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 1   STATE OF MISSOURI

 2   PUBLIC SERVICE COMMISSION

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 6   TRANSCRIPT OF PROCEEDINGS

 7   Evidentiary Hearing

 8   October 29, 2012

 9   Jefferson City, Missouri

                    Volume 19

10

11

12   In the Matter of Kansas City   )

     Power & Light Company's Request   )

13   for Authority to Implement a   ) File No. ER-2012-0174

     General Rate Increase for Electric)

14   Service   )

15   In the Matter of KCP&L Greater   )

     Missouri Operations Company's   )

16   Request for Authority to Implement) File No. ER-2012-0175

     a General Rate Increase for   )

17   Electric Service   )

18

                 DANIEL R.E. JORDAN, Presiding,

19   SENIOR REGULATORY LAW JUDGE.

20   KEVIN D. GUNN, Chairman,

                 TERRY JARRETT,

21   COMMISSIONERS.

22

23   REPORTED BY:

24   KELLENE K. FEDDERSEN, CSR, RPR, CCR

     MIDWEST LITIGATION SERVICES

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 1   (WHEREUPON, the hearing began at 8:38 a.m.)

 2   JUDGE JORDAN: The Commission is calling

 3   the actions in File Nos. ER-2012-0174 and ER-2012-0175.

 4   These are the general rate actions filed by Kansas City

 5   Power & Light Company and KCPL Greater Missouri Operations

 6   Company. I'm Daniel Jordan. I'm the Regulatory Law Judge

 7   assigned to these actions.

 8   And we'll begin by taking entries of

 9   appearance today, and we'll start with the companies.

10   MR. ZOBRIST: On behalf of Kansas City

11   Power & Light Company and KCP&L Greater Missouri

12   Operations Company, Karl Zobrist, Roger W. Steiner, James

13   Fischer and Charles Hatfield.

14   JUDGE JORDAN: Thank you. Let's move up to

15   Staff next.

16   MS. KLIETHERMES: Thank you, Judge. Sarah

17   Kliethermes, Nathan Williams and Jeffrey Keevil for Staff.

18   JUDGE JORDAN: Thank you. For the Office

19   of the Public Counsel.

20   MR. MILLS: Lewis Mills on behalf of the

21   Office of the Public Counsel and the public.

22   JUDGE JORDAN: And let's go right behind

23   Mr. Mills.

24   MR. COFFMAN: John B. Coffman appearing on

25   behalf of AARP and the Consumers Council of Missouri.

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 1                   JUDGE JORDAN:  Next.

 2                   MR. CONRAD:  Your Honor, in the 0174 case,

 3    Stu Conrad for Praxair.  In the 00-- I'm sorry, 174, and

 4    then 175 is the GMO case for MEUA, Ag Processing.

 5                   JUDGE JORDAN:  Thank you.

 6                   MR. LUMLEY:  Carl Lumley appearing on

 7    behalf of Dogwood Energy.

 8                   MR. JACOBS:  Todd Jacobs and Dean Cooper on

 9    behalf of Missouri Gas Energy.

10                   JUDGE JORDAN:  Thank you.

11                   MR. BARTELS:  Reed Bartels on behalf of

12    Midwest Energy Users, 0174.

13                   JUDGE JORDAN:  Thank you.  And I believe

14    that's everyone.

15                   MS. ILES:  Carole Iles, Bryan Cave, on

16    behalf of MIEC.

17                   JUDGE JORDAN:  Thank you.  I have one

18    preliminary matter that I wish to announce.  I am granting

19    the request to be excused of United States Department of

20    Energy and associated federal agencies, federal executive

21    agencies, and I will not be requiring an appearance by

22    them either by telephone or otherwise.  So that request to

23    be excused is granted.  We discussed that off the record.

24    There was no objection.

25                   And now the parties have requested a recess
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 1   to discuss the issue of -- that was rate design and class

 2   cost of service. They're discussing issues related to

 3   both KCPL and GMO, and so the parties have requested an

 4   hour of recess, and when we come back from that recess, we

 5   will either take up that issue or we will take up the

 6   issue of the fuel adjustment clause.

 7   Anything else before we go off the record

 8   and go into recess for an hour? Then we'll go off the

 9   record for one hour and be in recess. Thank you.

10   (A BREAK WAS TAKEN.)

11   (KCPL EXHIBIT NOS. 38 AND 39 AND GMO

12   EXHIBIT NOS. 132 AND 133 WERE MARKED FOR IDENTIFICATION.)

13   JUDGE JORDAN: We're back on the record.

14   Off the record the parties have discussed how they wish to

15   proceed this morning, and we are going to skip the rate

16   design and class cost of service issues for now and

17   proceed to the fuel adjustment clause issues. We'll have

18   opening statements related to that issue, beginning with

19   the applicant utilities.

20   MR. ZOBRIST: May it please the Commission?

21   Karl Zobrist for the companies. Actually, in this case

22   just Greater Missouri Operations Company. The company

23   proposes to continue the fuel adjustment clause mechanism

24   that was set in the last case, which is a 95 percent/

25   5 percent sharing mechanism, whereby 95 percent of costs

 1   above base rates are passed to customers and the company

 2   absorbs 5 percent.

 3   In the last case, Staff had a proposal

 4   similar to the proposal in this case. In the last case,

 5   in the 2010 case it proposed that the sharing mechanism be

 6   shifted to 75/25. That was rejected by the Commission.

 7   In this case, without any additional basis for a change,

 8   it advocates 85/15 percent sharing mechanism.

 9   There has been no finding of imprudence

10   with regard to GMO's fuel procurement process. Indeed, in

11   the third prudence review which was just concluded in

12   September, the Commission rejected all of Staff's proposed

13   adjustments and its requested refunds.

14   In this case, Staff cites a number of

15   reasons, several of which have been discussed in previous

16   issues and a couple of which that we'll deal with here.

17   One is the alleged indifference by GMO to the fuel

18   adjustment clause mechanism, and based upon some testimony

19   that was taken out of context by the company's witness Ed

20   Blunk, it advocates this readjustment from 85/15 -- pardon

21   me, from 95/5 to 85/15, and we'll show that when put in

22   context there really is no basis for that.

23   The company also is facing criticism by

24   Staff because it has relied upon purchased power

25   contracts, and Staff ignores, of course, the fact that in

 1   the last year or so natural gas prices have decreased and,

 2   therefore, by and large the wholesale price of electricity

 3   have decreased, all to the customer benefits.

 4   Staff in its report does report the effect

 5   that such a change would have on net income before taxes

 6   and what a substantial burden this would be for the

 7   company, and I intend to go through some of those numbers

 8   just to understand why the tripling essentially of the

 9   absorption of costs by GMO would be a detriment and would

10   not -- it would deviate from the intent of the statute as

11   well as from the intent of the Commission in the last

12   case.

13   That's all I have Judge. Thank you very

14   much.

15   JUDGE JORDAN: Thank you. Opening

16   statement from Staff.

17   MR. KEEVIL: Thank you, Judge. May it

18   please the Commission? I'm Jeff Keevil. I'll be

19   representing Staff on the fuel adjustment clause or FAC

20   issue, which, as Mr. Zobrist mentioned, is a GMO only

21   issue in this case.

22   I take the concept of mini opening

23   statements quite literally and will be as brief as

24   possible. However, there appears to possibly have been

25   some confusion as to what Staff is recommending in this

1 case on this issue, so I will attempt to clarify Staff's

2 recommendation.

3   Staff is recommending that GMO's FAC tariff

4 should be modified to, No. 1, specify that the only

5 transmission costs included in the FAC are those

6 transmission costs that are necessary to receive purchased

7 power to serve native load and transmission costs that are

8 necessary to make off-system sales included in FERC

9 account No. 565 except for costs related to the Crossroads

10 Energy Center.

11   Two, provide that revenues reflected in

12 FERC account No. 509 from the sale of renewable energy

13 credits that are not needed to meet the renewable energy

14 standard be flowed through GMO's FAC.

15   Three, standardize the terminology in GMO's

16 FAC to be consistent with the terminology Staff is

17 proposing for the FACs of all of the regulated electrical

18 corporations in Missouri which have FACs as appropriate.

19 And by the way, I might mention that it's my belief that

20 GMO does not object to this recommendation, although you

21 may wish to confirm that with GMO.

22   No. 4, which Mr. Zobrist mentioned, change

23 the sharing mechanism in GMO's FAC from 95/5 to 85/15 in

24 order to provide the company greater incentive to reduce

25 its fuel and purchased power costs net of off-system

1   sales.

2   Now, here I would point out that the

3   statute which authorizes fuel adjustment clauses for

4   regulated electrical corporations provides that the

5   Commission may include in such rate schedules features

6   designed to provide the electrical corporation with

7   incentives to improve the efficiency and cost

8   effectiveness of its fuel and purchased power procurement

9   activities.

10   Now, I don't want to get too deeply into

11 the evidence which will be presented, but it is Staff's

12 position for several reasons, which will be shown by the

13 evidence which has been prefiled herein, that the current

14 95/5 sharing mechanism does not provide the company with

15 sufficient incentives.

16   And I would disagree with Mr. Zobrist's

17 position in his opening statement that nothing has changed

18 since the last GMO rate case because we believe that new

19 evidence has come to light which further supports Staff's

20 position in this case. And as Mr. Zobrist mentioned, in

21 the last case Staff was advocating a 75/25 split, whereas

22 in this case we're merely advocating 85/15.

23   Finally, Staff is also recommending that

24 the Commission order GMO to provide or make available the

25 information and documents set forth in Staff's revenue

1 requirement cost of service report on pages 280 and 281

2 To aid Staff in performing the FAC tariff prudence and

3 true-up reviews.

4   Now, I'm not going to read that entire list

5 at this time, but I would mention that it is my

6 understanding that GMO is already supplying this

7 information or at least most of it. However, since GMO is

8 requesting to continue its FAC, Staff felt it was prudent

9 to request in this case that GMO be ordered to continue to

10 supply this information to Staff.

11   I might also mention that Staff had

12 initially recommended that GMO's FAC tariff be modified to

13 specifically limit fuel hedging costs flowed through the

14 FAC to hedging costs for natural gas actually burned in

15 GMO's generating units. However, since Staff's initial

16 recommendation was filed in this case, the Commission

17 issued its Report and Order in Case No. EO-2011-0390, and

18 as a result of that Report and Order, Staff is no longer

19 pursuing this recommendation in this case.

20   Now, Staff will be presenting

21 Mr. Matthew J. Barnes of the Staff as its witness on these

22 recommendations. Mr. Barnes contributed to both the

23 revenue requirement cost of service report and the class

24 cost of service and rate design report, and he also filed

25 rebuttal and surrebuttal on these issues.

1   Thank you very much.

2   JUDGE JORDAN: Thank you. Opening

3 statement from the Office of Public Counsel.

4   MR. MILLS: Judge, I will waive my opening

5 statement and simply note that the Public Counsel supports

6 Staff's position on this issue.

7   JUDGE JORDAN: Thank you. MIEC opening

8 statement.

9   MS. ILES: Your Honor, MIEC waives opening

10 statement.

11   JUDGE JORDAN: Mr. Conrad, opening

12 statement?

13   MR. CONRAD: We'll waive, your Honor.

14 Thank you.

15   JUDGE JORDAN: Any opening statement from

16 AARP or Consumers Council?

17   MR. COFFMAN: Yes, your Honor. May it

18 please the Commission?

19   Both of my clients, AARP as well as the

20 Consumers Council of Missouri, oppose a fuel adjustment

21 clause for GMO and believe and have consistently taken the

22 position that fuel adjustment clauses are unfair to

23 consumers and are a poor way to set rates because they

24 greatly increase the volatility of rates, they allow rates

25 to increase even in situations where the utility might be

 1   overearning, and because they remove the incentive to

 2   efficiently procure fuel and purchased power.

 3   We don't think that it's fair that the

 4   ratepayers, who have absolutely no control over fuel and

 5   purchased power decisions, bear 95 percent of the risk of

 6   volatility of increases or decreases in this particular

 7   component of rates and that the utility only bears

 8   5 percent. We think that's patently unfair and would like

 9   to see the current fuel adjustment clause discontinued.

10   Alternatively, if the Commission decides to

11   continue forward with the request to have a fuel

12   adjustment clause, we support the Staff and their

13   competent and substantial evidence that increasing the

14   sharing percentage would at least increase the meager

15   incentive that is currently in place to a more fair one.

16   We would actually prefer if there was to be

17   a fair amount that it be 50/50 and that this be shared.

18   We think that the Staff's recommendation in this case

19   would at least be an improvement.

20   Thank you.

21   JUDGE JORDAN: Thank you. Opening

22   statement from Dogwood Energy?

23   MR. LUMLEY: No, Judge. We waive.

24   JUDGE JORDAN: Southern Union Company,

25   doing business as Missouri Gas Energy?

1   MR. JACOBS: Judge, we have not taken a

2 position on this issue, so we ask to waive opening and

3 cross.

4   JUDGE JORDAN: So noted. First witness.

5   MR. ZOBRIST: Company recalls Tim Rush to

6 the stand.

7   JUDGE JORDAN: Mr. Rush, I've already sworn

8 you, so you may be seated and resume examination.

9   MR. ZOBRIST: Judge, his testimony has

10 previously been introduced and I believe not admitted yet,

11 but it's Exhibit 134 for his direct testimony,

12 Exhibit 135 his rebuttal testimony and Exhibit 136 his

13 surrebuttal testimony. I can't -- he may be testifying

14 again, so I won't offer these at the present time, but

15 they have been marked and have been prefiled.

16   JUDGE JORDAN: That's fine. And I

17 understand that there's no certainty as to when some of

18 these witnesses will take -- make their last appearance on

19 the stand as the issue may settle.

20   MR. ZOBRIST: Perhaps just out of an

21 abundance of caution I'll offer the exhibits right now. I

22 don't know if any of the parties have any objections to

23 those three exhibits, but I would offer them at this

24 point.

25   JUDGE JORDAN: I think that's the way to do

1 that. Then at the conclusion I'll remember to rule on all

2 outstanding exhibits. And I've not heard any objection so

3 far.

4   MR. MILLS: Well, Judge, with respect to

5 Mr. Rush's testimony, his testimony is the subject of the

6 two motions to strike, and I just don't want that to be

7 lost in the length of the hearing that those are still

8 outstanding, and those objections do go to parts of his

9 testimony.

10   JUDGE JORDAN: I appreciate you reminding

11 me of that, and any ruling I make will be subject to the

12 motion, subject to the motions to strike, both of which

13 are still pending and outstanding. The Commission has not

14 ruled on them.

15 TIM RUSH testified as follows:

16 DIRECT EXAMINATION BY MR. ZOBRIST:

17   **Q.   Mr. Rush, I believe other lawyers have**

18 **asked you if you have any corrections to your testimony.**

19 **Do you have any corrections?**

20   A.   I have no further corrections. I made

21 several last week.

22   MR. ZOBRIST: All right. Thank you.

23 Judge, in that event, I will tender the witness for

24 cross-examination.

25   JUDGE JORDAN: Very well. As I recall,

1   Southern Union has waived cross on all the witnesses on

2   this subject; is that correct?

3   MR. JACOBS: That's correct.

4   JUDGE JORDAN: Mr. Lumley, any cross from

5   Dogwood?

6   MR. LUMLEY: No.

7   JUDGE JORDAN: Mr. Coffman?

8   MR. COFFMAN: Your Honor, if -- may I

9   request the opportunity to go last in the

10 cross-examination on this issue given that I'm the most

11 adverse party? I don't know if there would be another

12 objection.

13   JUDGE JORDAN: I have no problem with

14 departing from the sequence of cross-examination as it's

15 been proposed to me. Any objection to that? Is there any

16 problem with that? You may certainly do so.

17   MR. COFFMAN: Thank you.

18   JUDGE JORDAN: Mr. Conrad, any

19 cross-examination?

20   MR. CONRAD: No, sir. Thank you.

21   JUDGE JORDAN: Mr. Bartels?

22   MR. BARTELS: No, your Honor.

23   JUDGE JORDAN: And that brings us to the

24 Office of the Public Counsel.

25   MR. MILLS: No questions.

1   JUDGE JORDAN: Staff?

2   MR. KEEVIL: Just a few, your Honor.

3   CROSS-EXAMINATION BY MR. KEEVIL:

4   Q.   **Good morning, Mr. Rush.**

5   A.   Good morning.

6   Q.   **I have to admit, I wasn't in the hearing**

7   **room when you made the corrections that you referred to**

8   **earlier to your testimony. Did you have any corrections**

9   **on this issue that you made previously?**

10   A.   No, I did not.

11   Q.   **Okay. A couple of questions then regarding**

12 **what you have here. If I could direct you to page 2 of**

13 **your rebuttal testimony, line 3, I think that was probably**

14 **just a carryover from -- you say you're responding to**

15 **Staff witness Lena Mantle's proposal on the fuel**

16 **adjustment clause.**

17   A.   That's correct. That should have been

18 Matthew Barnes.

19   Q.   **I'm just trying to make sure there's no**

20 **confusion as to what we're doing here. Thank you.**

21   A.   Thank you. I appreciate that.

22   Q.   **And also in your rebuttal over on page 19,**

23 **beginning I guess on line 7 but running through line 17,**

24 **you quote a portion of a statute 386.226.4, and it appears**

25 **that you have a subsection 13 there in the quote, and I**

1   would suggest to you that section 4 only has four

2   subsections, and it appears to me that what you've done

3   there is picked up another section of that statute there

4   under No. 13. Can you confirm or deny that?

5   A.   I don't have that section, the entire

6   statute with me. I -- I believe that did come from the

7   statute. I'm not sure that I identified the section

8   correctly. I thought I did.

9   Q.   Okay. What -- as I understand your -- your

10 argument there, you're referring to the portion of the

11 statute which talks about considering fuel adjustment

12 clause mechanisms after a full hearing before the

13 Commission, and I was just curious, what does -- what does

14 that section 13 that you have quoted there that talks

15 about appointing a task force, what relevance does that

16 have in your opinion to considering adjustment mechanisms

17 after a full hearing? Do you see what I'm referring to?

18   A.   I believe -- I believe that this we went

19 through in the last rate case, and my concern there and my

20 understanding is that modifications to the fuel adjustment

21 clause were to be considered after a task force was

22 established and a review made of it.

23   And my point was Staff is making a

24 recommendation for modifications to the current fuel

25 adjustment clause without consideration to other

1 interested parties or the evaluation of such that could

2 address changes to the fuel adjustment clause, and that

3 was -- that was in the statute as I understood it to try

4 to say let's get a fuel adjustment clause out, let's get

5 it operational. After some time let's get parties

6 together, make sure this is still operational and working

7 in a manner that is consistent with policies, and then any

8 modifications may come from that.

9   **Q.   And the statute actually provides, does it**

10 **not, Mr. Rush, that any modifications or continuation of**

11 **the fuel clause shall be made during a general rate**

12 **proceeding of the company?**

13   A.   I think that's correct.

14   **Q.   And that's -- we're in a general rate**

15 **proceeding now, and all interested parties have had**

16 **opportunity to intervene and several have, correct?**

17   A.   I do think so, but I don't think that --

18   **Q.   Thank you, Mr. Rush.**

19   A.   -- there's ever been a task force

20 established to do that.

21   JUDGE JORDAN: When someone asks a yes or

22 no question, it's easiest if we just give a yes or no

23 answer. If counsel asks you to stop, it's better to stop.

24 And you are subject to redirect. These are things that

25 counsel can take up on recross, redirect, et cetera.

1   THE WITNESS: I wasn't sure that was a yes

2 or no. I'm sorry.

3 BY MR. KEEVIL:

4   **Q.   Mr. Rush, easy question here. What is your**

5 **position at GMO?**

6   A.   I work for Kansas City Power & Light. I'm

7 the director of regulatory affairs, which I oversee both

8 the GMO and Kansas City Power & Light Missouri retail rate

9 regulations.

10   **Q.   So you're not in charge of fuel procurement**

11 **or purchasing power; is that correct?**

12   A.   No, I am not.

13   **Q.   Okay. If I could refer you to page 18 of**

14 **your rebuttal on line -- the question's on line 4. The**

15 **answer begins on line 6. You refer to using the last nine**

16 **accumulation periods of the FAC as an example. Do you see**

17 **that, sir?**

18   A.   I do.

19   **Q.   Now, does that include -- what accumulation**

20 **periods does that include?**

21   A.   I believe it would include -- I'm not

22 following. That means the last nine accumulation periods.

23 It's a time frame. I think it represents about three and

24 a half years. Well, there's a link for when the tariffs

25 began to -- in the first accumulation period. So it's a

1 less than three years. I'm sorry. It's a little more

2 than three years, but not three and a half.

3   Q.   It's the first nine accumulation periods?

4   A.   Correct.

5   Q.   So it does not include accumulation period

6 ten?

7   A.   That's correct.

8   Q.   Okay. Is it also correct that in

9 accumulation period ten the company actually got to keep a

10 certain amount of -- 5 percent of the --

11   A.   We had a slight reduction. I mean, that's

12 happened since this filing was made.

13   Q.   Right. That was my point I was trying to

14 get to. That happened after your filing here, so that's

15 not reflected in this testimony?

16   A.   That's correct.

17   Q.   Okay. So the company got to keep a portion

18 of the accumulation period ten money, correct?

19   A.   That's my understanding, yes.

20   Q.   And if Staff's proposal in this case had

21 been in effect in accumulation period ten, you would have

22 actually gotten to keep three times as much money,

23 correct?

24   A.   That's right.

25   Q.   The argument then, the same page that you

1   begin with the question on line 10 where you're talking

2   about your interpretation of the legislative intent --

3   A.   Right.

4   Q.   -- of the statute, you say that you do not

5   think that excluding prudently incurred costs was

6   contemplated by the legislation that established the FAC.

7   That argument would apply equally to the current 95/5

8   sharing mechanism, would it not, sir?

9   A.   Yes.

10   Q.   So you would be opposed to -- or you are

11   opposed then to the mechanism that's been in place ever

12   since GMO received an FAC; is that correct?

13   A.   No, that's not correct.

14   Q.   Although you admit that this argument would

15   apply with equal force to the FAC that has been in effect

16   ever since GMO received an FAC?

17   A.   It could, yes. I think if you look at --

18   Q.   That's good enough, sir. If -- if fuel

19   prices go down, GMO actually would get to make money under

20   the sharing mechanism, correct?

21   A.   That's not necessarily true, no.

22   Q.   If your fuel and purchased power costs net

23   of off-system sales goes down, you get to keep -- you make

24   money?

25   A.   That's not true.

1   Q.   That's not true either? So is it your

2   understanding that you get to keep -- I think you said you

3   get to keep -- or you kept money in fuel accumulation

4   period ten, correct?

5   A.   That's right.

6   Q.   So if -- that wasn't because prices went

7   down?

8   A.   That is because prices went down below the

9   base, so it's -- everything is predicated on what the base

10   is set at.

11   Q.   Okay. I agree with that. I apologize.

12   MR. KEEVIL: One other thing, your Honor.

13   I heard reference during Mr. Zobrist's opening statement

14   to an allegation that Staff had taken something out of

15   context in their testimony, and due to that, I would like

16   to ask the Commission to take official notice of the

17   portion of the transcript from Case No. EO-2011-0390,

18   which consists of the redirect examination of Mr. Fischer

19   of Mr. Blunk in that case, which is my understanding what

20   GMO has claimed Staff has taken out of context.

21   Those would be pages, beginning on page 115

22   and continuing through page 137 of the volume 4 transcript

23   from June 5th, 2012 in Case E0-2011-0390. I have some

24   copies if you -- if you'd like copies or you can take

25   official notice, or however you want to handle it, that's

 1   up to you.

 2   JUDGE JORDAN: If you have copies, yes,

 3   that would be better to put them into the record.

 4   MR. KEEVIL: Now I have to figure out what

 5   number we're on.

 6   MS. KLIETHERMES: 397 would be where

 7   Staff's last exhibit --

 8   MR. KEEVIL: We used 397?

 9   MS. KLIETHERMES: No. 397 is the next

10   exhibit.

11   MR. KEEVIL: I'm told if Public Counsel is

12   generous and allows us to steal some of their exhibit

13   numbers, 397 would be the number here, so --

14   JUDGE JORDAN: Public Counsel has been

15   commendably generous in that regard.

16   MR. ZOBRIST: Judge, the company would not

17   have any objection as long as Staff's proffer includes all

18   of Mr. Blunk's testimony, not simply a portion of it.

19   So -- so whatever Mr. Keevil puts in I don't have

20   objection to, as long as it's the complete transcript of

21   Mr. Blunk's testimony.

22   JUDGE JORDAN: Counsel, do you have any

23   objection to the Commission noting the entire examination?

24   I understand your exhibit is limited to certain portions.

25   MR. KEEVIL: My exhibit here is limited to

 1 the redirect, but I don't have any objection to that. If

 2 they want to provide the remainder of it, that's up to

 3 them.

 4   JUDGE JORDAN: I don't think we'd need a

 5 hard copy of the remainder.

 6   MR. ZOBRIST: All right. Judge, I just

 7 want to be clear. We don't have any objection to the

 8 proffer, but as far as official notice, we would request

 9 that the Commission take official notice of all of

10 Mr. Blunk's testimony.

11   JUDGE JORDAN: Is there any objection to

12 any of this official notice?

13   MR. KEEVIL: I assume you're referring to

14 this case, the EO-2011-0390?

15   MR. ZOBRIST: That's correct.

16   MR. KEEVIL: No objection.

17   JUDGE JORDAN: Not hearing objection to

18 taking official notice, the Commission will take official

19 notice of that examination from that case.

