the same position, is it not, if  
23     -- as if you had filed a rate case at the time the plant  
24     went into service?

25          A     Yeah. And that was one of the -- the

1 fundamental parts of doing the project this way and  
2 keeping it in service during the summers. We wanted to  
3 avoid the cost of having rate case over rate case as well  
4 establish this AAO and then be allowed to keep it down to  
5 only these two rate cases.

6 Q And it does nothing more. You don't own a  
7 return on or a return of anything that you've not got a  
8 return on or return of if you had filed the rate case?

9 A Yeah. It's similar to -- yeah. The plant  
10 service accounting. Yes.

11 Q Okay. Thank you.

12 COMMISSIONER GAW: Judge, just a little more.  
13 That's helpful to me.

14 JUDGE VOSS: If can I ask one follow-up on  
15 Commissioner Murray's real quick because it will help me,  
16 too, is that all right, before he loses track of it again  
17 and gets confused.

18 CROSS-EXAMINATION

19 BY JUDGE VOSS:

20 Q Commissioner Gaw and Murray's questions have  
21 helped me a lot, too. Plant cost, the money you spend on  
22 the plant equals the value when the plant went into  
23 service?

24 A That's correct.

25 Q That immediately -- immediately starts to

1 depreciate?

2 A That's correct.

3 Q Rate base, which is the part you can book and  
4 legally get a return on, is the value of the plant when it  
5 goes into rate base, which is your initial value minus the  
6 depreciation?

7 A That's correct.

8 Q So you spent \$2 million on the plant. But  
9 because you wanted to keep it in service over the time,  
10 the peak period, by the time you tried to put in rate  
11 base, it was only 1.8 billion?

12 A Yes.

13 Q And the purpose of the AAO was to sort of set  
14 the clock back on this item of the plant so that you  
15 could, over the period of time of the depreciation of the  
16 whole plant, get a reasonable return?

17 A That's correct. Yes.

18 JUDGE VOSS: Okay. I think I might understand  
19 your position. I'm sorry, Commissioner Gaw.

20 COMMISSIONER GAW: No. No. Not at all.

21 CROSS-EXAMINATION

22 BY COMMISSIONER GAW:

23 Q I'm going to change your -- your figures for my  
24 sake.

25 A Yeah. I guess we should know the 2 million is

1 just for illustration purposes only, so --

2 Q Well, I thought that was the limit of what you  
3 were asking for. I'm sorry. I misunderstood. Just  
4 kidding. Okay. Let's -- I'm going to drop it to a  
5 million. Okay?

6 A Okay.

7 Q And let's say you had a million dollar  
8 improvement, and I want to compare the AAO to no AAO in  
9 normal rate-making.

10 A Okay.

11 Q Okay? And let's say I'm going to give you a  
12 ten-year life, which is, of course, not a very good  
13 presumption either but only for this example.

14 Now, with the AAO, you would be getting a return  
15 of the full million dollars at a hundred thousand per year  
16 beginning with the first rate case after the AAO? Would  
17 that be --

18 A Yes. Yes.

19 Q Okay. So -- and that would -- so -- so in the  
20 ten years -- one of the things I need to clear up, just a  
21 very simple question, is the ten years goes from the rate  
22 case or from the granting of the AAO in the amortization,  
23 if it's a ten-year life?

24 A If it's a ten-year life, it -- it would be as --  
25 beginning when rates are set or when that rate case is

1 effective, so --

2 Q Even though the actual implementation was a  
3 couple years before, it still -- it still dates from the  
4 rate case?

5 A Yes. The amount that's in that -- in that AAO  
6 deferral would begin once rates go into effect. Yes.

7 Q All right. And then I would be getting a return  
8 of -- on -- excuse me -- the full million dollars. Would  
9 that be correct? And then as it's depreciated out, of  
10 course, that return is depreciated over time?

11 A Yes. That's correct.

12 Q But when I -- when I get to the return on that  
13 -- that million with the AAO, does that track the -- the  
14 lowering of the depreciation for every year so that  
15 there's some -- the return on that million is a return on  
16 the million in Year 1, return on 900,000 in Year 2,  
17 800,000 Year 3? Am I following this?

18 A Yeah. That's correct. Your plan amount, you  
19 know, the amount you depreciate rolls into your  
20 accumulated depreciation each year until the plant is  
21 fully depreciated. Yes.

22 Q Okay. Let's go without the AAO.

23 A Okay.

24 Q All right? And let say we're a year from the  
25 plant in service of the improvement in ser -- in the plant



1 and placed in service.

2 A Okay.

3 Q Okay. Now, at the time of the rate case, what  
4 is the amount that's set on the -- for the return on that  
5 improvement? Again, it was a million dollar improvement.

6 A If you have a hundred thousand -- you know, a  
7 million dollar plant depreciated over ten years, you have  
8 a \$100,000 depreciation. And that year, you would have  
9 net plant of 900,000 that would be included as part of  
10 that rate case.

11 Q Okay. So the return on would be on 900,000.  
12 And would that be a return on 900,000 going forward until  
13 the next rate case?

14 A That's correct.

15 Q Okay. Now, in regard to the return of in that  
16 -- in that scenario, how much do I get -- how much is  
17 actually returned on the return of question when you delay  
18 a year in a normal rate case without the AAO? Is it the  
19 full million, or is it -- is it the 900,000?

20 A I guess I missed you there. Try to --

21 Q Well, in the first example with the AAO, you  
22 told me that we'd see a return of the million because the  
23 depreciation would extend from the rate case forward ten  
24 years and would be the 100,000 a year?

25 A Right.

1           Q     How about the AAO?  A year delay before you --  
2     you get your rate case --

3           A     Uh-huh.

4           Q     -- do I get my full return of the investment, or  
5     what happens to that 100,000 that I lost?

6           A     You depreciate that plant based on -- on what --  
7     you take the gross -- the gross plant and depreciate it  
8     based on whatever the depreciation rate is for that asset  
9     class.  So that's what you would get included in your --

10          Q     You're -- you're making this too complicated.

11          A     Okay.

12          Q     I already set the parameters, ten years.

13          A     Okay.

14          Q     Don't worry about any of the other stuff.  But I  
15     lost a year, and I just want to -- I wanted to understand,  
16     that hundred thousand that would have been a depreciation  
17     amount before the rate case --

18          A     Yes.

19          Q     -- what happens to that on -- in the return of  
20     question in a normal rate case?

21          A     I'm not a depreciation expert.  I mean, that's  
22     -- that -- that's why I'm getting a little sketchy on  
23     whether you would --

24          Q     If you don't know, please just tell me you don't  
25     know.

1           A     Yes.

2           Q     Because I just want to find the answer to the  
3 question, and I can ask some others.

4           A     Not knowing how our depreciation studies work, I  
5 don't know what would happen in that second year.

6           Q     I'm just trying to understand whether or not you  
7 get the full million back in a normal rate case or if you  
8 lose that -- some amount of it because of the delay in  
9 filing the rate case with that -- and I'm talking about  
10 just under normal circumstances.

11          A     Well, you -- you would -- you're talking about  
12 the return of?

13          Q     Yes.

14          A     Would you -- would you get that amount? In  
15 theory, you should get that amount back, so --

16          Q     Okay. But my return on is at 900,000?

17          A     That's correct.

18          Q     But it also doesn't diminish every year. It --  
19 it stays at 900,000 until your next rate case?

20          A     Yeah. Until you reach that -- I mean, your next  
21 rate case reestablishes a rate base. That's correct.

22          Q     Okay. Thank you again.

23                COMMISSIONER GAW: Thanks, Judge.

24                JUDGE VOSS: Thank you. Thank you. You guys  
25 have helped me a great deal. Does -- are there any more

1 questions from the Bench? Is there any recross?

2 MR. WOODSMALL: One brief question, point of  
3 clarification.

4 RECROSS-EXAMINATION

5 BY MR. WOODSMALL:

6 Q Some of the Commissioners were talking about  
7 ordinary cases. In your role at Aquila, do you know if  
8 other jurisdictions allow for deferring of expenses like  
9 this?

10 A You mean other utilities?

11 Q The other jurisdictions that Aquila operates in,  
12 do you know if they allow for deferring of these type of  
13 expenses?

14 A We don't have -- we don't have any AAOs  
15 currently in -- in our Colorado jurisdiction. No.

16 Q Do they allow for it and you just don't have  
17 them, or do they not allow for it?

18 A I -- I guess I better say no. You know, I'm not  
19 sure if -- if they would allow for those or not.

20 Q Okay.

21 A It's a case by case -- if we were to go for an  
22 AAO and -- and request that, then, you know, it would be  
23 up to that Commission.

24 Q Do you know if you've ever had any in the other  
25 jurisdiction? When you were in Michigan, when you were in

1 Nebraska, did you ever have any AAOs?

2 A You know, I'm not -- not familiar with if we  
3 have or not, so --

4 MR. WOODSMALL: Okay. Thank you.

5 JUDGE VOSS: Any other recross based on  
6 questions from the Bench?

7 MR. DANDINO: Yes, your Honor.

8 THE COURT REPORTER: Excuse me. I need to  
9 change paper.

10 JUDGE VOSS: Okay. We'll recess so she can  
11 change paper.

12 (Break in proceedings.)

13 JUDGE VOSS: Okay. Mr. Dandino, please  
14 continue.

15 MR. DANDINO: Thank you. Thank you, your Honor.

16 RECROSS EXAMINATION

17 BY MR. DANDINO:

18 Q Mr. Klote, Commissioner Murray talked to you at  
19 the very beginning of the Commission questions about --  
20 she was giving you an example of the 200,000 -- 200,000  
21 deferred depreciation account, right?

22 A Okay.

23 Q Okay. And when using that example -- I'd like  
24 to use that hypothetical. Those are hypothetical numbers,  
25 but we're not talking about real -- I mean, we're not

1 talking about you taking \$200,000 and walking down to the  
2 Raytown Bank and putting it into a depreciation account,  
3 are you?

4 A No. That 200,000 represents the depreciation on  
5 your initial cash outlay of 2 million.

6 Q As a bookkeeping entry, right, accounting entry?

7 A Depreciation expenses in accounting.

8 Q Okay. So when -- when it was described as being  
9 a loan without interest, there's not any money there to  
10 loan, is there?

11 A Well, there was an initial \$2 million that was  
12 laid. And -- I believe when she talked about that, you've  
13 already lost the chance to earn return on 200,000 of those  
14 dollars.

15 Q But the 200,000 isn't -- you're not loaning it  
16 to the ratepayers?

17 MR. BOUDREAU: I think I'm going to object on  
18 the grounds that it's argumentative.

19 MR. DANDINO: I asked -- the question -- the  
20 gentleman said it was -- it was a loan or a -- it was  
21 applied as a loan. I'm trying to get an explanation of  
22 it. I'm not arguing with the witness.

23 MR. BOUDREAU: I think the witness explained in  
24 his answer about the \$2 million.

25 MR. DANDINO: Well --

1 JUDGE VOSS: Restate the question for me because  
2 I didn't hear the argument and decide -- but that doesn't  
3 mean --

4 Q (By Mr. Dandino) You did not -- you're not  
5 loaning the money to the ratepayers, are you?

6 A In essence, if -- if a utility should be allowed  
7 to earn -- earn the -- earn -- earn their -- a return on  
8 their money, then, in essence, you would be loaning  
9 200,000 out because you're not being allowed to earn a  
10 return on that 200,000 that has already been depreciated.

11 Q It's not the fault of the ratepayers, is it?

12 A When you say fault of the ratepayers --

13 Q Let's put it this way: The company makes the  
14 decisions on when to make the investment in the plant;  
15 isn't that right?

16 A Yes, they do.

17 Q And the ratepayers do not make that decision?

18 A No, they don't.

19 Q Okay. Even though an AAO deals with an asset  
20 plant and that's in the rate base, an AAO is not required  
21 to be in rate base, is it?

22 A I don't believe it's required. I believe AAOs  
23 are looked at on a case by case basis.

24 Q So it's up to the discretion of the Commission  
25 whether to include it in rate base or not?

1           A     They do have ultimately policy decision.  Yes.

2           Q     And Commissioner Appling had asked -- had asked  
3     you about the -- about the -- about the AAO, and I believe  
4     the question said when you were talking about the MGE  
5     case, you were talking about there were unique  
6     circumstances there.  Isn't an AAO designed to address  
7     unique circumstances?

8           A     Yes, they are.

9           Q     And isn't there unique circumstances in Aquila's  
10    case?

11          A     Yes, they are.  Yes, there was.

12          Q     MGE asked for -- I believe in the MGE case, it's  
13    my understanding that -- excuse me just a moment, please.  
14    In your 19 -- in Aquila's 1997 rate case, didn't the  
15    company ask for a transition adjustment?

16          A     I'm not familiar if -- if we did ask for a  
17    transition adjustment.  I wasn't with the company during  
18    1997.  I wasn't part of that case.

19          Q     So they didn't ask for it to be included in the  
20    rate base?

21          A     I'm telling you I'm not familiar if they did or  
22    not because I wasn't a part of that rate case.

23          Q     Okay.  So if you weren't -- you weren't a part  
24    of the ninety -- of the '92 rate case, were you?

25          A     No, I wasn't.



1           Q     And -- and the -- the prior rate case, you  
2 weren't part of that one either?

3           A     No, I wasn't.

4           Q     And you weren't part of the '97. So you can't  
5 really speak authoritatively on any of those?

6           A     Well, I have reviewed the -- the orders in those  
7 cases that are applicable to the AAO, yes.

8           Q     Oh, so you -- you can talk about the 1997, huh?

9           A     That are applicable to the AAO. Yes.

10          Q     Yes. So was the AAO included in the rate base  
11 in that case?

12          A     We -- yes. We filed a position where we  
13 included the AAO in that case.

14          Q     Without an AAO, between the rate cases, you  
15 would not be able to recover the standard depreciation or  
16 the carrying costs or the property taxes?

17          A     Yeah. That was the -- that was the reason for  
18 the establishment of that -- that plant went into service  
19 prior to filing a rate case. Yes.

20          Q     Sure. And that -- that's to -- you know, so the  
21 AAO allows you to recover that? In other words, it would  
22 be lost?

23          A     That's correct.

24          Q     Now, an AAO is not a substitute for a rate case,  
25 is it?

1           A     No, it's not.  It -- it allows you to defer  
2     costs so that you have the ability to recover those costs  
3     in future rates.

4           Q     For an extraordinary circumstance, you're asking  
5     for extraordinary treatment with AAO?

6           A     Sure.  Yes.

7           Q     And AAO doesn't involve all the factors involved  
8     in a rate case.  It just applies to that one single issue?

9           A     That's correct.  Yes.

10          Q     Now, between the rate cases -- strike that.

11                 MR. DANDINO:  Just a minute, your Honor.  I  
12     believe that's all I have.  Thank you, your Honor.  Thank  
13     you, Mr. Klote.

14                 JUDGE VOSS:  Mr. Steinmeier?

15                 MR. STEINMEIER:  Your Honor, could I ask a  
16     couple of quick --

17                 JUDGE VOSS:  Will you step up to a microphone so  
18     that your questions are preserved for the record?

19                         RE CROSS EXAMINATION

20     BY MR. STEINMEIER:

21           Q     Just following up on this last exchange,  
22     wouldn't it be true to state that an accounting authority  
23     order simply allows the company to track the costs it --  
24     but it makes no statement or promise as to ultimate rate  
25     recoverability of those costs?

1           A     Yes.  Usually, the AAOs I've seen that they  
2     defer rate-making treatment to a rate case, yes.

3           Q     Specifically, reserving rate-making treatment?

4           A     Specifically, these, yes.

5           Q     That provides the opportunity to track those  
6     costs, and then in the next rate case for the company to  
7     approve whether, in fact, those costs should be  
8     recoverable in rates?

9           A     Yeah.  That's correct.

10           MR. STEINMEIER:  Thank you.  No further  
11     questions.

12           JUDGE VOSS:  Is there any more recross based on  
13     questions from the Bench?  Redirect?

14           MR. BOUDREAU:  Yes, please.

15                         REDIRECT EXAMINATION

16     BY MR. BOUDREAU:

17           Q     Mr. Klote, I just want to circle back to  
18     Commissioner Gaw's scenario, the \$1 million investment and  
19     10-year amortization.

20           A     Uh-huh.

21           Q     And I believe -- and I think it also touches on  
22     -- on one aspect of Mr. Dandino's recross.  And it's --  
23     and, again, to the topic of recovery of and then recovery  
24     on, and I believe that was the line of inquiry that you  
25     were receiving from Commissioner Gaw.  Do you recall that?

1           A     Yes, I do.

2           Q     And I believe his -- one of his questions was in  
3     the absence of an AAO, how would you get the recovery of.  
4     And I guess my question to you is, in the absence of an  
5     AAO, there wouldn't be a recovery of or a recovery on the  
6     \$100,000 amount; is that correct?

7           A     That's correct.  You've lost a year of  
8     depreciation expense.

9           Q     You've lost a year.  So the alternative to the  
10    company is what in the absence of an AAO?  If it wants to  
11    recover that \$100,000 without an AAO, what does it have to  
12    do?  Would it be a final rate case?

13          A     Oh, yes.  I'm sorry.  Yes.  You would want to  
14    file a rate case in time with the -- the time that that  
15    plant goes into service.  That's correct.

16          Q     And in a staged project like we were talking  
17    about with the Sibley projects, it would -- it would --  
18    they would be timing those rate cases to -- to pick up --  
19    they would be timing them to -- to the -- to the phased  
20    completion dates of the -- of the projects; isn't that  
21    correct?

22          A     That's correct.

23          Q     Okay.  So the -- and so my question to you is,  
24    the AAO in this case, is it your understanding that the  
25    AAOs were sought to avoid what would have amounted to a --

1 a series of rate cases over a period of years?

2 A Yes. That -- that was in my testimony. Yes.

3 MR. BOUDREAU: Okay. That's all the questions I  
4 have for this witness. Thank you.

5 JUDGE VOSS: Seeing no more questions from the  
6 Bench, you may step down. And we'll take about a  
7 ten-minute break.

8 We're going to come back, and we're going to  
9 have a late lunch because there is a 1 p.m. stipulation  
10 presentation that at least some of the Commissioners want  
11 to come in. So we'll probably come back and do -- at  
12 least get a new witness.

13 MR. BOUDREAU: I neglected to mention one thing.  
14 Is Mr. Klote -- can he be excused at this point? I didn't  
15 know if the Commission wanted to reserve any subsequent  
16 questions.

17 JUDGE VOSS: The Chairman isn't here, but it's  
18 my understanding he's leaving this afternoon. I know he's  
19 leaving town. I'll let you know right after lunch. Is  
20 that okay?

21 MR. BOUDREAU: Very good. Thank you.

22 JUDGE VOSS: So we'll go off the record and come  
23 back at seven after.

24 (Break in proceedings.)

25 JUDGE VOSS: I believe Staff's witness is next.

1 Go ahead and get him ready.

2 MR. MEYERS: We have Phil Williams.

3 PHILLIP WILLIAMS,

4 being first duly sworn to testify the truth, the whole  
5 truth, and nothing but the truth, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MEYERS:

8 JUDGE VOSS: You may proceed.

9 Q (By Mr. Meyers) Mr. Williams, could you spell  
10 your name for the record, please?

11 A It's Phillip, P-h-i-l-l-i-p, K. Williams.

12 Q And by whom are you employed and in what  
13 capacity?

14 A I'm employed by the Missouri Public Service  
15 Commission as a Regulatory Auditor 4.

16 Q Did you prepare the prefiled testimony in this  
17 case which has previously been marked for identification  
18 as Exhibit 235, your direct testimony?

19 A Yes, I did.

20 Q Exhibit 236, your rebuttal testimony?

21 A Yes.

22 Q And Exhibit 237, your surrebuttal testimony?

23 A Yes, sir.

24 Q Do you have any corrections or additions that  
25 you'd like to make to your pre-filed testimony at this

1 time?

2 A Yes. In the direct testimony, on page 19, line  
3 12, the reference to EO-91-247 needs to be deleted.

4 Q Thank you. Are the answers that you provided in  
5 that pre-filed testimony true and accurate to the best of  
6 your knowledge and belief?

7 A Yes, they are.

8 Q So if I were to ask you those same questions  
9 today, your answers would be the same?

10 A Yes, sir.

11 Q And, also, in light of the settlements that  
12 we've had on part of this issue, I do also have one  
13 additional clarification question with the Commission's  
14 indulgence.

15 Is it correct that -- even if the Commission  
16 decides that the AAO should be removed from rate base,  
17 what does the Staff believe should be done with the  
18 deferred tax rate base?

19 A Staff believes that the deferred taxes remain in  
20 the rate base.

21 MR. MEYERS: Thank you. With that, I would  
22 offer Exhibits 235, 236 and 237 into the record and tender  
23 the witness for cross-examination.

24 JUDGE VOSS: Are there any objections to the  
25 admission of those exhibits? Hearing none, they're

1 admitted.

2 (Exhibit Nos. 235, 236 and 237 were offered and  
3 admitted into evidence.)

4 JUDGE VOSS: And for cross-examination? Let's  
5 see. DNR?

6 MS. WOODS: No questions, your Honor.

7 JUDGE VOSS: St. Joseph? Kansas City? Jackson  
8 County? And Public Counsel?

9 MR. DANDINO: Thank you, your Honor.

10 CROSS-EXAMINATION

11 BY MR. DANDINO:

12 Q Good afternoon, Mr. Williams.

13 A Good afternoon, sir.

14 Q We haven't -- we haven't formally met before,  
15 but it's good to meet you.

16 A I've seen you several times. I know who you  
17 are.

18 Q Now that we've got the pleasantries out of way  
19 -- and I -- I still hope we'll be pleasant. But in  
20 preparing your testimony, did you look at the MGE case,  
21 No. GR-98-140?