20   (STAFF EXHIBIT NO. 397 WAS MARKED FOR

21 IDENTIFICATION.)

22   JUDGE JORDAN: And, Counsel, you have given

23 me one extra, in case you run short. And while counsel is

24 distributing copies of that exhibit, I'll just explain my

25 ruling on that, which is as to the entry of a copy when

 1 something -- when the Commission's seeking official notice

 2 or counsel has a demonstrative exhibit otherwise, my

 3 preference is to mark them and enter them into the record

 4 so that they can be easily referred to during briefing and

 5 when the Commission reviews the record, because if it's

 6 convenient to make an exhibit, it's certainly convenient

 7 to look at when the Commission reviews the record.

 8   MR. KEEVIL: That's all I have, Judge.

 9 Thank you.

10   JUDGE JORDAN: Questions from the Bench?

11 No. Wait a minute. We're back to Mr. Coffman because he

12 asked to go last.

13   MR. COFFMAN: Thank you. I'll ask my

14 questions from here, if that's okay?

15   JUDGE JORDAN: That's fine.

16 CROSS-EXAMINATION BY MR. COFFMAN:

17   **Q.   Good morning, Mr. Rush.**

18   A.   Good morning.

19   **Q.   In your rebuttal testimony, you did**

20 **reference the law that authorizes the fuel adjustment**

21 **clause in Missouri and your opinion of that law. Have you**

22 **read the entire statute?**

23   A.   I have.

24   **Q.   And do you recognize that the law also**

25 **allows the Missouri Commission to approve, modify or**

 1 reject the fuel adjustment clause?

 2   A.   I am aware of that.

 3   Q.   And is it correct that GMO is supporting a

 4 continuation of the current 95 percent/5 percent sharing

 5 mechanism?

 6   A.   I am aware of that.

 7   Q.   And why that particular number?

 8   A.   I believe we were desirous of continuing

 9 the fuel adjustment clause and were accepting to -- we

10 were agreeable to accept the current percent sharing in

11 our recommendation to continue it. We would think that in

12 order to modify that, that you should most likely look at

13 further evidence that would support a modification to it.

14   Q.   And is it your opinion that the current

15 5 percent that the utility shares in this risk, that

16 that's sufficient incentive to efficiently procure fuel

17 and purchased power?

18   A.   Well, one of the things that I did in the

19 last case is I went out and did a survey, had a survey

20 performed of all of the utilities.

21   Q.   Excuse me. Could you just answer my

22 question yes or no --

23   A.   I'm trying to answer the question.

24   Q.   -- whether 5 percent is currently

25 sufficient?

 1   JUDGE JORDAN: Counsel, I think the

 2 microphone is not picking you up.

 3 BY MR. COFFMAN:

 4   Q.   Sorry. Maybe just wasn't close enough. I

 5 apologize for interrupting, but could you please answer

 6 whether you believe that the current 5 percent sharing

 7 that GMO now bears of this risk of fuel and purchased

 8 power variability, if that is sufficient to encourage

 9 efficient procurement practices?

10   A.   I don't believe that the 95/5 is the proper

11 mechanism. That's a personal opinion.

12   Q.   You would prefer that ratepayers bear

13 100 percent of the risk; is that correct?

14   A.   I believe that, yes, I would agree with

15 that.

16   Q.   And do you believe that the customers of

17 GMO have any control over fuel and purchased power

18 practices?

19   A.   I think I would agree with you that they do

20 not.

21   Q.   And does GMO have at least some control

22 over fuel and purchased power prices?

23   A.   We have a tremendous amount of control over

24 fuel and purchased power prices.

25   Q.   How many employees are currently with --

 1   **currently employed by the utility to make fuel and**

 2   **purchased power procurement decisions?**

 3   A.   I would hate to -- many, many.

 4   Q.   **More than ten?**

 5   A.   Yes.

 6   MR. COFFMAN: That's all that I have.

 7   Thank you.

 8   JUDGE JORDAN: Thank you. Questions from

 9   the Bench?

10   COMMISSIONER JARRETT: Good morning

11   Mr. Rush.

12   THE WITNESS: Good morning.

13   COMMISSIONER JARRETT: I don't have any

14   questions for you this morning. Thank you for being here.

15   THE WITNESS: Thank you.

16   JUDGE JORDAN: I have no questions for you.

17   Redirect?

18   COMMISSIONER KENNEY: Me either.

19   JUDGE JORDAN: Commissioner Kenney, I

20   didn't see you. You're in the shadow.

21   COMMISSIONER KENNEY: Sorry. Mr. Rush,

22   good morning. Thanks. No questions.

23   THE WITNESS: Good morning.

24   JUDGE JORDAN: Sorry about that. And thank

25   you for alerting us to that.

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1   COMMISSIONER KENNEY: No problem.

2   JUDGE JORDAN: Thank you for alerting me to

3   that, Commissioner Jarrett. Redirect for Mr. Rush?

4   REDIRECT EXAMINATION BY MR. ZOBRIST:

5   Q.   **Mr. Rush, Mr. Coffman just asked you what**

6   **control GMO has over prices --**

7   A.   That's right.

8   Q.   **-- of electricity. What controls does GMO**

9   **have over prices of electricity?**

10   A.   Well, with regard to fuel, I'll take fuel

11   as an example. We could elect to not try and get the best

12   price for a product. We could just simply ignore those

13   pieces. And for purchased power we could just try to buy

14   the highest price if we wanted to. We are scrutinized by

15   the Commission in prudence reviews and evaluated in great

16   detail as far as did we do the best possible job in doing

17   that. Our role is to do the best possible job.

18   We could ignore all of the caveats, the

19   things we put in place to try to make sure we get the best

20   price for the consumer, and we would stand for that in a

21   prudence review. So the Commission really oversees to

22   make sure that we are doing the best possible job for

23   purchasing.

24   We over nine views, in fact, ten -- or over

25   a number of prudence reviews that we've had, three

1   prudence reviews the Commission Staff and the Commission

2   have found that we have been prudent on all of our actions

3   and we've essentially done the best job possible for the

4   consumer. That's a role we play.

5   **Q.   As far as wholesale prices themselves, can**

6   **GMO control the wholesale prices of electricity in the**

7   **marketplace?**

8   A.   We cannot control the price that's in the

9   market, but we have to try to do the best job we can to

10   acquire the best possible price at that time. We could

11   elect to ignore it, and that's my whole point is we have a

12   control, but there is a process in place to make sure that

13   we do the best job possible, much more stringent than

14   other things.

15   **Q.   So even though you don't control the price**

16   **of wholesale electricity, your procurement practices are**

17   **the subject of Commission oversight?**

18   A.   Absolutely.

19   **Q.   Now, Mr. Coffman asked you about the**

20   **weighting of the proper mechanism, 95/5 --**

21   A.   Right.

22   **Q.   -- 100 percent, and you stated that you**

23   **would prefer to have 100 percent of the risks of fuel and**

24   **purchased power costs above base rates borne by the**

25   **customers. What's the basis of that 100 percent opinion**

 1 **that you expressed?**

 2   A.   Well, in the last rate case, when the Staff

 3 brought up the recommendation of the 25/75 sharing

 4 mechanism, the company went out and had a survey done of

 5 the utilities that surrounded Missouri, that were adjacent

 6 to us that were in regulated states. That is, they had

 7 not separated themselves to be what they call a

 8 deregulated state.

 9   So we looked at the utilities of what they

10 did. Essentially they all receive 100 percent recovery of

11 the fuel cost. And there are many of them that have

12 incentives, and all of the incentives dealt with keeping a

13 portion, for example, of off-system sales. They had a

14 base and they said if they can achieve off-system sales

15 greater than -- they can share in it. You know,

16 70 percent goes back to consumers, 30 percent kept by the

17 company.

18   And so we introduced that as an exhibit in

19 the last case that looked at all the various utilities in

20 the surrounding area. We're not aware of anything that

21 has changed since that point.

22   So when I talk about incentives, I look at

23 that you don't use a stick. You look at -- put a carrot

24 out there. You say, if you can accomplish something

25 bigger and better, then you should be rewarded. What we

1 have today is we say if you do the best job possible,

2 we're going to take something away from you anyway. And

3 so when I was saying 100 percent, that's what I was basing

4 it on is the history. I think that exhibit was -- it was

5 presented as an exhibit in the last rate case that said a

6 survey of what's going on in the utility industry.

7   **Q.   Mr. Rush, was that marked in the last GMO**

8 **rate case, ER-2010-0356, as GMO Exhibit 51?**

9   A.   It was.

10   MR. ZOBRIST: Judge, I would ask that GMO

11 Exhibit 51 in the last case be marked in this case as GMO

12 Exhibit 146 just to clarify for the record, and because

13 the print here is virtually illegible, I have an enlarged

14 version that I'd like to have marked as Exhibit 146.

15   JUDGE JORDAN: So this enlarged version is

16 147?

17   MR. ZOBRIST: Yes, Judge, I'm sorry.

18   (GMO EXHIBIT NOS. 146 AND 147 WERE MARKED

19 FOR IDENTIFICATION.)

20   MR. KEEVIL: Judge, I'm not clear exactly

21 whether Mr. Zobrist is asking that official notice be

22 taken of this or -- or on what basis this is being

23 offered, but it seems to me that this is something that

24 should have been offered as prefiled testimony if -- if

25 the company was planning to offer it, so I would -- I

 1 would object to this.

 2   MR. ZOBRIST: Well, Judge, I offer it

 3 independently, but I would also offer it as a matter of

 4 which official notice could be taken as well since it was

 5 admitted in the prior rate case as GMO Exhibit 51. And I

 6 think it was prompted by the questions by Mr. Coffman, so

 7 I think it's proper rebuttal.

 8   MR. MILLS: And I would object in addition

 9 to the basis that Mr. Keevil raised because it is improper

10 bolstering of direct testimony. But I also object to it

11 as beyond the scope of any cross-examination. This

12 witness tried to introduce the topic of what other states

13 do, but no one asked him anything about what other states

14 do. So this is beyond the scope.

15   JUDGE JORDAN: Mr. Coffman?

16   MR. COFFMAN: That was my point. I believe

17 it was beyond the scope of my questions.

18   MR. ZOBRIST: Judge, if I may be heard?

19 The question was what was the basis of Mr. Rush's opinion

20 that, although the company supported the 95/5 mechanism,

21 why did he believe that 100 percent being charged to

22 customers was appropriate, and he was simply supplementing

23 and documenting the basis for that belief.

24   JUDGE JORDAN: Anything else on this

25 objection? I'm going to overrule the objection and admit

1 these documents into the record.

2   (GMO EXHIBIT NOS. 146 AND 147 WERE RECEIVED

3 INTO EVIDENCE.)

4   MR. ZOBRIST: Thank you, Judge. Just one

5 other comment -- or one other question.

6 BY MR. ZOBRIST:

7   Q.   Mr. Rush, when Mr. Keevil was asking you

8 questions about accumulation period ten, just to clarify

9 for the Commission, what happened in accumulation period

10 ten that was different from the prior accumulations?

11   A.   The fuel costs for that period actually on

12 an average basis went below the base, and the way a fuel

13 adjustment clause works is you set a base level of fuel

14 cost and purchased power net of off-system sales in the

15 rates, and, for example, let's just say it's 2 cents, and

16 then you look at the fuel costs that occur in six-month

17 increments, and if the fuel cost in that six-month

18 increment on a 12 -- there's some complexity to it, but

19 ultimately if it is above the 2 cents in your base, then

20 you get 95 percent of it. If it's below the base, you

21 get -- you give back 95 percent of that difference, and

22 that's what happened in this case, it was below.

23   Q.   And what happened in all the previous

24 accumulation periods?

25   A.   In all the previous accumulation periods,

1   the number went above the base. It went above the, the

2   example I used of 2 cents. So a lot of the decision and

3   discretion that comes in to this is setting the base in

4   this rate case so that you determine what is going

5   forward.

6   Q.   Now, if Staff's proposal in this case had

7   been applied to all of the previous accumulation periods,

8   one through nine, not number ten but one through nine,

9   what would have been the effect on the company?

10   MR. MILLS: I object. Calls for

11 speculation. There's any number of factors that would

12 have changed, and the whole point of changing the

13 incentive is that the company's behavior may have changed.

14 So this witness cannot simply tell us what would have

15 happened had one particular factor changed --

16   MR. ZOBRIST: Let me just limit it to --

17   MR. MILLS: -- without speculating.

18   MR. ZOBRIST: Let me just limit it to one

19 factor, Judge.

20 BY MR. ZOBRIST:

21   Q.   Excluding Staff's other recommendations, if

22 simply the 95/5 sharing mechanism had changed to 85/15,

23 what would have been different?

24   MR. MILLS: And it's the same question. I

25 have the same objection. It calls for him to speculate

 1 about what would have happened in the past if you had

 2 changed one particular factor. It does not take into

 3 account the behaviors of the company that would have

 4 changed. This witness can't possibly know, and for him to

 5 speculate here would be improper.

 6   MR. ZOBRIST: Judge, the dollars have been

 7 fixed. I'm simply asking what would have happened to the

 8 dollars that were the subject for accumulation periods one

 9 through nine, that's all I'm asking about, if the formula

10 had been changed simply from 95/5 to 85/15.

11   MR. MILLS: If he's simply asking for the

12 mathematical equation to be applied without asking what

13 would have happened, then that's a different question and

14 I don't have the same objection.

15   JUDGE JORDAN: Would you like to rephrase

16 your question?

17   MR. ZOBRIST: That's what I'm trying to

18 ask, and apparently I'm doing a very poor job. I

19 appreciate Mr. Mills' assistance.

20   JUDGE JORDAN: For the clarity of the

21 record, can we have that question as amended?

22 BY MR. ZOBRIST:

23   Q.   Mr. Rush, if the only matter that had

24 changed for accumulation periods one through nine was the

25 mechanical formula from 95/5 to 85/15, what would have

1 **been the result?**

2   A.   On an earnings basis, there would be a

3 decrease in the return on equity of the company of

4 .5 percent. So, for example, if the company were making

5 6 percent return on equity, they would -- let's say they

6 were doing that in the actual basis, then they would only

7 make 5.5 percent return on equity. So there is a

8 degradation of return on equity as the ultimate result of

9 changing this if you looked at the last nine periods.

10   **Q.   And mathematically, is it fair to say that**

11 **whatever numbers were absorbed by the company, they would**

12 **be three times what was absorbed if the formula had**

13 **changed to 85/15?**

14   A.   That is correct.

15   MR. ZOBRIST: That's all I have, Judge.

16   JUDGE JORDAN: Then that concludes the

17 examination of this witness at least for now. You may

18 stand down.

19   MR. KEEVIL: Judge, did you receive that

20 one exhibit I offered, that 397?

21   JUDGE JORDAN: I believe I did, but let me

22 make the record clear and say that that will be entered

23 into the record.

24   (STAFF EXHIBIT NO. 397 WAS RECEIVED INTO

25 EVIDENCE.)

1   MR. KEEVIL: Thank you.

2   JUDGE JORDAN: No harm in double checking.

3 Next witness.

4   MR. KEEVIL: Staff would call

5 Mr. Matthew J. Barnes.

6   (Witness sworn.)

7 MATTHEW J. BARNES testified as follows:

8 DIRECT EXAMINATION BY MR. KEEVIL:

9   **Q.   Sir, would you please state your name for**

10 **the record and spell your last name.**

11   A.   Matthew J. Barnes, B-a-r-n-e-s.

12   **Q.   By whom are you employed and in what**

13 **capacity?**

14   A.   I'm employed by the Missouri Public Service

15 Commission.

16   **Q.   As a?**

17   A.   As an Auditor 4.

18   **Q.   Did you contribute to Staff's cost of**

19 **service report and appendices which I believe have been**

20 **marked as Exhibits -- Staff Exhibits 258 through 263?**

21   A.   Yes.

22   **Q.   Do you have any corrections to your portion**

23 **of the Staff cost of service report?**

24   A.   Yes. On page 260, paragraph 5, and I'll

25 just read what the paragraph should say. Clarify that the

 1   only transmission costs that are included in GMO's FAC are

 2   those that GMO incurs for purchased power, and insert to

 3   serve native load, and insert transmission costs that are

 4   necessary to make, and I go on to read, off-system sales,

 5   and insert included in FERC Account 565.

 6   **Q.   All right.**

 7   A.   And then I've got another change on

 8   page 278, under 9, transmission costs and revenues, and

 9   I'll just go ahead and -- the change is in the first

10   sentence. I'll just go ahead and read what that should

11   say.

12   MR. ZOBRIST: I'm sorry. What line was

13   that?

14   THE WITNESS: Starts at line 25 on

15   page 278, and it should read, Staff recommends that GMO's

16   FAC, and strike out continue to, only include the

17   transmission costs GMO incurs that are necessary, and

18   insert to receive purchased power for it to serve --

19   strike out the word the -- let me start over.

20   Staff recommends that GMO's FAC only

21   include the transmission costs GMO incurs that are

22   necessary to receive purchased power for it to serve

23   native load, strike out requirements of its customers, and

24   those that are necessary for it to make off-system sales,

25   and insert included in FERC Account 565, excluding the

 1   transmission costs related to the GMO's Crossroads

 2   generation station.

 3   Q.   All right. Any other corrections in the

 4   cost of service report?

 5   A.   No.

 6   Q.   Did you also contribute to Staff's rate

 7   design and class cost of service report --

 8   A.   Yes.

 9   Q.   -- which I believe has been marked as Staff

10   Exhibit 267?

11   A.   Yes.

12   Q.   Do you have any corrections to that -- your

13   portion of that?

14   A.   I do. Just one. On page 32, line 5, it

15   should read, Staff recommends that GMO's FAC continue to

16   only include the transmission costs, and insert included

17   in FERC Account 565, insert that GMO incurs that are

18   necessary for it to serve the, insert native load

19   requirements of its customers and those that are necessary

20   for it to make off-system sales but excluding the

21   transmission costs related to GMO's Crossroads energy

22   station.

23   Q.   All right.

24   A.   And that's it.

25   Q.   Okay. Did you also file rebuttal testimony

1 **which has been marked as Staff Exhibits 269 and 270 and**

2 **surrebuttal testimony which has been marked as Staff**

3 **Exhibit 290?**

4   A.   Yes.

5   Q.   **Do you have any corrections to either of**

6 **those?**

7   A.   I do not.

8   Q.   **With the corrections you have noted, if I**

9 **were to ask you the questions set forth in those exhibits,**

10 **would your answers be the same as set forth therein?**

11   A.   Yes.

12   Q.   **Are those answers true and correct to the**

13 **best of your information, knowledge and belief?**

14   A.   Yes, they are.

15   MR. KEEVIL: Judge, I have to ask you a

16 question now. Do I need to go over here and rummage

17 through the stack of testimony and give some to the court

18 reporter or has she received that previously, or how do

19 you wish to handle this? This is Mr. Barnes' only time

20 appearing.

21   JUDGE JORDAN: That's a good question. We

22 discussed some of that off the record, and the court

23 reporter does need to mark a copy. Now, as far as me

24 receiving the documents that are already prefiled, I have

25 asked not to have those for now. I intend to come up with

 1 an order that will incorporate them by reference in EFIS.

 2   MR. KEEVIL: So I do need to give her some

 3 copies?

 4   JUDGE JORDAN: Yes.

 5   THE REPORTER: I believe Staff's exhibit

 6 have already been marked. They're upstairs.

 7   MR. KEEVIL: So you do not need the

 8 exhibits?

 9   THE REPORTER: No.

10   JUDGE JORDAN: That applies only to Staff,

11 correct?

12   THE REPORTER: Right.

13   JUDGE JORDAN: Everyone else will need to

14 do that. Sorry about that confusion.

15   MR. KEEVIL: Since this is Mr. Barnes' only

16 time appearing, I would go ahead and offer at least his

17 rebuttal and surrebuttal testimony, which I believe is

18 Exhibits 269, 270 and 290, the 269 and '70 being

19 nonproprietary and highly confidential rebuttal testimony.

20 As for the -- his contribution to the class cost of

21 service report, I suppose I could offer it, but I don't

22 guess you're receiving that until the very end is my

23 understanding, right?

24   JUDGE JORDAN: Right, because there are

25 multiple witnesses contributed to that. Are there any

 1 objections to those exhibits?

 2   MR. ZOBRIST: Judge, the company does not

 3 have an objection to Exhibits 269, 270, the rebuttal

 4 testimony, or the surrebuttal testimony in 290. The

 5 changes in the Staff report sound to us like a change in

 6 position rather than a correction. So I would object to

 7 them as being corrections. I think it is a change in

 8 position. And certainly if Staff wishes to change its

 9 position, it is free to do so, but I don't think it is

10 proper to call that a correction in that those are very

11 substantive changes from what I understand.

12   MR. KEEVIL: May I respond, your Honor?

13   JUDGE JORDAN: Please do.

14   MR. KEEVIL: They are not a change in

15 position. They're simply a clarification. And as support

16 for that, I would direct everyone, if they're interested,

17 to the schedules attached to Mr. Barnes' surrebuttal

18 testimony where he has exemplar FAC tariff sheets and the

19 transmission cost language specifically included.

20   His corrections which he made on the stand

21 are simply to clarify the body of his testimony and make

22 that correspond to the -- make it clear that that

23 corresponds with the tariff language set forth in the

24 tariffs which are attached to his surrebuttal.

25   MR. FISCHER: Judge, just to clarify our

 1   understanding a little bit, it's our understanding Staff

 2   is now taking the position that transmission service

 3   should not flow through the FAC. That was not apparent

 4   from this witness' testimony earlier.

 5   MR. KEEVIL: I don't understand even that

 6   question or that response. What should be flowed through

 7   the FAC in regard to transmission is as Mr. Barnes said in

 8   his clarification and as I said in my opening statement

 9   and, more importantly, as reflected in the surrebuttal

10   testimony of Mr. Barnes, Schedule MJB-1-3 to his

11   surrebuttal, transmission costs that are necessary to

12   receive purchased power to serve native load and

13   transmission costs that are necessary to make off-system

14   sales included in FERC Account No. 565 except for costs

15   related to the Crossroads energy center.

16   That's a direct quote from Schedule MJB-1-3

17   to the surrebuttal testimony. That's the transmission

18   costs we're saying should be flowed through the fuel

19   clause, that and nothing more. That's the clarification

20   that he made earlier from the stand.

21   JUDGE JORDAN: I'm going -- I'm ready to

22   make my ruling. I'm going to admit these exhibits into

23   evidence. If the company feels that this is a change in

24   position rather than mere correction, will the company --

25   the company will get cross-examination. Do you need

 1 additional time to prepare for cross-examination?

 2   MR. ZOBRIST: Actually, that issue is a

 3 little beyond my kin right now. If what I understand

 4 Mr. Keevil to be saying, it's the surrebuttal testimony

 5 that is now predominating this issue as far as Staff. I

 6 just don't understand why they need to go back and redo

 7 the Staff report, but -- so that's why I just object to it

 8 as a mere correction. It's not a correction. It's a

 9 change and a different articulation of what Mr. Barnes

10 said when the Staff report was filed.

11   JUDGE JORDAN: I understand your argument.

12 Will you need extra time to prepare for cross-examination?

13   MR. ZOBRIST: No, Judge.

14   JUDGE JORDAN: Okay. Then those exhibits

15 are admitted into the record as corrected or changed.

16   (STAFF EXHIBIT NOS. 269, 270 AND 290 WERE

17 RECEIVED INTO EVIDENCE.)

18   MR. KEEVIL: With that, your Honor, I would

19 tender the witness for cross-examination on the fuel

20 adjustment clause issue.

21   JUDGE JORDAN: Cross-examination from

22 Dogwood?

23   MR. LUMLEY: No, Judge.

24   JUDGE JORDAN: AARP and Consumers Council?

25   MR. COFFMAN: No questions.

 1   JUDGE JORDAN: I've been skipping

 2   Mr. Woodsmall because he's been outside of the room.

 3   MR. WOODSMALL: I've been back here.

 4   JUDGE JORDAN: That's fine. Mr. Conrad?

 5   MR. CONRAD: No. No questions, your Honor.

 6   JUDGE JORDAN: Mr. Bartels?

 7   MR. BARTELS: No questions, your Honor.

 8   JUDGE JORDAN: Office of the Public

 9   Counsel?

10   MR. MILLS: Just a few.

11   CROSS-EXAMINATION BY MR. MILLS:

12   **Q.   Mr. Barnes, have you participated in or**

13   **familiar with the prudence reviews done by the Public**

14   **Service Commission Staff on fuel adjustment clauses?**

15   A.   Yes.

16   **Q.   Okay. Is the purpose of those reviews to**

17   **determine whether or not the utility company, in this case**

18   **GMO, did the best possible job in terms of managing its**

19   **fuel and purchased power costs?**

20   A.   Yes.

21   **Q.   So your intent is to determine whether they**

22   **did the best possible job?**

23   A.   It's our intent to do a thorough review of

24   fuel and purchased power costs that flow through the FAC

25   and whether those are prudent decisions.

1   Q.   Okay.   And how many decisions are made in

2   a -- in a review period by the company?

3   A.   Numerous.   Thousands of decisions.

4   Q.   And does the Staff look at every single one

5   of those decisions?

6   A.   We try to.

7   Q.   And does the Staff have information on all

8   of the options that are available to the company at every

9   single one of those decision points?

10   A.   Could you say that question again?

11   Q.   You've said there are thousands of

12   decisions that are made, and --

13   A.   Yes.

14   Q.   -- my question is, do you know all of the

15   options that are available to the utility, to GMO, at

16   every single one of those decision points?

17   A.   I would say we don't know all of them. It

18   depends on what we ask for in data requests. I'm sure

19   there's probably some things we don't review, we just

20   don't catch it.

21   Q.   Okay. So is it more accurate to say that

22   the purpose of review is to determine whether or not the

23   company acted prudently and not whether they achieved the

24   best possible outcome?

25   A.   I would say it's a little bit of both.

1 Prudent decisions, we definitely look at those, but we

2 also try to review the fuel and purchased power practices.

3 And again, we can't catch everything. We try. We get 180

4 days to do a review. To me, it's like a mini rate case.

5 So there's a lot of data to be reviewed, and I think we --

6 with the resources that we have, we try to do the best

7 review possible.

8   Q.   I'm certainly not questioning that. I

9 understand that, and as the consumer representative, I

10 appreciate that. But my -- my question is, do you look at

11 enough data so that when a case is done, you can say that

12 there is no way that the company could have done better

13 than what they did during the review period?

14   A.   Yes, I think we do.

15   MR. MILLS: That's all I have.

16   JUDGE JORDAN: For the companies?

17 CROSS-EXAMINATION BY MR. ZOBRIST:

18   Q.   Good morning, Mr. Barnes.

19   A.   Good morning.

20   Q.   Now, the sharing mechanism that Staff has

21 proposed in this case is to move from a 95/5 percent

22 sharing mechanism to an 85/15 percent sharing mechanism;

23 is that correct?

24   A.   That's correct.

25   Q.   And am I correct that in the 2010 GMO rate

1   **case, Staff's proposal to shift that mechanism to a**

2   **75/25 percent sharing formula was rejected; is that**

3   **correct?**

4   A.   I was not a witness in that case, but I

5   believe that's what Staff recommended, and the Commission

6   did reject that recommendation.

7   **Q.   And in the Staff report on page 70, one of**

8   **the reasons cited by Staff to shift the sharing mechanism**

9   **from 95/5 to 85/15 was what was referred to as the total**

10   **indifference of GMO in its fuel and purchased power**

11   **practices; is that correct?**

12   MR. KEEVIL: Page what?

13   MR. ZOBRIST: 274 -- I'm sorry. 270,

14   line 3.

15   BY MR. ZOBRIST:

16   **Q.   Is that correct, Mr. Barnes?**

17   A.   Yes.

18   **Q.   And the basis for that opinion by Staff was**

19   **Mr. Blunk's hearing testimony in the third prudence**

20   **review, Case No. EO-2011-0390; is that correct?**

21   A.   Yes.

22   **Q.   And have you read the totality of**

23   **Mr. Blunk's testimony in that third prudence review case?**

24   A.   Yes. It's been a while, but I have. I did

25   read it.

1   Q.   Do you recall that Mr. Blunk explained his

2   comments in the context of that case that related to

3   hedging practices by stating that the company had placed

4   hedge purchases of spot market power by buying options to

5   purchase natural gas?

6   A.   Yes, I believe that was his statement.

7   Q.   And he stated his opinion this hedging was

8   done for the benefit of the customer; is that correct?

9   A.   That's what he stated, I believe, yes.

10   Q.   And you quoted that portion of Mr. Blunk's

11   testimony at page 73 of the Staff report on lines 30 and

12   31, correct?

13   A.   Page 273?

14   Q.   273 of the Staff report, lines 30 through

15   31.

16   A.   Mine starts at line 25 then goes on to the

17   next page.

18   Q.   Right. And I'm quoting just lines 30

19   through 31, the sentence that says, quote, so all the

20   hedging is for the benefit of the customer, close quote.

21   A.   Yes.

22   Q.   And that's what Mr. Blunk said?

23   A.   Yes.

24   Q.   And am I correct that his reasoning was

25   that the money earned by GMO if the price of natural gas

 1   increased could be used to then offset the higher price of

 2   electricity to customers?

 3   A.   I believe that's what he stated.

 4   Q.   And the Commission when it issued its

 5   Report and Order on September 4, 2012 found that Staff had

 6   failed to meet its burden of proof that GMO was imprudent

 7   in its hedging practices; is that correct?

 8   A.   Yes.

 9   Q.   And it found that Staff had failed to prove

10   that GMO had engaged in any improper accounting practices,

11   correct?

12   A.   Yes.

13   Q.   And it found that Staff had failed to prove

14   that GMO had violated its fuel adjustment clause tariff,

15   correct?

16   A.   Yes.

17   Q.   And Staff's request that GMO issue a refund

18   in the amount of $14.9 million was rejected, correct?

19   A.   That's correct.

20   Q.   Now, the current incentive mechanism, I'm

21   just focusing on the 95/5 and Staff's 85/15 proposal, does

22   not contain any standard or metric that would either

23   reward or punish GMO for either really good or really bad

24   procurement practices; isn't that true?

25   A.   Well, they would be -- I wouldn't really

1 call it a reward, but if the fuel and purchased power

2 costs are either above or below the base, they would

3 either get to keep 5 percent or the company would absorb

4 5 percent.

5   Q.   So when the analysis is made, it's simply

6 of the dollars; is that a fair statement?

7   A.   Yes.

8   Q.   So if it was a rising cost environment and

9 prices were going up over the country and GMO did a really

10 good job and kept them from going up as much as they could

11 have, their prudent procurement practices allowed for a

12 lesser increase, GMO would not be rewarded or receive

13 any -- be able to keep or absorb less of any loss if the

14 prices went up?

15   A.   Well, if they under-collected, that's what

16 you mean, then they would absorb the 5 percent.

17   Q.   My question is, prices are going up.

18   A.   Uh-huh.

19   Q.   And let's just say they went up by

20 $10 million, and GMO's really good procurement practices

21 only allowed them to go up $9 million. It doesn't get

22 anything, it doesn't get to receive or keep anything by

23 virtue of those good prices -- good practices that kept

24 the prices from not going up as high as maybe other

25 utilities?

1   A.   Again, it would just depend on what the

2   base is set at and if -- assuming they under-collected,

3   they would absorb 5 percent.

4   Q.   I'm trying to go for overcollection.

5   A.   Okay.

6   Q.   I apologize if I'm not being clear. We've

7   got an overcollection. So I guess I'm -- let me start

8   again.

9   Prices increase at a certain level across

10   the country, but GMO's got procurement practices that

11   prevent a lesser increase. What I'm saying is, do we just

12   compare the dollars or if GMO can demonstrate to Staff or

13   Staff determines that there were really good procurement

14   practices, all you do is apply the mechanical formula to

15   the dollars?

16   A.   Yes.

17   Q.   And Staff in its proposal is simply

18   suggesting that the sharing mechanism number should be

19   changed from 95/5 to 85/15?

20   A.   That's true, yes.

21   Q.   And Staff has not proposed to provide any

22   standards or metrics that would measure any procurement

23   practices per se?

24   A.   I don't know. I don't think so.

25   Q.   Okay. And it is true that under the fuel

1   adjustment clause statute, Section 386.266.1, the parties

2   may include incentives to improve the efficiency and cost

3   effectiveness of a utility's fuel and purchased power

4   procurement activities; is that correct?

5   A.   Yes.

6   Q.   I want to show you a demonstrative evidence

7   here that I prepared and walk you through a couple of

8   examples.

9   (GMO EXHIBIT NO. 148 WAS MARKED FOR

10 IDENTIFICATION.)

11   MR. ZOBRIST: Judge, I've handed the

12 witness what has been marked as GMO Exhibit 148.

13 BY MR. ZOBRIST:

14   Q.   Do you have that before you, Mr. Barnes?

15   A.   Yes.

16   Q.   Let me explain what I'm trying to depict

17 here. In year one, let's say that the fuel and purchased

18 power costs in excess of base rates are $10 million. Do

19 you see that at the top?

20   A.   Yes.

21   Q.   And then year two assumes a $9 million

22 increase above rates. Do you see that?

23   A.   Yes.

24   Q.   Now, under the current system, in year one,

25 customers would be responsible for 95 percent or

 1    $9,500,000 and the company would be responsible for or

 2   absorb $500,000, correct?

 3   A.   In year one, yes.

 4   Q.   And then if we go down below year one,

 5   under Staff's proposal, the dollars would shift to

 6   85 percent borne by the customers and 15 percent absorbed

 7   by the company, correct?

 8   A.   Yes.

 9   Q.   And so if in year one Staff's proposal were

10   accepted, GMO would absorb $1 million more in fuel and

11   purchased power costs, correct?

12   A.   In this example, yes.

13   Q.   Now, if we move to year two, assuming there

14   is a $9 million increase in fuel costs above base rates,

15   if we continue the current 95/5 sharing system, the

16   customers would pay $8,550,000 and the company would

17   absorb $450,000, correct?

18   A.   Yes.

19   Q.   And then similarly below, if we move to

20   Staff's 85/15 sharing mechanism, customers would be

21   responsible for 7,765 -- sorry -- $7,650,000 and the

22   balance of $1,350,000 would be absorbed by GMO, correct?

23   A.   Yes. The risk is shifting 15 percent,

24   right.

25   Q.   And so under that scenario, GMO would

 1   absorb $900,000 more in fuel costs, correct?

 2   A.   Yes.

 3   Q.   Now, the difference if we go to column 3 is

 4   between year one and year two there's a million dollars

 5   less in fuel and purchased power costs, correct?

 6   A.   Yes.

 7   Q.   And under the current scenario, the

 8   customers would pay $950,000 less and the company would

 9   absorb $50,000 less, correct?

10   A.   Yes.

11   Q.   And under Staff's 85/15 proposal, if we go

12   down to those bottom two figures, customers would pay

13    $850,000 less and GMO would absorb $150,000, correct?

14   A.   Assuming there's an under-collection, yes.

15   Q.   So if we take that under-collection of

16    $150,000 under staff's proposal, the company is still

17   paying $1,350,000 or absorbing that amount less the

18    $150,000, correct?

19   A.   Yes.

20   Q.   So although the company absorbs and pays

21   less as it were $150,000 under Staff's, it is still paying

22    $1.2 million more because of the shift of the mechanism

23   from 95/5 to 85/15?

24   A.   Yes, that's true.

25   Q.   So even though you talk about the savings

1   there, under this hypothetical of $150,000, the shift in

2   the paradigm still has the utility paying more money,

3   correct?

4   A.   In this example, yes.

5   Q.   Now, let me ask you a few questions about

6   purchased power contracts, and I'm referring to your

7   rebuttal at pages 4 and 5. Do you recall that, sir?

8   A.   I have to ask, is this HC?

9   Q.   I'm not -- just the rebuttal. I'm not

10   going to ask you about anything HC. I think -- I don't

11   have any questions concerning any dollar figures, but

12   generally Staff is critical of the company's purchased

13   power contract practices at the present time; is that

14   correct?

15   A.   Yes.

16   Q.   And isn't it true, though, that in the past

17   12 months GMO customers have benefitted substantially

18   because of the decrease in the wholesale price of

19   electricity?

20   A.   Prices have decreased, yes, in the last

21   accumulation period, the customers -- well, the fuel

22   adjustment rate decreased.

23   Q.   And would you agree that the substantial

24   decline of the price of wholesale electricity at least in

25   this part of the country is a result of the substantial

1 decrease in the price of natural gas?

2   A.   Yes, I'd agree with that.

3   Q.   And for accumulation period No. 10, Staff

4 observed for the MPS rate base, and I believe this is

5 Staff report at page 267 in that box, there was a decrease

6 in natural gas prices and in purchased power prices that

7 led to a decrease in the fuel adjustment rate; is that

8 true?

9   A.   Page 267?

10   Q.   Yes, sir.

11   A.   Yes.

12   Q.   Now, on two portions of your rebuttal

13 testimony on page 4, you make a reference to steel in the

14 ground; is that correct?

15   A.   Yes.

16   Q.   And the quoted portion on page 4 is a

17 filing that Staff made in the company's integrated

18 resource planning docket; is that correct?

19   A.   That's correct.

20   Q.   And that's No. EO-2012-0324?

21   A.   Yes.

22   Q.   Now, when you say steel in the ground, you

23 mean a plant, correct?

24   A.   Yes.

25   Q.   Okay. And what kind of plant should GMO

1   **build?**

2   A.   I believe in their IRP, I think they plan a

3   combined cycle out in the future.   I'm not sure what date.

4   But it just depends on when they would be building that

5   plant. It could be a CT. It could be another coal plant.

6   But I haven't made any recommendations as far as what type

7   of plant they should build.

8   **Q.   So Staff hasn't made a recommendation and**

9   **you personally didn't make a recommendation as to the**

10   **specific type of plant they should build?**

11   A.   No.

12   **Q.   And you didn't make a recommendation as to**

13   **the particular size of that plant if it is built?**

14   A.   No.

15   **Q.   And am I correct that Staff's**

16   **recommendation generally to put, quote, steel in the**

17   **ground, close quote, is based on the belief that GMO was**

18   **relatively short on capacity versus Kansas City Power &**

19   **Light Company?**

20   A.   Yes.

21   **Q.   Would you agree that these questions as far**

22   **as what kind of plant should be built, what type of fuel**

23   **it should burn, what size that plant should be are best**

24   **analyzed and answered in an IRP docket?**

25   A.   Typically that's where it's addressed at.

1   Q.   If you could turn, please, to the Staff

2   report at page 269. You discuss there the topic of net

3   income before taxes, or NIBT, correct?

4   A.   Yes.

5   Q.   And you stated in the Staff report that

6   without a fuel adjustment clause, GMO would have lost

7   approximately 36.4 percent of its test year net income

8   before taxes due to under-collection of fuel and purchased

9   power costs less off-system sales during accumulation

10   period two through accumulation period ten; is that

11   correct?

12   A.   Yes.

13   Q.   And just for the record, accumulation

14   period two was from December 2007 through May 2008; is

15   that correct?

16   A.   Yes, I believe so.

17   Q.   Accumulation period ten was from December

18   2011 through May 2012?

19   A.   Yes. On page 265 I've got lists of the

20   accumulation periods, case numbers and the time periods.

21   Q.   And the amount that was under-collected

22   over that four and one-half years was $165 million,

23   correct?

24   A.   Yes.

25   Q.   And Staff found that that was a significant

 1   amount to GMO?

 2   A.   Yes.

 3   Q.   And Staff's proposal in this case is to

 4   take the 5 percent that GMO absorbs now and to essentially

 5   triple that so that the NIBT, the net income before taxes

 6   would go from 1.8 percent of net income before taxes to

 7   5.5 percent, correct?

 8   A.   Assuming there's under-collection, yes.

 9   Q.   Right. And as I'm saying, historically

10   looking at those nine full accumulation periods, that

11   would triple the amount that was recovered from or that

12   was absorbed by the company from $8.3 million to nearly

13    $25 million, correct?

14   A.   Yes. The shifting of risk is more on the

15   company now.

16   Q.   And on page 272, you stated that the

17   average accumulation period amount over these nine periods

18   was $919,000; is that correct?

19   A.   Yes.

20   Q.   And under Staff's proposal, assuming it had

21   been implemented in these prior years, that number would

22   have been $2.8 million?

23   A.   Yes.

24   Q.   And this shift would have occurred

25   regardless of any finding of mismanagement or imprudence

 1 **by GMO, correct?**

 2   A.   Yes.

 3   Q.   **Okay. Now, if I could have you turn to**

 4 **your surrebuttal, page 2. On line 20 you say that the FAC**

 5 **is a privilege and not a right, correct?**

 6   A.   That's correct.

 7   Q.   **Now, the statutes does not contain the word**

 8 **privilege, does it?**

 9   A.   I don't know. It's been a while since I

10 read this statute. I don't think so.

11   Q.   **And the Commission's regulations don't**

12 **refer to a fuel adjustment clause or a rate adjustment**

13 **mechanism as a privilege, do they?**

14   A.   I don't know. Again, I'd have to go back

15 and look at that. I don't think so.

16   MR. ZOBRIST: That's all I have Judge.

17 Thank you. I move the admission of Exhibit 148.

18   JUDGE JORDAN: I'm not hearing any

19 objection, so that document will be admitted into the

20 record.

21   (GMO EXHIBIT NO. 148 WAS RECEIVED INTO

22 EVIDENCE.)

23   JUDGE JORDAN: That concludes

24 cross-examination. Questions from the Bench.

25 Commissioner Kenney?

1   COMMISSIONER KENNEY: No questions. Thank

2   you, Mr. Barnes.

3   THE WITNESS: Thank you.

4   JUDGE JORDAN: Commissioner Jarrett?

5   COMMISSIONER JARRETT: Good morning,

6   Mr. Barnes. How are you doing?

7   THE WITNESS: Good, sir.

8   COMMISSIONER JARRETT: Thanks for your

9   testimony. I don't have any questions.

10   THE WITNESS: Thank you.

11   JUDGE JORDAN: I have no questions for you.

12   Redirect?

13   MR. KEEVIL: Very briefly, Judge.

14   REDIRECT EXAMINATION BY MR. KEEVIL:

15   Q.   **Mr. Barnes, toward the end of his**

16   **questioning Mr. Zobrist asked you about your surrebuttal**

17   **where you say the FAC is a privilege and not a right and**

18   **asked you if there was any indication in the statute or**

19   **the Commission rules that said it was a privilege. Do you**

20   **recall that?**

21   A.   Yes.

22   Q.   **Let's just turn that around a little bit**

23   **and say, to your knowledge, is there anything in there**

24   **that says it's a right of the company? Does the company**

25   **have a right to the fuel adjustment clause under either**

 1 the statute or the rule?

 2   A.   I don't think it does.

 3   Q.   Now, Mr. Zobrist asked you some questions

 4 about his Exhibit 148. Well, before I get to that, let

 5 me -- he asked you some questions about fuel -- the

 6 accumulation periods two through ten, some past periods

 7 there. Is there any way to know what GMO's fuel and

 8 purchased power expenses would have been in past periods

 9 if their sharing level, the sharing mechanism had been

10 different?

11   A.   No, there's no way that I'd be able to tell

12 that.

13   Q.   And, in fact, that is part of Staff's

14 point, is it not, that the incentive would have been

15 different, so, therefore, there's no way anyone could tell

16 what their fuel and purchased power costs would have been

17 had the sharing mechanism been different, correct?

18   A.   Yes.

19   Q.   Now let me go back to Mr. Zobrist's

20 Exhibit 148. Now, let's -- let's assume that those

21 10 million and $9 million figures in year one and year two

22 on his exhibit had been decreases in fuel cost instead of

23 increases in fuel cost. How would -- how would that

24 affect the outcome here that's shown on Mr. Zobrist's

25 Exhibit 148?

1   A.   Well, this current sharing mechanism they

2   would get to keep 5 percent, assuming you're asking about

3   an over-collection, just like accumulation period ten was.

4   If you shifted Staff's 85/15, it would get to keep

5   15 percent of any over-collection, and the customers would

6   receive 85.

7   Q.   **So the company would keep column one there,**

8   **the 500,000 or the 1.5 million down there under Staff's**

9   **proposal --**

10   A.   Yes.

11   Q.   **-- in year one? And likewise in column**

12   **two, they would keep the 450 or the 1.35?**

13   A.   That's correct.

14   Q.   **Mr. Zobrist also asked you questions**

15   **regarding Staff's position on GMO's capacity relevant to**

16   **KCPL, and I think the question was, is it your position**

17   **that GMO's short on capacity relative to KCPL, and your**

18   **answer I believe was yes. But my question for you is, is**

19   **it -- is GMO short on capacity period or it's not just**

20   **relevant to KCPL, is it?**

21   A.   No. It's not just relevant to KCPL.

22   Q.   **So they're short capacity?**

23   A.   That's correct.

24   Q.   **Mr. Zobrist also asked you if GMO had**

25   **really good procurement practices that led to a less of a**

1 price increase than the market price increase, what would

2 happen or whether there were any rewards, I think was his

3 term, for GMO in such a situation. Do you recall

4 generally that line?

5   A.   Yes.

6   Q.   Would you agree that GMO would be rewarded

7 under Staff's proposal by being allowed to recover

8 85 percent of its costs?

9   A.   Yes.

10   Q.   Would -- and in the situation Mr. Zobrist

11 was using where I believe in his example market prices

12 went up $10 million but GMO prices only went up 9 million

13 or so, to the extent that GMO really did have such grand

14 procurement practices, is it true that because they,

15 quote, unquote, saved a million dollars, they would absorb

16 less under either of these proposals?

17   A.   Yeah, I think that's true.

18   Q.   I believe he also asked you if Staff has

19 proposed any metrics to measure procurement practices. Do

20 you recall that?

21   A.   Yes.

22   Q.   Are you aware -- your answer was no, Staff

23 has not; is that correct?

24   A.   That's correct.

25   Q.   Has the company, to your knowledge, in this

 1   **case proposed any metrics to measure procurement**

 2   **practices?**

 3   A.   Not that I'm aware of.

 4   MR. KEEVIL: That's all I have, Judge.

 5   Thank you.

 6   JUDGE JORDAN: That concludes redirect.

 7   You may stand down.

 8   That's everything I see scheduled on the

 9   issue of the fuel adjustment clause. This looks like a

 10 good time for a break. Do the parties have a preference

 11 as to whether we make that a ten-minute break or whether

 12 we make that a lunch break? Any preference?

 13   Not seeing any preference, so let's just

 14 take a ten-minute break. Also had another question for

 15 the parties as far as the order of issues today. We had

 16 talked about earlier we had planned to have Crossroads as

 17 the last issue today, but the parties have asked to defer

 18 the rate design and class cost of service issues. Which

 19 of those will come first? Which of those -- which of

 20 those will come before the other?

 21   MR. MILLS: Judge, I don't believe that the

 22 stipulations that the -- some of the parties were talking

 23 about this morning have been filed yet, and I have not

 24 seen them. So I don't know where that leaves us, but I --

 25 it may argue for doing Crossroads next and waiting to see

 1   what the stipulations look like before we go on with that

 2   issue.

 3   MR. FISCHER: That's acceptable to the

 4   company.

 5   JUDGE JORDAN: Okay. So right now we're

 6   thinking Crossroads, then conclude with rate design and

 7   class cost of service?

 8   MR. WILLIAMS: Judge, my suggestion would

 9   be that the parties discuss that amongst themselves and

10   let you know.

11   JUDGE JORDAN: That's fine. That's fine.

12   I don't need an answer right away because we will be

13   taking up MEEIA issues before we do either of those and we

14   have three witnesses for that. In addition, just so that

15   everybody knows, those who have not been able to check

16   EFIS yet, we have had a filing that is titled as follows:

17   Nonunanimous Stipulation & Agreement Regarding Praxair

18   Inc., Ag Processing, Inc. Cooperative and the Midwest

19   Energy Users Associations' Objection and Withdrawal of

20   Objection and Request for a Hearing. And I think that's a

21   withdrawal of the objection and a withdrawal of the

22   request for hearing. So I wanted to let you know about

23   that. I think the name says it all.

24   And on that, we will -- unless there's

25   anything else, we will take --

1   MR. FISCHER: Judge, could I just ask a

2 question about your comment about MEEIA? Were you

3 expecting MEEIA to come next before Crossroads?

4   JUDGE JORDAN: The order that I think we're

5 talking about now is MEEIA next and then either Crossroads

6 or the rate design and class cost of service issues. Am I

7 correct in that?

8   MR. FISCHER: I might suggest that MEEIA go

9 later at the end. I thought it was going to come at the

10 very end of the day.

11   JUDGE JORDAN: I don't think we can do

12 everything last.

13   MR. FISCHER: We've been trying throughout

14 this case. We're at your disposal. I just wanted to

15 clarify it.

16   JUDGE JORDAN: Okay. Why don't during

17 this -- why don't we make this a 15-minute break, and we

18 can take more if you need it, and the parties can discuss

19 what order they want the remaining issues to come in, and

20 we'll talk about that when we go back on the record.

21 Anything else before we take our now 15-minute break?

22   MR. KEEVIL: Judge, just to clarify, you

23 did receive Mr. Barnes' rebuttal and surrebuttal

24 testimony, correct?

25   JUDGE JORDAN: I thought I did, but double

1   checking, as I mentioned earlier, is a good idea. Those

2   exhibits are admitted into the record.

3   Anything else before we take our break for

4   15 minutes? Hearing nothing else, we will go off the

5   record and have an intermission of 15 minutes.

6   (A BREAK WAS TAKEN.)

7   JUDGE JORDAN: We're back on the record

8   just to note that we are taking a lunch break. The

9   parties have asked to break 90 minutes so that they may

10 continue discussions. When we come back, we will be

11 taking up the Crossroads issues. So our breaks begins

12 90 minutes from now.

13   (A BREAK WAS TAKEN.)

14   JUDGE JORDAN: Good afternoon, everyone,

15 and welcome back. I understand that the parties have

16 engaged in some discussions while we were off the record,

17 and I will ask Staff counsel, any Staff counsel, to

18 explain what we're planning to do this afternoon.

19   MR. WILLIAMS: Judge, Staff anticipates

20 that we'll take up the Crossroads issues first. There are

21 some Stipulation & Agreements in the works regarding class

22 cost of service and rate design in both cases, and there

23 is also a Stipulation & Agreement in the process for the

24 MEEIA issues.

25   It's my understanding that the class cost

1   of service rate design Stipulation & Agreements will not

2   resolve all of the issues. It is my understanding it will

3   in one of the two cases, I believe the GMO case. But in

4   any event, we would anticipate that the class cost of

5   service rate design would follow Crossroads and then MEEIA

6   thereafter.

7   JUDGE JORDAN: Thank you. Anything to add

8   or subtract from that from anyone.

9   MS. KLIETHERMES: Clarification. I believe

10   Mr. Williams stated that it would resolve all of the

11   issues in GMO. It doesn't quite resolve all of the issues

12   in GMO, but we don't anticipate that the GMO settlement

13   will be opposed, while we do anticipate that the KCPL

14   settlement will be opposed.

15   JUDGE JORDAN: Thank you for that

16   clarification. Is there anything else before we resume

17   the taking of evidence and opening statements? Okay. I'm

18   not seeing anything.

19   Our first issue this afternoon, then, will

20   be Crossroads, and we will begin by taking an opening

21   statement from the applicant utilities.

22   MR. HATFIELD: Thank you Judge. Good

23   afternoon, Commissioner Jarrett. My name is Chuck

24   Hatfield. I haven't had the opportunity to appear yet in

25   this case, so appreciate the opportunity to be with you

 1   today.

 2   The parties have filed position statements

 3   on the Crossroads issue, which is a GMO issue. As the

 4   Commission will recall from the last rate case, Crossroads

 5   involves a plant that is located in Mississippi, which is

 6   a pervasive issue in the case.