22 A I know that it exists, and I know what was done  
23 in that case. Yes, sir.

24 Q And is -- is that the most recent declaration of  
25 treatment of an AAO by this Commission?



1           A     It is the most recent. But I think there's a  
2 difference in the AAOs.

3           Q     But you -- but you didn't follow the -- the last  
4 statement by the Commission on this issue?

5           A     No, sir. I did not. I followed the AAO that  
6 applies to Utilicorp or Aquila.

7           Q     Is -- do you know Mr. Hyneman?

8           A     Yes, I do.

9           Q     And he testified in the GR-98-140 case, didn't  
10 he?

11          A     I believe so, sir.

12          Q     Didn't Staff recommend the -- that the AAO in  
13 this case not be included in the rate base?

14          A     I believe in that set of circumstances, that is  
15 correct, sir.

16          Q     Is the -- is the -- what is the circumstance,  
17 specific circumstance, of -- of the Aquila case that is so  
18 different than the MGE case that the Staff has changed its  
19 recommendation?

20          A     The circumstances considering the AAOs in the --  
21 it was Missouri Public Service Company at the time of  
22 these AAOs was that there was a life extension program to  
23 the Sibley plant, which was a major upgrading of the -- of  
24 the facility to, therefore, extend the life of the plant  
25 by 20 years and -- at least 20 years.

1           Q     And just because -- is -- the -- the reason of  
2     -- for the extension of life considered at a capital  
3     improvement?

4           A     It was a capital improvement. The AAOs were  
5     granted in -- by the Commission to recover the carrying  
6     costs after the point in time that the plant went in  
7     service and when it -- the next rate case was incurred,  
8     along with the depreciation and property taxes associated  
9     with that plant that had gone in service.

10          Q     Even though the plant went into service and was  
11     considered part of the rate base, is an AAO required to be  
12     treated the same as the -- as the asset it -- it relates  
13     to?

14          A     There's no requirement that the AAO be treated  
15     in any certain way, sir.

16          Q     And, in fact, the Commission changed its  
17     treatment in the MGE case, didn't it?

18          A     Based on the circumstances in the MGE case, yes,  
19     sir.

20          Q     So if the Commission decides the circumstances  
21     are different in this case, they could authorize removal  
22     of the unamortized balances from the rate base here,  
23     right?

24          A     The Commission can do anything they want.

25          Q     Well, okay.

1           A     I can't tell them any different.

2           Q     Yes. Yeah. I'll -- I'll defer my -- my answer  
3     on that one.

4                     Has the Staff excluded AAO deferred costs from  
5     rate base in -- in other utility cases such as Laclede?

6           A     I have never worked on a Laclede case. I'm not  
7     sure.

8           Q     Okay. Does the St. Louis Staff have a --  
9     approach the AAO issue differently as far as rate base  
10    treatment?

11          A     I've never really discussed it with them.

12          Q     Have you ever heard the term east coast to west  
13    coast offices?

14          A     I've heard a lot of different terms for the  
15    differences in the offices, sir.

16          Q     And what does that refer to?

17          A     Well, that, I don't know.

18          Q     What about the -- the west coast refers to  
19    Kansas City office?

20          A     Well, I assume that's what you're meaning. But  
21    that's your determination, not mine.

22          Q     Well, I was just asking you whether you knew if  
23    it was referring to the Kansas City office.

24          A     I haven't personally been told that, but it --  
25    I'll assume, as you're saying that, that that's what

1     you're saying.

2           Q     Okay.  And east coast, do you -- you'd assume  
3     that was the St. Louis office, wouldn't you?

4           A     Based on your analogy just now, yes.

5           Q     Okay.  Did the -- does the east coast office  
6     treat -- treat AAO -- AAOs different than the west coast  
7     office?

8           A     I assume basically we try to treat them the  
9     same.

10          Q     But you have no knowledge of that?

11          A     I'm not in charge of anything in the St. Louis  
12     office, and, no, sir, I do not.

13          Q     Do you ever look at the recommendations the  
14     St. Louis office makes?

15          A     Normally, I'm busy enough with mine that I don't  
16     pay attention to theirs unless it's really relevant.  And  
17     I didn't really think it was relevant in this case since I  
18     already knew what we do with Missouri Public Service  
19     Commission, what would have been ordered.

20          Q     So you don't look at -- at the -- at the present  
21     conditions?  You just look at what the Commission prior  
22     ruled on prior cases involving a company?

23          A     I believe that this was based on a life  
24     extension that was recoverable, and I still believe that.

25                 MR. DANDINO:  Okay.  That's all I have.  Thank

1     you, Mr. Williams.

2                 JUDGE VOSS:  Let's see.  Let me get back to my  
3     list.  I'm sorry.  I did not memorize the orders of cross  
4     for all 13 parties.  I think AARP is next, but I want to  
5     doublecheck.  Where is my list?  Here we go.  AARP?  I  
6     don't see Mr. Coffman.

7                 The Commercial Group?  Federal Executive  
8     Agencies?

9                 CAPTAIN HOLLIFIELD:  No questions, your Honor.

10                JUDGE VOSS:  Sedalia Industrial Energy Users  
11     Association, any questions?

12                MR. WOODSMALL:  No, thank you.

13                JUDGE VOSS:  Ameren?  And because the  
14     Commissioners aren't here and they may still have  
15     questions, will you be subject to recall?  Do you want me  
16     to go ahead and --

17                MR. WILLIAMS:  If you say that.

18                JUDGE VOSS:  Huh?

19                MR. WILLIAMS:  If you tell me, that's correct.

20                JUDGE VOSS:  We'll go ahead and do redirect  
21     based on --

22                MR. MEYERS:  That was my question.  Did you want  
23     me to wait or go ahead?

24                JUDGE VOSS:  If the Commissioners have  
25     questions, then there will be another round.

1           MR. BOUDREAU: Just a point of order, I haven't  
2   been given an opportunity to cross. I may have a  
3   question. Did you say Aquila? I missed it if you did.

4           JUDGE VOSS: I did.

5           MR. BOUDREAU: Oh, I'm sorry. It just blasted  
6   right past me. I apologize. Can I ask one or two  
7   questions just real quick?

8           JUDGE VOSS: Yeah. Keeping in mind the, you  
9   know --

10          MR. BOUDREAU: It will be brief.

11          JUDGE VOSS: -- distaste for friendly cross.  
12   Or friendly -- yeah.

13                           CROSS-EXAMINATION

14   BY MR. BOUDREAU:

15           Q    You talked about differences in the AAO between  
16   MGE -- or the circumstances between the MGE SLRP  
17   decision --

18           A    Yes, sir.

19           Q    -- and the old MPS AAOs that we're talking about  
20   here today?

21           A    Yes.

22           Q    And you mentioned about the nature of the  
23   project, which was involved with rebuild at Sibley AAO; is  
24   that correct?

25           A    That's correct.

1 Q And some upgrade for environmental changes?

2 A That was my understanding. There were upgrades  
3 for environmental changes. They also changed out some of  
4 the equipment in the control room and other things. And  
5 then they changed equipment in the second deferral for the  
6 Western Coal.

7 Q That's right. Would another difference also be  
8 the period of amortization that was allowed in the two  
9 cases?

10 A That would be a consideration, I believe.

11 Q You testified you're familiar with the -- with  
12 the MGE SLRP decision; is that correct?

13 A I've read it. But it's been a long time ago.

14 Q When you say you've read it, did you just read  
15 the primary report and order, or did you read the entire  
16 series of orders in that case?

17 A I just read the primary one. I did not read all  
18 the continuations.

19 MR. BOUDREAU: That's all the questions I have.  
20 Thank you.

21 JUDGE VOSS: Redirect?

22 REDIRECT EXAMINATION

23 BY MR. MEYERS:

24 Q I guess that leaves me with, just very briefly,  
25 you responded to Mr. Dandino that that 1998 decision for

1 MGE was the most recent treatment of AAOs that the  
2 Commission had provided. Did I hear you correctly?

3 A I'm not sure that there has been any decision  
4 since then, but that's the last one that they keep  
5 bringing up, so --

6 Q So you would agree that it's possible the  
7 Commission has addressed AAOs with other utilities in  
8 other decisions along the way?

9 A I believe that's correct.

10 Q Okay. Just for clarification, again, the last  
11 decision the Commission made regarding these particular  
12 AAOs was that '98 case; is that correct?

13 A No. That was the MGE case.

14 Q I'm sorry. The '93 case?

15 A The last one in this was in '93.

16 MR. MEYERS: Thank you. That's all. That's all  
17 I have.

18 JUDGE VOSS: Commissioner Gaw, did you have any  
19 questions?

20 COMMISSIONER GAW: Maybe just a few. I  
21 apologize.

22 CROSS-EXAMINATION

23 BY COMMISSIONER GAW:

24 Q Did you -- did you -- you were in the room  
25 earlier when Mr. Klote was here?



1           A     Yes, sir.

2           Q     Did you agree with what he said in regard to the  
3     analysis of the example where there was a \$1 million  
4     improvement and a ten-year depreciation life on the return  
5     on and return of AAO versus no AAO? Do you know?

6           A     I think without the AAO, sir, if the rate case  
7     is filed one year later, there is not a return on or a  
8     return of the \$100,000 that is expended --

9           Q     Yes.

10          A     -- as that's depreciated.

11          Q     Okay. Now, in addition to that, I suppose that  
12     -- there's some -- some assumption in some of the  
13     testimony that there would be a rate case filed if there  
14     was not an AAO. Is that necessarily the case?

15          A     The AAO was set up to cover construction  
16     accounting so that it would continue basically as  
17     construction accounting after the plant was done because  
18     it was being done in -- in pro -- small increments during  
19     the fall and the spring outages so that the plant would be  
20     online during the summer during the peaking period because  
21     Sibley was Missouri Public Service Company's major plant,  
22     and they would like to keep that online if at all  
23     possible.

24                     What was happening was at certain increments,  
25     the plant was being done and prepared, and that was going

1 in and it was all being -- all being done. And as that  
2 certain increment was done, then that's placed in service.  
3 But it's -- the project is not complete.

4           So the project -- they were not filing a rate  
5 case to recover that right then. So if that was going in  
6 service and it was being depreciated, sir, then when it  
7 did finally go in service when a rate case come on, the  
8 amount that had been depreciated, there would be no  
9 carrying cost on that. There would be no depreciation.  
10 There would be no property tax that they had extended  
11 while that was -- that was associated with any of that  
12 that would have been recovered.

13           So, therefore, Staff agreed, I believe, at the  
14 time, to -- the company come in and asked for an AAO. The  
15 AAO was set up to recover the return of so that that would  
16 -- or to provide them to calculate the return of and defer  
17 that and also allow them to calculate the depreciation  
18 expense that they would be incurring that was deferred  
19 instead of charged to that. Therefore, the -- it would  
20 not affect the earnings of the company without a rate  
21 case.

22           Q     Okay. That wasn't my question, but I appreciate  
23 the explanation.

24           A     Oh, sorry.

25           Q     My question was whether or not, just a very

1 general question, just because a company improves some of  
2 its assets, it -- it doesn't necessarily follow that a  
3 company will file a rate case upon the completion of that  
4 particular improvement, does it?

5 A No, sir, it doesn't because the rate case  
6 involves many aspects. Otherwise, it would be single  
7 issue rate-making.

8 The rate case takes into account the revenues,  
9 the customer growth, the overall expenses and the  
10 additional plant, not just one item.

11 Q And in particular, it is possible, is it not,  
12 that -- it would not be to the company's advantage to file  
13 a rate case under certain circumstances because of other  
14 -- other issues, other -- other monetary signals going the  
15 opposite way and actually causing a rate decrease if they  
16 were to file --

17 A That's correct.

18 Q -- even considering the improvement right?

19 A That's correct.

20 Q Okay. So -- now, in regard to -- I want to -- I  
21 want to go back to this comparison, though, because if the  
22 -- in my example of the \$1 million improvement and the  
23 ten-year life and the initial rate case being filed one  
24 year after -- after placing the improvement to the plant  
25 in service, if there was a -- a rate case then filed and

1 -- you've already testified that the \$100,000 that first  
2 year of depreciation on ten-year life would basically be  
3 lost, correct?

4 A That's correct.

5 Q And with the AAO, that's actually captured,  
6 isn't it?

7 A If there is an AAO and --

8 Q At least in the accounting?

9 A -- and the AAO is subsequently allowed in rates,  
10 yes, that's captured.

11 Q It's a two-step process. First, it's -- it's  
12 captured in the accounting?

13 A In deferral, yes.

14 Q And then, secondly, it could be allowed or  
15 disallowed in a subsequent rate case?

16 A That's correct.

17 Q Okay. And in regard to the amount that you  
18 receive a return on with the -- with the AAO, would you  
19 agree that, as far as the accounting is concerned, every  
20 year there is a -- in my example there's a \$100,000 drop  
21 in the amount of the improvement that upon which there is  
22 a return?

23 A That's correct.

24 Q In a rate case, the setting of the return on in  
25 this example would be for 900,000?

1           A     The first year.  Yes.

2           Q     And if there was not a rate case filed for, say,  
3     five years subsequent, would they earn that return on the  
4     900,000 the entire period of that five years?

5           A     Yes, sir.

6           Q     So there is somewhat of a trade-off, isn't  
7     there, in regard to -- to this -- to this issue on the AAO  
8     if we assume that the AAO is -- is subsequently allowed in  
9     rates?

10          A     If it was strictly single issue rate-making,  
11     yes, sir.  That would be true.

12          Q     Because we're getting -- the company is getting  
13     a return on the 900,000 as though there were no  
14     depreciation until the next rate case without an AAO?

15          A     Yes, sir.  That's making -- like I said, that's  
16     making an assumption that no other factors changed.

17          Q     Right.  If there was no rate case for five  
18     years, the other factors changing would not impact  
19     anything either, correct?

20          A     They wouldn't impact the rates, but they would  
21     impact the earnings.

22          Q     Okay.  But -- the -- and, of course, as you've  
23     already said, that could go -- that could cut either  
24     direction?

25          A     That's true, sir.

1           Q     How often does Staff -- if you know, how often  
2     does Staff generally review the books of a utility to --  
3     to determine whether or not they are earning more than  
4     their authorized rate of return?

5           A     We look at it, I believe, every year in a very  
6     minute detail. Now, how direct and how far we go into it  
7     will depend on what we believe is going on and how -- how  
8     large we believe that number is to be.

9           Q     Well, does Staff do a -- an in-depth enough  
10    review to make a determination about whether or not a  
11    company is definitely over-earning or under-earning when  
12    it does those annual checks of the books?

13          A     I think they determine then whether they need to  
14    do an in-depth review is my -- is my belief of what we  
15    normally do.

16          Q     All right.

17          A     And if we believe they are over-earning, we do a  
18    more in-depth review, and we come in and we ask for  
19    permission to do an earnings investigation.

20          Q     Who do you think has the most information  
21    regarding whether or not a company is over or  
22    under-earning? The company or the Staff?

23          A     Well, I would hope the company would be in the  
24    position that they would know more about that than we do.

25          Q     All right. And would you -- would you give me

1 your perspective on what happened in the '97 rate case in  
2 regard to this particular issue?

3 A My belief is it was not an issue in the '97  
4 case. But on the '97 case, I participated in that case.  
5 I participated in the earlier cases. I participated in, I  
6 believe, every electric rate case this company has had  
7 since 1980. And I believe until recently, until after the  
8 '98 case, this has not been an issue.

9 Q And when you say it's not been an issue, what  
10 was the position that --

11 A Staff put the unamortized balances in the rate  
12 base as they are doing now.

13 Q Okay. And how does that sync with the company's  
14 position?

15 A That's what the company's done.

16 Q So we're just -- okay. That's -- that's --  
17 that's what I was under the impression. Okay.

18 Now, when we're dealing with Staff's position as  
19 to whether or not this matter in -- in a rate case, then,  
20 should actually be allowed in rates as -- as the company's  
21 position is today, in the '97 case, was that actually the  
22 final result? Do you know?

23 A Since it wasn't contested, I assume it was left  
24 in rate base. Yes, sir.

25 Q Okay.

1           A     And I'm the one that sponsored the AAOs in that  
2 case.

3           Q     Okay. So in other words, it -- there was -- the  
4 second step was completed in the '97 case in regard to --  
5 to allowing the accounting that had been backed under the  
6 AAO to actually flow through to rates?

7           A     It was allowed in the '93 case, and it was  
8 updated in the '97 case to include the actual yearly  
9 amortizations and expense, and the unamortized balance at  
10 that time was included in rate base.

11          Q     Okay. Now, from a general policy standpoint,  
12 what made this case -- since you were involved in it, from  
13 Staff's perspective, what made this case unique and  
14 qualify for the standards for an AAO originally?

15          A     The AAO was set up to continue the construction  
16 accounting. Because of the nature of the project for the  
17 life extension, we considered it major construction.

18                 And the AAO was set up to allow them to continue  
19 -- because FERC requires in the Uniform System of Accounts  
20 that once a plant comes online that it goes into plant and  
21 service and is depreciated.

22                 Once that goes online and starts being  
23 depreciated, even though there's not a rate case, that  
24 would affect the earnings of the company. And to keep the  
25 earnings of the company from being negatively affected, it



1 was believed that the AAOs should be started to allow the  
2 company to incur or to defer those costs that were being  
3 incurred, therefore, to be tried in the next rate case.  
4 And that's what happened.

5 Q I understand that that's the rationale for this  
6 company. What I'm looking for is why doesn't that  
7 rationale apply to every -- every utility in the State  
8 doing an improvement? What was different about this  
9 particular case?

10 A I believe the size of the project and I believe  
11 probably part of the thing that was going on with MGE that  
12 -- that the MGE's major project, that happened with the  
13 SLRP deferrals and the subsequent rebuilding of the  
14 pipelines and stuff was because they had failed to keep  
15 proper maintenance of those pipelines.

16 And if they had been replacing it all along as  
17 they should have, they wouldn't have had that much expense  
18 at the time.

19 Q So there was -- the treatment in the MGE case,  
20 it's -- it's your belief Staff's position was based upon  
21 something akin to some imprudence and not following  
22 through and timely replacing the infrastructure?

23 A That's my personal belief. Whether that's the  
24 actual belief of the person that did it, I don't know.

25 Q Okay. But I -- okay. And I understand you're

1     trying to draw a -- something distinguishing this case  
2     from MGE. What I'm looking for here is -- is the other  
3     side of this coin, and that is what distinguishes this  
4     case from every other utility who may want to -- who is  
5     doing improvements in regard to their ability to get an  
6     AAO.

7           A     I would hope that if we have a current life  
8     extension, and I believe -- or something of major  
9     consequences like this that Staff would be receptive to  
10    that.

11                   And I believe if you would look at the current  
12    KCPL case as it relates to the building -- or the current  
13    KCPL situation as it relates to the building of IATAN II,  
14    we are, in effect, doing something similar to that at the  
15    current time.

16           Q     Why do you say that?

17           A     Because of the way that we're allowing portions  
18    of the cost recovery of the plant to be built in before it  
19    actually goes in service.

20           Q     In what way? What do you mean?

21           A     Well, I haven't been in on all the negotiations.  
22    I just know that we're allowing special circumstances.  
23    We're allowing a building of a fund where additional  
24    monies are provided to the company to keep the earnings  
25    from being negatively impacted. And so that's my belief

1 that, in some way, we're doing the same thing.

2 Q Are you saying that in the KCP&L case that there  
3 is an allowance for recovery of construction in progress  
4 before the -- the plant is placed in service?

5 A I don't -- well, it's not actually being placed  
6 in service. But when it is placed in service, the costs  
7 that have been allowed are going to be reduced by the  
8 amount of rates that were allowed above normal rate-making  
9 practices to keep from the earnings being impacted. Now,  
10 exactly how that ties to this, it's not an exact fit, sir.  
11 There's no way.

12 Q I'm -- I'm just trying to understand whether  
13 you're telling me that in Kansas City Power & Light we are  
14 -- we are allowing for a recovery in rates of a plant  
15 that's not --

16 A I don't believe so.

17 Q -- in service. Now --

18 A I may have said it incorrectly trying to explain  
19 it. I'm sorry.

20 Q Now, in regard to -- in regard to this -- this  
21 AAO, though, and if any other utility came in here and  
22 said, We want to do improvements on this -- in this  
23 particular power plant and we want an AAO so that we can  
24 start recovering before -- or start accounting for that  
25 recovery before the next rate case, what is -- what would

1     cause Staff to say that's okay?

2                     What's the policy here that Staff is saying  
3     makes -- makes this okay, makes it unique? Or is Staff  
4     saying, Hey, any time a company wants to come in and ask  
5     for one of these because we're going to give that to them  
6     because that's what we want to do?

7             A     No. I don't think that's the policy, sir. I  
8     think the policy is that each individual AAO that comes  
9     before this Staff is looked at individually considering  
10    the circumstances, what it would do to the earnings of the  
11    company.

12                    And that decision is made by the fives, and Mr.  
13    Schallenberg and Ms. Wandell (ph.). It's above my level.  
14    I don't get in on those discussions.

15             Q     The fives. You mean the Accountant 5s?

16             A     The Regulatory Auditor 5s. The Directors and --  
17    and the Accounting Manager would make a determination  
18    whether they believe that those particular circumstances  
19    -- and I think it's individually. It's not a hard and  
20    fast rule on any one thing.

21             Q     Okay. But you don't have any -- you're not  
22    giving me any specifics in your testimony in regard to why  
23    this circumstance is -- is -- has a uniqueness to it that  
24    caused there to be special accounting treatment to an AAO?