 7   We think there are three issues. The first

 8   issue is what amount of deferred income taxes should be

 9   credited to ratepayers. The second issue is, are the

10   transmission costs incurred to bring electricity from the

11   plant in Mississippi to the Missouri service area

12   recoverable in the rate base? And the third issue is,

13   what value should be used for the Crossroads plant itself

14   when setting rates.

15   Now, on the first issue of deferred taxes,

16   Staff and the company basically agree on the deferred

17   taxes issue. The main issue that I think the Commission

18   will need to grapple with is if you do change the value

19   assigned to the plant, the company's position is that you

20   need to change the deferred taxes assigned to the plant,

21   and this is covered in the testimony of Melissa Hardesty.

22   Essentially Staff, I think, concurs in that position.

23   If you don't change the value, the book

24   value that the company has used in its case, then the

25   amount of deferred taxes has been calculated using

1   generally accepted accounting principles, and that value

2   should be followed. The deferred taxes is frankly that

3   simple.

4   On the transmission cost, you already heard

5   testimony from Mr. Blunk about the cost of gas and the

6   cost to transmit the electricity from Mississippi into the

7   GMO service territory. There is no dispute that GMO

8   actually incurred these transmission costs. The Staff

9   disputes the transmission costs because they say a

10   Missouri utility would not have built a plant in

11   Mississippi, and that's in Mr. Featherstone's testimony.

12   But the testimony you've already heard from

13   Mr. Blunk -- and we're not going to need to hear from him

14   again. He was taken out of order -- establishes that the

15   ratepayers save money because the plant is in Mississippi

16   where the gas is, to put it colloquially.

17   It's no different than the reason Apple

18   Computer manufactures iPhones and iPads in China. The

19   transportation costs would be less if those were

20   manufactured in the United States, but the production cost

21   is cheaper in China.

22   The production cost for the electricity is

23   cheaper in Mississippi. It has to be brought into the GMO

24   service area. So the testimony discusses that and talks

25   about the fact that having it there saves the ratepayers

 1 money when the transmission costs are factored in.

 2   The transmission costs are, of course, as a

 3 matter of law presumed to be prudent, and we not believe

 4 Staff has raised a serious doubt, and they certainly

 5 haven't carried any burden if they have. Moreover, these

 6 transmission costs have been FERC approved. Therefore,

 7 there is an issue with the transmission costs and whether

 8 this Commission could address those given that they're

 9 FERC approved. I think that issue will be relatively

10 straightforward and has mainly already been covered.

11   As to value, the company has included the

12 book value of Crossroads in its case. This is the amount

13 that the company paid for Crossroads according to a

14 PricewaterhouseCoopers valuation and according to final

15 filings with the Securities and Exchange Commission when

16 Great Plains acquired Aquila, and that's also the rate

17 that was paid according to Generally Accepted Accounting

18 Principles.

19   Further support for the valuation that is

20 in the company's case comes from the fact that in 2007 GMO

21 put out an RFP and asked for responses for electricity.

22 Aquila, Inc., at the time not owned by Great Plains, which

23 was the nonregulated side, responded to the RFP, as did

24 others. This is all discussed in the testimony. There's

25 actually a PowerPoint attached as a schedule to

 1   Mr. Crawford's testimony about that RFP.

 2   In response to that RFP, then Aquila, Inc.

 3   bid a sale of the Crossroads plant at book value. That

 4   was the lowest cost that was bid. Of all of the options

 5   that were bid, the fair market for that electricity, if

 6   you will, was the book value of the plant. It was the

 7   lowest cost that a willing seller was willing to offer to

 8   a willing buyer, which is the definition of fair market

 9   value.

10   Staff was the only party that filed

11   testimony on the valuation of Crossroads, and they asked

12   the Commission to follow a previous order that was passed

13   that -- I'm sorry -- in the last case that you used the

14   value of two other facilities, Racoon and Goose Creek.

15   But the evidence pretty clearly establishes, and we'll

16   discuss it, that these are not apples to apples

17   comparisons.

18   And I've tried to think of a good analogy

19   for this, and I -- here's the one that I bring to you, as

20   silly as it might be. My brother-in-law lives outside of

21   Excelsior Springs, Missouri, and he has about a 2,800

22   square foot house, three bedroom, nice place. Probably go

23   for 150,000, $180,000 here in Jefferson City. Has no

24   running water. They haul water in, potable water in a big

25   tank and put it in a cistern. So what's the value of that

1   house without running water?

2   And that's the company's point as it

3   relates to these comparisons that were done by the Staff

4   and that were used by the Commission in the last case.

5   The facilities that are being compared had no transmission

6   into the GMO territory and have to have gas transported to

7   them. Those costs have to be factored in in order to look

8   at a comparison. If you were going to compare a house

9   with no water to a house with running water, you would

10 factor in the house to -- sorry -- the cost to get the

11 water there in order to get an apples to apples

12 comparison.

13   And that's really the company's point in

14 terms of the valuation and why the valuation in the last

15 case, which Staff points out relied on those facilities,

16 was not correct.

17   Now, as I've hinted, we're aware that the

18 Commission ruled against the company in a prior case on

19 some of these issues. We believe the evidence is

20 different in this case. We also believe that when the

21 company considers all the evidence, you will see that the

22 transmission that brings the facility -- brings the power

23 from Mississippi brings the ratepayers the lowest cost and

24 the most reliable service when the plant is valued at book

25 value, which is the fair market value, and which is the

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1   value that the company has put forth in its case.

2   Thank you.

3   JUDGE JORDAN: Thank you.   Opening

4   statement from the Staff.

5   MR. WILLIAMS: Thank you, Judge.   May it

6   please the Commission?   My name is Nathan Williams, and

7   I'm here representing the Staff.

8   Staff anticipates the evidence in this case

9   will show the following: KCPL Greater Missouri Operations

10 Company, GMO, is Aquila.   When Great Plains Energy

11 acquired Aquila and its affiliates, it not only got

12 assets, but it also got problems.   Among those problems

13 were Aquila's over-reliance on purchased power agreements

14 and its affiliate's 300 megawatt Crossroads merchant plant

15 located near Clarksdale, Mississippi, the plant in

16 question here.

17   For over a decade Staff repeatedly and

18 consistently challenged Aquila's reliance on purchased

19 power agreements to meet its capacity and energy needs,

20 and for over half a decade Staff based its determination

21 of Aquila's revenue requirement for its MPS rate district

22 on imputed combustion turbines.

23   After Great Plains Energy acquired Aquila

24 in 2008 and renamed it GMO, Staff imputed combustion

25 turbines to GMO again in its last two general electric

 1 rate cases, Case Nos. ER-2009-0090 and ER-2010-0356.

 2   Aquila's own analysis concluded in 2004

 3 that its lowest cost option for replacing the 500

 4 megawatts of capacity it was getting from Aries through a

 5 five-year purchased power agreement that would end in the

 6 summer of 2005 was to construct five 105 megawatt

 7 combustion turbines. Not until Case No. ER-2010-0356 did

 8 Aquila GMO ever propose that Crossroads, which one of its

 9 unregulated merchant affiliates built in 2002, be included

10 in its rate base. In that case in 2011 the Commission

11 rejected Staff's capacity and energy costs for GMO based

12 on imputed combustion turbines and relied on Crossroads

13 instead.

14   But while the Commission found GMO's

15 decision to include Crossroads in rate base to be prudent,

16 the Commission stated in its Report & Order as clarified

17 and modified that, in light of the fact that GMO acquired

18 Crossroads from an affiliate, the Commission first value

19 Crossroads at $61.8 million as of July 14, 2008, determine

20 the accumulated deferred income tax reserve associated

21 with Crossroads to be $15 million because the affiliate

22 was unprofitable and could not realize the benefit of a

23 depreciation deduction but for its affiliation with GMO.

24 Great Plains Energy considered the deferred tax reserve

25 impact when valuing Aquila when acquiring it, and the

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1 Commission's $61.8 million valuation was generous.

2   And the Commission denied GMO recovery of

3 any transmission expense because, quote, it is not just

4 and reasonable for GMO customers to pay the excessive cost

5 of transmission from Mississippi, close quote.

6   Those can be found in the Commission's

7 Report and Order in ER-2100 -- 2011-0356 at pages 96 in

8 particular regarding the valuation of Crossroads and again

9 on page 99, and on page 96 regarding the transmission

10 expense denial in its findings of fact and on page 99

11 regarding its conclusions.

12   In the case where the Commission authorized

13 Great Plains Energy to acquire Aquila, Case No.

14 EM-2007-0374, GMO requested that the Commission authorize

15 it to recover in rates all of its actual debt costs, a

16 request it later withdrew because of prior commitments to

17 insulate ratepayers from its non-investment-grade credit

18 rating caused by non-regulated activities.

19   Much like that request, in this case GMO is

20 asking you to insulate it from its prior bad decisions by

21 reconsidering your decision in its last general electric

22 rate case for the value of Crossroads in its rate base,

23 the amount of accumulated deferred income tax reserve for

24 Crossroads, and not allowing it to recover any

25 transmission expense for electricity from Crossroads.

 1   The facts that you will hear in this case

 2   regarding Crossroads will differ a little from those in

 3   its last rate case you decided just last year, except that

 4   Staff is not now challenging the prudence of Crossroads

 5   being included in GMO's rate base.

 6   Therefore, Staff asks that you take

 7   official notice of both the May 4th, 2011 Report and

 8   Order, in particular pages 77 to 100, and your May 27th,

 9   2011 Order of Clarification and Modification in Case

10   No. ER-2010-0356.

11   Staff urges you to carefully consider the

12   evidence in this case and then find again and affirm that:

13   The value of Crossroads for purposes of setting rates in

14   the MPS rate district is $61.8 million as of July 14,

15   2008; the appropriate accumulated deferred income tax

16   reserve amount for Crossroads should be tied to the value

17   of Crossroads; and because it is located near Clarksdale,

18   Mississippi, over 500 miles from GMO's retail customers,

19   GMO should recover no transmission expense associated with

20   crossroads directly or through its fuel adjustment clause.

21   If you decide to reconsider the decisions

22   you just made last year about Crossroads, Staff urges you

23   to focus on GMO's and Great Plains Energy's May 2007 joint

24   proxy statement where they value Crossroads at

25      $51.6 million and question GMO's witnesses for how GMO

 1   values a generating station for ratepayers at $117 million

 2   as of July 14, 2008 when GMO and Great Plains Energy

 3   determined it was worth only 51.6 million in May of 2007.

 4   Staff also urges you to question GMO's

 5   witnesses about why Great Plains Energy would pay full

 6   value for Crossroads when in 2005 Aquila was unable to

 7   find anyone who would make a final bid for Crossroads

 8   after it contacted 79 other entities for their interest in

 9   Goose Creek, Racoon Creek and Crossroads. Ameren bought

10   both Goose Creek and Racoon Creek but not Crossroads.

11   Further, Staff urges the Commission to

12   question witnesses in this case to fully understand the

13   rationales for the amount of the accumulated deferred

14   income taxes generated by Crossroads that they assert

15   should be used to offset the rate base value for

16   Crossroads.

17   Finally, if you're contemplating allowing

18   any transmission expense for Crossroads, Staff urges you

19   to explore with the witnesses why GMO should be allowed

20   transmission expense for a generating facility located in

21   Mississippi when it could have built one in or relocated

22   Crossroads to its service territory in Missouri.

23   If ultimately you decide to include some

24   amount of transmission expense in GMO's revenue

25   requirement for its MPS rate district, then Staff urges

 1   you to revisit your valuation of Crossroads to further

 2   discount it since the value of Crossroads is lessened by

 3   the amount of associated transmission expense.

 4   Even aside from the inverse relationship

 5   between combustion turbine value and associated

 6   transmission expense, there will be other evidence in the

 7   record of this case to support lower combustion turbine

 8   values for Crossroads. Evidence such as the values of

 9   turbines Aquila sold to entities in Nebraska and Colorado

10   and the $51.6 million Great Plains Energy and Aquila

11   disclosed to investors in their May and August 2007 joint

12   proxy statements filed with the SEC. Staff's witnesses on

13   these issues are Cary Featherstone and Lena Mantle.

14   In response to something Mr. Hatfield said

15   about looking at the transmission of Goose Creek and

16   Racoon Creek back to GMO, that would be the inappropriate

17   transmission expense to be looking at if you're comparing

18   transmission expense and coming -- with regard to the

19   value that UE paid for those combustion turbines. The

20   proper transmission expense would be that that UE would

21   incur.

22   Thank you for your attention to these

23   important issues in this case.

24   JUDGE JORDAN: You asked that we take

25   official notice of items that you specified. Unless

 1 there's an objection, I will go ahead and rule on that.

 2 Not hearing an objection, the Commission will take

 3 official notice of those items.

 4   MR. WILLIAMS: Thank you.

 5   JUDGE JORDAN: Office of the Public

 6 Counsel.

 7   MR. MILLS: Just very, very briefly, Judge.

 8 The Commission got this issue right in the last case, and

 9 Public Counsel urges you to make the same decision in this

10 case. There's no need to revisit it. Thank you.

11   JUDGE JORDAN: Thank you for being true to

12 your word on brevity. Opening statement from the Missouri

13 Industrial Energy Consumers? Mr. Conrad, any opening

14 statement for your client?

15   MR. CONRAD: No, thank you. Waive.

16   JUDGE JORDAN: Mr. Woodsmall?

17   MR. WOODSMALL: Thank you, your Honor. I

18 have an exhibit to mark. I believe we may be up to 412.

19   (MECG EXHIBIT NO. 412 WAS MARKED FOR

20 IDENTIFICATION.)

21   MR. WOODSMALL: Thank you. Good afternoon.

22 I'm here today to discuss GMO's Crossroads unit. By way

23 of background, the Crossroads unit is located in

24 Clarksdale, Mississippi. It is over 525 miles away from

25 GMO, the GMO service area, and was constructed by Aquila's

1   deregulated operation.

2   You may ask yourself, why are we talking

3   about a unit in Mississippi? Why are we talking about a

4   unit that was developed by Aquila Merchant, a deregulated

5   affiliate? The only reason that we are talking about

6   Crossroads is because Great Plains Energy couldn't sell

7   this unit to anyone else. They tried. They tried

8   repeatedly. As Mr. Featherstone has said in testimony,

9   and like he will tell you today, Aquila and Great Plains

10 couldn't find anyone to even bid on this plant.

11   So if you are Great Plains, what do you do

12 with this lemon? You take advantage of your regulated

13 customers and you dump it on them. Instead of building

14 GMO its own plant in Missouri like it needs, Great Plains

15 simply wants to take the plant that no one else wants and

16 dump it on those customers.

17   So why are we talking about this unit in

18 Mississippi? I'm talking about it because I need the

19 Commission to protect the GMO customers. I need the

20 Commission to tell Great Plains that its customers deserve

21 more than a ragged hand-me-down unit from its deregulated

22 operations. I need the Commission to do what it already

23 did in the unanimous Report and Order last spring, tell

24 GMO no.

25   Let me go through the points that I want to

1   discuss today. First I'm going to provide you a

2   background on Crossroads, including where it is located,

3   how far it is from the MPS service area, when it was built

4   and by whom.

5   Second, I'll discuss MPS's historic need

6   for capacity and Aquila's repeated refusal to build a unit

7   for those MPS customers. Third, I'll address specifically

8   what the Commission is being asked to address here today.

9   I'll discuss the relevant case law as well as Missouri

10 statutes and Commission rules.

11   Fourth, because the issues to be addressed

12 in this case are exactly the same as those addressed in

13 the last case, I will discuss the Commission's decision

14 from that case. You will hear me mention the Commission

15 utilized the sale of identical combustion turbines from

16 Aquila Merchant to Union Electric as a surrogate for the

17 fair market value of Crossroads. I will also point out

18 that the Commission recognized all deferred taxes as an

19 offset to rate base in this case. And because Crossroads

20 is not located in the same RTO like the UE purchase was,

21 the Commission disallowed all costs to transmit that

22 energy to Missouri.

23   Fifth, I will start discussing the exact

24 issues in this case. I will begin by talking about the

25 parties' positions on how to value Crossroads. You will

1   hear me mention that Great Plains admitted to a fair

2   market value in an SEC filing made just a year before it

3   transferred Crossroads to the MPS regulated operations.

4   Sixth, I will address accumulated deferred

5   income taxes. Recognizing the due diligence undertaken by

6   Great Plains when it bought Aquila, the Commission

7   previously found that all deferred taxes should be

8   recognized as a reduction in rate base.

9   Seventh, I will address the transmission

10   costs associated with bringing energy from Mississippi to

11   Missouri. I will talk about the logic underlying the

12   Commission's decision to disallow all these costs.

13   So let's get started. First thing I wanted

14   to talk about was some background on Crossroads.

15   Crossroads is a generating facility consisting of four

16   75-megawatt natural gas-fired combustion turbines. Given

17   the efficiencies of this unit, it is operated as a peaking

18   facility. That means that Crossroads is only occasionally

19   called upon to provide energy.

20   Crossroads was constructed in 2002 by

21   Aquila Merchant, a deregulated energy marketer.

22   Crossroads was constructed just as the deregulated energy

23   market was collapsing with the bankruptcy of Enron. It's

24   located in Clarksdale, Mississippi, and is over 500 miles

25   from the Missouri service area.

 1   Relevant to the issue of transmission

 2   expense, Crossroads is located approximately 200 miles

 3   from the nearest Southwest Power Pool point. And here you

 4   can see a map. You can see the GMO service area here,

 5   Crossroads down here. 500 miles to get that energy from

 6   Crossroads' unit to GMO.

 7   Just so you have an understanding, here's a

 8   simple graph of the Aquila corporate structure at the time

 9   that Crossroads was constructed. Aquila had one division

10   consisting of its regulated operations, many states, I

11   believe it was seven, nine states, including regulated gas

12   and electric operations, and another division known as

13   Aquila Merchant, and this was where Crossroads was. This

14   is where all the Aquila deregulated operations were.

15   So let's talk a little more in detail on

16   the operations of the deregulated Aquila Merchant. In the

17   late '90s and at the beginning of this millennium, Aquila

18   was seeking inflated profits that come with operating in

19   the deregulated market. With increased profits, however,

20   come increased risk. While ignoring the needs of its

21   regulated operations, Aquila pumped all of its money into

22   deregulated operations.

23   In late 2001 Enron claimed bankruptcy, and

24   the model for the entire deregulated energy market fell

25   apart. Eventually the collapse of Enron effectively led

 1   to the end of Aquila as well.

 2   Before the market collapsed, however,

 3   Aquila Merchant was investing in combustion turbines to

 4   build around the nation. Specifically, Aquila Merchant

 5   purchased 18 model 7EA combustion turbines. Four of those

 6   eventually were built at Crossroads. Six became Goose

 7   Creek in Piatt County, Illinois, and four became Racoon

 8   Creek in Clay County, Illinois.

 9   I specifically reference these identical

10   facilities because they are the basis of the surrogate

11   sale that formed the Commission's valuation for

12   Crossroads.

13   With the collapse of the deregulated energy

14   market in 2002, Aquila's finances began to fall apart. In

15   an attempt to raise capital, Aquila sold regulated

16   operations in several states, including Michigan and

17   Minnesota. Aquila also sold virtually all of its

18   deregulated operations. All dereg-- all deregulated

19   operations were sold except for Crossroads. No one wanted

20   it.

21   Eventually Aquila was eliminated entirely.

22   In February 2007, the final nail was driven into Aquila's

23   coffin. In the first part of a two-prong transaction,

24   Black Hills Corporation purchased the remaining Aquila

25   operations in Kansas, Colorado, Iowa and Nebraska.

 1   Wanting the Missouri operations, Great Plains purchased

 2   the remainder of Aquila. As part of the deal, it got the

 3   leftovers that no one else wanted. It got the Crossroads

 4   Energy Center.

 5   Aquila repeatedly tried to sell Crossroads.

 6   Despite their willingness to take huge writeoffs like they

 7   did with other sales, Aquila was unable to find even a

 8   single bidder, let alone someone to buy it. They were

 9   unable to even find a bidder.

10   Crossroads was the lingering reminder of

11   terrible Aquila decisions. Now, though, it was Great

12   Plains' problem.

13   The second thing I wanted to discuss was

14   MPS' historical need for capacity and Aquila's repeated

15   refusal to provide it any generation capacity. As

16   Mr. Featherstone testifies, in the late '90s Aquila had a

17   corporate policy, quote, not to build generation assets

18   for its regulated utility operations, unquote. All

19   available capital was going to finance construction by the

20   deregulated operations.

21   For instance, Aquila constructed the Aries

22   unit, now known as Dogwood. While the need for the

23   capacity was at the MPS service area, Aquila refused to

24   build the plant as a regulated facility. Instead, in an

25   effort to make higher profits, Aquila built the Aries

 1   plant as a deregulated facility. It then executed a

 2   purchased power agreement to sell this power to MPS

 3   customers.

 4   The Aries purchased power agreement expired

 5   in May of 2005, but prior to its expiration, Aquila sold

 6   its interest in Aries. So it was no longer available. So

 7   the power from Aries was no longer available. What do you

 8   do? With Aries no longer available, Aquila began to plan

 9   for replacement power.

10   In its IRP for that year,   Aquila

11   recognized that the least cost alternative in order to

12   serve this need was to build five combustion turbines for

13   a total of 525 megawatts. While the plan was clear,

14   Aquila still refused to execute the plan.

15   Remember, by this point in time the

16   deregulated market had collapsed. Aquila was selling many

17   operations and was desperate to preserve capital in an

18   effort to survive. So as had been historically done,

19   Aquila operated on the cheap. Instead of building the

20   five units called for in their IRP, Aquila only built

21   three combustion turbines. MPS still needed capacity.

22   For over ten years MPS needed capacity, and repeatedly

23   Aquila refused to spend a dime on its regulated

24   operations. Instead, all capital went to the golden child

25   deregulated operations.

 1   As Mr. Featherstone points out, the tragedy

 2   of this whole scenario is that Aquila missed the golden

 3   opportunity to cure the MPS need for capacity by

 4   purchasing in this discounted combustion turbine market.

 5   Aquila missed a tremendous opportunity.

 6   At this same period in time, the Commission

 7   began to recognize the magnitude of the Aquila problem.

 8   This is a quote from Chairman Davis' concurring opinion in

 9   the 2007 case. Quote, there are ample grounds for

10   questioning the prudence of Aquila's management past and

11   present. These include management decisions to pursue

12   unregulated business ventures that eventually caused

13   Aquila to hemorrhage money, lose its investment grade

14   status, and some would say neglect its customers for

15   years, unquote.

16   Another quote from that same concurring

17   opinion. Quote, there is no question Aquila's decisions

18   have been detrimental to its ratepayers, unquote.

19   Finally, the third quote. Quote, these issues will

20   continue to haunt Aquila's management for years to come

21   regardless of who's in charge, unquote.

22   So we have two separate quandaries meeting

23   at the same period in time. First we have Great Plains

24   buying Aquila and taking possession of the unit that no

25   one else wanted, Crossroads. Second, we have long-

1   suffering MPS customers who are in dire need of additional

2   capacity. So what happens? Since it couldn't sell

3   Crossroads to anyone else, Great Plains simply dumps that

4   unit in Mississippi on MPS ratepayers.

5   This all seems to make sense, however. MPS

6   gets the capacity they need, and Great Plains gets rid of

7   the lingering thorn in their side. While this seems like

8   a perfect marriage, there are two significant problems. I

9   discuss those here.

10   First, Great Plains refuses to recognize

11   the deflated value of the Crossroads unit. Instead, Great

12   Plains wants the long-suffering MPS ratepayers to pay an

13   inflated value for Crossroads.

14   Second, since Crossroads is located nowhere

15   near Missouri, Great Plains wants ratepayers to pay for

16   the rapidly increasing cost to transmit this energy from

17   Mississippi to Missouri.

18   So now you can see after several minutes

19   and multiple slides why we are here today. I'm here

20   because I need the Commission to once again tell Great

21   Plains that they cannot simply dump this unit on GMO

22   ratepayers at an inflated cost.

23   Also, I need you to tell Great Plains again

24   that if they want to build for these ratepayers -- excuse

25   me. Also you need to tell Great Plains that if they want

1 to refuse to build for these ratepayers and instead use

2 their Mississippi unit that no one else wanted, then Great

3 Plains' shareholders should have to pay the cost to

4 transmit this energy to Missouri.

5   Brings us to the third part of my opening

6 statement, the case law underlying the Commission's

7 decision in this case. Also, I'll recite to statute and

8 Commission rules that will underline the Commission's

9 decision.

10   Here you can see a formulation of the issue

11 in the issues list. That is, quote, what should be the

12 value of Crossroads included in rate base, unquote. As

13 you will soon see, this is exactly the same issue as

14 addressed by the Commission in the last case.

15   But here we have the legal standard. The

16 first time I'm ever gotten to quote a case from 1898

17 before the Commission, but this is a U.S. Supreme Court

18 decision, and the case is Smith vs Ames. The Supreme

19 Court stated that the Commission should utilize, quote,

20 the fair value of the property being used by it for the

21 convenience of the commission -- for the convenience of

22 public.

23   So given this Supreme Court decision, your

24 task is to find the fair value for Crossroads. There is

25 also legal guidance from statute and rule. Section

 1   393.230.1 directs the Commission to ascertain the value of

 2   the property and gives wide latitude as to what the

 3   Commission should consider. Specifically this statute

 4   states that the Commission should consider, quote, every

 5   fact which in its judgment may or does have any bearing on

 6   such value.

 7   Finally, the Commission has its affiliate

 8   transaction rule. In its rules the Commission has adopted

 9   a standard regarding the transfer of goods from an

10   unregulated subsidiary to the regulated utility. That's

11   exactly what we have here. In an effort to protect

12   ratepayers from being adversely impacted by non-regulated

13   activities, the Commission rule says that Crossroads must

14   be valued at the lesser of either fair market value or

15   fully distributed cost.