25             A     I believe the uniqueness was -- was that it was

1 built over a period of time without shutting the plant  
2 down so that the plant would remain available to the  
3 customers. They were only working during periods when the  
4 plant was offline for maintenance, and they were doing  
5 certain portions of the project.

6 They could not complete the project all at one  
7 time without taking the plant offline and endure -- and  
8 incurring a lot of additional costs.

9 Q So that's just -- I want to break this down just  
10 a little bit more because I want to -- I want to make sure  
11 I'm following what the policy of this Commission may have  
12 been in the past on granting this AAO.

13 Is it your understanding that this was -- was  
14 unique because, then, the -- to allow the company to  
15 pursue this where the -- where the plant was not actually  
16 taken out of service during peak periods also meant that  
17 the company was going to have to take longer before the  
18 improvements were complete and placed in service than it  
19 would have otherwise taken?

20 A That is -- that is my understanding. Yes.

21 Q So how much longer -- do you know how much  
22 longer it took for them to get all of this done than it  
23 would have if they would have just shut the plant down and  
24 done the improvements?

25 A This was done over a several year period, from

1 my understanding.

2 Q How --

3 A I do not know how long it would have taken them  
4 if they had shut the plant down and done it, say, in six  
5 months or -- or less.

6 Q So in -- in this case, is it your understanding  
7 that the AAO was granted because of that extended period  
8 of time to complete the work as compared to what it would  
9 have taken to shut the plant down in doing the work over  
10 this period of time in increments during periods where  
11 when the -- when there was not the peaking need for the  
12 generation units of Aquila?

13 A I believe that was one of -- I believe, sir,  
14 that that was one of the considerations, yes.

15 Q And is that what makes this, at least arguably,  
16 unique?

17 A In my opinion, yes. The AAOs only recover the  
18 expenditures. They don't recover the actual capital  
19 outlay. They're -- they're recovering the expenditures  
20 associated with that capital outlay.

21 Q They are, also, according to Staff's position,  
22 recovering something on that -- that --

23 A That's correct.

24 Q -- expenditure, correct?

25 A That's correct.

1           Q     And is that recovery occurring prior to the  
2 completion of that improvement in this case?

3           A     There was no recovery until after the  
4 completion.

5           Q     Well, I better rephrase that. You mean in  
6 rates, there was no recovery until after the completion?

7           A     That's correct.

8           Q     Was the accounting for the recovery taking place  
9 prior to the actual improvement being completed and placed  
10 in service?

11          A     As in -- as in every construction project, FERC  
12 and the Uniform System of Accounts allows a return on  
13 monies expended to be built into that. And yes.

14          Q     Okay. I want to make sure I follow you. When  
15 was the -- when was the -- when were the improvements on  
16 the Sibley plant an issue in this AAO completed?

17          A     The first -- I believe the dates Mr. Klote gave  
18 you earlier -- I didn't write those down -- would have  
19 been when the project was actually completed. Portions of  
20 it were completed between '98 and -- and June of -- of  
21 '90, I believe.

22          Q     '89? Not '98, right?

23          A     Or '88.

24          Q     '88.

25          A     '88 and 1990. Excuse me, sir.

1 Q Okay.

2 A For the first portion of it. And then the  
3 second portion, he's talking about that was in ER-93-97  
4 was from June of that period until the July of the next  
5 year when that rate case was filed.

6 Q Okay. I don't think I was making myself clear  
7 before. What I was asking you is whether or not the AAO  
8 is allowing a recovery to take place after the fact on --  
9 on a rate case but to be accounted for in such a way that  
10 there's actually a recovery before the -- the improvement  
11 is placed in service. And I thought you said yes.

12 A The AAO --

13 Q But I don't know if that's what you mean.

14 A The AAO was picking up a return for a  
15 calculation of a return on the plant that was completed.  
16 Okay?

17 Q After it was completed, though?

18 A After it was completed.

19 Q That's where I earlier --

20 A After it was completed up to the time that the  
21 AAO was started. Or up until the time the AAO comes in  
22 rates.

23 Q Right. And when I asked you earlier, I was  
24 asking you that question, you gave me an answer that  
25 indicated that it was actually giving some return before



1 it was completed. And I'm -- that's what I was trying to  
2 straighten out.

3 A It --

4 Q You didn't mean to say that if you did say it,  
5 right?

6 A It doesn't -- it doesn't actually give the  
7 return unless you allow the AAO. What happens is the  
8 return is calculated and included in the deferral.

9 Q I understand. But you -- you're not allowing a  
10 recovery to take place -- let me ask it to you this way.

11 A No. There is no recovery. There is no recovery  
12 until the AAO is allowed. It's just --

13 Q That's not what I'm asking you. Let me give you  
14 an example.

15 A Okay. I'll try again.

16 Q Let's say that a rate case were filed at the  
17 very same time that you're allowing the AAO to start --  
18 start accounting for a recovery in this case.

19 A Okay.

20 Q Would you be allowed to recover on the rate case  
21 for that improvement?

22 A The rate case would allow the recovery of the  
23 improvement, and the AAO would not pick up any costs  
24 because there would be no reason for an AAO.

25 Q Don't answer my question beyond what I'm asking

1     you, sir, because it's confusing.

2             A     That's what I was trying to do, sir.

3             Q     I need you to just answer my question.

4             A     Okay.

5             Q     And don't give me additional information right  
6     now. When I -- what I'm trying to establish is -- clearly  
7     establish is that there is no recovery on any of this  
8     before the improvement is in service.

9             A     That's correct.

10            Q     And the accounting doesn't -- of the AAO does  
11     not allow for a recovery of any return on any expenditure  
12     prior to the improvement being completed and in service,  
13     correct?

14            A     No, sir.

15            Q     Not correct?

16            A     No, you're not correct, sir, in that --

17            Q     Okay.

18            A     -- the AAO is deferring the recovery of that  
19     recovery on the issue. There -- there is -- there is no  
20     recovery unless it's captured in the AAO.

21                   COMMISSIONER GAW: I don't have any more  
22     requests, Judge. I would -- I'm not getting -- getting  
23     that cleared up. I'll ask somebody else. Thank you, sir.

24                   JUDGE VOSS: Due to -- due to the time, we'll go  
25     ahead and take a break because there may be other

1 Commission questions, and then we'll have continued  
2 redirect and recross based on those questions.

3 MR. WOODSMALL: Your Honor, Mr. Brubaker has  
4 asked me if he could leave after lunch. You mentioned  
5 before the Commissioners were done with him. I was  
6 wondering --

7 JUDGE VOSS: The only one I hadn't heard from  
8 was the Chairman, and I don't believe he has any questions  
9 either. So I think, Mr. Brubaker, you are free to go as  
10 is Mr. Klote. I said that wrong, didn't I?

11 MR. KLOTE: Klote.

12 JUDGE VOSS: It was typed in my list wrong.

13 MR. DANDINO: Your Honor?

14 JUDGE VOSS: Yes. We'll be back at two.

15 MR. DANDINO: Okay.

16 (Lunch recess.)

17 JUDGE VOSS: Before we begin, Mr. Williams, I'll  
18 remind you that you're still under oath.

19 MR. WILLIAMS: Yes, ma'am.

20 JUDGE VOSS: Commissioner Murray, did you have  
21 any questions for this witness?

22 COMMISSIONER MURRAY: No, I don't. I don't  
23 believe I do. Thank you.

24 JUDGE VOSS: Okay. In that case, is there  
25 recross based on earlier questions from the Bench?

1 MR. BOUDREAU: One or two.

2 MR. DANDINO: Yes, your Honor. There we go.

3 JUDGE VOSS: There are two fellow counsel. Who  
4 will go first?

5 MR. DANDINO: Let me find my notes here.

6 RECROSS EXAMINATION

7 BY MR. DANDINO:

8 Q Mr. Williams, Commissioner Gaw had asked you  
9 about that -- the '97 Aquila rate case?

10 A Yes, sir.

11 Q And -- and you were a participant in that case,  
12 right? I think that's what you were discussing with him.

13 A Yes.

14 Q And in that case, do you know if the company  
15 asked for a rate -- asked for a transition cost  
16 amortization over four years of all its regulated assets  
17 instead of rate based treatment for its AAO?

18 A I don't remember that, sir.

19 Q Do you recall any -- that they asked for a  
20 transition cost amortization at all?

21 A I don't remember that.

22 Q If -- did -- did they -- did the -- were you --  
23 was the Staff's proposal in -- in that case the same as  
24 the company's request?

25 A You mean overall proposal?

1 Q No. Over the AAO deferred costs.

2 A I don't specifically remember what the company's  
3 request was in that case. I just remember that I was  
4 responsible for the AAOs. And I believe -- I'm not 100  
5 percent certain, but I believe that I put it in rate base  
6 just like I did in this case.

7 Q But you don't remember what that company's  
8 request was?

9 A I do not remember what the company's request  
10 was, no.

11 Q Okay. Mr. Williams, Commissioner Gaw asked you  
12 a number of questions about the AAO and depreciation and  
13 -- and so forth. And this case isn't about whether the  
14 AAO is -- is prudent or not.

15 Isn't the issue in this case is whether the --  
16 both of the AAOs, the current AAOs go into rate base in  
17 this case or are taken out of rate base?

18 A That's my understanding that's the issue, yes.

19 Q And whatever -- you know, whatever other --  
20 other -- the amounts of the AAO is not in dispute at all?

21 A No, sir, it is not.

22 MR. DANDINO: Okay. That's all I have.

23 JUDGE VOSS: Mr. Boudreau, do you also have some  
24 recross based on questions from the Bench?

25 MR. BOUDREAU: I think just one or two.

1                                    RECROSS EXAMINATION

2        BY MR. BOUDREAU:

3            Q        I think there were some questions from  
4        Commissioner Gaw about looking back at the AAOs that were  
5        issued that are at -- that are the topic of discussion in  
6        this case or -- in this case.    Do you recall that?

7            A        Yes, sir.

8            Q        And I think some of that dealt with the basis  
9        for the issuance of the AAOs in the first place.

10          A        Okay.

11          Q        And my question to you is, you said that you had  
12        been involved in a number of rate cases for this company  
13        since the '80s, I think; is that correct?

14          A        Yes, sir.

15          Q        Were you involved in the -- in the analysis of  
16        the two AAO requests that are the topic of this case?    And  
17        in particular, I'm talking about Case Nos. EO-90-114 and  
18        EO-91-358.

19          A        No, sir.    I did the rate cases, not the analysis  
20        of the AAOs.

21          Q        Okay.    Have you reviewed those AAO orders?

22          A        I reviewed the report and order in ER-90-101.    I  
23        know that based on --

24          Q        Excuse me.    I'm talking about the accounting  
25        authority orders.    Did you review those?

1           A       No.

2                   MR. BOUDREAU:  Okay.  I don't think I have any  
3 further questions.  But what I would do is -- is ask that  
4 the Commission take administrative notice of the orders  
5 that were issued by the Commission in its Case Nos.  
6 EO-90-114 and EO-91-358, which set out the rationale and  
7 the reasoning for the issuance of the -- of those  
8 accounting authorities on the -- accounting authorities in  
9 the first place.

10                  JUDGE VOSS:  Okay.

11                  MR. BOUDREAU:  With that, I conclude.  Thank  
12 you.

13                  MR. DANDINO:  Your Honor, I'd ask the Commission  
14 to take official notice of -- make sure the -- the MGE  
15 case, which -- make sure I get the number right here.  
16 GR-98-140.

17                  MR. BOUDREAU:  I don't have any objection to  
18 that so long as it's understood that to take  
19 administrative notice of all the -- the whole series of  
20 orders.  There was an original report and order and at  
21 least one subsequent record.  But with that, I have no  
22 objection to that.

23                  MR. MEYERS:  I have no objection to either of  
24 those, but would probably throw in while we're at it, just  
25 to make the record clear, we'd also ask that the

1 Commission take administrative notice of the Commission's  
2 previous rate decisions in ER-90-101 and ER-93-37.

3 For your convenience, because I'm not sure how  
4 electronically available most of these are, I do have some  
5 cites to the Commission's official reporter for some of  
6 these decisions which perhaps I could put into the record  
7 at this point.

8 The decision in ER-90-101 is at 30 PSC New  
9 Series, page 320. And that was dated October 5, 1990.  
10 The Commission's decision in ER-93-37 can be found at  
11 Volume 2 of the Missouri PSC, Third Series at page 206.  
12 And then the Commission granted rehearing and issued a  
13 second order readdressing the same issue.

14 The AAO issue was addressed in both orders. The  
15 second appears at page 30 of the same volume. And the MGE  
16 case, GR-98-140, one of the Commission decisions is at  
17 Volume 7 of the Missouri PSC Third Series at page 394.

18 COMMISSIONER MURRAY: Judge, may I ask a  
19 question? Do those include any dissent -- dissenting and  
20 concurring opinions?

21 MR. MEYERS: At least one has a dissent. I  
22 noticed that.

23 COMMISSIONER MURRAY: The MGE case, correct? I  
24 just want to make sure if we're taking official notice  
25 that we take official notice of the dissent at well.



1           MR. MEYERS: I know one of the earlier rate  
2 cases, a Commissioner dissented.

3           COMMISSIONER MURRAY: I dissented in the MGE  
4 case.

5           MR. MEYERS: Yeah. There were concurrences and  
6 dissents.

7           COMMISSIONER MURRAY: And they are in the  
8 report?

9           MR. MEYERS: They're in the report. Yes.

10          COMMISSIONER MURRAY: Okay. Thank you.

11          MR. DANDINO: Your Honor?

12          JUDGE VOSS: I think it's reasonable to take  
13 notice of any of those cases and any concurrences or  
14 dissents.

15          MR. DANDINO: With all the numbers going around,  
16 I'm not sure that ER-97-394 and EC-98-126 were subject to  
17 official notice. And if not, I'd request that you take  
18 administrative notice.

19          JUDGE VOSS: And just for the locations that  
20 they're cited in a brief, I certainly don't mind page  
21 numbers. I don't know that they need to be read in.

22                I'm assuming if you reference them in your  
23 briefs, you'll include it in there, although --

24          MR. MEYERS: That's right. I mainly do that  
25 because I don't believe that most of these are

1 electronically accessible for at least those of us who  
2 have Commission access.

3 JUDGE VOSS: Thank you. Is that all of the  
4 official notice? Okay. Is there any other recross based  
5 on questions from the Bench? Redirect?

6 REDIRECT EXAMINATION

7 BY MR. WILLIAMS:

8 Q Very briefly, Mr. William. Are you familiar  
9 with the report and order in Case No. ER-90-101 that you  
10 had the discussion with Commissioner Gaw about earlier?

11 A Yes. I've gone back and reread it.

12 Q To your knowledge, what was Staff's view ever  
13 the request for an AAO at that time or for an AAO to be  
14 incorporated into the base rates at that time?

15 A Well, my memory wasn't that good because we --  
16 we opposed the order at the time and asked that it not be  
17 done. But the Commission decided that it would be  
18 allowed, and -- and that's why we picked up those costs in  
19 the future.

20 Q So that impacted some of the decision-making  
21 process in the 1993 rate case?

22 A That did impact the decision process in the '93  
23 case.

24 Q Commissioner Gaw also asked you a series of  
25 questions regarding Kansas City Power & Light. Do you

1 recall those questions?

2 A Yes.

3 Q And you made some references to construction  
4 accounting; is that correct?

5 A Yes. The construction accounting is taken into  
6 account in the regulatory plan. And that's what I meant  
7 to say. I didn't mean to say that it was similar to the  
8 AAO.

9 Q Do you recall the number for that -- case number  
10 for that regulatory plan ? Would you have any reason to  
11 doubt EO-2005-329?

12 A No, I do not.

13 Q And that decision was made by the Commission; is  
14 that correct?

15 A Yes.

16 Q That was not done by stipulation?

17 A I -- I believe it was a stipulation.

18 Q It was a stipulation? Did the Commission  
19 approve the stipulation?

20 A I believe so.

21 MR. MEYERS: I think that's all I have. Thank  
22 you.

23 JUDGE VOSS: Mr. Williams, you're excused.

24 MR. WILLIAMS: Thank you.

25 JUDGE VOSS: Public Counsel, you may call your

1 witness.

2 MR. DANDINO: Ted Robert -- Ted Robertson,  
3 please.

4 JUDGE VOSS: Sorry.

5 MR. DANDINO: That's all right.

6 JUDGE VOSS: I have to flip to my pages.

7 TED ROBERTSON,

8 being first duly sworn to testify the truth, the whole  
9 truth, and nothing but the truth, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. DANDINO:

12 JUDGE VOSS: Your witness, Mr. Dandino.

13 MR. DANDINO: Thank you, your Honor.

14 Q (By Mr. Dandino) Set?

15 A Yeah.

16 Q Please state your name and position.

17 A My name is Ted Robertson. I'm a Regulatory  
18 Accountant 3 with the Missouri Office of the Public  
19 Counsel.

20 Q And did you prepare and cause to be filed in  
21 this Case Exhibit No. 504 (sic), which is direct testimony  
22 of Ted Robertson, Exhibit 406, which is the rebuttal  
23 testimony of Ted Robertson NP, 407, rebuttal testimony of  
24 Ted Robertson HC, and 408, surrebuttal testimony?

25 A Did you say the first one was 405?

1 Q 405. Yes.

2 A Yes.

3 Q Do you have any corrections to your testimony?

4 A I do.

5 Q Which one, sir?

6 A One correction. To -- I believe it's Exhibit  
7 407, which would be -- actually, 406 and 407. It's my  
8 rebuttal testimony. One is not proprietary. One is  
9 highly confidential.

10 But the correction I need to make is not  
11 confidential -- or it's not highly confidential. It's on  
12 page 2 of both pieces, lines 11 and 12 starting with line  
13 11. The first word deferrals, right after that, put a  
14 period and then strike everything to the end of that  
15 sentence.

16 Q So what would that sentence read, then?

17 A That sentence will then read, Company in the  
18 MPSC Staff in their respective direct testimony  
19 recommended rate base treatment for the amortized deferred  
20 balances and associated deferred income tax of the  
21 accounting authority orders for the Sibley rebuild and  
22 Western Coal conversion deferrals.

23 Q Do you have any other corrections?

24 A No.

25 Q As corrected, is -- does Exhibit 408, 407, 406

1 and 40I -- 405, are they true and correct to the best of  
2 your information, knowledge and belief?

3 A I believe that they are.

4 Q And if I asked you the questions contained  
5 therein today, would your answers be the same?

6 A I believe that they would. Yes.

7 MR. DANDINO: Your Honor, at this point, I'd  
8 like to offer Exhibits 405, 406, 407 and 408 and tender  
9 the witness for cross-examination.

10 JUDGE VOSS: Are there any objections -- are  
11 there any objections to any of those exhibits?

12 MR. BOUDREAU: Yes. I have one objection,  
13 please. It's with respect to page 13 of Mr. Robertson's  
14 rebuttal testimony.

15 JUDGE VOSS: So that would be in both 406 and  
16 407?

17 MR. BOUDREAU: I think it will show up in -- in  
18 both. Yes.

19 MR. DANDINO: What page?

20 MR. BOUDREAU: Page 13, rebuttal. And I don't  
21 know that I'm going to object to the admissibility of the  
22 testimony generally, but it's probably more in the nature  
23 of a motion to strike. But I'll -- I'll lodge it as an  
24 objection to the admission if it stays in.

25 Specifically, lines 18 through 20 where

1 Mr. Robertson testifies to what he thinks MPS witnesses  
2 believe based on some language in a prior Commission  
3 order. I think he's speculating about what -- what MPS  
4 witnesses believed. It's not even based on their  
5 testimony.

6 It's one thing to quote what they said.  
7 It's another thing to quote what the Commission said and  
8 extrapolate from that what he thinks the MPS witnesses  
9 believe. So I object to the testimony to the extent it  
10 contains that statement.

11 MR. DANDINO: Your Honor, I believe it's just  
12 his interpretation for what the language of the report and  
13 order is. He's giving his opinion of what -- what it  
14 seems reports -- his viewpoint of what the order says. I  
15 think it just goes to the -- to the weight of the  
16 evidence, if anything. I think it's an appropriate part  
17 of an expert's testimony.

18 MR. BOUDREAU: Well, he's -- he's not testifying  
19 as to what the order says. He's testifying about what he  
20 thinks the MPS witnesses believed.

21 MR. DANDINO: Well, I believe it says --

22 MR. BOUDREAU: That's an entirely different  
23 thing.

24 MR. DANDINO: I'm sorry for stepping on you. It  
25 says would appear from the language of the report and

1 order. He's referencing -- that's where he's getting his  
2 information.

3 JUDGE VOSS: As an expert witness, you're given  
4 discretion to interpret documents. But I don't actually  
5 see the probative value. An opinion of this nature is  
6 more -- for now, I'm going to leave it in.

7 If you want to keep it as a motion to strike  
8 that carries forward -- but I'm going to leave it in. I  
9 don't think it hurts anything. It is just an expert  
10 giving his opinion of something. But it isn't for the  
11 proof of what's stated.

12 And the Commission will take into discretion  
13 that it's his impression of language in an order that has  
14 no real bearing on MPS. And, in fact, if anyone is  
15 available that -- or any of the witnesses on that issue,  
16 were they present in this case --

17 MR. BOUDREAU: I don't think any of the  
18 witnesses that were witnesses in that case are here.

19 JUDGE VOSS: -- at that time?

20 MR. BOUDREAU: Yeah, are here today. So am I to  
21 take it, then, that my motion it overruled? Or the  
22 objection is overruled, I guess I should say?

23 JUDGE VOSS: I'm thinking. Judgment call. No.  
24 I think I am going to have to strike it because you're  
25 inferring from an order another party's position.



1           MR. DANDINO: It's related to the -- exactly the  
2 issue that's in front of us. It's a regulatory lag.

3           JUDGE VOSS: And I believe the Commission has  
4 actually taken notice of that particular order, have they  
5 not? So the order itself has been taken notice, so --

6           MR. BOUDREAU: Yes.

7           JUDGE VOSS: -- interpretation of the language  
8 in the order isn't necessary. So go ahead and strike.

9           MR. DANDINO: It can speak for itself. Thank  
10 you, your Honor.

11          JUDGE VOSS: So strike lines 18, 19 and 20 on  
12 page 13. Is that sufficient, Mr. Boudreau?

13          MR. BOUDREAU: Yes. Thank you. No further  
14 objections.

15          JUDGE VOSS: With the exception of the language  
16 that was just stricken -- I didn't say that correctly.  
17 Are there any other objections to any portion of  
18 Mr. Robertson's testimony? Hearing none, the remainder of  
19 those exhibits are admitted.

20                 (Exhibit Nos. 405, 406, 407 and 408 were offered  
21 and admitted into evidence.)

22          MR. DANDINO: And that exhibit also, right?

23          JUDGE VOSS: Yes. The remainder of that exhibit  
24 with the exception of the three lines.

25          MR. DANDINO: Thank you, your Honor.

1 JUDGE VOSS: And, actually, since those three  
2 lines appear in both Exhibit 407 and 406, those three  
3 lines will be taken out of both. Struck.

4 Okay. And I think DNR goes first, and I think  
5 she is across the hall. St. Joseph? Kansas City?  
6 Jackson County? AARP?

7 MR. COFFMAN: No questions.

8 JUDGE VOSS: Glad you said that. I didn't see  
9 you over there. Federal Executive Agencies?

10 CAPTAIN HOLLIFIELD: No questions, your Honor.

11 JUDGE VOSS: Thank you. Sedalia Industrial  
12 Energy Users Association?

13 MR. WOODSMALL: No, thank you.

14 JUDGE VOSS: Commercial Group? Staff?

15 MR. MEYERS: May I approach the witness?

16 JUDGE VOSS: You may.

17 MR. DANDINO: David?

18 MR. MEYERS: Yes.

19 MR. DANDINO: What is that?

20 MR. MEYERS: I handed the witness a copy of the  
21 PSC report at Volume 7 that contains the MGE -- MGE rate  
22 case order.

23 MR. DANDINO: On the 140 case?

24 MR. MEYERS: GR-98-140. Yes.

25 MR. DANDINO: Thanks.

1 CROSS-EXAMINATION

2 BY MR. MEYERS:

3 Q Mr. Robertson, on the right side of the page --  
4 or on the right side of the -- I'm not sure exactly what  
5 the page number is. About halfway down, there is a  
6 sentence in the Commission's report and order that begins,  
7 Given that the company will recover. Do you see that? I  
8 think it's on the right side. It might be on the left  
9 side.

10 A Perhaps you could point it out to me.

11 MR. MEYERS: May I reapproach?

12 JUDGE VOSS: Yes.

13 MR. DANDINO: Do you want to highlight it?

14 Q (By Mr. Meyers) I'm sorry. It was on the left.

15 A Okay.

16 Q Could you read that sentence for me, please?

17 A Sure. Given that the company will recover the  
18 amortized amount of the SLRP deferral at the AFEDC rate in  
19 ten years instead of the previous 20 years amortization  
20 period, it is proper for the ratepayers and shareholders  
21 to share the effect of regulatory lag by allowing the  
22 company to earn a return of the SLRP deferred balance but  
23 not a return on the SLRP deferred balance.

24 Q Thank you. Would you agree with me that in this  
25 case the amortization periods that we are considering are

1 20 years?

2 A No party took the position to change the  
3 amortization period in this case.

4 Q Okay. And would you agree that that would be a  
5 reason for a distinction between the MGE case and the case  
6 we have before us now?

7 A I don't understand your question.

8 Q Would you agree that the Commission drew a  
9 distinction between the amortization period that had been  
10 requested and the amortization period that was granted in  
11 the MGE case?

12 A State that again. I'm not trying to be  
13 contrary. I'm trying to understand what you're saying.

14 Q In the MGE case, the Commission set the  
15 amortization rate at ten years; is that correct?

16 A That is correct.

17 Q Okay. And in our case that we have before us  
18 here, we're looking at 20 years?

19 A That's right. Nobody -- nobody asked for a  
20 change in this case.

21 Q Correct. Would you agree that those are, in  
22 fact, two different amortization rates?

23 A They are two different amortization rates.

24 Q And that -- would you agree with me that that  
25 is, in fact, something that is different between these two

1 cases?

2 A Well, to some degree. The fact being in that  
3 case, the MGE case, the company asked for five years. We  
4 recommended 20 as -- I think existed at the time. The  
5 Commission ordered ten.

6 In this case, the amortization is 20 years, and  
7 nobody asked to change it, the company, Staff or Public  
8 Counsel.

9 Q Okay. That's --

10 A Made that distinction.

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

12 JUDGE VOSS: Amerenue? Aquila?

13 MR. BOUDREAU: Yes, thank you.

14 CROSS-EXAMINATION

15 BY MR. BOUDREAU:

16 Q Mr. Robertson?

17 A Good morning. Or good afternoon.

18 Q Your testimony, I believe, is that you oppose  
19 rate base inclusion of the unamortized accounting  
20 authority order deferred balances associated with the  
21 Sibley power station rebuild and the Western Coal  
22 conversion projects; is that correct?

23 A The -- the two Sibley AAOs. That's correct.  
24 It's commonly referred to as the 1998 AAO and the 1992  
25 AAO.

1 Q Fair enough.

2 A Only the Sibley.

3 Q Is it fair to say the position you've taken in  
4 this case reflects a philosophical opposition to rate base  
5 treatment for unauthorized AAO deferred balances?

6 A I'm not sure what you mean by philosophical.

7 Q Well, let me ask you this: Under what  
8 circumstances, if any, would you support a return on as  
9 well as a return of costs placed in a regulatory asset  
10 account?

11 A In no circumstances.

12 Q Okay. So that's what I mean by philosophical.  
13 Under no circumstances would you support that treatment;  
14 is that correct?

15 A That's correct.

16 Q Thank you.

17 A We believe we have reasons why. It's not just  
18 my idea why.

19 Q Well, I understand that, sir.

20 A Okay.

21 Q Is this your position or the position of the  
22 Office of the Public Counsel?

23 A As you know, I'm a representative of the Office  
24 of Public Counsel.

25 Q Which means this is an official position of the

1 Office of Public Counsel? It's not just your personal  
2 opinion?

3 A You want to know my personal opinion?

4 Q I want to know if the opinion you've expressed  
5 in your testimony is the official position of the Office  
6 of the Public Counsel with respect to this topic.

7 A It is.

8 Q Okay. Thank you. Have you made yourself  
9 generally familiar with the other testimony that's been  
10 filed in this case on some of the other issues,  
11 specifically, the demand side {} management proposal that  
12 the company has made?

13 A No. Basically, my job in this -- in this  
14 particular case related purely to the -- I guess I would  
15 say the accounting aspects, the -- the expenses.

16 Q Okay.

17 A The investment to some degree.

18 Q Okay.

19 A Revenue. Revenue normalization and other, like,  
20 DSM projects or even FAC, I haven't spent any time on it  
21 hardly at all.

22 Q Well, let me ask you this are: You aware of  
23 what Staff's recommendation has been with respect to the  
24 treatment of demand side management costs?

25 A No.

1           MR. DANDINO:  Objection, your Honor.  The  
2     witness has already said he wasn't involved in that issue.

3           JUDGE VOSS:  Could you repeat the question?  I  
4     was looking for a reference.

5           MR. BOUDREAU:  I can re --

6           JUDGE VOSS:  I want to hear what you said first.  
7     Or rephrase it so it wouldn't offend Mr. Dandino.  I  
8     simply didn't hear.

9           Q     (By Mr. Boudreau)  The question is, is he  
10    familiar with the position that the Staff has proposed in  
11    this case, initially proposed in this case associated with  
12    recovery of demand side management cost on the proposal  
13    that the company has made?

14          A     No.

15          Q     Do you know whether Staff witness Lena Mantle  
16    addressed that topic?

17          MR. DANDINO:  Objection, your Honor.  The  
18    witness has said he doesn't know.  I think, you know, to  
19    go on with this is -- is irrelevant and just time  
20    consuming.

21          MR. BOUDREAU:  May I approach the witness,  
22    please?

23          JUDGE VOSS:  The objection is sustained, by the  
24    way, because -- but, yes, you may approach the witness.

25          MR. DANDINO:  Your Honor, I -- I think the same



1 objection, which was sustained, is did he know what it is?  
2 He now he's going to show it to him, and I think that's  
3 improper. If -- if he wants to read it into the record,  
4 if he wants to introduce the evidence into the record,  
5 counsel is more than willing -- more than able to do that.

6 But my witness doesn't have -- shouldn't have to  
7 read -- read that testimony when he doesn't -- when he's  
8 stated on the record and this -- this Court -- and your  
9 Honor has sustained it that he doesn't know anything about  
10 it.

11 JUDGE VOSS: Well, I sustained the objection to  
12 the question that asked if he knew what Lena Mantle had  
13 put in testimony, given that he said he didn't know what  
14 the testimony was. I don't see why an expert on behalf of  
15 Public Counsel wouldn't be able to give his impression of  
16 another expert on topics of testimony.

17 MR. BOUDREAU: I can even make it more relevant  
18 than that. It leads up to what another OPC witness said  
19 with respect to a similar topic in the case. So I'll  
20 disclose the circle fairly quickly here, but I'd  
21 appreciate some latitude.

22 MR. DANDINO: Your Honor -- excuse me. Your  
23 Honor, you say that another witness can comment on what  
24 the other witness -- this is completely out of the area  
25 that he testified to, and I think it's unfair to start

1 bringing in other issues that come -- and other experts on  
2 those other issues, not on the issue the witness is  
3 testifying to and say, Well, what do you think about that?

4 If he wants to bring -- if Counsel wants to  
5 bring it up, he can bring it up and show and demonstrate  
6 that during the time when those witnesses are on the  
7 stand. I think it's unfair to have Mr. -- Mr. Robertson  
8 have to -- have to read and comment on something when he  
9 said he hadn't seen it. And now he's expected to read it  
10 and ask -- and answer questions on the stand now.

11 JUDGE VOSS: If Mr. Robertson doesn't feel  
12 qualified to interpret or answer any questions posed by  
13 Mr. Boudreau, then he's more than welcome to say so. It's  
14 to the extent that he's able to answer the question and  
15 understand the testimony.

16 If it's outside the scope of his expertise or he  
17 needs more time to look at it, then he will be fully  
18 entitled to that.

19 MR. DANDINO: Thank you, your Honor.

20 JUDGE VOSS: Okay.

21 Q (By Mr. Boudreau) Sir, all I'm going to do is  
22 ask you to do is take a look at this question and answer  
23 out of Lena Mantle's testimony. It's not stapled. I  
24 apologize. Just take a look at it.

25 A That's all right.

1 MR. DANDINO: Can I see the statement, Counsel?

2 MR. BOUDREAU: Yes.

3 Q (By Mr. Boudreau) Tell me when you're done.

4 A Sure.

5 JUDGE VOSS: Could you then identify what you're  
6 showing him for everyone else?

7 MR. BOUDREAU: I'm -- I'm showing him some  
8 testimony from page 3 out of the direct testimony of Staff  
9 witness Lena Mantle. Lena Mantle, and specifically lines  
10 5 through 12.

11 JUDGE VOSS: Can you say that one more time? It  
12 took me a while to --

13 MR. BOUDREAU: It's page 3 of her direct  
14 testimony, lines 5 through 12. And what I'd like to do is  
15 ask Mr. Robertson if he would just read the question and  
16 answer into the record, please, and then I'll -- then I  
17 will follow this up with one.

18 MR. DANDINO: Your Honor --

19 MR. BOUDREAU: One or two series of questions  
20 about Public Counsel's position on that issue.

21 MR. DANDINO: Your Honor, I'm going to object to  
22 Mr. Robertson reading into -- I think this is irrelevant  
23 what -- what the Staff is proposing in another issue on  
24 demand side --

25 MR. BOUDREAU: It's not relevant what Staff --

1                   MR. DANDINO: Counsel, can I finish my  
2 statement, please?

3                   MR. BOUDREAU: Certainly.

4                   MR. DANDINO: Thank you. And I think it's -- I  
5 think it's -- I think it's irrelevant to this issue. If  
6 -- if Mr. -- Mr. -- if Counsel wants to ask him about --  
7 about issues on this AAO and the treatment that's  
8 afforded, that's fine.

9                   But I think it's completely irrelevant to -- to  
10 bring this into the record.

11                  JUDGE VOSS: Just a second. I want to read it  
12 real quick.

13                  MR. BOUDREAU: And if I may have a moment to  
14 respond, I'd like that.

15                  JUDGE VOSS: Yes. I just want to make sure --

16                  MR. BOUDREAU: Certainly.

17                  JUDGE VOSS: And, again, this is, Ms. Mantle's  
18 direct, page 3, lines 5 through 13?

19                  MR. BOUDREAU: 5 through 12.

20                  JUDGE VOSS: You know, I'm inclined -- I don't  
21 really see the purpose of reading this testimony into the  
22 record. Could you set up a hypothetical situation and  
23 what would happen if this was done?

24                  MR. BOUDREAU: It's not so much hypothetical.  
25 There's another OPC witness that filed testimony about

1     their position on this proposal, which I think contradicts  
2     what Mr. Robertson just said about it being an OPC policy,  
3     and I'd like to be able to pursue that.

4             MR. DANDINO: Your Honor, it still goes back to  
5     the relevancy on this issue. He's dragging in completely  
6     other different issues, different -- different subject  
7     matters, and -- you know, for this point.

8             And I -- I think it's just more appropriate --  
9     you know, he can argue all he wants in the brief on this  
10    thing, but I don't think it's -- it's appropriate -- I  
11    don't even think it's appropriate there. But I think it's  
12    irrelevant at this point.

13            JUDGE VOSS: I'm inclined to agree. If you can,  
14    brief it because I -- is Public Counsel or any party  
15    intending to object to Ms. Mantle's testimony being  
16    admitted into the record in this case along with the  
17    stipulation and presentation? Assuming that it's not,  
18    you'll be able to reference --

19            MR. BOUDREAU: Yeah. I believe the testimony of  
20    both of the witnesses has been stipulated for  
21    admissibility, subject to the Commission's approval of the  
22    stipulation, of course.

23            JUDGE VOSS: Then I would suggest that you could  
24    directly rebut --

25            MR. BOUDREAU: Just by briefing the issue?

1 JUDGE VOSS: Just by briefing the issue.

2 MR. BOUDREAU: Okay. Very good.

3 JUDGE VOSS: Thank you.

4 MR. BOUDREAU: Thank you.

5 Q (By Mr. Boudreau) Mr. Robertson, could I ask  
6 you to turn to page 11 of your rebuttal testimony, please?

7 A The -- the only copy I brought would be the  
8 highly confidential one. Will that be a problem?

9 Q This shouldn't be a problem.

10 A Okay.

11 Q Are you there?

12 A I am.

13 Q There's a question posed at Line 4 and 5 about  
14 what the -- what the purpose of an AAO may be, and you  
15 render your -- your views on that.

16 A Yes.

17 Q My question to you is that, in your answer, you  
18 don't cite any financial accounting standards protocol or  
19 -- or Uniform System of Accounts rule or GAAP principle.  
20 Is it -- as I compare it, this is not based on any sort of  
21 financial or accounting protocol, but it's your view of  
22 the -- the appropriate use of an accounting authority  
23 order; is that correct?

24 A What this language represents is my view or my  
25 interpretation of what the Commission's orders were in the

1 -- the ER-90-101 case and ER-90-337. And I believe it's  
2 the 101 case where the Commission stated in the order that  
3 to protect the financial integrity of the company was not  
4 the purpose of an AAO. And that's my interpretation of  
5 what they said there.

6 Q Fair enough. Thank you.

7 A So I guess the -- may I continue?

8 Q On page 13, I think you premise a question on  
9 the --

10 A May I continue, though?

11 Q I think I got the answer that I wanted.

12 A I didn't answer your question about being --  
13 financial authority.

14 Q Okay.

15 A And the answer to that is no.

16 Q Okay. Thank you. Your testimony, I think,  
17 makes reference to an MGE decision. And I'm trying to  
18 find your reference to it. GR-98-140; is that correct?

19 A Would you -- would you point me to the testimony  
20 where you're -- where you're at?

21 Q I'm looking at page 8 of your rebuttal  
22 testimony.

23 A Of -- okay.

24 Q And I guess my question to you is, when you make  
25 reference to the Commission's decision in that case, what

1 order were you referring to?

2 A The GR-98-140 order.

3 Q Okay. There were several orders. Are you  
4 looking at -- or are you just referring to the principle  
5 order that came out? Were you looking at any of the  
6 supplemental orders?

7 A Well, it's been a while since I looked at them.  
8 But I remember there was a rehearing. It asked for  
9 rehearing on two issues, one of them being the gross up  
10 issue and the revenue efficiency, I believe. Or gross  
11 taxes. And the other was on the -- whether or not the  
12 ADIT, Accumulated Deferred Income Taxes, associated with  
13 the AAOs should be booked in or taken out of rate base. I  
14 believe it would have been the -- the later ones. But I  
15 would have to doublecheck that --

16 Q Okay.

17 A -- if there was a sequence to it somewhere.

18 Q Do you recall whether you took a look at the  
19 December 8th, 1998, order? It was stapled to the order  
20 granting recross examination and rehearing in part of the  
21 order denying recross examination and rehearing in part,  
22 an order denying motion to stay, and alternative request  
23 to collect subject to refund.

24 A I have reviewed them in the past. I would have  
25 to -- I don't have them committed to memory. Of course,



1     now, the question that Counselor for Staff asked me a few  
2     moments ago in what they had, that was the order language  
3     I think you were referring to about whether the costs  
4     should be in rate base or not, if I understand the  
5     question as you asked it.

6           Q     Well, let's handle it this way.

7           A     Okay.

8           MR. BOUDREAU: May I approach the witness,  
9     please?

10          JUDGE VOSS: Go ahead.

11          Q     (By Mr. Boudreau) I'm going to ask you to take  
12     a look at this, familiarize yourself with them, and I'm  
13     going to ask you about that language.

14          A     Like I said, it's been a while since I looked at  
15     it, but I am familiar with it.

16          Q     Do you recall that? There's some highlighted  
17     language -- there's some highlighted language I have in  
18     there. Would -- would you take a look at that?

19          A     I have.

20          Q     Would you agree with me that the topic that the  
21     Commission was addressing was the company's concern that  
22     the Commission's decision in that case would have some  
23     sort of retroactive effect on deferrals for which they had  
24     previously received rate base treatment? Do you recall  
25     that?

1           A     I --

2           Q     Is that --

3                   MR. DANDINO: Your Honor, if he's going to ask a  
4 question in that nature, we -- either we'll have to take  
5 official notice -- I don't know if that's in there or not,  
6 or that the witness read that -- read the statement so the  
7 record shows what he's commenting on.

8                   MR. BOUDREAU: That's fine. I'd ask the  
9 Commission to take notice of -- or administrative  
10 notice --

11                  JUDGE VOSS: This is the December 12th?

12                  MR. BOUDREAU: This is December 8, 1998.

13                  JUDGE VOSS: 8th.

14           Q     (By Mr. Boudreau) It's a long title. Order  
15 Granting Recross Examination and Rehearing in Part, Order  
16 Denying Recross Examination and Rehearing in Part and  
17 Order Denying Motion to Stay and Alternative Request to  
18 Collect Subject to Refund.

19                   And to simplify things, as consistent with  
20 Mr. Dandino's observations, would you just read the  
21 highlighted language of that portion of the order, please?

22           A     Read it into the record?

23           Q     Yes, sir, please.

24           A     The Commission did not order the retroactive  
25 application of the exclusion of the unamortized balance of

1 of the SLRP deferrals to previous cases where those  
2 amounts have already been included in rate base amounts  
3 calculated. If the company can separate the funds  
4 affected under prior decisions when permitted, the  
5 unamortized balance to be included in the rate baes for  
6 the SLRP deferral amounts deferred under the authority of  
7 the most recent accounting authority order authorized in  
8 Case No. GO-97-301, the Commission has no objection to  
9 doing so and continuing to include unamortized balance  
10 amounts existing and treated during prior cases in the  
11 rate base.

12 Q Thank you.

13 MR. DANDINO: Counsel, you were asking him to  
14 comment on this?

15 JUDGE VOSS: Yes. I was waiting for it, too.

16 MR. BOUDREAU: Well, I guess I could.

17 MR. DANDINO: I thought there was a question  
18 there.

19 MR. BOUDREAU: I guess I could.

20 Q (By Mr. Boudreau) Would you agree with me, sir,  
21 that that language indicates that the Commission wasn't  
22 wanting to or wasn't intending to upset the apple cart  
23 with respect to prior rate case -- or rate base  
24 determinations with respect to the deferred AAO amounts in  
25 the MGE case?

1           A     Well, it's been so long ago. From what I can  
2     recall -- from what I could recall of the case, I don't  
3     believe the company was able to separate those amounts,  
4     and so that what they were concerned with didn't occur.