16   Therefore, the Supreme Court, Missouri

17   statutes and Commission rules all provide the same

18   direction. You need to look for the fair market value of

19   the Crossroads unit being transferred from the affiliated

20   unregulated operations to the regulated GMO ratepayers.

21   We're up to the fourth part of my opening

22   statement. Given the issues here and given the

23   similarity, virtually identical nature to the issues in

24   the last case, I'll be talking about the Commission's

25   order in that case. First I'll talk about the proxy sale

 1   surrogate utilized by the Commission to find fair market

 2   value. I'll also talk about deferred taxes, and finally

 3   talk about the Commission's exclusion of transmission

 4   costs in that case.

 5   First I want you to see that the issues

 6   here are identical. You can -- here are the issues from

 7   the 2010 case. You can compare that to the issue here in

 8   the current case.

 9   If the decision to add Crossroads was

10   prudent, what is the appropriate valuation of Crossroads?

11   In this case, what should be the value of Crossroads

12   included in rate base? It is the same issue.

13   If Crossroads is included in rate base,

14   should the accumulated deferred taxes associated with

15   Crossroads be used as an offset to rate base? In this

16   case, what amount of accumulated deferred taxes associated

17   with Crossroads should offset the value of Crossroads in

18   rate base? Again, the exact same issue.

19   So given the Commission has already decided

20   this issue, why are you being asked to decide it again?

21   Staff didn't raise this issue. None of the ratepayer

22   groups raised this issue. GMO raised this issue, and

23   nothing has changed. It is not simply asking you to

24   clarify what you said in the last case. That's perfectly

25   clear what you said in the last case. It is because GMO

 1   is not happy that the Commission decided to protect

 2   ratepayers instead of giving shareholders more profit.

 3   So what did the Commission decide in the

 4   last case? First the Commission noticed after reviewing

 5   the sale of identical turbines at Goose Creek and Racoon

 6   Creek that, quote, it is incomprehensible, Commission's

 7   word, it is incomprehensible that Great Plains would pay

 8   book value for generating facilities in Mississippi to

 9   serve retail customers in and about Kansas City, unquote.

10   The Commission continued on to point out

11   that, quote, it is a virtual certainty that GPE management

12   was able to negotiate a price for Aquila that considered

13   the distressed nature of Crossroads as a merchant plant

14   which Aquila Merchant was able to sell despite trying for

15   several years. It is equally likely that GPE was in as

16   good a position to negotiate the purchases of Racoon Creek

17   and Goose Creek, both located in Illinois, from Aquila

18   Merchant in 2006, end quote.

19   I'm sorry. I jumped ahead. So there's the

20   Commission quotes. This slide we will understand the

21   exact nature of how the Commission determined what the

22   Commission determined was a fair market value for

23   Crossroads. The Goose Creek and Racoon Creek are exactly,

24   exactly the same combustion turbines as those found at

25   Crossroads. While Crossroads was built in 2002, the Goose

1   Creek and Racoon Creek facilities are a year younger.

2   Racoon Creek and Goose Creek were acquired by Ameren in

3   2006, and Crossroads was acquired by Great Plains in 2007.

4   In all aspects except transmission Goose

5   Creek and Racoon Creek are a close surrogate for fair

6   market value. The only difference is that Crossroads is

7   located 500 miles away from their customers while Racoon

8   Creek and Goose Creek are right next to their customers.

9   Anyway, the Commission noticed the

10 similarity of the sale. The Commission looked at Racoon

11 Creek, total of 340 megawatts, and it sold for

12 $71 million. Goose Creek, 510 megawatts, sold for

13 $104 million in the same transaction. So we have 850,000

14 kilowatts being sold for $175 million.

15   This is the Commission's decision from the

16 last case. That comes down to $205.88 per kilowatt. The

17 Commission simply took that, multiplied it by the number

18 of kilowatts generated or capable at Crossroads, 300,000.

19 300,000 times 205.88 leads to a fair market value of

20 61,764,000.

21   Again, this is based on the sale, a

22 third-party transaction. It's not based on affiliate

23 transaction like Crossroads is today. It is based on the

24 sale of Aquila Merchant to a willing third party to enter

25 into this transaction at this fair market value.

1   The determination of the $61.7 million

2   calculation is not the end of the Commission's search for

3   fair market value, however. In its decision, the

4   Commission held that, quote, the accumulated deferred

5   taxes associated with Crossroads should be applied as an

6   offset to MPS rate base, unquote. GMO immediately took

7   exception with the Commission's decision and asked for

8   clarification and rehearing. In its order addressing

9   clarification, the Commission continued to find that all

10 accumulated deferred taxes should be recognized, and the

11 Commission noted these deferred taxes were part of the,

12 quote, relevant factors, unquote, presented in this case

13 and undoubtedly would have been considered by Great Plains

14 in its due diligence.

15   Still, GMO is not asking -- is not happy

16 with the Commission's decision. The Commission has

17 considered this once and put out its Report and Order. It

18 considered it a second time at GMO's request and put out

19 its Order on Reconsideration. This is the third time the

20 Commission is being asked to decide this exact same issue.

21   After addressing rate base value and

22 accumulated deferred taxes, the last part of the

23 Commission's search for fair market value in the last case

24 turned to the cost of transmitting energy from Crossroads

25 in Mississippi to the Missouri ratepayers. Given that

 1   Crossroads is not located in the same RTO as the service

 2   area, there are significant transmission costs associated

 3   with bringing this energy to ratepayers. In fact, with

 4   Entergy's request to join MISO, these transmission costs

 5   may double overnight.

 6   Here you can see another map, the map that

 7   involves transmitting power from Crossroads to GMO. Down

 8   here in the blue is Entergy. Right in the middle of that,

 9   that star is Crossroads. It is a donut. It is the donut

10   hole surrounded by Entergy. So, how do you get Entergy

11   from Crossroads up to GMO? You have to pay to get across

12   Entergy's transmission network.

13   After giving a great deal of thought to

14   these transmission costs in the last case, the Commission

15   made several consistent findings. First the Commission

16   said, paying the additional transmission costs required to

17   bring energy all the way from Crossroads is not just and

18   reasonable, unquote.

19   Second, the Commission said, quote, in

20   addition to the valuation, the Commission concludes that

21   but for the location of Crossroads, customers would not

22   have to pay the excessive cost of transition, unquote.

23   This is the exact same issue in the last case. Recall,

24   the Commission decided this in a unanimous Report and

25   Order in the last case.

 1   So we're on to the fifth part of my opening

 2   statement, the different approaches to valuations

 3   presented in this case. Just as it did in the last case,

 4   just as it did in the last case, GMO is asking that

 5   Crossroads be valued at net book value. This has already

 6   been expressly rejected by the Commission. GMO's position

 7   is faulty because it fails to recognize that Crossroads is

 8   in a different RTO.

 9   It also fails to recognize that the market

10   for combustion turbines is and was depressed. It also

11   fails to recognize that Crossroads and Great Plains could

12   not find any other parties to even bid on Crossroads.

13   Finally, GMO's position is contrary to the Commission's

14   affiliate transaction rule requirement to look for fair

15   market value.

16   In contrast, Staff presented a valuation

17   that is completely consistent with the Commission's order

18   in the last case. It used the Goose Creek/Racoon Creek

19   surrogate sale used by the Commission in the last case.

20   While MECG believes that there is some

21   merit in the Commission's methodology from the last case,

22   if the Commission is going to reconsider anything, we

23   believe it should actually lower the value of Crossroads.

24   Between May and August 2007, Great Plains and Aquila made

25   several filings with the SEC. In those filings, Great

 1 Plains repeatedly noted that the, quote, fair market value

 2 of Crossroads is approximately 51.6 million. SEC filing

 3 sworn to by the company in which they say, quote, fair

 4 market value, unquote, is 51.6 million.

 5   That exactly matches up with your inquiry

 6 here today. Under statute, Supreme Court order and

 7 Commission rule, you're supposed to find fair mark value.

 8 Here we have an admission by the company that the fair

 9 market value a mere year before it was moved to regulated

10 operations was 51.6 million.

11   As Great Plains admitted then, this market

12 is -- this value is based upon the sale of units to an

13 unrelated party of similar capacity in the current

14 marketplace. As Great Plains admits, the fair market

15 value of Crossroads is only 51.6 million. So if the

16 Commission is going to reconsider anything, it should

17 reconsider lowering its value from the surrogate sale to

18 the amount admitted by Great Plains.

19   This brings me to the sixth part, deferred

20 taxes. As the Commission may -- as the Commission's

21 May 27th, 2011 order addressing GMO's rehearing points

22 out, Aquila Merchant was not a profitable entity.

23 Recognizing that you can only take deduction to the extent

24 you have earnings, Aquila Merchant would never have been

25 able to take the accelerated depreciation deduction.

 1   It didn't have any earnings. It couldn't

 2   take the deduction. Only, only because Aquila Merchant

 3   was affiliated with profitable regulated utilities were

 4   they even allowed to claim this deduction.

 5   Also as the Commission points out, Great

 6   Plains would have undoubtedly been aware of this deferred

 7   tax balance and included it in the valuation, just as the

 8   Commission found it be one of the, quote, relevant

 9   factors, unquote, in its valuation.

10   Brings me to the last part, transmission

11   costs. As I mentioned previously, GMO incurs significant

12   transmission expenses because its Crossroads unit is not

13   located in SPP. If it were, it could transmit this power

14   here for free. Doesn't have to be in GMO's service area.

15   Just has to get into SPP. Put it in Arkansas. Put it in

16   Oklahoma. It's in Mississippi, so it incurs significant

17   cost.

18   Here's the SPP marketplace. You can see --

19   and GMO is right up here. Here is Crossroads. If

20   Crossroads was located anywhere in here, they could

21   transmit that power to GMO free of charge. But it's

22   located in the donut that is Entergy, and so goes Entergy,

23   so goes Crossroads. No matter where Entergy goes, no

24   matter what it does with transmission, you have to pay it

25   in order to get that power over into SPP.

 1   Mr. Hatfield wanted to leave you with an

 2   analogy regarding the Crossroads unit. I believe I can

 3   provide a more apt analogy. I have a friend that lives in

 4   New York City. He had to decide between two different

 5   houses. The first was located in the city, and he could

 6   get to work by using the subway. There was another house

 7   that was identical in all aspects to the first, but

 8   because it was outside the city, he would have to drive

 9   several hours just to get to the nearest subway station.

10   Here we have the same thing. If Crossroads

11   was located in SPP, that energy could take the free subway

12   to get to where it works. Instead, GMO wants Crossroads

13   in Mississippi where it has to drive several hundred miles

14   before it can even reach that free subway.

15   Bottom line, if it is cheaper to operate

16   plants in Mississippi, how come everybody isn't doing it?

17   How come KCPL and GMO are building their units in

18   Missouri? The idea that it's cheaper is a red herring.

19   Here you can see why the Commission

20   rejected the recovery of any transmission costs associated

21   with Crossroads. While they use the same fair market

22   value of $205.88 per kilowatt, the sale of Racoon Creek

23   and Goose Creek do not represent an exact match for

24   valuation purposes. Racoon Creek and Goose Creek are both

25   located in MISO and their service area is in MISO, so

 1   there's no transmission cost associated with getting that

 2   energy to the customers. On the other hand, Crossroads is

 3   located in Entergy, and the customers are in SPP.

 4   So that's where the comparison done by the

 5   Commission in the last case starts to fall apart, but in

 6   order to make this an apples to apples comparison, the

 7   Commission did the right thing. We will treat it just

 8   like Ameren. We will treat it as if Crossroads was in the

 9   same service area, and if you're in the same RTO, you have

10   no transmission costs. Therefore, we're not going to

11   allow you to recover any of these transmission costs. If

12   GMO wants Crossroads in Mississippi, they have to pay the

13   cost of getting that energy to SPP.

14   The need to eliminate these transmission

15   costs are only likely to grow. As mentioned previously,

16   Entergy has asked to join MISO. While Entergy currently

17   only charges $1.55 per kilowatt month, GMO will

18   undoubtedly be asked to pay the MISO rate of $3.10 per

19   kilowatt month once Entergy joins MISO. Overnight when

20   Entergy joins MISO, transmission expenses will double.

21   Ultimately you will probably reach the same

22   conclusion that many of us have already reached.

23   Crossroads needs to be packed up and moved. The cost of

24   getting this energy here to Missouri is cost prohibitive.

25   As long as you allow GMO to receive any of these

 1 transmission costs, they will never do the right thing.

 2 Make GMO pay the cost of this transmission.

 3   So my conclusion. Using the Supreme Court

 4 directive, MECG believes that the fair market value is the

 5 51.6 million admitted by Great Plains and Aquila in its

 6 SEC filings from the same time that Crossroads was

 7 acquired. As the Commission has also found, that fair

 8 market value should reflect all deferred taxes and the

 9 elimination of all transmission costs.

10   Thank you for quite a bit of your time. I

11 appreciate it.

12   JUDGE JORDAN: Opening statement from

13 Missouri Energy Users Association, Mr. Bartels?

14   MR. BARTELS: None, your Honor. Thanks.

15   JUDGE JORDAN: From AARP and the Consumers

16 Council of Missouri?

17   MR. COFFMAN: No statement. We support the

18 Staff.

19   JUDGE JORDAN: Dogwood Energy?

20   MR. LUMLEY: Good afternoon. Carl Lumley

21 for Dogwood Energy.

22   Dogwood supports the position articualted

23 by Staff in its testimony, and that's been elaborated on

24 pretty well here this afternoon. The only thing I'd add

25 is that on this issue of the FERC tariff and the legal

 1   argument, in its prior decision the Commission did not say

 2   we're going to adjust FERC tariffs, we're going to change

 3   rates. What the Commission said was, the plant shouldn't

 4   be in Mississippi, there shouldn't be any transmission

 5   costs and that's the end of it. So there is no trapped

 6   rate violation. There's no violation of FERC tariffs.

 7   JUDGE JORDAN: Thank you. Does Southern

 8   Union Company, doing Missouri Gas Energy have any opening

 9   statement?

10   MR. JACOBS: Judge, we have not taken a

11   position in the case, so we would have no opening.

12   JUDGE JORDAN: Will you also be waiving

13   cross?

14   MR. JACOBS: Yes, we will.

15   JUDGE JORDAN: Thank you. Then we're ready

16   for our first witness.

17   MR. HATFIELD: Thank you, Judge. Our first

18   witness will be Melissa Hardesty.

19   JUDGE JORDAN: While Ms. Hardesty is

20   getting set up, I'll note that on my order of cross I have

21   Mr. Crawford first. Will we be having --

22   MR. HATFIELD: Mr. Crawford will be

23   testifying, yes. Do you want me to go through the order

24   of witnesses?

25   JUDGE JORDAN: Well, that's just the

 1 sequence of witnesses that I was presented. If nobody has

 2 a problem with it, it's fine.

 3   MR. HATFIELD: Fair enough. I don't hear a

 4 problem, Judge.

 5   JUDGE JORDAN: Neither do I, so I will

 6 swear in this witness.

 7   (Witness sworn.)

 8 MELISSA HARDESTY testified as follows:

 9 DIRECT EXAMINATION BY MR. HATFIELD:

10   Q.   Good afternoon. Would you state your name

11 again for the record.

12   A.   My name is Melissa K. Hardesty.

13   Q.   Ms. Hardesty, by whom are you employed?

14   A.   I am employed by Kansas City Power & Light

15 as senior director of taxes.

16   Q.   That was my next question. Are you same

17 Melissa Hardesty who filed direct, rebuttal and

18 surrebuttal in the Kansas City Power & Light case?

19   A.   I am.

20   Q.   And are you the same Melissa Hardesty who

21 filed rebuttal and surrebuttal in the -- I got them

22 backwards, didn't I?

23   A.   I think I filed all parts.

24   Q.   In the GMO case?

25   A.   Yes, I did.

1   Q.   All right. Do you have that testimony with

2   you today?

3   A.   I do.

4   Q.   Do you have any additions or corrections to

5   that testimony?

6   A.   I do not.

7   MR. HATFIELD: Judge, we would offer the

8   admission of KCPL 22, 23 -- 23 has HC and NP versions --

9   24HC and NP and Exhibits 117 through 119, Mr. Woodsmall

10   tells me.

11   JUDGE JORDAN: I'm not hearing any

12   objections, so I will admit those documents into the

13   record.

14   (KCPL EXHIBIT NOS. 22, 23 AND 24 AND GMO

15   EXHIBIT NOS. 117, 118 AND 119 WERE MARKED FOR

16   IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

17   MR. HATFIELD: Tender the witness for

18   cross.

19   JUDGE JORDAN: Cross-examination from

20   Dogwood, LLC?

21   MR. LUMLEY: No questions.

22   JUDGE JORDAN: From Consumer Council or

23   AARP?

24   MR. COFFMAN: No questions.

25   JUDGE JORDAN: Mr. Woodsmall, any

 1 cross-examination?

 2   MR. WOODSMALL: No questions. Thank you.

 3   JUDGE JORDAN: Mr. Conrad?

 4   MR. CONRAD: No questions.

 5   JUDGE JORDAN: Mr. Bartels?

 6   MR. BARTELS: No questions, your Honor.

 7   JUDGE JORDAN: Questions from the Bench.

 8 I'm not seeing Commissioner Kenney. Commissioner Jarrett?

 9   COMMISSIONER JARRETT: No questions, Judge.

10   THE COURT: I have no questions for you, so

11 that concludes your examination.

12   THE WITNESS: Thank you.

13   MR. WILLIAMS: Judge, just for the record,

14 Staff had no questions either.

15   MR. MILLS: Nor do I.

16   JUDGE JORDAN: So noted. Next witness.

17   MR. HATFIELD: Thank you, Judge. The next

18 witness is Darren Ives. I'm probably still out of order,

19 by the way.

20   JUDGE JORDAN: Mr. Ives, I recall you've

21 been sworn already, so I will not swear you in again.

22   MR. HATFIELD: Yes, Judge, that's correct.

23 Just for the record, really for those assembled, the main

24 exhibit associated with this issue would be GMO 125, which

25 is Mr. Ives' surrebuttal, which has already been admitted

 1   into evidence. I tender the witness for cross.

 2   JUDGE JORDAN: Any cross-examination from

 3   Dogwood Energy, LLC?

 4   MR. LUMLEY: No, Judge.

 5   JUDGE JORDAN: Mr. Conrad, any

 6   cross-examination?

 7   MR. CONRAD: No, no questions.

 8   JUDGE JORDAN: Mr. Woodsmall?

 9   MR. WOODSMALL: No questions.

10   JUDGE JORDAN: Mr. Coffman, any

11   cross-examination?

12   MR. COFFMAN: No questions. Thank you.

13   JUDGE JORDAN: Mr. Bartels?

14   MR. BARTELS: No questions, your Honor.

15   JUDGE JORDAN: Office of the Public

16   Counsel?

17   MR. MILLS: No questions. Thank you.

18   JUDGE JORDAN: Staff?

19   MR. WILLIAMS: No questions.

20   JUDGE JORDAN: I think that's everyone.

21   Questions from the Bench?

22   COMMISSIONER JARRETT: No questions.

23   JUDGE JORDAN: I have no questions for you.

24   Thank you. You may stand down. Next witness.

25   MR. HATFIELD: The company's next witness

 1   will be Tim Rush. Judge, I believe Mr. Rush has already

 2   been sworn and testimony has already been admitted. I

 3   would tender the witness for cross, if it please your

 4   Honor.

 5   JUDGE JORDAN: That's my recollection as

 6   well, and so I'll call for cross-examination. Dogwood

 7   Energy, LLC?

 8   MR. LUMLEY: No, sir.

 9   JUDGE JORDAN: AARP or Consumers Council?

10   MR. COFFMAN: No questions.

11   JUDGE JORDAN: Mr. Woodsmall?

12   MR. WOODSMALL: No questions.

13   JUDGE JORDAN: Mr. Conrad?

14   MR. CONRAD: No questions.

15   JUDGE JORDAN: Mr. Bartels?

16   MR. BARTELS: No questions.

17   JUDGE JORDAN: Office of the Public

18   Counsel?

19   MR. MILLS: No questions.

20   JUDGE JORDAN: Staff?

21   MR. WILLIAMS: No questions.

22   JUDGE JORDAN: Then this examination is

23   also concluded. Did I do questions from the Bench? Did I

24   call for questions from the Bench?

25   COMMISSIONER JARRETT: You didn't call, but

 1 no questions.

 2   JUDGE JORDAN: Are there any questions from

 3 the Bench? Next witness.

 4   MR. HATFIELD: And now Mr. Crawford, your

 5 Honor, Burton Crawford. Your Honor, similar to the prior

 6 witnesses, Mr. Crawford has already been sworn. His

 7 testimony has already been admitted. So if it please your

 8 Honor, I tender him for cross.

 9   JUDGE JORDAN: Mr. Lumley, any cross for

10 this witness?

11   MR. LUMLEY: Somebody always has to spoil

12 things, don't I? You're on such a roll.

13   JUDGE JORDAN: It's what we're here for.

14 It's what we do.

15 BURTON CRAWFORD testified as follows:

16 CROSS-EXAMINATION BY MR. LUMLEY:

17   Q.   **Good afternoon.**

18   A.   Good afternoon.

19   Q.   **You manage the KCPL and the GMO energy**

20 **resource management department, correct?**

21   A.   That's correct.

22   Q.   **The Crossroads generation plant is owned by**

23 **an agency of the city of Clarksdale, Mississippi called**

24 **the Clarksdale Public Utilities Commission; is that right?**

25   A.   I believe so.

1   Q.   And that commission actually runs that

2   city's own electric system?

3   A.   They do.

4   Q.   And it operates the Crossroads plant

5   itself?

6   A.   Yes.

7   Q.   Do you know, does it have other generation

8   plants of its own at the site or other sites?

9   A.   I don't believe they have any at that site.

10   I don't know about any other site.

11   Q.   Okay. The Crossroads plant was built with

12   municipal economic development financing?

13   A.   That's my understanding.

14   Q.   Tax exempt bonds? Can you say yes or no?

15   A.   Yes.

16   Q.   And GMO actually has an option to buy the

17   plant, but it hasn't done so because of adverse tax

18   impacts?

19   A.   That's correct.

20   Q.   Is GMO the holder of the bonds that were

21   issued to finance the plant?

22   A.   That I do not know.

23   Q.   Are you aware of any issues relative to

24   whoever the bondholder is being paid back on their

25   investment?

1   A.   I'm not aware.

2   Q.   **GMO's relationship with the Clarksdale**

3   **Public Utilities Commission is established by a 2001**

4   **generation, operation and maintenance agreement and a**

5   **related power sales contract; is that right?**

6   A.   That's correct.

7   Q.   **And those are running for approximately a**

8   **20-year term?**

9   A.   I believe that's correct. I think there's

10   some provisions for some extensions.

11   Q.   **At least as a base term?**

12   A.   It may be 30 years.

13   Q.   **So you'd agree it's at least 20 years?**

14   A.   It's a significant length of time, yes.

15   Q.   **And it's not a leased arrangement, correct?**

16   **GMO doesn't lease and take physical occupation of the**

17   **grounds?**

18   A.   We do not take physical occupation of the

19   grounds.

20   Q.   **Instead, it's entitled to the output of the**

21   **plant, correct?**

22   A.   Correct.

23   Q.   **Historically the plant's only used in the**

24   **summer season; is that right?**

25   A.   For the most part, yes.

1   Q.   And it serves as a peaking capacity plant?

2   A.   Yes.

3   Q.   In your rebuttal at page 5, you say in 2012

4   it ran for 45 days. Do you recall that?

5   A.   I do.

6   Q.   In the summer of 2012. But it wasn't

7   running 24 hours a day, correct?

8   A.   Correct.

9   Q.   You also say in your testimony that an

10   all-time record was set in July for usage at about 54,000

11   megawatt hours. Do you recall that?

12   A.   I don't recall the exact number. Do you

13   want to point me again to where you're at in my testimony?

14   Q.   Actually, I think in your testimony you

15   just say it was a record in July. You don't recall the

16   number?

17   A.   I do not.

18   Q.   If I showed you a generation report from

19   EIA, could that refresh your recollection perhaps?

20   A.   I couldn't tell you what the number was.

21   MR. LUMLEY: May I approach?

22   JUDGE JORDAN: You may.

23   BY MR. LUMLEY:

24   Q.   We'll just give it a shot. Do those

25   numbers look familiar for the summer 2012?

1   A.   Again, I don't know what the exact numbers

2   were. Just my understanding that it was record generation

3   for the month of July.

4   Q.   Okay. So you don't -- as you sit here

5   today, you have no idea what that record was?

6   A.   I do not.

7   Q.   Is the plant used for off-system sales?

8   A.   There's no prohibition against it, but I

9   would doubt that off-system sales would be made from the

10   facility given that it's a peaking facility.

11   Q.   Why would that be?

12   A.   Generally when you're running that plant,

13   you're using it during times of peak load when you're

14   either needing it for retail load or the price of power at

15   those times is likely near the cost of generation. So

16   there may not be room above its operating cost to make

17   off-system sales.

18   Q.   Is another way of saying that is that it's

19   probably inefficient as compared to others in the

20   marketplace and that makes it less likely to be available

21   for off-system sales?

22   A.   Relative to other types of generation, yes.

23   Q.   By inefficient, I'm talking things like the

24   heat rate of the plant?

25   A.   Yes, as compared to a combined cycle unit.

1   Q. The city can't use it itself for its own

2 needs, correct, or at least it doesn't?

3   A. Not that I'm aware of.

4   Q. GMO pays the cost of generation and

5 maintenance each year on basically a pass-as-you-go

6 arrangement; is that right?

7   A. I'm not familiar with the specific details,

8 but we pay for the maintenance of the facility.

9   Q. Pursuant to its agreement, GMO has the

10 right to review and approve the annual operating plan for

11 the plant?

12   A. I believe that's correct.

13   Q. And the annual budget for the plant?

14   A. I believe that's correct.

15   Q. And GMO has the right to audit records and

16 inspect the plant to see how things are going?