5           Q     Well, that was a mechanical question. But from  
6     a philosophical -- you know, the purpose of the  
7     Commission's order was to indicate that they weren't going  
8     to go back and undo rate-making -- rate-making treatment  
9     with respect to amounts that had been deferred and already  
10    allowed into rate base?

11          A     I -- the Commission's order says what it says.  
12    There's no doubt. But I believe the amounts that were  
13    deferred have been treated as the Commission order stated,  
14    no rate base treatment. They weren't included in rate  
15    base.

16                The Commission's order, as you say there, says  
17    what it says. But what happened is what I've stated in my  
18    testimony.

19               MR. BOUDREAU: Okay. I don't think I have any  
20    further -- no further questions for this witness. Thank  
21    you.

22               JUDGE VOSS: Commissioner Murray? Any  
23    additional questions?

24                               CROSS-EXAMINATION

25    BY COMMISSIONER MURRAY:

1 Q Good afternoon.

2 A Good afternoon.

3 Q Mr. Robertson, how long have you been with the  
4 Office of Public Counsel?

5 A A long time. May 9th, 1990.

6 Q Okay.

7 A Or excuse me. July 1990.

8 Q And to your knowledge, has Office of Public  
9 Counsel ever taken the position in support of an  
10 accounting authority order?

11 A Well, actually, I believe we have taken the  
12 position that the accounting authority order was okay. I  
13 would have to check which one, but I believe we have. We  
14 can pull some. We've stated that some were appropriate,  
15 yes.

16 Q So would you say that Office of Public Counsel  
17 is not generally opposed to accounting authority orders,  
18 then, from a policy perspective?

19 A I -- I would say, as -- as in this case, we're  
20 not challenging the accounting authority in this case.  
21 That's not the issue.

22 Q Yes. I understand that.

23 A Okay.

24 Q I'm just asking you from a policy perspective.

25 A From a policy issue, I think we would look at

1 the merits of the case itself. Yes.

2 Q And you think that there are some instances in  
3 which you have taken the position that -- that an  
4 accounting authority order was appropriate?

5 A I believe we have, yes.

6 Q You don't recall which cases?

7 A No. It would take some research. But from my  
8 recollection, I believe we have.

9 Q Have you ever taken the position that the  
10 unamortized balance should be included in rate base?

11 A I have not. And as far as any other OPC witness  
12 that I know of, they have not.

13 Q Okay.

14 A But I know I haven't. I've always recommended  
15 that the unamortized balance be excluded from rate base  
16 for the reasons I state in my testimony.

17 COMMISSIONER MURRAY: Okay. Thank you.

18 MR. ROBERTSON: Yes, ma'am.

19 JUDGE VOSS: Is there any redirect -- or recross  
20 based on questions from the Bench?

21 MR. DANDINO: Redirect, your Honor?

22 JUDGE VOSS: Redirect, then. Yes.

23 REDIRECT EXAMINATION

24 BY MR. DANDINO:

25 Q Let's talk about -- Commissioner Murray was

1 asking you about any -- the -- the policy on AAOs, Public  
2 Counsel's position on -- on that. Is -- the prudence of  
3 the AAOs here, are they at issue at all?

4 A No. In the current case, the issue is not the  
5 -- the AAOs themselves. They've already been authorized.  
6 Costs have been calculated. All the parties are in  
7 agreement of what that cost is for the two AAOs for the  
8 amortized amounts. There's no difference in the  
9 determination of what those balances remain.

10 The issue is simply that -- the only issue that  
11 remains for this is whether the unamortized balance of the  
12 two AAOs, whether they should be allowed, included in the  
13 rate base in this case or disallowed. And the AAOs  
14 themselves are -- are not an issue.

15 Now, what those costs are that we argue for why  
16 they should be allowed in rate base or not, there was some  
17 -- there was some differences in what those costs actually  
18 consist of.

19 Q Now, Counsel for Aquila, Mr. Boudreau, had asked  
20 you about how -- if you had cited any financial --  
21 financial sources and your reasons on page 11 of your  
22 rebuttal testimony. Or direct. I'm sorry.

23 Now, you said you didn't cite any financial --  
24 financial authorities. But, you know, did you rely upon  
25 any financial authorities?

1           A     I'm trying to find the testimony you're  
2     referencing first.

3           Q     I'm sorry. Page 11.

4           A     It's not direct, though, is it?

5                     MR. BOUDREAU: I think it was your rebuttal.

6           A     I think it's rebuttal.

7           Q     (By Mr. Dandino) Oh.

8           A     And your question again?

9           Q     Let me try it this way.

10          A     All right.

11          Q     You said you didn't cite any financial sources  
12     in there. But did you -- what did you base that -- that  
13     -- your response on?

14          A     I based it on the -- my interpretation of the  
15     Commission's order, about why the AAOs should be  
16     authorized to the utility.

17          Q     It -- is it -- does that also address whether it  
18     should go into rate base or not rate base?

19          A     No.

20          Q     Now, what would -- what would -- you know, what  
21     were Public Counsel's reasons for excluding it from the  
22     rate base?

23          A     Essentially, what -- the reason we -- we  
24     recommend in this case that the cost be -- or actually the  
25     revenues -- they actual represent revenues -- be excluded



1 from rate base is because in the -- in the -- it's our  
2 belief and in the MGE order -- the GR-98-140 case, the  
3 company stated that the purpose of an AAO is to mitigate  
4 regulatory lag. It's not to protect the company from all  
5 risk.

6           It's our belief that that order coincided with  
7 our understanding or the way we would like to see the AAo  
8 treated, the way the company would recover the costs, that  
9 they would get to get the return of costs they incurred,  
10 but they would not earn a return on it.

11           And the reason we don't think they should be  
12 earned a return on it is because essentially because the  
13 amounts deferred just represent revenues, and that's one  
14 part is revenues they wouldn't achieve, wouldn't earn were  
15 it not for the AAO.

16           And, second, the return part of that is the  
17 doubling of the returns because there's already a return  
18 in the amounts that were deferred. And we believe the  
19 Commission's order in GR-98-140 understood those arguments  
20 and accepted our position for those reasons.

21           Q     Okay. Mr. Meyer of Staff's counsel had asked  
22 you about GR-98-140. And he had read you -- had you read  
23 a sentence given that the company will recover  
24 amortization in ten years, you know, it's proper that the  
25 ratepayers and the shareholders share -- share, and that's

1     why they -- I guess I inartfully copied it down -- but the  
2     ten-year -- the ten-year amortization.

3                 Is the treatment that the Commission -- or does  
4     the -- is the treatment -- is the ten-year amortization  
5     that the Commission allowed in that case required for  
6     every AAO?

7             A     As far as I know. Yes. I mean, for -- for the  
8     MGE AAO.

9             Q     For the MGE. But for every -- for every other  
10    case, every other case of an AAO?

11            A     Absolutely not. The Commission -- the  
12    Commission has discretion. And in this case, there's --  
13    no party requested a -- a shorter amortization period, so  
14    it was not an issue.

15            Q     And can the Commission usually grant more than  
16    what a company asks for in a rate case?

17            A     You're referring to the revenue requirement they  
18    asked me?

19            Q     Yes. Or -- or even the -- the amortization  
20    period.

21            A     It's -- it's my understanding that if -- if no  
22    party asks for something different than what was already  
23    there, they were -- they were basically acquiescent to the  
24    fact that -- that that was okay with them.

25            Q     Are -- are there any -- besides GR-98-140, are

1    there any other cases on -- on this issue of -- of the  
2    treatment of the rate base -- treatment of the unamortized  
3    deferred expenses that you think is relevant to this case?

4           A     I think I know what you're asking.  The -- the  
5    MGE case -- the MGE GR-98-140 was a litigated case.  There  
6    have been, to my knowledge, no other litigated cases  
7    before this -- this issue came up.  But there have been  
8    cases where the MPS Staff in St. Louis worked on several  
9    cases, as a matter of fact, or excuse me, three cases.

10               And MPS and Staff worked on one side.  In  
11    Laclede, 9 -- GR-99-315, it was a stipulated case.  But as  
12    far as that stipulation, the Commission ordered that there  
13    be no rate base deferral allowed.

14               That's the position that Staff took.  And I also  
15    believe it's the position that the company took and that  
16    they stipulated it.  In the St. Louis County Water Case  
17    WR --

18               MR. BOUDREAU:  Your Honor, I think I'm going to  
19    object on this, your Honor.  I don't think any of these --  
20    I'm trying to figure out what this is responsive to in  
21    terms of redirect.

22               JUDGE VOSS:  It does seem a little outside the  
23    scope of any -- of the cross that I recall.

24               MR. DANDINO:  Well, your Honor, Mr. Meyers did  
25    ask about GR-98-140.  And, you know, Counsel for the

1 company also wanted him to review that. And they talked  
2 about -- or at least those two cases, and I think it's  
3 fair to ask Mr. -- Mr. Robertson if there are any other  
4 cases that he feels is -- is relevant to -- you know, to  
5 this issue. If the --

6 MR. BOUDREAU: Well, the difference was I was  
7 asking Mr. Robertson about a case that he actually cited  
8 in his testimony. This is just supplemental stuff. You  
9 know, this --

10 JUDGE VOSS: If there are additional cases you  
11 want to take notice of, then that's fine.

12 MR. DANDINO: We'll be glad to -- we'll be glad  
13 to request that.

14 JUDGE VOSS: Okay.

15 MR. DANDINO: I think that's all I have, your  
16 Honor, except for I would want to request official notice  
17 of -- let me see if I can get these cases here. Do you  
18 have the list?

19 JUDGE VOSS: Okay. If the parties would like,  
20 they can also kind of make a list if they'd like to  
21 actually put it in writing to make sure they're all  
22 included, all the cases that you want the Commission to  
23 take notice of and submit those as well.

24 MR. DANDINO: Would you prefer to do that?

25 JUDGE VOSS: It might be easier because so many

1 case numbers have been thrown out, and one could easily  
2 have been missed. And it would be easier if we just have  
3 a list of them.

4 MR. DANDINO: Certainly. On this issue, I'll --  
5 I'll file a list of the relevant cases we think the  
6 Commission should take notice of.

7 JUDGE VOSS: Do you want to get together as a  
8 group, or does everyone want to file their list?

9 MR. DANDINO: We'll be glad to file it  
10 separately.

11 JUDGE VOSS: Okay. Have to get along. All  
12 right. That will just make it easier. That way if  
13 there's any case that is left out, then hopefully we can  
14 get it included.

15 Mr. Robertson, I think that is it unless --  
16 Commissioner Murray, did you have any additional  
17 questions? I will say I know that Commissioner Gaw has  
18 questions for you, so you may be recalled at a later time,  
19 which will, of course, lead to more recross and redirect.

20 MR. ROBERTSON: Thank you.

21 JUDGE VOSS: I can't say it will be today. Are  
22 you around the rest of the week or next week?

23 MR. ROBERTSON: I am.

24 JUDGE VOSS: Okay. Thank you. Well, I say we  
25 take -- well, let's go ahead and do opening statements on

1 depreciation. Is that good for everyone?

2 MR. BOUDREAU: I assume I'm first in the --

3 JUDGE VOSS: Yeah. Just one second.

4 MR. BOUDREAU: Sure.

5 JUDGE VOSS: I'm sending out a notice that we're  
6 beginning this issue. I'm sorry. You may proceed.

7 MR. BOUDREAU: Thank you.

8 OPENING STATEMENT

9 BY MR. BOUDREAU:

10 MR. BOUDREAU: Just a -- just a couple of very  
11 short opening observations about the issue. In this case,  
12 the company has proposed that the currently authorized  
13 depreciation service lives and depreciation rate should be  
14 retained, and the company further proposes that  
15 depreciation study of all functional plant assets be  
16 performed and the results of that study submitted by the  
17 company in connection with its next rate case in that  
18 Aquila plans to submit its next depreciation study in late  
19 2007 or early 2008 to give the Commission some idea about  
20 the rough time frame that we're -- that we're looking at.

21 And I think the company's proposal in this  
22 regard in this case is aligned fairly well with Staff's  
23 recommendation as well. Witness Gorman on behalf of a  
24 number of the intervenors in this case, the Federal  
25 Executive Agency, Sedalia Energy Industrial Users

1 Association and St. Joe Industrial Group has proposed an  
2 adjustment to other production plants suggesting an  
3 average service life of 35 years for Account Nos. 342  
4 through 346.

5 And this recommendation, as I understand Mr.  
6 Gorman's testimony, has been based basically on what --  
7 what AmerenUE has either proposed or been ordered for  
8 them.

9 The company's perspective is that this proposed  
10 adjustment should be rejected by the Commission. And the  
11 basic grounds is there is no good reason to adjust service  
12 lives of other production plants simply because -- for  
13 Aquila simply because AmerenUE has proposed to do so.

14 And in this regard to depreciation issues,  
15 certainly, one size does not necessarily fit all.  
16 The average service lives of -- of other production plants  
17 as well as other functional plants should be based on an  
18 analysis of the assets and not some sort of arbitrary  
19 protocol.

20 So what we have if we find a -- a -- a  
21 depreciation study is a -- is a study of all of the  
22 relevant elements of the company's plant such as the age  
23 of the assets, the current use of the assets, plant use of  
24 the assets, obsolescence and technological changes. All  
25 of these things can be considered in a comprehensive way.

1           And I think that Staff and the company basically  
2   share this philosophical -- or analytical philosophy. I  
3   don't think it's appropriate to review an isolated plant  
4   function in setting depreciation expense levels.

5           It should be based on established depreciation  
6   study procedures. They should be followed. And it's --  
7   typically includes a review of all plant functions, all  
8   tangible production distribution in general.

9           And, frankly, failure to do this, we think, just  
10   invites poor results. We think the current -- the use of  
11   the current depreciation rates make sense. They're based  
12   on a depreciation study. And -- and the plant has been  
13   studying each of the company's last three rate cases. And  
14   so we think that it's reasonably up to date for the  
15   purpose and with a new depreciation study in the near  
16   future seems to be the better way to handle things.

17           So with that, I'll conclude my remarks. Thank  
18   you.

19           JUDGE VOSS: Okay. Staff?

20           MR. WILLIAMS: May it please the Commission.

21                           OPENING STATEMENT

22   BY MR. WILLIAMS:

23           MR. WILLIAMS: Just very briefly, the Staff did  
24   take a look at Accounts 341 through 346, which deal with  
25   CTs, combustion turbines. However, it's the Staff's view



1     that before any depreciation adjustments are made to rate  
2     or depreciation expense, there should be a rigorous and  
3     comprehensive review of all of the depreciation accounts.

4             And the Staff notes that as part of the  
5     stipulation and agreement that's been submitted to the  
6     Commission, the company has committed to filing  
7     depreciation study results -- well, to complete a  
8     depreciation study by the first quarter of 2008 and  
9     provide those results to each of the signatories to that  
10    stipulation and agreement.

11            So to reiterate, the Staff is not recommending  
12    that there be any adjustment made to depreciation rates or  
13    expense in this case.

14            JUDGE VOSS:   Thank you.

15            MR. WOODSMALL:  Thank you, your Honor.  I think  
16    I'm next.

17                            OPENING STATEMENT

18    BY MR. WOODSMALL:

19            MR. WOODSMALL:  This case -- it's interesting  
20    what Counsel for the company and Staff both mention what  
21    the evidence will show is that two experts -- you have  
22    three witnesses in this issue, two experts, both experts  
23    that Mr. Gorman for SIEUA and Ms. Schad for Staff both  
24    tell you that, in their expert opinion, the depreciation  
25    rates for Accounts 342 through 346 are excessively high

1 and should be modified. Both tell you that.

2 The only evidence in the record is that these  
3 depreciation rates are excessive. Despite that,  
4 Mr. Williams is right. Staff makes the recommendation  
5 that nothing be done.

6 But I'm here to tell you that the courts have  
7 said that there is no presumption that the ROE or anything  
8 else from past cases have a presumption of reasonableness.

9 The evidence in this case -- all the evidence in  
10 this case points to the fact that they are unreasonable.  
11 The Commission has no evidence to make a finding that the  
12 current rates are reasonable and can go on indefinitely.  
13 Thank you.

14 JUDGE VOSS: Thank you. I think, Captain  
15 Hollifield, did you have a statement as well?

16 CAPTAIN HOLLIFIELD: Sure. May it please the  
17 Commission.

18 OPENING STATEMENT

19 BY CAPTAIN HOLLIFIELD:

20 CAPTAIN HOLLIFIELD: Out of either a sense of  
21 consistency or lack of imagination, I'm going to go back  
22 to the principles we discussed earlier this morning, and  
23 that was responsibility and the need to use the tools of  
24 motivation.

25 Oddly enough, that applies in this case as well

1 with depreciation. In essence, what we're arguing with  
2 depreciation is are we going to delay gratification? Who  
3 is going to pay for it when? When does the company get  
4 relief? We're -- we're talking about striking the same  
5 balance here.

6 We're talking about do we use a quicker  
7 depreciation time to front load for the company and then  
8 create what I believe, oddly enough, Mr. Gorman and  
9 Mr. Williams point out as an intergenerational inequity if  
10 you don't have your costs and your benefits to the  
11 ratepayers lined up, whether it be because your studies  
12 are off or whether it be because your depreciation timing  
13 is off, you've got a serious problem.

14 Waiting for a 100 percent solution, or as  
15 counsel has said before today, to let the perfect get in  
16 the -- in the way of the good is not the answer. As Mr.  
17 Woodsmall said today, your experts in this case have said,  
18 There is a problem. The house is on fire.

19 What are you going do? Are you going to wait  
20 for a structural engineer to tell you the house is on  
21 fire, or are you going to call the fire department?  
22 There's a problem.

23 The question is, what do we do with it today to  
24 make the equities correct and to make those who should be  
25 responsible for motivating them to make the right

1 decisions along the way? Thank you.

2 JUDGE VOSS: Thank you. There's no else that  
3 I'm aware of took a position on the issues. Is there  
4 anyone else who wanted to give a statement on this issue?  
5 Okay. Seeing none -- let's see. Who are we going to call  
6 first? Is it --

7 MR. BOUDREAU: It's the company's witness, if  
8 I'm not mistaken.

9 MR. WILLIAMS: It's Dennis Williams.

10 MR. BOUDREAU: Denny Williams.

11 JUDGE VOSS: Mr. Williams?

12 MR. WILLIAMS: Yes.

13 DENNIS WILLIAMS,  
14 being first duly sworn to testify the truth, the whole  
15 truth, and nothing but the truth, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BOUDREAU:

18 JUDGE VOSS: You may proceed.

19 MR. BOUDREAU: May I proceed?

20 JUDGE VOSS: Yes.

21 Q (By Mr. Boudreau) Would you state your name for  
22 the records, please, sir?

23 A Dennis Williams.

24 Q And by whom are you employed, sir, and in what  
25 capacity?

1           A     I'm Vice President of Electric Regulatory  
2     Services for Aquila.

3           Q     Okay.  Are you the same Dennis Williams that has  
4     caused to be filed in this case three items of prepared  
5     testimony marked -- those being direct, rebuttal and  
6     surrebuttal testimony marked respectively as Exhibit 032,  
7     033 and 034?

8           A     I am.

9           Q     Was that testimony prepared by you or under your  
10    direct supervision?

11          A     It was.

12          Q     Do you have any corrections that you need to  
13    make at this time to your testimony on the topic of  
14    depreciation?

15          A     No, I do not.

16          Q     If I were to ask you the same questions as are  
17    contained in that testimony today, would your answers be  
18    substantially the same?

19          A     They would.

20          Q     And would they be true and correct to the best  
21    of your information, knowledge and belief?

22          A     They would.

23                MR. BOUDREAU:  With that, I'll offer Exhibits  
24    032, 033 and 034 into the record and tender Mr. Williams  
25    for cross-examination.

1 JUDGE VOSS: Are there any objections to the  
2 admission of those exhibits?

3 MR. WOODSMALL: Yes, your Honor. I think the  
4 easy ones are on 32 and 34. Those don't have any  
5 testimony regarding this issue, so I'd like to hold off on  
6 those.

7 JUDGE VOSS: On Exhibits 32 and 34?

8 MR. BOUDREAU: Yeah. I have no objection to  
9 reserving ruling on the admissibility of those two  
10 exhibits.

11 MR. WOODSMALL: And on 33, we're only talking  
12 about pages 14 through 16, which is on this issue, and I  
13 would like to ask that you withhold ruling on the  
14 admissibility until I finish cross-examination. I think  
15 I'm going to have a Motion to Strike.

16 JUDGE VOSS: That's fine. You guys didn't have  
17 a cross -- different cross order for every single party's  
18 witnesses. Okay. Ameren is not here. DNR? St. Joseph?

19 I think the first person up that is in the room  
20 is Federal Executive Agencies.

21 MR. WOODSMALL: Your Honor, despite the list,  
22 I'm -- I was wondering, given the alignment of interests  
23 if Staff could go first since they don't appear to have  
24 any adverse interests here.

25 MR. WILLIAMS: That's fine.

1 JUDGE VOSS: Is that fine?

2 MR. WOODSMALL: No questions?

3 MR. WILLIAMS: I have no questions.

4 JUDGE VOSS: Now, back to the list. Does  
5 Federal Executive Agencies have any questions for this  
6 witness?

7 CAPTAIN HOLLIFIELD: Mr. Woodsmall, can I go  
8 ahead and ask a couple questions?

9 CROSS-EXAMINATION

10 BY CAPTAIN HOLLIFIELD:

11 Q Mr. Williams, if we could turn to page 15 of  
12 your rebuttal testimony -- do you have that before you?

13 A I do.

14 Q Would you read lines 5 and 6, please?

15 A Do you have any issues you would like to address  
16 regarding the -- the depreciation issue raised by  
17 Mr. Michael Gorman and Mrs. Rosella L. Schad?

18 Q Excuse me. I asked for lines 5 through 6 of  
19 page 15.

20 A Page 15, lines 5 through 6? That's in my  
21 printed copy. It could be different on yours if you have  
22 an electronic.

23 Q Let's try this. Question, my version, page 14  
24 of your rebuttal testimony is, Why is it inappropriate to  
25 review a single plant function? If you will -- if you

1 would read for me the last sentence of your response?

2 A Failure to match the benefit and costs with the  
3 appropriate ratepayer will result in intergenerational  
4 inequities.

5 Q Would you say that that applies only to that set  
6 of circumstances, or is that a principle that we're  
7 looking at in this case?

8 A I'm not sure -- could you -- could you restate  
9 the question?

10 Q Sure. Are you talking about something that just  
11 applies to this kind of case, or is it intergenerational  
12 equity because you failed to match benefit and cost a bad  
13 thing all around?

14 A You should always -- or -- within a reasonable  
15 level, you should try to avoid intergenerational  
16 inequities.

17 Q Thank you, sir. I wanted to also take a look at  
18 the same answer. And I'll just ask you to confirm whether  
19 or not I had it correct. We're going to be on the same  
20 page in this line of questions.

21 You're talking about established depreciation  
22 study procedure, and you include review of all plant  
23 functions which are intangible to production,  
24 transmission, distribution and general, do you not?

25 A I do. There are approximately 150 different



1 depreciation rates.

2 Q Okay. And in response to the question posed to  
3 you on the same page, what is established depreciation  
4 study procedure in addition to saying -- or restating that  
5 list, you also say -- you also include analysis of net  
6 salvage cost of removing assets less salvage received for  
7 the removed assets. Is that not correct?

8 A That is correct.

9 Q Okay. In response to the next question, does  
10 the company believe that its other production plant  
11 average service life should be similar to those of other  
12 Missouri utilities?

13 And this is -- this is going to take a bit out  
14 of context, so please bear with me. Your response refers  
15 to how the assets had been utilized in the future and the  
16 impact of obsolescence and technological changes, do you  
17 not?

18 A I -- I talk about that in the context of the  
19 recommendation that's been made by Mr. Gorman that you  
20 should set other production rates for Aquila based upon  
21 the recommended production rates of Ameren.

22 And I'm trying to say -- what I'm trying to say  
23 here is there's a whole host of items that you look at in  
24 a depreciation study, some of which may well be different  
25 from those of Ameren.

1           Q     But among that whole host is the assets -- how  
2     the assets would be utilized in the future and the impact  
3     of obsolescence and technological changes?

4           A     That's correct.

5           Q     Okay.  So in looking at each of these things,  
6     it's reasonable to say that you have to know something  
7     about the physical plant in addition to the accounting  
8     procedures behind it in order to understand depreciation,  
9     is that not correct?

10          A     To be able to conduct a depreciation study which  
11     no one --

12          Q     To be able to understand a depreciation study as  
13     opposed to having it fed to you.

14          A     To be able to conduct a depreciation study,  
15     which no one has done in this case, I -- I think that  
16     there are -- you certainly would need to have some  
17     engineering knowledge.  You would have to be able to look  
18     at the plant and look at the technological differences in  
19     the various plants, look at how well they've been  
20     maintained, look at the environmental impacts.

21                 Certainly, to conduct a depreciation study, you  
22     would need that expertise.

23          Q     Thank you.  I have one final question.  If we  
24     could go to page 1 your direct testimony, please,  
25     Mr. Williams.

1           A     I do not have my direct testimony with me.

2           Q     Okay. Are you educated as an engineer,  
3     Mr. Williams?

4           A     I am not an engineer.

5                   CAPTAIN HOLLIFIELD: Okay. Thank you. No  
6     further questions.

7                   JUDGE VOSS: Let's see. Commercial Group? Next  
8     would be Mr. Woodsmall.

9                   MR. WOODSMALL: Thank you, your Honor.

10                               CROSS-EXAMINATION

11     BY MR. WOODSMALL:

12           Q     Good afternoon, sir.

13           A     Good afternoon.

14           Q     Captain Hollifield makes a great segway to my --  
15     the start of my questioning. He asked you if you were an  
16     engineer or if you had any education in engineering, and  
17     your answer was no; is that correct?

18           A     That is correct.

19           Q     Okay. You're trained as an auditor, is that  
20     correct, an accountant?

21           A     And I -- I am -- my majors in -- in college were  
22     Accounting and Finance.

23           Q     Okay. Have you ever done a depreciation study?

24           A     I have never performed a depreciation study. I  
25     have reviewed them, and I have used them, utilized them.

1           Q     Thank you. In your last case, ER-2004-0034, the  
2     company hired a witness named Dr. Ron White. Are you  
3     familiar with him?

4           A     I am.

5           Q     And what was he hired to do?

6           A     He was -- he was hired in our last case to  
7     review the results of -- of -- of a depreciation study.

8           Q     Okay. He handled the issue of depreciation in  
9     that case. You did not; is that correct?

10          A     That is correct.

11          Q     Okay. Prior to this testimony, did you consult  
12     any books or treatises on the issue of depreciation?

13          A     No. I saw no need to do so.

14          Q     Okay. Did you consult any orders or Commission  
15     decisions?

16          A     Well, I would have taken orders and prior  
17     Commission decisions, obviously, into consideration, just  
18     my general knowledge and experience of the rate-making  
19     process and how depreciation studies are used, certainly.

20          Q     Let me clarify that --

21          A     But no specific orders establishing the  
22     depreciation rates, although I have looked at depreciation  
23     rates that have been authorized.

24          Q     Let me clarify that. Did you consult any  
25     Commission orders or decisions which state that you must

1 review all depreciation accounts before making any  
2 adjustments?

3 A No. There's a rule-making that requires a  
4 depreciation study to be performed at least every five  
5 years.

6 Q Are you aware of -- of any Commission  
7 requirement, be it rule, statute, order, decision, any  
8 Commission requirement that mandates that you must look at  
9 all depreciation rates? It's a yes or no yes question.

10 A I -- I am not aware of any that would be such a  
11 mandate.

12 Q Thank you. Thank you. You say that you've  
13 never done a depreciation study. Let's -- let's test your  
14 -- your knowledge of depreciation a little bit. Can you  
15 tell me what depreciation methods are relative to perhaps  
16 depreciation procedures or techniques?

17 A Are you talking -- you may be talking about  
18 where you use an end of life or remaining life or whole  
19 life method? Is that -- is that your question that  
20 you're --

21 Q Depreciation methods, procedures and techniques  
22 are terms of art in depreciation.

23 A Well, depreciation method -- you can have units  
24 of production depreciation. You can have double declining  
25 balance depreciation.

1                   In the regulatory arena, what is typically  
2   looked at as depreciation methods are remaining life,  
3   whole life, end of life.

4           Q     Okay.

5           A     If you're looking for something beyond that, it  
6   -- while you say they're terms of art, I'm -- I'm saying  
7   there's lots of terms of art.

8           Q     Okay.  So it's your position that whole life and  
9   remaining life are depreciation methods and not  
10  depreciation techniques?

11          A     I don't distinguish the two.

12          Q     And so you think a depreciation method and  
13  depreciation technique are one in the same?

14          A     I don't distinguish the two.

15          Q     Okay.  Do you distinguish those two from a  
16  depreciation procedure?

17          A     Would you like to define how you're referring to  
18  depreciation procedure?

19          Q     Depreciation procedure is a term of art in  
20  depreciation.  I'm -- I'm wondering if, in your knowledge,  
21  since you're not a depreciation professional, if you can,  
22  tell me if there's a difference between any of the three?

23          A     My testimony doesn't deal with depreciation  
24  procedures, nor depreciation techniques.

25          Q     Okay.

1           A     Nor depreciation methods.

2           Q     Okay. Can you tell me what depreciation method  
3     Aquila used for Accounts 342 through 346?

4           A     Aquila performed no depreciation study for this  
5     rate case.

6           Q     Okay. Can you tell me in the last case what  
7     depreciation method Aquila used?

8           A     Aquila used the -- in the last case, Aquila used  
9     the depreciation rates that had been approved by this  
10    Commission previously.

11          Q     Can you tell me what method, what depreciation  
12    method Aquila used in developing its position in that last  
13    case?

14          A     Aquila relied in its last case on the  
15    depreciation rates that were already approved by the  
16    Commission. That's what we did.

17          Q     Okay. Let's -- can you tell me what method  
18    Aquila used in Case ER-2004-0034?

19          A     I -- I can't associate it with any particular  
20    case. I know the last depreciation study we did was in  
21    2003, and it was performed by Dr. White.

22          Q     But you don't know what depreciation method he  
23    used for Accounts 342 to 346?

24          A     I did not perform a -- the depreciation study,  
25    nor is that the subject of my testimony.

1           Q     Can you tell me what depreciation procedure he  
2     used for Accounts 342 to 346?

3           MR. BOUDREAU:  At this point, I think I'll lodge  
4     an objection as to the relevance of the line of  
5     questioning.

6           MR. WOODSMALL:  If I'm allowed, your Honor, what  
7     I'm doing is laying a foundation that Mr. Williams is not  
8     an expert.  Based upon that fact, I am looking to strike a  
9     significant portion of his testimony as opinion.

10          Since he's not an expert, he's not premitted by  
11     statute or case law to garner an opinion on this issue.  
12     Now, if -- if we want to stipulate that he's not a  
13     depreciation professional, we can skip this line of  
14     questioning, and I can make my motion to strike right now.

15          MR. BOUDREAU:  Mr. Williams nor any other  
16     witness in the case, I might add, is -- is sponsoring a  
17     depreciation study.  So I'm just wondering what the  
18     relevance of the line of questioning is.

19          MR. WOODSMALL:  It -- I'm trying to show that he  
20     is not an expert on this issue.  And -- go ahead.

21          JUDGE VOSS:  He stated that he has not done a  
22     depreciation study, does not regularly do that type of  
23     work, I believe.  He -- it's my impression in his  
24     testimony that he's giving the testimony more in the line  
25     of an accountant's perspective of where depreciation --



1 depreciation fits into a package.

2 MR. WOODSMALL: Okay.

3 JUDGE VOSS: If that's not correct --

4 MR. WOODSMALL: Let me ask, then -- given

5 that, I'll just make my motion to strike now.

6 Section 490.065 of the Missouri statutes talks about when

7 a witness can provide testimony, and it says there,

8 Qualified by knowledge, skill, experience, training or

9 education. They have specialized knowledge.

10 I think it's been shown that while Mr. Williams

11 may be an auditor, may be an accountant, he has no

12 specialized knowledge of the issue of depreciation, unlike

13 the other two witnesses in this case.

14 Therefore, while he may present facts, he is not

15 permitted by statute to garner an opinion. Based upon

16 that, I would ask to strike starting on page 14, line 18

17 following the word yes, all the way through page 15, line

18 22.

19 All that is contained in there is opinion. And

20 as a lay witness, Mr. Williams is not permitted to garner

21 an opinion.

22 JUDGE VOSS: I think that you definitely have

23 different print copies. Could you say the line numbers

24 again? Because I didn't see a yes where you said.

25 MR. WOODSMALL: Okay.

1 JUDGE VOSS: Page 15?

2 MR. WOODSMALL: Page 14.

3 JUDGE VOSS: 14.

4 MR. WOODSMALL: Line 18.

5 JUDGE VOSS: Okay. Okay. There we are.

6 MR. WOODSMALL: Starting with the purpose  
7 through page 15, line 22, which ends with the period after  
8 Gorman.

9 I'll further emphasize that not only does  
10 statute indicate that Mr. Williams is not permitted to  
11 garner an opinion on this issue, but also case law. I  
12 would cite the Commission to Dalbert v. Merrill Dow  
13 Pharmaceuticals, 509-US-579.

14 It talks about the foundation that must be laid  
15 in order for a witness to garner an opinion.

16 JUDGE VOSS: I'm inclined to reserve ruling on  
17 this and let the parties brief this since we have a whole  
18 week as far as strict testimony.

19 MR. BOUDREAU: I think I'd like to have an  
20 opportunity to respond, if I might. And if the  
21 judgment --

22 JUDGE VOSS: You may.

23 MR. BOUDREAU: -- is to reserve ruling, that's  
24 fine. But, you know, I think the point is this is pretty  
25 well-plowed ground that's come up in cost of capital

1 testimony.

2 First of all, Mr. Williams has an extensive  
3 history in regulatory accounting and regulatory practice.  
4 He's the Vice President of Regulatory Affairs of the  
5 company. I don't think anybody can challenge the fact  
6 that he's got -- he's got great experience in this.

7 If I am allowed to voir dire the witness, I  
8 think I can establish that he's used depreciation studies.  
9 He's used them in applying to his responsibilities for  
10 making regulatory recommendations and recommendations  
11 respecting rates.

12 And the fact of the matter is since he's not --  
13 and he used no other witness Wednesday, I might add, has  
14 sponsored a depreciation study. This whole idea about  
15 them not being an expert on -- on concocting a  
16 depreciation study seems to me to be completely beside the  
17 point.

18 There is no depreciation study before the  
19 Commission. So this idea that we're going to have some  
20 swearing match between depreciation studies that don't  
21 exist seems to me to be a pointless enterprise.

22 Mr. Williams' testimony is that existing rates  
23 should stay in place until a comprehensive depreciation  
24 study is performed by somebody. And nobody's done that  
25 here. So to -- the basis for the objection, I think, is

1 just -- it's a red herring. It's dodging after something  
2 that isn't happening here.

3 MR. WOODSMALL: Your Honor, I would agree that  
4 that is Mr. Williams' testimony that we shouldn't change  
5 rates. However, he gets there based upon an opinion. And  
6 that opinion is in the grounds that I asked to strike. If  
7 you want to brief it, I can do that and continue with my  
8 cross.

9 JUDGE VOSS: If you want to rehabilitate your  
10 attempt to establish him as an expert to make the  
11 statement that he made -- but I may still reserve ruling  
12 on actually striking his testimony until I have more  
13 chance look at it.

14 But I do see that it makes statements to the  
15 effect of is it appropriate to perform a complete  
16 depreciation study to review all rates. He establishes --  
17 he talks about established depreciation study procedure.  
18 And if he -- if it could be explained how that's in the  
19 context of his testimony and not as an expert on  
20 depreciation, but an expert in another area that qualifies  
21 him to make such statements, then it's fine.

22 But if you wanted to go ahead and have at this  
23 time --

24 MR. WOODSMALL: Your Honor, can we do that on  
25 redirect and let me finish my cross so we can keep it all

1 together?

2 JUDGE VOSS: That's fine if you're willing to do  
3 that. Is that okay with everybody?

4 MR. BOUDREAU: That's fine.

5 JUDGE VOSS: Okay.

6 Q (By Mr. Woodsmall) As an accountant, do you  
7 have opportunity to utilize the Uniform System of  
8 Accounts?

9 A I do.

10 MR. WOODSMALL: May I approach the witness, your  
11 Honor?

12 JUDGE VOSS: Yes.

13 Q (By Mr. Woodsmall) Can you refer in there, just  
14 to make it easy, I believes page 398 is -- is page 398 of  
15 the Uniform System of Accounts the section that deals with  
16 depreciation?

17 A This deals with Account 403 depreciation and  
18 expense. Now, depreciation also, obviously, is applied to  
19 plant accounts, which would be in the series of 300s.

20 Q Okay. Do you -- and how many years have you  
21 said you've been dealing with utility regulation?

22 A Thirty-plus.

23 Q Okay. And you have a great deal of experience,  
24 would you say, with the Uniform System of Accounts?

25 A I'm familiar with the Uniform System of

1 Accounts, yes.

2 Q Okay. Can you point to me the rule in there  
3 that says that depreciation rates may only be modified  
4 when all depreciation rates are reviewed?

5 A That may be your testimony. That was not my  
6 testimony. I can -- I can go over my testimony with you  
7 and make it clearer if you'd like.

8 Q Is it your testimony that depreciation rates for  
9 Accounts 342 through 346 should only be changed when all  
10 depreciation rates are looked at?

11 A My testimony is two-fold. One would be close to  
12 that, although I clarify it at the point -- what I really  
13 am saying is you can't look at just a few accounts without  
14 looking at all of the accounts because some depreciation  
15 accounts may go one way. Others may go the other way.

16 Q Okay. Let's start with that. Show me --

17 A Well, there was a second aspect.

18 Q Well, my question was yes/no. And I've allowed  
19 to you expound upon that, and I'm sure your counsel will  
20 allow you to do it further. But based upon that point,  
21 can you show me any support for that notion in the Uniform  
22 System of Accounts?

23 A I don't think the Uniform System of Accounts  
24 governs that.

25 Q Okay.

1           A     I think regulatory practice governs that.

2           Q     So your answer is, to your knowledge, there is  
3 nothing in the Uniform System of Accounts that supports  
4 your position on that?

5           A     I think you're mischaracterizing my position.

6           Q     Please provide me any support in the Uniform  
7 System of Accounts that support your position.

8           A     My position is, No. 1, not what you stated it  
9 was. And, two, it's not supported by a Uniform System of  
10 Accounts. It's supported by regulatory experience and  
11 practice.

12          Q     Okay.

13          A     And the way rate cases should be handled.

14          Q     Okay.

15               MR. WOODSMALL: May I approach the witness, your  
16 Honor?

17               JUDGE VOSS: Yes.

18          Q     (By Mr. Woodsmall) Can you tell me what this  
19 manual is?

20          A     This is a -- a publication put out by NARUC And  
21 it discusses public utility depreciation practices.

22          Q     Are you familiar with that document?

23          A     I'm aware of its existence. I'm not -- I'm not  
24 familiar with it. I haven't reviewed it lately.

25          Q     Can you provide any support out of that manual

1 for the notion that all depreciation rates must be  
2 reviewed at the same time?

3 A I think, as I recall, it talks about practices,  
4 primarily how -- how depreciation should be arrived at,  
5 not matters of equity and balance for picking and choosing  
6 accounts. And that's where I'm getting back to. My  
7 testimony is from a regulatory --

8 Q To get back to my question, can you provide me  
9 any citations in that manual that support your  
10 position? Yes or no?

11 A This manual has nothing to do with my position.

12 Q Okay. It -- it's a depreciation manual from  
13 NARUC, but it does not provide any support?

14 A It's a depreciation manual from NARUC that talks  
15 about doing depreciation -- how to do depreciation  
16 studies.

17 MR. WOODSMALL: I believe that's all the  
18 questions I have. I would note my Motion to Strike and  
19 that I am willing to abide by your ruling to address that  
20 in the brief.

21 JUDGE VOSS: I'm going to take a break because  
22 I'm not sure how much is left. We'll take about a  
23 ten-minute break and come back, give you a chance to --

24 COMMISSIONER APPLING: I couldn't have timed it  
25 better, huh? Yeah.



1 MR. BOUDREAU: Ten-minute break, did you say?

2 JUDGE VOSS: Yeah. So just after quarter till,  
3 ten, 15 till.

4 (Break in proceedings.)

5 JUDGE VOSS: All right. Okay. Mr. Boudreau, if  
6 you want the opportunity to question the witness -- I'll  
7 direct you to a couple of things that -- let's see.

8 In that testimony that Mr. Woodsmall marked on  
9 line 7 on page 15 of my copy, it says what is established  
10 depreciation study procedure. He's being asked to  
11 identify what is the established procedure for doing a  
12 depreciation study and the bulk of the testimony in there  
13 is of that type. So that's why we may need to brief the  
14 issue.

15 And I wasn't talking about putting it in formal  
16 briefs, but potentially next week so that it could be  
17 decided before official briefing.

18 MR. BOUDREAU: Okay. Well, I don't have any  
19 problem with that approach, I mean, if that's what the  
20 Bench wants.

21 JUDGE VOSS: Okay. But if there are additional  
22 things you think would demonstrate that he is an expert in  
23 the field, did you want to ask it at this time?

24 MR. BOUDREAU: Okay. Let me do this.

25 FURTHER DIRECT EXAMINATION

1 BY MR. BOUDREAU:

2 Q Mr. Williams, you mentioned earlier in response  
3 to some questions, I think from Mr. Woodsmall, that you  
4 had rather extensive experience in the regulatory field.  
5 I wonder if you could expand on that and give us a sense  
6 of your background and experience?

7 A I think I mentioned to Mr. Woodsmall that I had  
8 about 30 years -- 30 years plus regulatory experience. In  
9 1974, I joined Arthur Anderson Company. I'm a CPA. I  
10 worked in the Regulatory Services Division, specializing  
11 in utility practice.

12 Subsequent to my service there, I worked for  
13 regulatory consulting firms representing Staffs, Attorney  
14 Generals, Public Counsel and companies.

15 I joined Missouri Public Service in the  
16 Regulatory Department in 1986, predecessor of current  
17 Aquila. My experience expands preparation of rate cases,  
18 utilization of all types of accounting and other  
19 regulatory information, including depreciation studies,  
20 utilizing them and putting together rate cases.

21 So I -- I went from Staff Accountant at -- at  
22 MPS and have just advanced within that field up to my  
23 current position.

24 Q What is your understanding of the use of  
25 depreciation studies in the context of rate --

1 rate-making?

2 A Well, depreciation studies are -- are utilized  
3 to establish depreciation rates for various functional  
4 accounts. That's the functional accounts that  
5 Mr. Woodsmall was referring to that are reflected in the  
6 Uniform System of Accounts.

7 Those depreciation rates are then utilized in  
8 establishing expense levels that are reflected in -- in  
9 putting together revenue requirement for rate cases.

10 Q And these are items that you need to be familiar  
11 with in order to be able to carry out your  
12 responsibilities?