17   A. Yes.

18   Q. Do you recall that the agreement calls for

19 payment to CPU of an availability incentive bonus fee for

20 increasing the availability of the plant?

21   A. I'm not familiar with those details.

22   Q. Do you recall Mr. Ralston's testimony in

23 the prior case?

24   A. I recall he testified.

25   Q. You don't remember the aspects about the

 1   incentive bonus fee?

 2   A.   I do not recall.

 3   Q.   Do you recall that there could be payments

 4   by CPU of liquidated damages if it doesn't run the plant

 5   correctly?

 6   A.   I do not recall.

 7   Q.   Do you recall that CPU has agreed to

 8   indemnify GMO from third-party claims, such as if somebody

 9   was killed at the plant?

10   A.   I do not recall.

11   Q.   Do you recall whether CPU agrees to pay for

12   any environmental law violations?

13   A.   I do not recall.

14   Q.   In your surrebuttal testimony at page 2,

15   you testify that GMO counts the plant to meet SPP capacity

16   requirements. Do you recall that?

17   A.   Yes.

18   Q.   And specifically you count on it to meet

19   peak capacity requirements, is that right, under SPP

20   standards?

21   A.   There's no distinction on capacity

22   requirements between peak and any other type of capacity

23   product.

24   Q.   You don't recall that the SPP policy

25   actually does allow for treatment of some capacity as peak

 1   only for a four-month basis?

 2   A.   That is the requirement of SPP is that you

 3   have to have capacity, sufficient capacity to meet your

 4   capacity obligation for the four summer months.

 5   Q.   Right. The policy doesn't require you to

 6   year round have capacity to meet your peak needs, correct?

 7   A.   That's correct.

 8   Q.   And because Crossroads is a peaker plant,

 9   GMO's using it to meet its peak capacity needs?

10   A.   Primarily, but there are other times the

11   facility may need to run. There's no limit that it only

12   be during the summer.

13   Q.   I'm talking about to meet SPP standards,

14   you're counting that capacity towards your peak capacity

15   needs?

16   A.   To meeting our capacity needs, yes.

17   Q.   So do you believe you count on it on a

18   year-round basis for SPP policy purposes?

19   A.   Only to meet the requirements during the

20   four summer months.

21   Q.   Okay. I think we're saying the same thing.

22   The transmission from Clarksdale, Mississippi to the GMO

23   service area, that's accomplished through a combination of

24   Entergy and SPP managed facilities, correct?

25   A.   That's correct.

1   Q.   In your surrebuttal testimony at page 4,

2   you testify that in 2007 GMO decided to add the plant as a

3   generation resource instead of scrapping it, but -- is

4   that correct?

5   A.   The company decided to add it to its

6   resource portfolio.

7   Q.   And it actually previously had considered

8   scrapping it, correct?

9   A.   That was the basis for the value

10   determination.

11   Q.   But in 2007 when that decision was made,

12   nothing was changed in terms of the contractual

13   relationship with CPU, right?

14   A.   At some point in there there were some

15   changes to the contractual relationship. I don't know at

16   what point that was reached. I think that the buyout

17   provision was negotiated at some point in there.

18   Q.   In connection with the 2007 decision?

19   A.   I don't know if that was specific to the

20   2007 decision or not.

21   Q.   Okay. Surrebuttal page 7, you testify that

22   the 2010 analysis the company undertook is irrelevant to

23   the decision to add the plant as a generating resource,

24   correct?

25   A.   To the decision in 2007, that's correct.

1   Q.   Surrebuttal page 3, you testify that

2 Crossroads was the lowest cost option in 2007. Do you

3 recall that?

4   A.   I don't know if it's specifically on

5 page 3, but yes, I do mention that it was the lowest cost

6 option.

7   Q.   Do you recall in the last rate case that

8 Dogwood challenged that assertion?

9   A.   Yes.

10   Q.   Do you recall that in your 2010 analysis,

11 11 out of the 42 scenarios Dogwood was the lowest cost

12 alternative?

13   A.   I don't remember the specific numbers of

14 scenarios.

15   Q.   If I showed you your testimony, would that

16 refresh your recollection? This is a transcript from

17 proceedings February 15th, 2007.

18   MR. LUMLEY: May I approach, Judge?

19   JUDGE JORDAN: You may.

20   MR. HATFIELD: I was just waiting for the

21 witness to answer the question of whether showing it to

22 him would refresh his recollection.

23   JUDGE JORDAN: I am waiting for that

24 answer, too.

25   THE WITNESS: Yes. What was your question?

 1 BY MR. LUMLEY:

 2   Q.   **That in 11 out 42 scenarios that you had**

 3 **studied, Dogwood was the lowest cost alternative?**

 4   A.   I don't -- I don't have the study in front

 5 of me, but if that's what I testified to last time, I

 6 don't have any reason to doubt it.

 7   Q.   **But after all the evidence in the prior**

 8 **case, the Commission held that your company could include**

 9 **the plant at a specific value without transmission costs,**

10 **correct?**

11   A.   Correct.

12   Q.   **Do you understand that the Staff is not**

13 **asserting in this case that GMO should have generation**

14 **plants in Illinois?**

15   A.   I understand that, yes.

16   MR. LUMLEY: That's all my questions.

17   JUDGE JORDAN: Cross-examination from AARP

18 or the Consumers Council of Missouri?

19   MR. COFFMAN: No, your Honor.

20   JUDGE JORDAN: We're trying to reconnect

21 Commissioner Kenney.

22   Mr. Woodsmall, any cross-examination?

23   MR. WOODSMALL: Yes, very briefly.

24 CROSS-EXAMINATION BY MR. WOODSMALL:

25   Q.   **Mr. Crawford, are you familiar with KCPL**

 1   or -- excuse me.

 2   COMMISSIONER KENNEY: I'm here. Thanks.

 3   BY MR. WOODSMALL:

 4   Q.   Are you familiar with GMO's generation

 5   portfolio?

 6   A.   To a certain degree.

 7   Q.   Okay. Other than Crossroads, does GMO have

 8   any other CTs that it used to generate capacity or energy

 9   for its customers?

10   A.   Yes.

11   Q.   Can you tell me where those CTs are

12   located?

13   A.   There are CTs at Nevada and Ralph Green and

14   Lake Road.

15   Q.   Those are all located in Missouri?

16   A.   Yes.

17   Q.   Are you familiar with KCP&L's generation

18   portfolio?

19   A.   Yes.

20   Q.   Does KCP&L have any gas-fired generation?

21   A.   Yes.

22   Q.   Where are those located?

23   A.   There are some at Hawthorn, West Gardner,

24   Osawatomie.

25   Q.   Are all those located within KCP&L's

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 1   **service area?**

 2   A.   They are.

 3   MR. WOODSMALL: No further questions.

 4   Thank you.

 5   JUDGE JORDAN: Mr. Conrad, any

 6   cross-examination?

 7   MR. CONRAD: We do not, sir. Thank you.

 8   JUDGE JORDAN: Mr. Bartels?

 9   MR. BARTELS: No, thank you, your Honor.

10   JUDGE JORDAN: Office of the Public

11   Counsel?

12   MR. MILLS: No questions.

13   JUDGE JORDAN: Staff?

14   MR. WILLIAMS: Yes, Judge. I'd like to

15   start first by getting some exhibits marked.

16   (STAFF EXHIBIT NOS. 393HC, 394HC AND 395HC

17   WERE MARKED FOR IDENTIFICATION.)

18   JUDGE JORDAN: And this will be 396?

19   MR. WILLIAMS: 394 I understand. I was

20   told we were going in reverse order. Judge, 394 is a

21   highly confidential -- I'm sorry. 395 is a highly

22   confidential data request response that was provided by

23   GMO in Case No. ER-2009-0090, provided to Staff in

24   response to Data Request No. 0180 for identifying it.

25   JUDGE JORDAN: Can you use the microphone

1   so that everyone can hear?

2   MR. WILLIAMS: Sure. Judge, what's been

3   marked for identification as, it would be Staff Exhibit

4   395 is a data request response in Case No. ER-2009-0090,

5   provided by GMO to Staff Data Request No. 0180. Staff

6   offers Exhibit 395 at this time. I don't know if the

7   company's had an opportunity to review it adequately yet

8   or not.

9   MR. HATFIELD: I don't know if we have any

10 foundation for it at this point. I object. There's no

11 foundation for admission of this document.

12   MR. WILLIAMS: It's a company response to a

13 data request issued by Staff, so it's an admission.

14   MR. HATFIELD: Right, and somebody needs to

15 testify to that. I mean, I bet he will, but somebody

16 needs to testify to that. That's my objection, your

17 Honor.

18   MR. WOODSMALL: To respond, I don't know if

19 that's correct. I think as a data request it's self-

20 authenticating.

21   MR. FISCHER: Judge, it's not a data

22 request even in this case.

23   MR. WOODSMALL: Are you telling me that the

24 company may have lied in a previous case? I mean, it's a

25 data request that the company responded to. They're under

1 an obligation to respond truthfully.

2   MR. FISCHER: Judge, I think they can lay a

3 foundation if they try, but it just doesn't come in

4 because it's a data request in one of the many cases that

5 have happened in the past for this company.

6   MR. WOODSMALL: I believe with any document

7 you have two things to show. You have to show that it's

8 relevant. You have to show that it's authentic. This

9 data request response is self-authenticating. I'll pull

10 up a --

11   JUDGE JORDAN: Are you pulling up a

12 reference for me, a citation?

13   MR. WOODSMALL: Yes. I will find it.

14   MR. WILLIAMS: Judge, if I might inquire of

15 Mr. Crawford, because the document indicates he is the one

16 who provided the response.

17   JUDGE JORDAN: Please do.

18   MR. WILLIAMS: If I might inquire of

19 Mr. Crawford.

20   JUDGE JORDAN: Yes.

21   THE WITNESS: I'm sorry. Which particular

22 one are you pointing to?

23 CROSS-EXAMINATION BY MR. WILLIAMS:

24   **Q.   It would be what's been marked for**

25 **identification as Exhibit 395. It's the data request**

 1 **response by GMO to Staff Data Request 0180 in Case**

 2 **No. ER-2009-0090.**

 3   A.   And the question to me is what?

 4   Q.   **Are you familiar with the documents that**

 5 **were provided by GMO in response to that data request that**

 6 **are provided in Exhibit 395?**

 7   A.   I am not familiar with these documents.

 8   Q.   **You've never seen them before?**

 9   A.   I don't recall seeing this document. From

10 2001, right?

11   Q.   **The data request response would have been**

12 **in 2008. The document itself would date back to, one of**

13 **them is November of 2001.**

14   A.   Yes. I'm not familiar with that document.

15   Q.   **So you don't recall ever seeing these**

16 **documents before, any of the documents included in that**

17 **data request response?**

18   A.   I don't recall seeing these documents.

19   Q.   **Would you turn to the second page on that**

20 **exhibit, and who's it indicates provided the information?**

21   A.   I'm sorry. I'm not seeing where it says.

22   Q.   **Page 1 of 2.**

23   A.   It's got my name on it.

24   Q.   **Would GMO provide information in response**

25 **to Staff data request, if someone said that they provided**

1   it, would that person have provided it typically?

2   A.   You would hope so.

3   Q.   But you don't recall providing it?

4   A.   I do not recall seeing this November 1st,

5   2001 document or the Project Spark July 2005 document.

6   Q.   You don't recall seeing them ever before?

7   A.   I do not.

8   Q.   If this data request was filed in the

9   Commission's electronic filing and information system,

10   would it have originated from the company who provide --

11   who's indicated as having provided the response?

12   A.   Do you want to ask me that question again?

13   Q.   All right. If the Commission's electronic

14   filing and information system reflected that GMO had

15   provided the response to Data Request 0180, this response,

16   if it's in the electronic system, would the company have

17   provided that response?

18   A.   I'm not familiar with that system in terms

19   of who can get in and provide documents. I would presume

20   it would be provided by the company, but --

21   Q.   Well, how does the company normally provide

22   responses to Staff data requests in rate cases?

23   A.   I provide them to the regulatory department

24   and they handle it.

25   Q.   So you're not part of that actual process

1   **where the response is provided other than handing off some**

2   **information to someone else within the company?**

3   A.   Correct.

4   MR. WILLIAMS: Judge, I've already offered

5   the exhibit.

6   JUDGE JORDAN: Right. You're done with

7   your inquiry?

8   MR. WILLIAMS: I believe so.

9   JUDGE JORDAN: Let's get back to

10   Mr. Woodsmall.

11   MR. WOODSMALL: No.

12   JUDGE JORDAN: I'm going to overrule the

13   objection and admit the document into evidence.

14   (STAFF EXHIBIT NO. 395HC WAS RECEIVED INTO

15   EVIDENCE.)

16   MR. WILLIAMS: Judge, a second exhibit I'd

17   like to offer is Exhibit 394, which is a response by GMO

18   to Staff Data Request 52 in this case, ER-2012-0175.

19   MR. HATFIELD: I'm sorry. Did you say you

20   offered it?

21   MR. WILLIAMS: Yes.

22   MR. HATFIELD: We object to foundation.

23   Judge, just for the record, there's no testimony the

24   document even is what Mr. Williams says it is.

25   JUDGE JORDAN: I understand.

 1   MR. WILLIAMS: This particular document

 2   includes a verification. If necessary, we can call

 3   Mr. Rush up to the stand. He's the one that provided the

 4   verification.

 5   JUDGE JORDAN: Can you point me to the

 6   verification.

 7   MR. WILLIAMS: Should be the last page.

 8   JUDGE JORDAN: I'm going to overrule that

 9   objection also.

10   (STAFF EXHIBIT NO. 394HC WAS RECEIVED INTO

11   EVIDENCE.)

12   MR. WILLIAMS: And then for Exhibit 393,

13   which is GMO's response to Staff Data Request 147.

14   Similar to the last exhibit, it includes a verification by

15   Mr. Tim Rush. Staff offers that exhibit at this time.

16   MR. HATFIELD: Same objection, your Honor.

17   JUDGE JORDAN: I overrule the objection. I

18   will admit all those documents into the record. They

19   appear to me to have been made in the regular course of

20   business.

21   (STAFF EXHIBIT NO. 393HC WAS RECEIVED INTO

22   EVIDENCE.)

23   MR. WILLIAMS: Judge, I would note that

24   both Exhibits 393 and 395 are highly confidential.

25   JUDGE JORDAN: Did you say 393 has highly

 1 confidential in it?

 2   MR. WILLIAMS: It's indicated on the bottom

 3 of the first page the security is highly confidential, so

 4 yes.

 5   JUDGE JORDAN: Yes, I see that it states

 6 that it's highly confidential. Mine does not have the big

 7 HC on the corner, however.

 8   MR. WILLIAMS: Judge, actually I believe

 9 all of them probably have highly confidential information.

10 If the company deems otherwise, they can so indicate, but

11 I see indications on all three that there is some highly

12 confidential information.

13   JUDGE JORDAN: Okay. The cover of 394 does

14 say security public.

15   MR. WILLIAMS: But if you go to the second

16 page, it shows some highly confidential.

17   JUDGE JORDAN: Indeed, I see that. I

18 appreciate you pointing that to me.

19   MR. WILLIAMS: It was pointed out to me.

20 I'm not trying to make things that are not to be public

21 here.

22   JUDGE JORDAN: Very good. Do you

23 anticipate that we'll be taking testimony on highly

24 confidential records?

25   MR. WILLIAMS: I'm going to try to avoid

 1 getting anything into the record that's highly

 2 confidential.

 3   JUDGE JORDAN: Thank you. I appreciate

 4 that. I'm going to mark my exhibits with an HC for highly

 5 confidential at the lower right corner of each just to

 6 make sure. They like that marking.

 7   MR. WILLIAMS: May I inquire?

 8 BY MR. WILLIAMS:

 9   **Q.   Mr. Crawford, would you turn to**

10 **Exhibit 393. Without disclosing any highly confidential**

11 **information, what does this exhibit reflect?**

12   MR. HATFIELD: Object to the lack of

13 foundation.

14   JUDGE JORDAN: You may have a running

15 objection to foundation.

16   MR. HATFIELD: And Judge, I didn't mean to

17 admissibility, but asking this witness to tell us what a

18 document reflects when there's been no foundation laid

19 that he's ever seen it before or that he knows anything

20 about it is the objection.

21   JUDGE JORDAN: If he cannot answer, he can

22 say that he does not know.

23   MR. HATFIELD: Understood.

24 BY MR. WILLIAMS:

25   **Q.   Let's try it this way. Mr. Crawford, are**

1   **you familiar with net unit heat rates?**

2   A.   Yes.

3   **Q.   And what are they?**

4   A.   It's a measure of how efficient the unit is

5   in terms of fuel consumption per kilowatt hour or megawatt

6   hour of generation.

7   **Q.   If you're looking at information such as**

8   **that that's shown on Exhibit 393, without identifying any**

9   **of the numbers on here or even the units if that would be**

10   **highly confidential, we're under the schedules that show**

11   **on the left side, heat rate, does a lower or a higher**

12   **number indicate more efficient operation of the unit?**

13   A.   A lower number is more efficient.

14   **Q.   And would the numbers -- is there a direct**

15   **correlation in the efficiency between the numbers or is it**

16   **just relative? In other words, if something showed a heat**

17   **rate efficiency of 20,000, would that be twice the**

18   **efficiency of something shown as 10,000 or is it just**

19   **relatively less efficient?**

20   A.   10,000, you could consider that twice as

21   efficient as a 20,000.

22   **Q.   And are you familiar with the heat rates at**

23   **the units that are identified on Exhibit 393 in general?**

24   A.   I couldn't tell you what the specific

25   numbers are for the individual units, but these are the --

1 appear to be the heat rates for these particular units.

2   Q.   Well, what I really want to know is if

3 these numbers appear to you to be accurately

4 representative of what the heat rates would be for those

5 units?

6   A.   I have no reason to doubt their inaccuracy.

7   Q.   No reason to doubt their accuracy or their

8 inaccuracy?

9   A.   No doubt to -- as far as I know, they're

10 accurate.

11   Q.   Thank you. And then turning to

12 Exhibit 394, are you familiar with economic dispatch

13 order?

14   A.   Yes.

15   Q.   And what does that term mean to you?

16   A.   When you rank the units from lowest to

17 highest cost in terms of the cost of operation of the

18 plant, is typically the way you think of dispatch order,

19 with the lowest cost being dispatched before the higher

20 cost units.

21   Q.   So that would be, say, cost per kilowatt of

22 energy produced by the unit?

23   A.   Kilowatt hour.

24   Q.   And then on the rankings that are shown on

25 Exhibit 394 for a typical dispatch order, would the --

1 let's just go to page 1 of 4. Would that order be the

2 most efficient unit at the top or the least efficient

3 unit?

4   A.   Most efficient at the top.

5   Q.   And the last then would be the least

6 efficient?

7   A.   Correct.

8   Q.   And that's true for the rankings on all of

9 these listings?

10   A.   Yes.

11   Q.   And do you have any familiarity with the

12 dispatch order of the units that are identified on

13 Exhibit 394?

14   A.   Relative order, yes.

15   Q.   And do these look like they would be

16 accurate, to the best of your information at this point?

17   A.   They appear reasonable to me.

18   Q.   I think we've touched on 395 adequately as

19 to your knowledge about it.

20   Turning to your surrebuttal testimony, on

21 page 6 you make a reference to testimony by Ms. Mantle on

22 lines -- well, starting on line 17 on page 6, going

23 through to the next page, you have a question and answer

24 there.

25   A.   Yes.

1   Q.   And you say that Ms. Mantle stated she

2   could not find those differences to be imprudent. Are the

3   differences that she referred to in her testimony

4   differences between net present value of revenue

5   requirement?

6   A.   Yes.

7   Q.   So it wouldn't include any other

8   consideration, simply net present value of revenue

9   requirement?

10   A.   Depends on what you mean by any other

11 consideration. There's a an awful lot that goes into net

12 present value revenue requirement.

13   Q.   Would it take into account the certain --

14 differences in the certainty of having power from an owned

15 generation unit versus taking power under short-term

16 purchased power agreements?

17   A.   Yes. It would reflect the nature of any

18 contracts that were behind those numbers.

19   Q.   Would it take into account any

20 considerations other than economic considerations?

21   A.   I would say it essentially all gets down to

22 economics.

23   Q.   Does KCP&L Greater Missouri Operations

24 Company pay fees to the Southwest Power Pool based on the

25 megawatt hour output of KCP&L Greater Missouri Operations

 1   Company's power plant facilities that make up its

 2   Southwest Power Pool capacity obligations?

 3   A.   There are several different fees we pay to

 4   SPP.

 5   Q.   Please just answer yes or no. Somebody

 6   else can ask you to explain your answer.

 7   A.   I am uncertain.

 8   Q.   Does KCPL Greater Missouri Operations

 9   Company pay fees to the Southwest Power Pool based on the

10   capacity of KCP&L Greater Missouri Operations Company's

11   power plant facilities that make up KCP&L Greater Missouri

12   Operations Company Southwest Power Pool capacity

13   obligations?

14   A.   I'm not recalling a capacity-specific

15   charge from SPP.

16   Q.   So you believe the answer is no to that

17   question?

18   A.   I would believe that, yes.

19   Q.   Are the Crossroads units used to meet KCP&L

20   Greater Missouri Operations Company's capacity obligations

21   to the Southwest Power Pool?

22   A.   Yes.

23   Q.   Does KCPL Greater Missouri Operations

24   Company pay fees to the Southwest Power Pool based on the

25   output and capacity of the Crossroads unit?

1   A.   I am not certain.

2   **Q.   Do you know if the firm transmission rate**

3   **KCP&L Greater Missouri Operations Company pays to Entergy**

4   **are included in the payments to the Southwest Power Pool**

5   **or are they paid separately?**

6   A.   I believe they're paid separately.

7   MR. WILLIAMS: No further questions.

8   JUDGE JORDAN: Questions from the Bench?

9   COMMISSIONER JARRETT: No questions. Thank

10   you.

11   JUDGE JORDAN: Commissioner Kenney, any

12   questions?

13   COMMISSIONER KENNEY: No, thank you.

14   JUDGE JORDAN: I have no questions for you.

15   Redirect?

16   MR. HATFIELD: Just briefly, Judge, and if

17   I might just stay here, if that's all right.

18   JUDGE JORDAN: You may.

19   REDIRECT EXAMINATION BY MR. HATFIELD:

20   **Q.   Mr. Crawford, I want to go back to where**

21   **Mr. Lumley started and make sure we don't confuse anyone.**

22   **Mr. Lumley asked you about who owns the Crossroads**

23   **facility. Do you recall that?**

24   A.   I do.

25   **Q.   And Staff's cost -- are you familiar with**

 1   the Staff's cost of service report in this case?

 2   A.   Only vaguely.

 3   Q.   All right. Well, when Staff writes in

 4   their cost of service report GMO owns four natural gas

 5   fired combustion turbines at its Crossroads generating

 6   station located in Clarksdale, Missouri, do you agree with

 7   that statement by Staff?

 8   A.   I don't believe GMO owns the facility.

 9   Q.   Can you explain the difference between the

10   statement GMO owns the turbines and GMO does not own the

11   facility?

12   A.   I don't believe it owns the turbines or the

13   facility.

14   Q.   And how is it, then, that it receives

15   power?

16   A.   It's in a contractual arrangement.

17   Q.   And is that contractual -- there any other

18   facilities that have a contractual arrangement similar to

19   that, such as maybe Clarksdale?

20   A.   That GMO has?

21   Q.   Yes.

22   A.   I don't believe so. It's structured

23   similar to a capital lease.

24   Q.   Is South Harper and the City of Peculiar,

25   is that anywhere near what's done with Crossroads?

 1   A.   I don't know.

 2   Q.   **Well, let me ask you this, then. You were**

 3 **here for the opening when Mr. Woodsmall said that what**

 4 **should happen is GMO should pack up Crossroads and move it**

 5 **to Missouri, right?**

 6   A.   Yes.

 7   Q.   **How could you do that if you don't own it?**

 8   A.   There is an option for the company to buy

 9 out the facility.

10   Q.   **Is there a lease arrangement with the city?**

11   A.   It's a capital lease, I believe.

12   Q.   **So there's a lease agreement to lease the**

13 **facility; is that right?**

14   A.   Right.

15   Q.   **Mr. Lumley I believe also asked you a**

16 **little bit about the 2007 decision to add Crossroads to**

17 **the portfolio. Do you remember that, that he asked you**

18 **that?**

19   A.   I don't recall whether that was one of his

20 specific questions or not.

21   Q.   **All right. Well, what process was used to**

22 **decide to place Crossroads into the GMO portfolio in 2007?**

23   A.   When the company was facing the decision,

24 the need to add additional capacity resources, the company

25 issued an RFP to solicit offers for capacity and energy,

1   and Crossroads was one of those resources that was offered

2   in to the company. The company evaluated the options

3   available to it that included both external offers as well

4   as self-build options, and looking at it on a long-term

5   basis from a net present value revenue requirement

6   standpoint, it was determined that Crossroads was the

7   least cost option, which did include the transmission

8   costs from Entergy and actually included significantly

9   higher transmission costs than what the company has

10   incurred. I believe there was $11 million worth of

11   transmission on an annual basis that was factored in to

12   that particular analysis.

13   Q.   So let me make sure I understand that. In

14   2007 during this RFP process, who was it that offered the

15   Crossroads facility in response to that RFP?

16   A.   Aquila, Inc.

17   Q.   And do you include information in your

18   testimony about how many other responses there were to the

19   RFP?

20   A.   Yes.

21   Q.   And is there an analysis included as a

22   schedule about the responses to the RFP?

23   A.   Yes.

24   Q.   And when Aquila responded to that RFP, what

25   is it they were offering? Well, they were offering to

 1   essentially sell the facility to the regulated side, GMO,

 2   correct?

 3   A.   To provide that service of capacity and

 4   energy from that facility.

 5   Q.   And in responding to that, what value was

 6   it that Aquila assigned to the facility, not necessarily

 7   the number, but --

 8   A.   Aquila, Inc. had offered it in at net book

 9   value of the plant.

10   Q.   At the net book value of the plant. And

11   even though it was offered at net book value of the plant,

12   it was still the lowest cost option in 2007 in response to

13   the RFP?

14   A.   That's correct.

15   Q.   And when Aquila offered to sell the plant

16   at -- offered in response to your RFP it the net value,

17   did GMO accept that offer?

18   A.   Yes. GMO made the decision to include it

19   as part of its regulated portfolio.

20   Q.   And you mentioned the transmission costs.

21   So in the bid, for want of a better term, on that RFP,

22   what number was used for transmission costs again?

23   A. $11 million.

24   Q.   And the actual costs in the last year were?

25   A.   I think we have 5.1 or 5.2, 5.2 million in

 1 the case.

 2   Q.   So even if transmission costs were to

 3 double, GMO would still be the lowest cost based on that

 4 2007 RFP?

 5   MR. CONRAD: Excuse me. I kind of lost

 6 track here. Is this cross-examination or is this direct?

 7   MR. HATFIELD: I thought I was in redirect,

 8 Judge.

 9   MR. WOODSMALL: I think there is some

10 requirement to tie it back, and I haven't heard any

11 reference to any questions that were asked in cross.

12   MR. HATFIELD: This relates to Mr. Lumley's

13 questions. Mr. Lumley actually raised the issue of the

14 2007 RFP.

15   MR. CONRAD: I guess my objection is if

16 it's in direct, it's leading and suggestive.

17   JUDGE JORDAN: I will sustain that

18 objection.

19 BY MR. HATFIELD:

20   Q.   Mr. Woodsmall asked you some questions

21 about different facilities and whether they're outside of

22 GMO/KCP&L territory. Do the companies operate a facility

23 known as Wolf Creek?

24   MR. CONRAD: You know, do we need to make

25 continuing objection to how counsel -- if it's direct, he

 1   needs to ask questions for direct examination, not

 2   cross-examination, not suggestive and not argumentative.

 3   JUDGE JORDAN: Your objection is that it is

 4   a leading question on direct; is that correct?

 5   MR. CONRAD: Obviously.

 6   JUDGE JORDAN: Just wanted to make sure for

 7   the record. I'll sustain that objection.

 8   MR. HATFIELD: Thank you, Judge.

 9   BY MR. HATFIELD:

10   **Q.   Do the companies operate any other**

11   **facilities other than Crossroads that are located outside**

12   **of KCPL GMO territory?**

13   A.   Yes.

14   **Q.   What would -- can you name one?**

15   A.   Gray County Wind, western Kansas.

16   **Q.   And is it necessary that a plant be in the**

17   **service territory to be used and useful?**

18   A.   No.

19   **Q.   And is it necessary that the facility be in**

20   **the territory to be the lowest cost for the ratepayers?**

21   A.   No.

22   MR. HATFIELD: I don't have any further

23   questions, Judge.

24   JUDGE JORDAN: That concludes redirect.

25   You may stand down.

 1   I think this is a good time for a break, so

 2   let's take 15 minutes.

 3   (A BREAK WAS TAKEN.)

 4   (STAFF EXHIBIT NO. 392HC WAS MARKED FOR

 5   IDENTIFICATION.)

 6   JUDGE JORDAN: We're back on the record and

 7   ready for our next witness.

 8   MR. WILLIAMS: Good afternoon,

 9   Mr. Featherstone.

10   MR. FEATHERSTONE: Good afternoon.

11   JUDGE JORDAN: Refresh my recollection.

12   Have I already sworn this witness?

13   MR. WILLIAMS: He tells me you have. I

14   believe he testified the first day.

15   JUDGE JORDAN: Thank you. It's been a

16   while.

17   CARY FEATHERSTONE testified as follows:

18   DIRECT EXAMINATION BY MR. WILLIAMS:

19   **Q.   Mr. Featherstone, did you cause to be**

20   **prepared and prefiled in this case testimony regarding the**

21   **issue that's before the Commission now, that being**

22   **Crossroads?**

23   A.   Yes. Yes, I did.

24   **Q.   And has that testimony -- is that portion**

25   **of the Staff cost of service report which has been marked**

1   for identification as Staff Exhibit 258, 259, I believe in

2   particular you address Crossroads issues on pages 73 to 84

3   of that report?

4   A.   Yes.

5   Q.   And then are your -- do you have any

6   changes to that report itself?

7   A.   I have two changes that I know in my

8   rebuttal and surrebuttal.

9   Q.   Well --

10   A.   Not to this report.

11   Q.   We'll get to that. Are your credentials

12 shown on Appendix 1 of the cost of service report at pages

13 21 to 33, and that's been marked for identification as

14 Staff Exhibit 260?

15   A.   Yes, and I also have filed direct

16 testimony.

17   Q.   And we'll get to that, too.

18   A.   Okay.

19   Q.   Do you have schedules that were included

20 with the cost of service report in Appendix 3 that's been

21 marked for identification as Staff Exhibit 262 and 263HC

22 in particular regarding the Crossroads issues Schedule

23 CGF-12, which is a joint operating agreement, CGF-13,

24 which is part of the Commission's Report and Order in

25 ER-2010-356, and CGF-14, which is a highly confidential

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 1   data response by the company?

 2        A.    Yes.

 3        Q.    And did you also cause to be prefiled

 4   rebuttal testimony that's been marked as Staff Exhibit 271

 5   and 272HC addressing in particular Crossroads issues

 6   beginning on page 20?

 7        A.    Yes.

 8        Q.    And did you indicate earlier that you have

 9   a revision to that testimony before it would be your

10   testimony here today?

11        A.    Yes.  At page 43, I failed to remove two

12   small words "do not" on line 11.  And then on line 14, the

13   contents on line 14 should be removed.

14        Q.    Is any of that highly confidential

15   information?

16        A.    No.

17        Q.    And then did you also cause to be prefiled

18   surrebuttal testimony that's been marked for

19   identification as Staff Exhibits 292, 293HC that address

20   the Crossroads issues beginning on pages 60?

21        A.    Yes.

22        Q.    And does that also include some schedules

23   that are related to Crossroads, I believe Schedules 19

24   through 24?