13 A Certainly. I have to have a general  
14 understanding of all aspects of items that go into a rate  
15 case. I -- if -- in particular, if you're talking about  
16 depreciation studies, certainly, I've reviewed them in the  
17 past. I've talked with Dr. White. I've evaluated them,  
18 analyzed them and utilized them in rate -- rate-making. I  
19 have never performed, however, a depreciation study.

20 Q Does your training allowed you to be able to  
21 take a look at AmerenUE's depreciation rates and determine  
22 whether they are the same or different than Aquila's?

23 A Certainly.

24 MR. WOODSMALL: Your Honor, I would object. I  
25 didn't ask any question about the depreciation rates of

1 any other utility. That was addressed in testimony, and  
2 Mr. Williams has had an opportunity to rebut that. But it  
3 was never the subject of cross-examination.

4 JUDGE VOSS: I wasn't -- were you preparing,  
5 Mr. Boudreau, to actually ask him about the numbers or  
6 whether he has the knowledge to be able to distinguish  
7 that they're different?

8 MR. BOUDREAU: The question goes to the -- the  
9 purpose of his testimony in this case, which is to -- is  
10 to respond to the testimony that was filed by Mr. Gorman.

11 JUDGE VOSS: Okay.

12 MR. WOODSMALL: And, yes, that was addressed in  
13 his rebuttal but was never the subject of my cross here.

14 JUDGE VOSS: And I wasn't aware we were doing  
15 redirect yet. I thought you were doing the extra  
16 testimony that you would need to demonstrate his expertise  
17 in the field.

18 MR. BOUDREAU: Let me do this, with the --  
19 understanding your observation. Let me -- let me just  
20 try and wrap this up.

21 Q (By Mr. Boudreau) What is your understanding  
22 about what the issue in this case is?

23 A Well, the issue in this case is regulatory  
24 policy, basically. It's -- you've got a couple of  
25 witnesses who on direct testimony took a -- some

1 depreciation rates -- the Staff witness took depreciation  
2 rates for two accounts in the other production category.  
3 And -- and her testimony compared those to Empire and  
4 said, Hey, they're different, looks like we have a  
5 difference here, maybe we ought to look at them a little  
6 farther, and reached the conclusion that said, They're  
7 enough different that there's an indication that something  
8 might be wrong, we better take a -- make a depreciation  
9 study.

10               You had another witness who took two columns of  
11 numbers, one, Aquila's depreciation rate, one, Ameren's  
12 depreciation rates and said -- and he took them for -- for  
13 six accounts and said, Five of them look enough different  
14 that I'm drawing a conclusion that Aquila's are the  
15 depreciation rates that are wrong and ought to be moved to  
16 Ameren's.

17               And my testimony is saying, Hey, I'm an  
18 accountant. I'm qualified to take two columns of numbers  
19 and compare them and say they're different, too. But I'm  
20 also a regulatory policy witness, and I say that isn't the  
21 way rates should be set. That's the basis of my  
22 testimony.

23               And if you are saying that's the way rates  
24 should be set, then you don't just look at one column of  
25 numbers. You don't look at Aquila's and assume they're

1 wrong. Or if you do, maybe you don't just look at Aquila  
2 compared to Ameren. Maybe you look at Aquila compared to  
3 KCPL, and you get a completely different answer.

4 So, really, that's my testimony, are the  
5 depreciation rates different? And if they are different,  
6 from a regulatory policy standpoint, what does that mean?

7 MR. BOUDREAU: Okay. Thank you. I have no  
8 further questions at this time.

9 JUDGE VOSS: And I wanted to apologize.  
10 Mr. Dandino, I accidentally skipped over you in the  
11 cross-exam. You didn't earlier have a position on this  
12 issue.

13 MR. DANDINO: I have no questions. Thank you,  
14 your Honor.

15 JUDGE VOSS: Before -- I have a couple  
16 questions, but I wanted to ask Mr. Woodsmall, would you  
17 object to the testimony in question if it's received in  
18 the context that it is accounting expertise and that it is  
19 regulatory policy issues?

20 MR. WOODSMALL: Your Honor, it is our position  
21 that he goes beyond policy and is providing the opinion of  
22 a depreciation expert.

23 Unlike Ms. Schad and Mr. Gorman who are  
24 depreciation experts, we believe that he is not and  
25 shouldn't be allowed to venture that opinion. So, yes, we

1 would still object.

2 JUDGE VOSS: Okay. I'll address that at the end  
3 of the witness' testimony. I did have a question. I  
4 think, Commissioner Murray, do you have any questions?  
5 Okay.

6 CROSS-EXAMINATION

7 BY COMMISSIONER MURRAY:

8 Q Good afternoon, Mr. Williams.

9 A Good afternoon.

10 Q Just, basically, very briefly, can you tell me  
11 how -- what is your understanding of the way that net  
12 salvage has been treated?

13 A Net salvage, in this case, has been established  
14 as -- as zero net salvage --

15 Q And why is that?

16 A -- by the parties. I'm -- I'm assuming they're  
17 -- that the -- the assumption is that the cost of removal  
18 net of the salvage at the time the plant will be retired  
19 is estimated to have no value or zero value, neither  
20 negative nor positive.

21 Q So it's not that it's being based upon an  
22 analysis of recent -- actual cost of salvage?

23 A No. I -- I believe that -- in fact, I think  
24 there might be testimony in this case that it was zero  
25 value in the -- in the last case as well, and so there was

1 just no change made to it.

2 The -- the only changes that have been proposed  
3 in -- in anyone's testimony are to just the depreciation  
4 rates for just a few production accounts, and the net  
5 salvage is being left the same as it's always been.

6 Q Okay. Well, maybe I got the wrong impression  
7 from reading from Ms. Schad's testimony where she  
8 referenced cost of removal expenditures, salvage receipts  
9 and retirements for the combustion turbine accounts for  
10 the past three years.

11 The company has experienced zero percent net  
12 cost of removal. But perhaps she's just using that as a  
13 guide to indicate that it still appears reasonable to  
14 continue with the same --

15 A I -- I think that is what she's doing. She's  
16 just using that to say there should be no change.

17 COMMISSIONER MURRAY: All right. Thank you.  
18 That's all I have.

19 JUDGE VOSS: Commissioner Appling, did you have  
20 any questions?

21 COMMISSIONER APPLING: No. No questions.

22 CROSS-EXAMINATION

23 BY JUDGE VOSS:

24 Q The question I have is when did -- to your  
25 knowledge, when did the company become aware that the



1 depreciation rates were potentially out of whack or might  
2 be out of whack?

3 A I don't think the company's ever said that they  
4 necessarily are out of whack.

5 Q Okay.

6 A In fact, if -- if you look, if you just compare  
7 us to Ameren or to Empire, which is --

8 Q That's fine. You don't need to compare them for  
9 me. It just --

10 A But they go different ways. I mean, so -- I  
11 mean, compared to KCPL, our rates are lower. Compared to  
12 Empire and Ameren, they're higher. So I'm not sure they  
13 are out of whack.

14 Q When is the last time a depreciation study was  
15 performed?

16 A By the company or -- by the company was in 2003.  
17 I believe the Staff has performed a depreciation study as  
18 recently as 2005, perhaps 2004 for use in the 2005 case.

19 Q Do you have any frame of reference to know how  
20 often depreciation studies should be done?

21 A I know that the Commission rules require us to  
22 do one every five years.

23 JUDGE VOSS; is there any recross based on  
24 questions? Staff?

25 RECROSS EXAMINATION

1 BY MR. WILLIAMS:

2 Q Mr. Williams, do you know the difference between  
3 interim net salvage and final -- terminal net salvage?

4 A I'm -- I'm generally aware of the discussion of  
5 -- of those terms, but I -- I don't have a detailed  
6 knowledge. No.

7 Q Well, what's your general understanding of  
8 interim net salvage and terminal net salvage?

9 A Well, terminal net salvage, I believe, is when  
10 the plant is ultimately retired, what's the value at the  
11 -- at the end of its life.

12 Q And interim net salvage?

13 A Interim would be an estimate of net salvage  
14 prior to the -- you know, what do we think net salvage is  
15 going to be at some interim or how do we value net salvage  
16 at some interim net period. That's my understanding.

17 Q Would you assume with me that interim net  
18 salvage is the net salvage that the company's incurring  
19 while the plant's still in operation but before it's  
20 finally retired? Can you make that assumption?

21 A I can. Yes.

22 Q And are the CTs we're talking about the  
23 Greenwood combustion turbines and the South Harper  
24 combustion turbines?

25 A Well, those aren't the only -- only ones we're

1 talking about.

2 Q What additional combustion turbines are we  
3 talking about?

4 A Well, we have the Ralph Green turbine. All of  
5 our other production turbines -- I believe the two you  
6 mentioned are -- are the -- are the newer production  
7 turbines that have not been included in prior depreciation  
8 studies. And that -- that's what Mrs. Schad was referring  
9 to in her testimony.

10 Q And how long have those been in service with the  
11 company --

12 A Well, they -- they --

13 Q -- in terms of being owned?

14 A In terms of being owned, they're both fairly --  
15 fairly recent within the last -- South Harper, you know, a  
16 couple of years. Greenwood, the same thing. Although  
17 this is kind of -- and this is indicative of -- of one of  
18 the reasons that you can't just look at -- at an account  
19 in isolation.

20 Because you take those two plants, Greenwood is  
21 already 35 years old or so. South Harper is two years  
22 old. So they obviously have very different remaining  
23 lives. And so they obviously have very different impacts  
24 on the depreciation, the average depreciation rate for  
25 other production plants.

1           And you asked me what the other -- other  
2   turbines are. There's Ralph Green -- I'm checking my  
3   notes here. There's the KCI gas turbine. And we also  
4   have one at Nevada.

5           Q     Well, let's focus on the South Harper and the  
6   Greenwood facility combustion turbines which Aquila has  
7   recently acquired and owned. If Ms. Schad was talking  
8   about interim net salvage when she's saying that it should  
9   be set at zero, might it be that Aquila has not  
10  experienced any net salvage for those plants since it's  
11  owned them?

12          A     That would be -- that would be correct.

13               MR. WILLIAMS: No further questions.

14               JUDGE VOSS: Is there any other recross based on  
15  questions from the Bench? Redirect?

16               MR. BOUDREAU: No.

17               JUDGE VOSS: All right. Well, then, you're  
18  excused. Okay. Staff, are you ready to call your  
19  witness?

20               MR. WILLIAMS: Yes. Ms. Schad. Judge, before  
21  we -- before we begin the examination of Ms. Schad, I  
22  would like to point out to the Commission that unanimous  
23  -- or not unanimous, but the stipulation and agreement  
24  that was filed with the Commission earlier today in  
25  paragraph 10 does address the topic of depreciation.

1           I don't know if I should just direct the  
2 Commission's attention to that or if you would like for me  
3 to read the paragraph itself since we're on the topic of  
4 depreciation currently. I realize the agreement has not  
5 been approved by the Commission at this point, but it may  
6 be perhaps relevant.

7           JUDGE VOSS: Okay.

8           MR. WILLIAMS: What that paragraph provides is,  
9 The rates increases specified in paragraph 2 are based on  
10 a continuation of the current depreciation rates for L&P  
11 and MPS. Current depreciation rates are attached as  
12 Schedule 2.

13           If the Commission approves different  
14 depreciation rates as a result of its decision in this  
15 proceeding, the increase specified in paragraph 2 will be  
16 adjusted to reflect the approved depreciation rates.

17           And then following that is another sentence,  
18 Aquila would complete a depreciation study by the first  
19 quarter of 2008 and will provide the results of such study  
20 to the signatories.

21           JUDGE VOSS: That's irrespective, I assume, of  
22 what rates the Commission ultimately uses?

23           MR. WILLIAMS: The commitment to do the  
24 depreciation study? Yes.

25           JUDGE VOSS: I assumed so. Okay. I haven't had

1 a chance to look at it.

2 MR. WILLIAMS: I just wanted to bring that to  
3 the Commission's attention.

4 JUDGE VOSS: Thank you. Let me make sure -- is  
5 it Schad?

6 MS. SHAD: Schad.

7 JUDGE VOSS: Schad. Ms. Schad.

8 ROSELLA SCHAD,

9 being first duly sworn to testify the truth, the whole  
10 truth, and nothing but the truth, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. WILLIAMS:

13 JUDGE VOSS: You may proceed.

14 Q (By Mr. Williams) Would you please state and  
15 spell your name for the court reporter and the record?

16 A My name is Rosella L. Shad, spelled  
17 R-o-s-e-l-l-a S-c-h-a-d.

18 Q And did you prepare testimony in written form  
19 that's been marked as Exhibit No. 226, which is the direct  
20 testimony of Rosella L. Schad that was filed on or about  
21 January 18th of this year?

22 A Yes.

23 Q And before I ask you if you would -- if that is  
24 your testimony here today, would you have any changes to  
25 that testimony?

1           A     Yes. Two minor ones on page 5, line 8.  
2     Approximately -- approximate should be approximately. And  
3     on page 6, line 17, we need to delete the word "be."

4           Q     So instead of saying probably be completed will  
5     be probably complete on line 6?

6           A     Yes.

7           Q     Is what's been marked as Exhibit No. 226, which  
8     is labeled the direct testimony of Rosella L. Schad, your  
9     testimony here today?

10          A     Yes, it is.

11               MR. WILLIAMS: I'd offer Exhibit No. 226.

12               JUDGE VOSS: Are there any objections to that  
13     exhibit? Hearing none, it's admitted into evidence.

14               (Exhibit No. 226 was offered and admitted into  
15     evidence.)

16               MR. WILLIAMS: Tender the witness.

17               JUDGE VOSS: If you guys wouldn't have filed  
18     quite so much testimony -- there we go. Okay. DNR? I  
19     think she left. St. Joseph? Kansas City? Jackson  
20     County? Public Counsel?

21               MR. DANDINO: No questions. Thank you.

22               JUDGE VOSS: AARP? Commercial Group? Federal  
23     Executive Agencies?

24               CAPTAIN HOLLIFIELD: Just a couple of questions,  
25     your Honor.

1 CROSS-EXAMINATION

2 BY CAPTAIN HOLLIFIELD:

3 Q Ms. Schad, I just wanted to confirm your  
4 educational background if we could. You are, by  
5 education, an engineer and an accountant; is that not  
6 correct?

7 A Yes.

8 Q And you are certified as a Professional Engineer  
9 and a Certified Public Accountant, are you not?

10 A Yes.

11 Q Okay. I'm looking at page 4 of your testimony,  
12 the answer at the top of the page. Would it be a fair  
13 characterization that your opinion is reflective of the  
14 Staff's opinion that the figures for Accounts 341 through  
15 346 are significantly short?

16 A Yes.

17 Q Okay. The two examples that you give in that  
18 same answer for Accounts 343 and 344, what are the -- what  
19 is the -- the number of years that you give for those two  
20 accounts? They should be -- I believe it's later in your  
21 testimony.

22 You testify later in your testimony that they  
23 should be -- yes. Going from page 5 to page 6. Okay.  
24 Page 4 to 5, is that correct, Accounts 343 and 344?

25 A Okay. From Staff's review?



1 Q Yes, ma'am.

2 A Okay. There was an earlier statement that I had  
3 done a limited review. And going on from that concept of  
4 a limited review is -- is a 33-year average service life  
5 is appropriate for both the prime movers and generators  
6 account.

7 CAPTAIN HOLLIFIELD: Okay. Thank you, ma'am.  
8 No further questions.

9 JUDGE VOSS: Sedalia Industrial Energy  
10 Consumers?

11 MR. WOODSMALL: Again, your Honor, given the  
12 interests, I would ask that we go after the company.

13 JUDGE VOSS: Okay. That makes sense. And  
14 Ameren isn't here. So Aquila? It makes sense to go out  
15 of order on cross for the only party that has an opposing  
16 position. So go ahead and do your cross-examine.

17 MR. BOUDREAU: Okay. That's fine. I'll do it.

18 CROSS-EXAMINATION

19 BY MR. BOUDREAU:

20 Q Ms. Schad, I'd like to direct you to page 3,  
21 line 13 of your testimony. I think you say you conducted  
22 a limited review?

23 A Yes.

24 Q What is the difference between a limited review  
25 and a full depreciation study?

1           A     In particular, the limited review of  
2     significance is not only of all the accounts, but of those  
3     accounts. And in particular, in that area, there's other  
4     aspects that one needs to do of these accounts before a  
5     recommendation would actually be given of these accounts.

6           Q     So you're saying more work would have to be done  
7     before you'd be comfortable making a recommendation to the  
8     Commission?

9           A     For these accounts.

10          Q     On page -- starting on page 4, line 5 of your  
11     testimony, you compare depreciable lines for Aquila's  
12     Accounts 343 and 344 to that of -- or those of the Empire  
13     District and Electric Company?

14          A     Yes.

15          Q     Do you see that? Do -- are Empire's  
16     depreciation rates -- or would they impact the results of  
17     the depreciation study as to Aquila's similar plant  
18     accounts?

19          A     Not necessarily. No.

20          Q     Did you use the -- did you use Empire as just a  
21     point of reference to your testimony?

22          A     I used it as a reference of the breadth of the  
23     lives that can occur for these accounts.

24          Q     Okay. And would another point of reference  
25     perhaps be the depreciation rates for the other production

1 plant accounts in the recent KCP&L rate case?

2 A Of the same dimension, it was recognized, but  
3 did not necessarily have an effect, per se, on Aquila's  
4 actual assets.

5 Q Okay. Do you know what those depreciation -- or  
6 what those -- what those average service lives were for  
7 Accounts 341 through 345 in the KCP&L rate case?

8 A The currently authorized rate for KCP&L are  
9 approximately, I believe, 24.3 years.

10 Q And just for clarification, we're talking about  
11 Case No. ER-2006-0314?

12 A That is the rates from that case. Yes.

13 Q Thank you. So would you agree with me that if a  
14 comparison to other utilities is relevant, a more recent  
15 comparison is closer -- strike that.

16 Would you agree with me that if a -- if a  
17 comparison to other utilities is relevant, then another  
18 data point or series of data points to take a look at is  
19 what transpired in the KCP&L rate case?

20 A It's possible. Yes.

21 Q Okay. On page 4, also, starting around lines --  
22 line 12, you say the changes have occurred since the last  
23 depreciation study, and I think you make reference to the  
24 South Harper units and the Greenwood data --

25 A Yes.

1           Q     -- is that correct? Were you here just a few  
2 minutes ago when Mr. Williams testified as to those two  
3 plants --

4           A     Yes.

5           Q     -- and the impact that those might have on the  
6 results of a -- of a full depreciation study with respect  
7 to -- and the impact and specifically as to those  
8 accounts?

9           A     Yes.

10          Q     Did you -- would you -- do you agree with Mr.  
11 Williams that they could impact -- that those -- that  
12 there are significant differences with those plants that  
13 could impact the results of that study?

14          A     Yes.

15          Q     Okay. Now, going back, I think to -- I want to  
16 circle back to, I think, the first question I asked you  
17 about the limited review. You said you did not do a full  
18 depreciation study in this case.

19                 Did -- and by that, I assume it's fair to say  
20 that you did not visit the plants in order to -- to -- you  
21 did not visit the plants in connection with your limited  
22 review?

23          A     That is correct.

24          Q     Did you review -- and did you review the -- and  
25 I take it because of that you weren't able to review the

1 condition of the plants?

2 A Correct.

3 Q Did you -- were you able to consider  
4 environmental -- and by that, I mean legal requirements or  
5 operational -- environmental changes to the plant lives?

6 A No. I did not do -- do that in the scope of  
7 this case.

8 Q Okay. And would you consider those things --  
9 things wise -- you know, that should be done in terms of  
10 establishing appropriate depreciation rates for those  
11 plant accounts?

12 A It would be a component I would consider to be  
13 relevant. Yes.

14 MR. BOUDREAU: Okay. I don't think I have any  
15 other questions. Thank you.

16 JUDGE VOSS: Sedalia Industrial Energy Users?

17 MR. WOODSMALL: Thank you.

18 CROSS-EXAMINATION

19 BY MR. WOODSMALL:

20 Q Good afternoon, ma'am.

21 A Good afternoon.

22 Q When did you first reach the opinion that the  
23 average service life for these accounts are, quote,  
24 significantly short?

25 A At the conclusion of the last depreciation study

1 I had just performed, which was at KCPL where I was  
2 seeing, on average, about a 35-year average service life  
3 for combustion -- for some combustion turbines. I would  
4 have concerns as to the 22-year life for the prime movers  
5 and the 28-year life for the Account 344, but nothing that  
6 I can make a conclusion on.

7 Q When I say when, can you assign a date to that,  
8 give me an appropriate date that you reached the opinion  
9 that the lives are significantly short?

10 A Late 2006.

11 MR. WOODSMALL: Okay. May I approach the  
12 witness, your Honor?

13 JUDGE VOSS: Yes, you may.

14 MR. WOODSMALL: I'd like to mark an exhibit,  
15 your Honor. I believe our next one is 511.

16 JUDGE VOSS: And do you just want to identify it  
17 as Schad direct testimony from Case ER-2004-0034?

18 MR. WOODSMALL: That's fine, your Honor. May I  
19 proceed?

20 JUDGE VOSS: Yes. You may proceed.

21 MR. WOODSMALL: Thank you.

22 Q (By Mr. Woodsmall) Ma'am, could you identify  
23 what's been marked as Exhibit 511?

24 A My direct testimony from the Case  
25 Nos. ER-2004-0034 and HR-2004-0024.

1           Q     And does it indicate in the upper right-hand  
2 corner that that was prepared on December 16th, 2003?

3           A     Yes, it does.

4           Q     Turning to Schedule 3-1 --

5           A     Yes.

6           Q     -- looking at -- there two sets, Accounts 341  
7 through 346, I believe. Can you -- the average service  
8 life that Staff proposed are the same, so whichever one  
9 you want to look at.

10                   Can you tell me in general what the average  
11 service lives that you, the Staff, recommended in that  
12 case for Accounts 342 through 346?

13          A     For Accounts 342 to 346?

14          Q     Correct.

15          A     Okay. Yes. For Account 342 -- and, again,  
16 these were for the assets that were in service probably at  
17 the end of 2002, I'm -- I'm going to guess, 2000 -- being  
18 at the end of 2002, which is not the same as today.

19                   So for Account 342 was a 35-year average service  
20 life. 343, a 30 -- 340 -- I'm going to go to 344, a  
21 30-year average service life. Account 345 is 38 years.  
22 And Account 346 is 35.

23          Q     Would you agree with me that the Commission  
24 ordered depreciation rates that were based upon average  
25 service lives that were shorter than what you proposed in

1     that case?

2           A     Can you repeat that question?

3           Q     Would you agree that, in that case, the  
4     Commission ordered depreciation rates that were based on  
5     average service lives that were shorter than which you  
6     proposed?

7           A     I don't agree with that.

8           Q     Can you explain to me?

9           A     I believe that in this case these are the lives  
10    that were ordered.

11          Q     It is your belief that the current depreciation  
12    rates are based upon these average service lives?

13          A     No.

14          Q     Okay. Well, we must have a disconnect, then.

15          A     There's been another case since this one.

16          Q     Were depreciation rates addressed in an interim  
17    case?

18          A     Yes.

19          Q     What was that case?

20          A     ER-2005-0436.

21          Q     And in that case, did the Commission change  
22    depreciation rates?

23          A     The rates were changed, yes.

24          Q     Can you tell me the average service lives that  
25    were utilized in that case?



1           A     I believe it -- they are Staff's proposed rates  
2     from Schedule 4.1-1 of Greg Massey -- Gregory E. Massey's  
3     direct testimony, which was for Accounts 342, an average  
4     service life of 34 years; for Account 343, 22 years;  
5     Account 344, 28 years; Account 345, 37 years; and Account  
6     346, 28 years.

7           Q     And it is your belief today that those average  
8     service lives are, quote, significantly short?

9           A     I believe -- it was my -- it is Staff's opinion  
10    that for Accounts 343 and 344, given the change in those  
11    accounts, it would now be inappropriate, could -- could be  
12    significantly short given the change of the different  
13    assets that now are a part of that account.

14          Q     Okay. Moving on to page 5, lines 20 through 22  
15    of your testimony, you state there that Staff is not  
16    recommending changes for these accounts; is that correct?

17                JUDGE VOSS: Just for a point of clarification,  
18    you're back in her regular testimony, right, not --

19                MR. WOODSMALL: Yes. I'm sorry. Her pre-filed  
20    testimony in this case.

21                JUDGE VOSS: This case. I just wanted to --

22                MR. WOODSMALL: I'm sorry.

23                JUDGE VOSS: That's okay.

24           A     Would you mind giving me the page number and  
25    line that you're referring to? I'll make sure I'm on the

1 same.

2 Q (By Mr. Woodsmall) Sure. Page 5, lines 20  
3 through 22.

4 A It was -- it is Staff's response that we are not  
5 recommending changes at this time.

6 Q Can you tell me what -- why that is? Or is --  
7 is that based upon any Commission decision or Commission  
8 order?

9 A It's based on that those accounts have not been  
10 fully reviewed, as I mentioned before, that we would -- we  
11 would not be able to have enough information to suffice  
12 exactly what the lives should be ordered for those  
13 accounts.

14 Q Why didn't you do a full review?

15 A We have had limited resources given the number  
16 of cases before us. And that is -- that is why.

17 Q Okay. In times of limited resources, are you  
18 aware that Staff has, in certain situations, gone out and  
19 hired consultants?

20 A I'm not aware of it in my area since I've been  
21 here.

22 Q Are you aware that Staff has done that in other  
23 areas?

24 A I believe they have.

25 Q And, in fact, in this case, Staff has utilized

1 David Parcell in the area of ROE; is that correct?

2 A I do not know.

3 Q Okay. Do you believe that the ratepayers of  
4 Missouri should pay higher than reasonable depreciation  
5 rates based upon no other reason than limited resources?

6 MR. WILLIAMS: I'm going object to this as being  
7 irrelevant as to what her opinion is on that topic.

8 MR. WOODSMALL: I'll withdraw it, your Honor. I  
9 have no further questions.

10 JUDGE VOSS: Thank you. Are there questions  
11 from the Bench? Commissioner Murray?

12 COMMISSIONER MURRAY: Thank you.

13 CROSS-EXAMINATION

14 BY COMMISSIONER MURRAY:

15 Q Good afternoon, Ms. Schad.

16 A Good afternoon.

17 Q I realize this is an issue here that is  
18 contested, but I need a little bit of an explanation about  
19 how net salvage has been treated.

20 And I -- and in reading your testimony, I find  
21 it a little confusing because if you go to page 3 of your  
22 testimony, you indicate that -- at line 18, you say, In  
23 addition, in reviewing cost of removal expenditures,  
24 salvage receipts and retirements for the combustion  
25 turbine accounts for the past three years, the company has

1 experienced zero percent net cost of -- of removal; that  
2 is, a zero net salvage percentage.

3 But isn't it that -- wouldn't that always be the  
4 case prior to retirement, that there would be a zero net  
5 cost of removal?

6 A I think what was the statement here is just that  
7 in the last three years there hasn't been anything booked.

8 Q Now, are we talking about a class here, a class  
9 of assets?

10 A Correct.

11 Q And what is the -- what is the relevance of  
12 interim net salvage, terminal net salvage?

13 A Well, the interim is -- is on a periodic basis  
14 on an annual basis as -- as specific components of the  
15 combustion turbine would retire.

16 And I think what I was trying to -- to point out  
17 here is I was -- it was a limited review. We -- we have  
18 currently a small amount of costs of removal built into  
19 the current rates and that it -- before it -- you would  
20 actually recommend it being zero, there should be further  
21 analysis done before any kind of a recommendation on that  
22 part of the depreciation rate should actually be made.

23 Q I thought it was currently set at zero.

24 A No, it is not.

25 Q And I guess I misunderstood what Mr. Williams

1     said.

2             A     Oh, and maybe he -- it's just an inaccuracy, but  
3     I believe that the current rate does have a cost of  
4     removal built into it. It is a small amount, but it's --  
5     it is an -- an amount.

6             Q     Okay. And -- and the net salvage that we're  
7     talking about here, is that based on the -- is this an  
8     interim net salvage, or is that a terminal?

9             A     Interim.

10            Q     So it's based on the specific components of the  
11    combustion turbines?

12            A     Yes.

13            Q     And is it based on an estimate of what the costs  
14    will be at retirement of those components? Or is it based  
15    on actual net salvage that's averaged over the last  
16    several years?

17            A     It's -- well, there was no -- this was -- there  
18    was no booking of any removal, so those were actuals. But  
19    in -- in building it into the traditional equation, if --  
20    if one was to go forth with the recommendation just on  
21    that alone, there is no data.

22            Q     Okay. But if you were establishing net salvage  
23    values today, would you not look at the projected cost of  
24    removal?

25            A     Again, yes, we would.

1           Q     And you wouldn't base that on averaging actuals  
2 over a few years where there hadn't been any, would you?

3           A     That would just be part of it. But it would --  
4 again, that's why I think it was trying to show that there  
5 needs to be more analysis done as to what should be built  
6 into rates.

7           Q     Okay. Well, as you probably are aware, every  
8 time this issue comes up, it really sends up a red flag to  
9 me because I've been very concerned about changes that  
10 have been made --

11          A     Right.

12          Q     -- and treatment of net salvage over time with  
13 the Commission. And I know that there was an issue at one  
14 point with the -- when you should look at the actual costs  
15 of removal over a period of time and -- and determine that  
16 that was going to be what you factored into net salvage or  
17 whether you were going to actually coordinate that with  
18 the life of the asset and -- and have the ratepayers who  
19 use that asset paying for that cost over the life of the  
20 asset.

21                     And it -- and when I read something like this,  
22 it appears to me that it's going back to looking at  
23 actuals rather than trying to incorporate in the  
24 calculation of the life of the asset in cost of removal.

25          A     We -- we are trying to build into it a

1 projection based on the orders in the Laclede remand and  
2 in the Empire case.

3 Q And how is that reflected here? Or is it  
4 reflected here?

5 A It's not reflected here.

6 Q And is that because it wasn't reflected in the  
7 last case in which depreciation was set for this company?

8 A No. It's not reflected here because we -- in  
9 the last three years -- when you do that projection, you  
10 still are looking at some of the company's experience to  
11 make that projection, and so we need to have more  
12 experience so that we can make that projection.

13 COMMISSIONER MURRAY: Okay. All right. Thank  
14 you.

15 JUDGE VOSS: Commissioner Appling?

16 COMMISSIONER APPLING: No questions.

17 JUDGE VOSS: Is there any recross based on  
18 questions from the Bench? Well, before I go to redirect,  
19 Mr. Woodsmall, did you want to move 511 be admitted into  
20 evidence?

21 MR. WOODSMALL: No, not necessarily. Thank you.

22 JUDGE VOSS: Okay. Thank you. Then redirect?

23 MR. WILLIAMS: No questions.

24 JUDGE VOSS: Ms. Schad, then you're excused.

25 This is the only issue that you have testimony on; is that

1 correct?

2 MS. SCHAD: Yes.

3 JUDGE VOSS: You -- are you from the Jeff City  
4 office?

5 MS. SCHAD: Yes.

6 JUDGE VOSS: I thought you were. I see around,  
7 but you never know if they're in with us. Will you be  
8 available in case some of the Commissioners want to  
9 re-call you for questions?

10 MS. SCHAD: Yes.

11 JUDGE VOSS: Thank you.

12 MS. SCHAD: Okay.

13 JUDGE VOSS: And, Mr. Williams, I know that your  
14 testimony -- testifying Tuesday, I believe?

15 MR. WILLIAMS: Yes.

16 JUDGE VOSS: At that time, there's a possibility  
17 that some of the Commissioners may have questions for you  
18 on this issue.

19 MR. WILLIAMS: All right.

20 MR. NATHAN WILLIAMS: Judge, if I might, Mr.  
21 Woodsmall got into prior rate cases dealing with Aquila,  
22 and I believe the last rate case ER-2006 -- or 2005-0436  
23 was re -- resolved by stipulation and agreement that  
24 included agreed upon depreciation rates in Appendix B.

25 And I guess, to round out the record, I'd ask



1     that the Commission take official notice of that report  
2     and order and the stipulation and agreement, including  
3     Appendix B in particular.

4             JUDGE VOSS:  Okay.  I've put it in the list for  
5     the Commissioner.  If you aren't here, there was so many  
6     cases that we were asked to take notice of that we've  
7     asked the parties to put together a list of all the ones  
8     they want notice taken of so it would be official.

9             I wanted to check -- regarding the issue with  
10    the testimony from Mr. Williams, I don't know what  
11    transcript availability is.  I don't know how quickly you  
12    are getting copies of transcript or if you'll need copies  
13    of the transcript to address the issue.

14            If not, it's something I would be willing to  
15    entertain written motions for next week, or you can take  
16    it up in the brief.

17            MR. BOUDREAU:  I think my preference would be we  
18    just take it up in the brief because this is -- this is  
19    not a new topic.  There's been some challenges to the  
20    credentials of various witnesses in various cases.  And  
21    the Commission, I think, has developed a policy based upon  
22    those rulings that I'd like to be able to remind them  
23    about in the context of making this ruling.  So --

24            JUDGE VOSS:  I didn't point out where --

25            MR. BOUDREAU:  -- I'd like to have that

1 opportunity.

2 JUDGE VOSS: Is it all right with you to do it  
3 in the briefs?

4 MR. WOODSMALL: That's fine.

5 JUDGE VOSS: Okay. Well, I don't think there's  
6 anything else that the parties are ready to take up at  
7 this time; is that correct?

8 MR. WILLIAMS: Just the schedule.

9 JUDGE VOSS: Just the schedule. I mean, witness  
10 issues is what I'm talking about. It's my understanding  
11 that --

12 MR. WILLIAMS: I did check on Mr. Parcell. He's  
13 planning to testify on Monday.

14 JUDGE VOSS: Okay. So it's just one witness,  
15 then, on Friday? Is that Mr. Hadaway? I typed it in here  
16 earlier. Is that correct?

17 MR. WOODSMALL: Yes, your Honor.

18 JUDGE VOSS: Is that correct? Is that who is  
19 Friday?

20 MR. WOODSMALL: Yes.

21 JUDGE VOSS: And then everyone else will be on  
22 Monday or the ROE issue? So it could still be a  
23 relatively good Friday. And then Tuesday we'll start with  
24 the fuel adjustment clause. We may go late on Monday  
25 because I want to finish ROE, if possible, on Monday

1 because I think it's going to take us two days to do the  
2 fuel adjustment clause.

3 MR. WILLIAMS: Mike, is Russ not available  
4 Friday?

5 MR. DANDINO: I don't know. I really don't.

6 MR. WILLIAMS: I see him on ROE issues is why I  
7 was asking.

8 JUDGE VOSS: Would you -- do you want to check  
9 with him and e-mail me and let me know? And if he's  
10 available, we can do him on Friday as well. Give us a  
11 better chance of getting out of here halfway early on  
12 Monday.

13 MR. BOUDREAU: Could you indulge me and go  
14 through again your thoughts in terms of issues that we  
15 take up and when so I know I'm reading off the same sheet  
16 of music?

17 JUDGE VOSS: Basically, we're going to go with  
18 the schedule as it was presently set for witness  
19 availability issue. Friday and Monday, we'll be doing the  
20 ROE issues.

21 MR. BOUDREAU: Okay.

22 JUDGE VOSS: And due to witness availability,  
23 all the witnesses except for Mr. Hadaway will be on Monday  
24 unless we find out from Public Counsel that their witness  
25 is available Friday. And we will go Monday, unless it's

1 unbelievably late, as late as necessary to finish because,  
2 like I said, I think it's going to take us two days to get  
3 through all the fuel adjustment clause issues.

4 And I'd recommend that we try to do the stip  
5 presentation on Thursday morning, give the Commissioners  
6 and everyone a chance to digest it. I could do it on  
7 Wednesday, but I really, really believe that the FAC  
8 issues are going to take two days. I could be pleasantly  
9 surprised.

10 MR. WOODSMALL: Or disappointed.

11 JUDGE VOSS: Will that work for everyone?

12 MR. WILLIAMS: That's fine with Staff.

13 UUDGE VOSS: Does anyone have an objection to  
14 that? Okay.

15 MR. DANDINO: What's on for tomorrow? What will  
16 be on tomorrow?

17 JUDGE VOSS: We don't have anything tomorrow.

18 MR. DANDINO: Okay.

19 MR. CONRAD: Should we just come here at 8:30  
20 anyway or --

21 JUDGE VOSS: You can. I won't be here, and the  
22 court reporter won't be here. And --

23 COMMISSIONER MURRAY: Why aren't we going  
24 tomorrow?

25 JUDGE VOSS: There aren't any issues on.

1 Witnesses -- all the witnesses we have aren't available  
2 until Monday, so --

3 COMMISSIONER MURRAY: It's too bad we can't do  
4 someone tomorrow.

5 JUDGE VOSS: I know. And there's only one  
6 witness testifying on Friday because they're not available  
7 Monday. I know. That -- that is correct, isn't it? Is  
8 it was my understanding that Mr. Hadaway is not available  
9 tomorrow?

10 MR. BOUDREAU: I believe he's only available  
11 Friday.

12 JUDGE VOSS: That was my understanding as well.  
13 Okay.

14 MR. BOUDREAU: Until -- until Friday and not  
15 Monday. So, I mean, if -- if -- it narrows that slot --

16 JUDGE VOSS: We need to discuss this witness  
17 availability. I'm sure we are off the record. We'll go  
18 ahead and go off the record.

19

20

21

22

23

24

25

1	I N D E X	
2		PAGE
3	Opening Statement by Mr. Boudreau	26
4	Opening Statement by Mr. Thompson	30
5	Opening Statement by Mr. Dandino	36
6	Opening Statement by Mr. Woodsmall	43
7	Opening Statement by Captain Hollifield	49
8	Opening Statement by Mr. Coffman	54
9	Opening Statement by Ms. Woods	60
10	Opening Statement by Mr. Comley	60
11	Opening Statement by Mr. Steinmeier	62
12		
13	WITNESS: MAURICE BRUBAKER	PAGE
14	Direct Examination by Mr. Woodsmall	64
15	Cross-Examination by Mr. Coffman	67
16	Cross-Examination by Commissioner Gaw	72
17	Cross-Examination by Commissioner Appling	76
18		PAGE
19	Opening Statement by Mr. Boudreau	79
20	Opening Statement by Mr. Meyers	82
21	Opening Statement by Mr. Dandino	84
22		
23		
24		
25		

1	I N D E X (CONTINUED)	
2	WITNESS: RONALD KLOTE	PAGE
3	Direct Examination by Mr. Boudreau	86
4	Cross-Examination by Mr. Dandino	88
5	Cross-Examination by Commissioner Murray	93
6	Cross-Examination by Commissioner Appling	98
7	Cross-Examination by Judge Voss	101
8	Cross-Examination by Commissioner Gaw	102
9	Cross-Examination by Commissioner Murray	118
10	Cross Examination by Judge Voss	124
11	Cross-Examination by Commissioner Gaw	125
12	Recross Examination by Mr. Woodsmall	131
13	Recross Examination by Mr. Dandino	132
14	Recross Examination by Mr. Steinmeier	137
15	Redirect Examination by Mr. Boudreau	138
16		
17	WITNESS: PHILLIP WILLIAMS	PAGE
18	Direct Examination by Mr. Meyers	141
19	Cross-Examination by Mr. Dandino	143
20	Cross-Examination by Mr. Boudreau	149
21	Redirect Examination by Mr. Meyers	150
22	Cross-Examination by Commissioner Gaw	151
23	Recross Examination by Mr. Dandino	171
24	Recross Examination by Mr. Boudreau	173
25	Redirect Examination by Mr. Meyers	177

1	I N D E X (CONTINUED)	
2	WITNESS: TED ROBERTSON	PAGE
3	Direct Examination by Mr. Dandino	179
4	Cross-Examination by Mr. Meyers	186
5	Cross-Examination by Mr. Boudreau	188
6	Cross-Examination by Commissioner Murray	203
7	Redirect Examination by Mr. Dandino	205
8		
9	OPENING STATEMENTS ON DEPRECIATION	PAGE
10	Opening Statement by Mr. Boudreau	213
11	Opening Statement by Mr. Williams	215
12	Opening Statement by Mr. Woodsmall	216
13	Opening Statement by Captain Hollifield	217
14		
15	WITNESS: DENNIS WILLIAMS	PAGE
16	Direct Examination by Mr. Boudreau	219
17	Cross-Examination by Captain Hollifield	222
18	Cross-Examination by Mr. Woodsmall	226
19	Further Direct Examination by Mr. Boudreau	240
20	Cross-Examination by Commissioner Murray	246
21	Cross-Examination by Judge Voss	247
22	Cross-Examination by Mr. Williams	248
23		
24		
25		



## I N D E X (CONTINUED)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WITNESS: ROSELLA SCHAD	PAGE
Direct Examination by Mr. Williams	253
Cross-Examination by Captain Hollifield	255
Cross-Examination by Mr. Boudreau	256
Cross-Examination by Mr. Woodsmall	260
Cross-Examination by Commissioner Murray	266

1	E X H I B I T S			
2	EXHIBIT	DESCRIPTION	OFFERED	ADMITTED
3	18	Direct Testimony of Ronald A. Klote	87	87
4	19	Surrebuttal Testimony of Ronald A. Klote	87	87
5				
6	32	Direct Testimony of Dennis R. Williams	220	*
7	33	Rebuttal Testimony of Dennis R. Williams	220	*
8				
9	34	Surrebuttal Testimony of Dennis Williams	220	*
10	226	Direct Testimony of Rosella Schad	254	254
11				
12	235	Direct Testimony of Phillip Williams	143	143
13	236	Rebuttal Testimony of Phillip Williams	143	143
14				
15	237	Surrebuttal Testimony of Phillip Williams	143	143
16	405	Direct Testimony of Ted Robertson	181	184
17				
18	406-NP	Rebuttal Testimony of Ted Robertson	181	184
19	407-HC	Rebuttal Testimony of Ted Robertson	181	184
20				
21	408	Surrebuttal Testimony of Ted Robertson	181	184
22	500-HC	Direct Testimony of Maurice Brubaker on Revenue Requirement	66	66
23				
24	500-NP	Direct Testimony of Maurice Brubaker on	66	66
25				

1	E X H I B I T S (CONTINUED)			
2	EXHIBIT	DESCRIPTION	OFFERED	ADMITTED
3	501	Direct Testimony of	66	66
4		Maurice Brubaker on		
		Rate Design		
5	502-HC	Supplemental Direct	66	66
6		Testimony and Schedules		
		of Maurice Brubaker		
7	502-NP	Supplemental Direct	66	66
8		Testimony and Schedules		
		of Maurice Brubaker		
9	510	Aquila MPS and	66	66
10		Aquila L&P Delivery		
11		Voltage Adjustment		
		Factors Chart		
12	511	NOT OFFERED OR ADMITTED		
13	(Original exhibits were retained by the Missouri			
14	Public Service Commission.)			
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				