25        A.    Yes.
```

1   Q.   And I believe I may have overlooked this

2   before.   Did you also cause -- oh, did you have any

3   corrections to your surrebuttal testimony?

4   A.   I do.   Page 119, there's a number, I guess

5   it's line zero, and it's under the column 2011, and

6   there's a number that needs to be replaced.   It's a highly

7   confidential number.

8   Q.   And does that replacement show on what's

9   been marked for identification as Exhibit 392HC?   Does

10   that reflect the correction?

11   A.   Yes.

12   Q.   And did you also cause to be prefiled

13   direct testimony that's been marked for identification as

14   Staff Exhibit 265?   And if I'm repeating myself, I

15   apologize, but I want to make sure I covered everything.

16   A.   Is that my surrebuttal or schedules?

17   Q.   It would be direct testimony.

18   A.   Oh, yes.   The direct testimony, yes.

19   Q.   And do you have any changes to that direct

20   testimony?

21   A.   No.

22   Q.   And with the corrections you just provided

23   regarding your rebuttal and surrebuttal testimony, are

24   those portions identified regarding the Crossroads issues

25   in Staff Exhibits 258, 259, the cost of service report,

1   **Staff Exhibit 260 regarding the cost of service report**

2   **appendix, Staff Exhibits 262, 263, the cost of service**

3   **report Appendix 3, which includes the schedules identified**

4   **earlier, Staff Exhibit 271, 272, which is your rebuttal**

5   **testimony, Staff Exhibit 292, 293, your surrebuttal**

6   **testimony, and Staff Exhibit 265, your direct testimony,**

7   **again, with the corrections you identified here today, are**

8   **they your testimony on the Crossroads issue here today**

9   **before the Commission?**

10   A.   Yes.

11   Q.   **With that, I'll offer -- do you know if**

12   **you're going to be testifying again later in this**

13   **proceeding?**

14   A.   I don't believe so.

15   Q.   **With that, I would offer -- and did you --**

16   **are you the overall sponsor of the Commission's, the Staff**

17   **cost of service report?**

18   A.   Yes.

19   MR. WILLIAMS: At this time I'd like to

20   offer Staff Exhibits 258, 259HC, 260, 262, 263HC, 271,

21   272HC, 292, 293HC and 265.

22   JUDGE JORDAN: I'm not hearing any

23   objections.

24   MR. HATFIELD: Judge, the company objects

25   to the admission of Exhibits 258, 259, 271 and 272 to the

 1 extent they contain an opinion of this witness on the

 2 value of Crossroads, and we object to any other testimony

 3 by this witness on the value of the Crossroads facility,

 4 if your Honor would bear with me for just a minute.

 5   The witness does not specify what standard

 6 he's using to value the Crossroads facility. He's

 7 required to do so under City of Kansas City versus

 8 Habelitz, 857 SW 2d 299. If he does not specify the

 9 standard he's using to provide evaluation, his testimony

10 is not admissible.

11   Moreover, to the extent he is using fair

12 market value as the basis, he is not using the correct

13 standard for fair market value. Fair market value is

14 legally defined in Missouri and is found at MAI 16.02, and

15 is also discussed in Peterson versus Continental Boiler

16 Works, 783 SW 2nd 896, which is a Missouri Supreme Court

17 Case in 1990. Since the witness is not using the correct

18 legal standard, his opinion is not admissible on the

19 value.

20   Second, there is no testimony in the record

21 that the witness is relying on facts normally relied upon

22 by experts in reaching the opinions he purports to give.

23 The evidence may not be admitted pursuant to 490.065,

24 RSMo. As your Honor knows, this section allows in

25 contested proceedings according to Healing Art versus

1   McDonagh, 123 SW 3rd 146, Missouri Supreme Court.

2   Finally, the witness does not testify that

3   his opinion as to the value of Crossroads is given within

4   a reasonable degree of professional certainty. Without

5   testimony that the expert's opinion is within a reasonable

6   degree of professional certainty, his testimony is mere

7   speculation and is not admissible, Baker versus Guzon, 950

8   SW 2d 635 and Sundermeyer versus SSM, 271 SW 3d 552.

9   So, your Honor, to the extent you admit the

10 remainder of the exhibits, which we have no objection to,

11 I guess we would ask that you strike the testimony as to

12 the value of Crossroads because of the lack of foundation

13 and the fact that it's mere speculation on the part of the

14 witness.

15   JUDGE JORDAN: Staff?

16   MR. WILLIAMS: Judge, I think he's citing

17 you to the wrong standard. This witness is providing

18 valuation for purposes of ratemaking, not for other types

19 of valuations, and I think it's clear that his credentials

20 show that he has the expertise to do that.

21   MR. WOODSMALL: Your Honor, and to

22 supplement, I believe Mr. Featherstone's testimony is

23 clear that the standard he is applying is the exact

24 standard used by the Commission in the last case. He is

25 not departing from the Commission's standard. He is

1 simply applying that standard. So I'm baffled. He's not

2 offering something different to the Commission.

3   JUDGE JORDAN: Anything else on this point?

4   MR. WILLIAMS: Well, I will echo

5 Mr. Woodsmall in that certainly the Commission is expert

6 on it, and Mr. Featherstone is following the same process

7 that the Commission did in doing the valuation.

8   MR. HATFIELD: Judge, to be clear --

9   MR. CONRAD: I don't know. I guess since

10 we don't have a dog in the fight, I'll jump in. But I did

11 hear something. Mr. Hatfield made reference to MAI, and

12 it's been a long, long time, but my recollection is

13 Missouri approved instructions for jury trials, and now,

14 maybe I missed it here, but I don't see a jury. Now, if

15 counsel would like to try this case to a jury, I'm

16 certainly amenable to that, and we can probably find one

17 in the Kansas City area that would be happy to impanel a

18 jury and then we can deal with Missouri approved

19 instructions.

20   JUDGE JORDAN: Mr. Hatfield?

21   MR. HATFIELD: Just to clarify, your Honor,

22 we do not object to this witness' qualifications to offer

23 an expert opinion with the proper foundation. Our

24 objection is to the foundation.

25   JUDGE JORDAN: I'm going to overrule that

 1 objection, and so those documents are admitted into the

 2 record.

 3   (STAFF EXHIBIT NOS. 258, 259HC, 260, 262,

 4 263HC, 271, 272HC, 292, 293HC AND 265 WERE RECEIVED INTO

 5 EVIDENCE.)

 6   MR. WILLIAMS: Offer the witness for

 7 examination by the parties.

 8   JUDGE JORDAN: Cross-examination from

 9 Dogwood Energy, LLC?

10   MR. LUMLEY: No, Judge.

11   JUDGE JORDAN: AARP?

12   MR. COFFMAN: No questions.

13   JUDGE JORDAN: Southern Union, doing

14 business as Missouri Gas Energy?

15   MR. JACOBS: No questions.

16   JUDGE JORDAN: Mr. Woodsmall?

17   MR. WOODSMALL: Yes, briefly, your Honor.

18 CROSS-EXAMINATION BY MR. WOODSMALL:

19   **Q.   Good afternoon, Mr. Featherstone.**

20   A.   Good afternoon.

21   MR. WILLIAMS: Judge, if I might?

22   JUDGE JORDAN: Yes, Counsel.

23   MR. WILLIAMS: I believe I overlooked the

24 correction page, 392. I know Mr. Featherstone mentioned

25 it, that it was with the corrections, but I think it would

1   be good for the record to go ahead and offer Exhibit 392HC

2   which reflects the correction before we go further, and I

3   apologize for not doing that earlier.

4   JUDGE JORDAN: Not hearing any objections,

5   that document is also admitted into evidence.

6   (STAFF EXHIBIT NO. 392HC WAS RECEIVED INTO

7   EVIDENCE.)

8   MR. WILLIAMS: Thank you.

9   JUDGE WOODRUFF: Mr. Woodsmall.

10   MR. WOODSMALL: Thank you, your Honor.

11 BY MR. WOODSMALL:

12   **Q.   Good afternoon, Mr. Featherstone.**

13   A.   Good afternoon.

14   **Q.   Would you agree that one of the issues to**

15 **be considered in this case is the appropriate amount of**

16 **deferred taxes to be used as an offset to the Crossroads**

17 **rate base?**

18   A.   Yes.

19   **Q.   And can you explain to me how you**

20 **calculated the deferred taxes?**

21   A.   That was really a company response to a

22 data request, and they provided the estimates or

23 projections of the deferred taxes associated with various,

24 I guess, scenarios or balances. And so we used the

25 balance that the -- in our initial filing that the

1 Commission ordered in the last case. And then for my

2 surrebuttal, I believe I put in the estimate for as of

3 August the 31st, 2012, and as it related to the

4 Commission-ordered value for Crossroads, which was, I

5 think, the $61.8 million.

6   Q.   **So is it your belief that deferred taxes**

7 **should change depending on whether the value of Crossroads**

8 **changes?**

9   A.   Yeah. I've said that in my testimony, that

10 there is a direct linkage between the valuation of

11 Crossroads and the deferred tax balances.

12   Q.   **You believe deferred taxes flows**

13 **mathematically out of the Commission's valuation for**

14 **Crossroads; is that correct?**

15   A.   It starts out as a value, and then

16 there's -- there's calculations that are done, and the

17 company provided those. They provided the detail, the

18 amounts and the support for those calculations.

19   Q.   **You were the Staff's witness on that -- on**

20 **this issue in the last case, is that correct, on the**

21 **issues of Crossroads?**

22   A.   Yes.

23   Q.   **Do you recall the Commission addressing the**

24 **issue of deferred taxes in its order?**

25   A.   I do.

1   Q.   And do you recall GMO filing for

2   clarification slash rehearing on that issue?

3   A.   I know there was a whole series of

4   applications for rehearing and motions.

5   MR. WOODSMALL: May I approach the witness,

6   your Honor?

7   JUDGE JORDAN: You may.

8   BY MR. WOODSMALL:

9   Q.   Handing you a document. I was wondering if

10   you could identify that for me?

11   A.   This appears to be the Commission Order of

12   Clarification and Modification that was issued May 27th,

13   2011.

14   Q.   And you've read that document before?

15   A.   I have.

16   Q.   Okay. Would you turn to page 2, and do you

17   see at the bottom a section regarding deferred taxes?

18   A.   Yeah. I've reviewed this portion of the

19   order.

20   Q.   Okay. Would you turn to page 3. The last

21   paragraph in that section, would you read that into the

22   record, please.

23   MR. HATFIELD: Your Honor, I'm sorry for

24   interrupting. Hasn't your Honor taken judicial notice of

25   this order?

 1   MR. WILLIAMS: Official notice.

 2   MR. HATFIELD: Official notice. My

 3   apologies. In which case I object that this is redundant

 4   and repetitive.

 5   MR. WOODSMALL: Okay. I will move on. I

 6   didn't know he'd taken official notice.

 7   JUDGE JORDAN: Well, if I haven't already

 8   and you'd like me to, I will.

 9   MR. WILLIAMS: The judge did during my

10   opening.

11   MR. WOODSMALL: Good.

12   MR. WILLIAMS: That was one of the two.

13   BY MR. WOODSMALL:

14   Q.   **Would you go ahead and read that last**

15   **paragraph, not into the record, just --**

16   MR. HATFIELD: Judge, if you want to

17   indulge him, but I thought you already ruled.

18   MR. WOODSMALL: I'm going to ask him some

19   questions about it. I'm just giving him an opportunity to

20   read it to himself.

21   THE WITNESS: Okay.

22   BY MR. WOODSMALL:

23   Q.   **Would you agree there that the Commission**

24   **found that deferred taxes was part of their valuation for**

25   **Crossroads?**

1   MR. HATFIELD: Judge, I'm going to object

2   that it's either speculation on what the Commission found

3   or repetitive evidence. It is what it is. Object to the

4   question.

5   MR. WOODSMALL: I'm asking him for his

6   understanding.

7   MR. HATFIELD: Which is irrelevant.

8   JUDGE JORDAN: I'll overrule that

9   objection.

10   THE WITNESS: That's what the -- that's

11   what the Order of clarification said.

12   BY MR. WOODSMALL:

13   Q.   Okay. So Staff's position that deferred

14   taxes should flow out of the value of Crossroads is

15   inconsistent with that prior Commission order?

16   A.   I think it's -- it's inconsistent with that

17   paragraph and that ruling, but I think --

18   Q.   Thank you. Moving on, you have addressed

19   the issue of transmission costs associated with Crossroads

20   in this case, haven't you?

21   A.   Yes.

22   Q.   And what is Staff's position regarding

23   transmission expense for Crossroads?

24   A.   That they should not be reflected in rates.

25   Q.   Is it Staff's position anywhere that

1   **transmission should be priced as if Crossroads was in**

2   **Illinois?**

3   A.   No.

4   Q.   **Given that the surrogate sale of Goose**

5   **Creek and Racoon Creek are in Illinois, can you explain to**

6   **me why it would be inappropriate to price transmission as**

7   **if Crossroads was in Illinois?**

8   A.   We presented to the Commission in the last

9   case, as we are in this case, and I don't believe that

10   there was anywhere in the Commission order that that would

11   be contrary to this position, that we were using the

12   Racoon Greek/Goose Creek purchase by Ameren as a -- as a

13   surrogate. It was a -- it was a valuation that was very

14   similar in nature to how we valued the South Harper

15   turbines that went into rate base in 2005 in the company's

16   rate case.

17   We were not suggesting in any way, shape or

18   form that we were looking to use the Racoon Creek/Goose

19   Creek power plant located in Illinois. We were just

20   simply looking at the values of turbines and the cost of

21   the power plant that would be reflective of the time

22   frame, both in terms of the nature of the capacity needed

23   and the amount of capacity in terms of replacement of the

24   Aries 500 megawatt capacity agreement that terminated

25   May 31, 2005.

1   Q.   Would you agree that the inclusion of any

2   transmission costs would affect Staff's belief as to the

3   appropriate value for Crossroads?

4   A.   I've stated that in my surrebuttal, that if

5   the Commission wanted to reconsider some amount for

6   transmission costs, there would be a direct relationship

7   to the total valuation of the plant itself, the asset

8   value of the plant itself. The more transmission costs

9   that you would put into rates, then the less valuable or

10 the less -- the lesser amount that would be reflective or

11 should be reflective in rate base.

12   Q.   Are you familiar with the fact that GMO

13 currently pays Entergy for transmission costs associated

14 with moving energy from Crossroads to Southwest Power

15 Pool?

16   A.   Could you say that again?

17   Q.   Are you aware of the fact that GMO pays

18 Entergy costs associated with transmitting energy from

19 Crossroads to the Southwest Power Pool?

20   A.   Yes.

21   Q.   Okay. And are you -- do you know whether

22 GMO -- or excuse me.

23   Are you familiar with the fact that Entergy

24 has made a request to join MISO?

25   A.   There's been discussion about that the last

1 several weeks.

2   Q.   Do you know, if Entergy is allowed to join

3 MISO, can you provide a comparison of MISO transmission

4 costs versus Entergy transmission costs?

5   A.   I've seen some information that the amount

6 would go from like $1.50 to like $3 and some change in

7 terms of it would double.

8   MR. WOODSMALL: Okay. No further

9 questions, your Honor.

10   JUDGE JORDAN: Mr. Conrad, any questions

11 for this witness?

12   MR. CONRAD: Just a couple, Judge.

13 CROSS-EXAMINATION BY MR. CONRAD:

14   Q.   Mr. Featherstone, how long have you worked

15 for the Commission?

16   A.   So long that it's a little embarrassing to

17 say. I started in, I believe, March of 1979.

18   Q.   Excuse me. '79?

19   A.   '79, yes, sir.

20   Q.   Was the -- were the members of the

21 Commission the same as they are now at that time?

22   A.   Just as -- just as they represent five

23 Commissioners but not the same individuals, no.

24   Q.   Currently four, but statutorily five?

25   A.   That's right.

 1   Q.   They've just -- the Commissioners kind of

 2   come and go; is that right?

 3   A.   Well, they're on a graduated term of six

 4   years in duration.

 5   Q.   But you've been here since '79, right?

 6   A.   I have been, yes.

 7   MR. CONRAD: Thank you. That's all.

 8   JUDGE JORDAN: Mr. Bartels, any cross?

 9   MR. BARTELS: No, thank you, your Honor.

10   JUDGE JORDAN: The Office of Public

11   Counsel?

12   MR. MILLS: I have no questions. Thank

13   you.

14   JUDGE JORDAN: GMO?

15   MR. HATFIELD: Yes, your Honor. If I could

16   have just a moment to go to the podium. Thank you, Judge.

17   If it please the Commission?

18   CROSS-EXAMINATION BY MR. HATFIELD:

19   Q.   Good afternoon, Mr. Featherstone.

20   A.   Good afternoon.

21   Q.   I wanted to clarify a couple of things.

22   Were you here for openings earlier today?

23   A.   I was.

24   Q.   Mr. Williams said that -- this is what I

25   understood -- that the Staff is not challenging whether

1 **it's prudent to include some costs for Crossroads in rate**

2 **base; is that correct?**

3   A.   That's correct. We have included the

4 Commission-determined values from the last case, with some

5 modifications.

6   Q.   **And so when Mr. Woodsmall in his opening**

7 **said that he didn't want this ragged hand-me-down passed**

8 **on to the ratepayers, you agree that some costs for this**

9 **ragged hand-me-down should be passed on to ratepayers?**

10   A.   Yes. We have reflected some value for

11 Crossroads in our rate base.

12   Q.   **So just to be clear, we're past prudence on**

13 **whether Crossroads is appropriate to provide power to**

14 **ratepayers?**

15   A.   We're past whether or not they should be

16 included in rate base.

17   .   And what we're arguing about now is what

18 costs should be included in rate base?

19   A.   Yes.

20   Q.   **And that's really all -- in terms of**

21 **Staff's testimony, that's really all you dispute about**

22 **GMO's case, correct?**

23   A.   Yes, with the caveat that the timing of

24 when those costs should have been incurred by the company

25 is very relevant.

1   Q.   Right. So in your testimony you talk a

2   little bit and you heard the opening statement a little

3   bit about Great Plains' purchase of Aquila and the

4   purchase -- and Crossroads during that time period,

5   correct?

6   A.   Yes.

7   Q.   There's not a bill of sale for Crossroads

8   somewhere, is there?

9   A.   Not to my knowledge.

10   Q.   Not a receipt for the amount that was paid

11   by Great Plains for Crossroads?

12   A.   I haven't asked for a receipt, nor have I

13   seen one.

14   Q.   It comes down to trying to understand based

15   on the evidence we have available what the real value that

16   was paid, correct?

17   A.   Yes.

18   Q.   And you disagree with the company's

19   position on what was paid?

20   A.   Well, I don't believe anyone would pay full

21   value, net book value for property that is where it's

22   located, no.

23   Q.   And so you believe that what was paid was

24   the amount that was listed in the preliminary proxy

25   statement; is that right?

1   A.   Something much more akin to that value than

2   certainly net book value.

3   Q.   And you've already said earlier what that

4   was, which was -- the proxy statement value was 50 --

5   A.   51.6 million.

6   Q.   51.6. Now, in your testimony that you

7   submitted to the Commission, you include several

8   references to various proxy statements that were filed by

9   GMO during the -- or I'm sorry, by Great Plains and Aquila

10 during the acquisition process, correct?

11   A.   That's right.

12   Q.   But you didn't include the whole proxy

13 statements in your testimony, did you?

14   A.   They were several hundred pages. No.

15   Q.   And you did not include the statements in

16 the proxy statement, for example, that the final

17 allocation of the purchase price will be based upon the

18 fair value on the date the merger is completed, did you?

19   A.   No.

20   Q.   But that is, in fact, in proxy statements

21 that were filed with the SEC?

22   A.   Yes.

23   Q.   Why did you not include the statements by

24 Great Plains that the fair value will be determined on the

25 date of the merger?

1   A.   Well, the -- the valuation or the amount

2   that was going to be paid by Great Plains Energy was

3   determined through its due diligence process, and it was

4   much closer to the May '07 time frame and August of '07 as

5   well that provided for the 51.6 million. The check had

6   already been made, so to speak, when Pricewaterhouse did

7   its analysis. In the fall of '08, the transaction had

8   already occurred. What Pricewaterhouse was simply trying

9   to do was to move the money around, if you will, and

10   assign based upon what the purchase price was among the

11   various accounts and various assets, be they regulated or

12   non-regulated.

13   **Q.   And you're getting a little ahead of me,**

14   **but we'll go there. PricewaterhouseCoopers reached an**

15   **opinion that the fair market value for Crossroads was the**

16   **net book value, correct?**

17   A.   Slightly over.

18   **Q.   Slightly over the net book value. And you**

19   **don't in your testimony dispute that valuation, do you?**

20   A.   It didn't have any relevance. It didn't

21   have any meaning to me.

22   **Q.   Okay.**

23   A.   Based upon when it was down and why it was

24   done.

25   **Q.   Okay. So you're not challenging the**

1 **methodology of Pricewaterhouse in reaching fair market**

2 **value, correct?**

3   A.   Once they were given the information by the

4 company that they were going to rate base Crossroads, then

5 the analysis was essentially over from Pricewaterhouse's

6 perspective.

7   Q.   **Now, how do you know what Pricewaterhouse**

8 **thought?**

9   A.   Well, I've seen the documents. I know that

10 the analysis would have been much different if they would

11 have said it's a stranded piece of investment that we're

12 going to scrap and move out of rate base or not include in

13 rate base. They had already made that determination.

14   Q.   **Let's talk about that. So the 51.6 million**

15 **was scrap, right?**

16   A.   It was what was identified as the

17 disassembling of the plant and the selling it on the after

18 market or at distressed values.

19   Q.   **So the value of Crossroads in those proxy**

20 **statement was 51.6 million disassembling and at scrap**

21 **value --**

22   A.   Yes.

23   Q.   **-- correct?**

24   **Now, I've got to go back just a little bit**

25 **because I took a digression. In including statements from**

1   the proxy statements filed by Great Plains, you also did

2   not include the proxy filing that said the pro forma

3   purchase allocation adjustments are preliminary and are

4   solely for the purpose of providing unaudited pro forma

5   condensed combined financial information and are subject

6   to revision. You didn't include that in your testimony,

7   did you?

8   A.   No, I didn't.

9   Q.   But you knew, you know now that those

10 statements are subject to revision, don't you?

11   A.   I knew it at the time that I submitted the

12 testimony in the last case.

13   Q.   Okay. But you --

14   A.   Again, they didn't have any relevance or

15 meaning to me.

16   Q.   Whether the valuations had been revised

17 later had no relevance or meaning to you?

18   A.   The company had made a determination of

19 what properties and what assets it was going to purchase

20 from Aquila, Inc., and it did so July of '08. And so the

21 purchase price, if you will, of the assets that were being

22 acquired was made long in advance of the Pricewaterhouse

23 valuation or any of these other final determinations from

24 my point of view.

25   Q.   The $51.6 million was an estimate by Great

1   Plains, an internal preliminary estimate of the amount

2   that they believed it was worth, correct?

3   A.   I think it was Great Plains and was filed

4   jointly along with Aquila. Aquila was still a standalone

5   entity, and it was a joint proxy statement. So it was

6   both Aquila and Great Plains Energy who endorsed that

7    $51.6 million.

8   Q.   Do you have your testimony in front of you?

9   A.   I do.

10   Q.   Can you turn to your rebuttal testimony,

11   page 30, please?

12   A.   You say rebuttal?

13   Q.   Yes, sir.

14   A.   Yes.

15   Q.   And this includes at least one of the proxy

16   statement -- statements that you say is relevant to the

17   analysis, correct?

18   A.   Right.

19   Q.   And in this analysis, when it says the

20   adjustment was determined based on Great Plains Energy's

21   estimates of fair value, based on estimates of proceeds

22   from sales to an unrelated party of similar capacity in

23   the current marketplace, the preliminary internal analysis

24   indicated a fair value estimate of Aquila's non-regulated

25   Crossroads power generating facility of approximately

1   51.6 million.

2   Based on that text, are you saying this was

3   also Aquila's determination?

4   A.   Well, Aquila endorsed it because they filed

5   the same document. It was a joint proxy statement. So

6   they had to concur with the contents of the statement.

7   Q.   The contents of the statement that Great

8   Plains had valued it at this moment?

9   A.   Yes.

10   Q.   Got you. What is your definition of fair

11   market value?

12   A.   It is -- it is a value that willing buyers

13   and sellers who are generally regarded as unbiased and

14   aren't prejudiced that are willing to pay for a good or

15   service or piece of property. In this case, it was a

16   valuation of a power plant and a company.

17   Q.   So fair market value is not the value that

18   one party assigns to an asset, correct?

19   A.   Well, I think it's a negotiation, and it's

20   a give and take through various, various transactions.

21   This transaction was announced in February of '07 and was

22   completed in July '08. So a lot of things happened.

23   Q.   So when I'm going to sell my house, if

24   we're trying to determine fair market value for my house,

25   the question is how much am I willing to sell it for, how

1   **much are you willing to buy it for, right?**

2   A.   Right.

3   **Q.   That's how we determine fair market value?**

4   A.   Yes.

5   **Q.   And my own statement that my house is worth**

6   **half a million dollars doesn't really having any bearing**

7   **on fair market value if you're not willing to pay half a**

8   **million dollars, right?**

9   A.   If it has -- well, it depends. If you

10 believe it's a half million dollars and I don't, you may

11 say I'm going to wait to find somebody that will buy it

12 for half a million dollars.

13   **Q.   Right. So my opinion on my value has no**

14 **bearing on the fair market value definition that you**

15 **described earlier, correct?**

16   A.   I think in the instance of sending a

17 message or identifying to the investors of Aquila and

18 Great Plains Energy and filed as a joint proxy statement

19 file with the Securities and Exchange Commission

20 documents, and that process, this is -- this is not just a

21 number that was -- that was pulled out of thin air. It

22 had a value. It had a process that went through and how

23 it was determined, and so they felt that that was the

24 value of the property at the time.

25   **Q.   Tell me where in your testimony you**

1 describe the process that was used to determine the

2 $51.6 million value.

3   A.   I don't.

4   Q.   Okay. Thank you. On page 27 of your

5 rebuttal testimony, line 9, you say the best evidence of

6 the original cost of Crossroads is Great Plains'

7 disclosure to the Securities and Exchange Commission, its

8 investors and the public at large by its SEC filing that

9 identified the fair market value of Crossroads at the date

10 of acquisition at $51.6 million.

11   Why has Staff not used $51.6 million as its

12 valuation number in cost of service?

13   A.   As I testified in the last case, it was my

14 view that that number was a little bit low, and so the --

15 the valuation that we determined was in the -- was more

16 proper valuation was the recent sales of the similar

17 turbines, similar structure, similar power plant site in

18 Illinois called Racoon Creek and Goose Creek.

19   Q.   So I guess my point is this: You've got

20 several pages of testimony about the SEC statements and

21 the $51.6 million value, but it is not your testimony that

22 the fair market value of Crossroads is 51.6 million, is

23 it?

24   A.   I think that's -- it's -- that's what we're

25 here to discuss today.

1   Q.   Well, what's Staff's position, though?

2   What's Staff's position?

3   A.   Right now our position, and has been and is

4   today, is that we should stay with the Commission's

5   ordered value of the 61, I think it's $61.2 million.

6   Q.   Not the 51.6?

7   A.   Not the 51.6.

8   Q.   Got you.

9   A.   However, I state in my testimony, and I try

10   to be very clear about this, that if the Commission were

11   to look at increasing the cost of the power plant to the

12   ratepayers by bringing in the transmission costs

13   associated with the Mississippi plant, then they should

14   reconsider that valuation.

15   Q.   Tell me about that. So what you're saying

16   is, you're testifying that the fair market value of

17   Crossroads is 61. -- sorry. What is it again?

18   A.   I think it's 61.8 million.

19   Q. $61.8 million.

20   A.   It has changed, however.

21   Q.   But the fair market value -- well, do you

22   agree with Mr. Woodsmall's opening that the legal task

23   that you're about as a testifying witness is to determine

24   fair market value?

25   A.   I think my role is to present what I

1 believe to be evidence to the Commission, and they will

2 determine what they think is the value of the plant.

3   **Q.   And are you asking them to determine the**

4 **fair market value of the plant?**

5   A.   The amount that they determined in the last

6 case, fair market value, if you will, the amount they

7 determined in the last case was what we recommended and

8 what they adopted.

9   **Q.   Well, since you put it that way, let me ask**

10 **you this, and since you commented on the previous ruling.**

11 **You said if I want to call it fair market value. What do**

12 **you call it? Did you Commission determine fair market**

13 **value in the last case?**

14   A.   I think what the Commission determined was

15 its ratemaking value that it should be placed in service,

16 in public service and put in rate base and then ultimately

17 set rates on the valuation.

18   **Q.   And you're drawing -- or are you drawing a**

19 **distinction between fair market value and ratemaking**

20 **value?**

21   A.   No.

22   **Q.   Sounds like you are?**

23   A.   No.

24   **Q.   You're not?**

25   A.   No.

1   Q.   So when I say did the Commission determine

2   fair market value, what's your answer?

3   A.   It is yes, with a caveat that if -- it was

4   based upon the entirety of the presentation, very -- it

5   was very critical that we don't include the transmission

6   cost. That has a bearing on what the valuation of the

7   plant is.

8   Q.   That's where I want to go. So transmission cost

9   does have a bearing on what the valuation of a plant is?

10   A.   Sure.

11   Q.   And has a bearing on what the valuation of

12   Crossroads is?

13   A.   Absolutely.

14   Q.   And has a bearing on what the value of

15   Racoon Creek is?

16   A.   I think the GMO witness Mr. Blunk said --

17   Q.   I think that was a yes or no question.

18   A.   Yes.

19   Q.   Thank you. Transmission cost has a bearing

20   on the value of any facility, correct?

21   A.   It does.

22   Q.   Now, the value of a plant, an electrical

23   generating plant might be different based on where the

24   plant's located, correct?

25   A.   Yes.

 1   Q.   And it might be different based on who the

 2 purchaser is, correct?

 3   A.   Well, I think of it in the facts that we

 4 have at hand, and --

 5   Q.   Well, let's --

 6   A.   -- it's a regulated utility. It has a

 7 definite bearing on how they would value the plant.

 8   Q.   Where it's located?

 9   A.   Where it's located.

10   Q.   So, for example, a facility located in

11 California might have a different value to a regulated

12 facility -- regulated utility in California than it does

13 to a regulated utility in New York?

14   A.   I would think so.

15   Q.   Because it's going to cost a lot to get the

16 electricity from California back to New York?

17   A.   I would think so.

18   Q.   And those transmission costs should be

19 considered in value?

20   A.   Yes.

21   Q.   All right. And so did you reach the fair

22 market value of $61.5 million without considering

23 transmission costs at all?

24   A.   That was our position in the last case, so

25 the answer would be yes.

1   Q.   Okay. And in this case, did you reach that

2 value without transmission costs?

3   A.   We have the same position. We have now the

4 position that was adopted by the Commission.

5   Q.   And do the costs to bring fuel to a natural

6 gas powered utility affect the fair market value?

7   A.   I think all the costs and its location and

8 the difficulties or not difficulties would have that --

9 would have a bearing on the valuation of a plant.

10   Q.   So when you recommend that the Commission

11 decrease the fair market value by transmission costs if it

12 allows transmission costs, do you also recommend that the

13 Commission increase the value if there are additional fuel

14 costs -- I'm sorry, if there are fuel cost savings?

15   A.   Well, if there were fuel cost savings, you

16 know, you'd have to take that into consideration.

17   Q.   In order to determine fair market value,

18 just to be sure we're on the same page, you'd have to

19 consider the cost of fuel transportation?

20   A.   You would have to consider the total cost

21 of the plant.

22   Q.   Right.

23   A.   We're not saying the same savings and the

24 same value of the price of gas that the company witnesses

25 are representing.

1   Q.   I'm not talking about price of gas. I

2   asked about transportation cost of gas. Your answer

3   may be the same. I just want to be clear. You agree

4   there are different transportation costs, transportation

5   costs -- let me start again.

6   Transportation costs are a different item

7   than the cost of the fuel, correct?

8   A.   Yes.

9   Q.   All right. Let me just ask you about

10   Raccoon. So your opinion is based on the Commission's

11   previous order, right?

12   A.   Yes.

13   Q.   And that order you say is based on Racoon

14   and Goose Creek, correct?

15   A.   Yes.

16   Q.   So in reaching a fair market value for

17   Racoon and Goose Creek, you don't think we should consider

18   transmission costs, correct?

19   A.   That's correct.

20   Q.   And you don't think we should consider gas

21   transportation costs?

22   A.   I think that the -- no.

23   Q.   Okay. Okay. Let me ask you --

24   MR. HATFIELD: Judge, I'm just going to

25   show him a page of testimony. So unless somebody objects,

 1   I wasn't going to offer it as an exhibit.

 2   MR. WILLIAMS: Which testimony are you

 3   talking about?

 4   MR. HATFIELD: The testimony I'm getting

 5   ready to show him.

 6   BY MR. HATFIELD:

 7   Q.   **I'm going to just show you, you're familiar**

 8   **with Burton Crawford's testimony in this case?**

 9   A.   I am.

10   Q.   **And you've reviewed that, correct?**

11   A.   I have.

12   Q.   **And are you familiar with a chart he made**

13   **on page 7 of his surrebuttal testimony? Let me just show**

14   **it to you here.**

15   MR. WOODSMALL: Did you say page 7 of his

16   surrebuttal?

17   MR. HATFIELD: Did I get that wrong? It's

18   page 7 of maybe rebuttal. Sorry.

19   BY MR. HATFIELD:

20   Q.   **Have you seen this chart that I've just**

21   **showed you before?**

22   A.   I have, but it's got some -- something odd

23   in the middle of the table.

24   Q.   **Correct. I'm showing you --**

25   A.   I'm not sure what this is.

 1   Q.   I'm showing you numbers that have

 2   blacked-out HC numbers. We can go HC, but I'd rather not.

 3   A.   Was this his -- was this his --

 4   MR. WOODSMALL: I don't believe it was

 5   labeled HC.

 6   THE WITNESS: Was this rebuttal or

 7   surrebuttal?

 8   MR. WOODSMALL: It's his rebuttal.

 9   MR. HATFIELD: These numbers are labeled HC

10   on the page immediately before, I think.

11   BY MR. HATFIELD:

12   Q.   At any rate, if there's no objection, are

13   you familiar with this table?

14   A.   I'm familiar with the table he has at

15   page 7 of his testimony, not that table.

16   Q.   Okay.

17   A.   This table that I'm looking at isn't HC.

18   Q.   Got you. Well, let me just ask you about

19   his testimony, then --

20   A.   Okay.

21   Q.   -- rather than what you have in

22   front of you. Did you understand from Mr. Crawford's

23   testimony that he testified that in order to build a new

24   300 megawatt plant at a GMO site would cost $28.5 million?

25   Is that the way you read his testimony?

 1   A.   No.

 2   Q.   Let me ask you this way then: Do you

 3   disagree with Mr. Burton's testimony that the cost of a

 4   plant at a GMO site, a 300 megawatt plant would be

 5   $28.5 million?

 6   A.   Could you say that again?

 7   Q.   Do you disagree with Mr. Crawford's

 8   testimony that the cost of a plant at a GMO site would

 9   be -- a 300 megawatt plant would be $28.5 million? Do you

10   agree or disagree with that testimony?

11   A.   I don't -- I don't believe that you could

12   build a 300 megawatt plant at a GMO site for $28 million.

13   Q.   Sounds like you think it would be more.

14   A.   It would be substantially more, I would

15   think.

16   Q.   It would be substantially more than

17   28.5 million?

18   A.   The problem is that his table --

19   Q.   I'm not asking about the table right now

20   because you don't like my table. We're just asking about

21   the testimony.

22   A.   You asked me about the table and you asked

23   me about $28.5. It just says $28 and .5. It doesn't say

24   28 million.

25   Q.   So what would be the revenue requirement on

1   a plant built at GMO? He actually has testimony

2   elsewhere, but we won't talk about that.

3   A.   Okay. What he says on page 6 --

4   Q.   I'm asking you what the revenue requirement

5   would be. Do you have testimony on what the revenue

6   requirement would be to build a 300 megawatt plant at a

7   GMO site?

8   A.   No.

9   Q.   So you don't disagree with his testimony on

10   that issue, correct?

11   A.   Well, if you let me look at page 6, which

12   is the lead-in to the table, it says, the following table

13   compares the annual revenue requirement for, and then it

14   gives like four or five different scenarios, one of which

15   is D, the estimated cost if a 300 megawatt facility had

16   been built in the GMO service area based on GMO's

17   evaluation of capacity additions at the time Crossroads

18   was being --

19   Q.   My question is simply whether you provided

20   any testimony to disagree with the annual revenue

21   requirement that he testified to for building a

22   300 megawatt plant on a GMO site?

23   MR. CONRAD: Judge, I'm sorry. I may not

24   be the sharpest pencil in the drawer, but are we talking

25   about annual revenue requirement or are we talking about

 1 the cost to build a plant?

 2   MR. HATFIELD: Judge, if there's no

 3 objection, I'll proceed with questioning.

 4   MR. CONRAD: I'm inquiring what your

 5 question is, Counsel.

 6   JUDGE JORDAN: Repeat the question.

 7   MR. HATFIELD: Right. We're -- I believe

 8 that I asked -- could we just have the court reporter read

 9 it back. That way I'll make sure we have it.

10   THE REPORTER: "Question: My question is

11 simply whether you provided any testimony to disagree with

12 the annual revenue requirement that he testified to for

13 building a 300 megawatt plant on a GMO site?"

14   MR. HATFIELD: Yeah. That's the question I

15 meant to ask, your Honor.

16   THE WITNESS: The difficulty I'm having

17 with the question I did not provide is when you want me

18 compare it to this analysis, and I don't know what this

19 analysis is.

20 BY MR. HATFIELD:

21   Q.   Okay. Thank you. Now, Mr. Crawford also

22 provided some testimony about what the firm gas

23 transportation costs would be for a 300 megawatt plant at

24 a GMO site, right?

25   A.   It was Mr. Crawford or Mr. Blunk. I can't

 1 remember which.

 2   Q.   Right. And did you provide -- you didn't

 3 disagree with his testimony about the cost of firm gas

 4 transportation, correct?

 5   A.   Well, I did. I said that those costs

 6 were -- they were speculative, they were estimates, they

 7 were projections, and they were not --

 8   Q.   You referred to them as useful, correct?

 9 You referred to those gas transportation costs as useful

10 in your testimony?

11   A.   If you've got a citation in my testimony

12 where I say that.

13   Q.   Well, if you recall. If you don't recall

14 referring to these as useful but for planning purposes,

15 that's okay.

16   A.   I do recall saying that they were useful

17 for planning purposes.

18   Q.   Very well. So the gas transportation costs

19 Mr. Crawford testified to are useful for planning

20 purposes, correct?

21   A.   Yes.

22   Q.   And you don't provide any alternative

23 testimony as to the gas transportation costs for any of

24 the facilities discussed in your testimony, do you?

25   A.   No.

1   Q.   All right. Let's talk about transmission

2   costs for just a moment to make our record very clear.

3   The transmission costs, are we on the same page, refer to

4   the cost to get electricity from Crossroads up to GMO? Is

5   that the way you use that?

6   A.   That's how I would use the term

7   transmission costs.

8   Q.   And you agree that the transmission costs

9   the company is requesting were actually incurred

10   transmission costs, correct?

11   A.   Yes.

12   Q.   All right. Now, you testify that utilities

13   simply don't put power plants where the customers are not

14   located. So is it Staff's position that you should never

15   put a power plant outside of territory?

16   A.   I think there are circumstances where you

17   would do so.

18   Q.   For example, if it saved the ratepayers to

19   put the facility outside of territory?

20   A.   Well, I'm thinking of the example

21   Mr. Crawford used earlier of Kansas City is not noted for

22   its -- its wind. So in order to have wind energy, they've

23   had to go out to western Kansas, which is one of the

24   places that is thought to be very good for wind.

25   Q.   Should a utility place a power plant

 1   **outside of the service area if it represents the lowest**

 2   **cost to the ratepayers for that electricity?**

 3   A.   If it could be demonstrated that it would

 4   represent the lowest cost, yes. That's not the case with

 5   Crossroads, however.

 6   MR. HATFIELD: I have a question, Judge,

 7   about the exhibit that was marked as the correction,

 8   Exhibit No. --

 9   MR. MILLS: 392.

10   MR. HATFIELD: -- 392, which is an HC

11   exhibit. I saved it for the end because I would like to

12   discuss some of the numbers HC.

13   JUDGE JORDAN: Okay. So we will be giving

14   testimony as to highly confidential information; is that

15   correct?

16   MR. HATFIELD: Correct, your Honor.

17   JUDGE JORDAN: Then we need to go

18   in-camera.

19   (REPORTER'S NOTE: At this point, an

20   in-camera session was held, which is contained in

21   Volume 20, pages 958 through 963 of the transcript.)

22

23

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1   JUDGE JORDAN: Redirect from Staff?

2   MR. WILLIAMS: Thank you, Judge.

3 REDIRECT EXAMINATION BY MR. WILLIAMS:

4   **Q.   Mr. Featherstone, do you recall receiving**

5 **some questions discussing fair market -- or regarding fair**

6 **market value and willing buyers and willing sellers?**

7   A.   Yes.

8   **Q.   And in connection with the Crossroads**

9 **generating station, are you aware if there were ever any**

10 **willing buyers and any willing sellers regarding**

11 **Crossroads?**

12   A.   Well, there definitely was a willing

13 seller. Unfortunately, there were no takers. There was

14 no willing buyer.

15   **Q.   And what implications would that have for**

16 **the fair market value at Crossroads?**

17   A.   It would be distressed property, and it

18 would have a considerably lesser value than its net book

19 value, its purchased price value. And I would hesitate to

20 say that's not original cost value. It's purchased price

21 value.

22   **Q.   Do transportation and transmission costs,**

23 **are they fixed over the life of a plant or may they vary?**

24   A.   They vary, and the transportation

25 transmission costs can vary substantially. And what we

1 have seen is an increase, a significant increase in

2 transmission costs, primarily a projection of increases

3 that are substantial. There's been a gradual increase in

4 transmission costs over the last several years, but there

5 are projections and estimates that those costs will

6 increase dramatically over and above existing levels.

7   **Q. You spoke to transmission costs in**

8 **particular. What about with regard to transportation**

9 **costs?**

10   A. Transportation costs have been -- those are

11 paid in sort of longer-term contract agreements, if you

12 will, with the -- the transportation costs are not just

13 the costs to physically transport the gas to the facility,

14 but they have to do with upgrades and whether or not

15 you -- you've built capacity pipelines to the facility,

16 whether or not we have increases in capacity.

17   And the transportation costs, usually they

18 are done on a monthly or annual basis. Those are ways for

19 pipeline companies to have the -- in this case the utility

20 pays for those upgrades and those increases in capacity.

21   **Q. Do you recall Mr. Woodsmall asked you some**

22 **questions regarding Staff's position on accumulated**

23 **deferred income tax associated with Crossroads and the**

24 **Commission's Order of Clarification and Modification in**

25 **KCPL Greater Missouri Operations Company's last rate case?**

 1   A.   Yes.

 2   **Q.   Would you elaborate a bit on how the**

 3 **Commission or the Staff's position is consistent or**

 4 **inconsistent with that order?**

 5   A.   Well, I hesitate to elaborate too much in

 6 that we would be too far afield from Commission order in

 7 terms of --

 8   MR. HATFIELD: Judge, I'm sorry to

 9 interrupt. I'm going to take you up on your invitation in

10 the initial scheduling order and object that this question

11 calls for a narrative, would you please elaborate on.

12   JUDGE JORDAN: Will you rephrase your

13 question?

14 BY MR. WILLIAMS:

15   **Q.   As I recall, you testified that Staff's**

16 **treatment of accumulated deferred income tax was**

17 **consistent with the Commission's Order of Clarification**

18 **and Modification. Would you explain how?**

19   A.   The Commission order in the last case

20 specifically identified a dollar amount. It was the full

21 deferred income tax amount that -- that was -- the taxes

22 were created, deferred taxes were created since the

23 inception of the plant back in 2002. The Staff included

24 because it wanted to stay consistent with the Commission

25 order. We didn't want to stray too far apart, we didn't

1 want to get too far removed from the Commission order in

2 our initial filing in this case where we used that value

3 or close to that value was an updated amount.

4 But we said that we wanted to discuss with

5 the parties to find a way, if we could, to look at what

6 the true value for deferred taxes should be in

7 relationship to the Commission looking at the Racoon and

8 Goose Creek values, what it determined to be the

9 appropriate value to put in rates.

10 The deferred taxes, the full amount was

11 associated with a net book value, and if you start with a

12 lower valuation of the plant, then those deferred taxes

13 should be reduced. And what I have said in testimony,

14 that whatever value is determined by the Commission in

15 this case should -- should determine the deferred income

16 tax, the accumulated deferred income tax balances.

17 MR. WILLIAMS: No further questions.

18 JUDGE JORDAN: That concludes your

19 examination. You may stand down.

20 THE WITNESS: Thank you.

21 JUDGE JORDAN: I see we are past 20 minutes

22 after four, and so I'll ask the parties whether they have

23 any preference as to when to break for dinner, and it

24 looks like if we adhere to the schedule of witnesses that

25 we have, we'll be going well past five o'clock. Does that

 1   look accurate to the parties?

 2   MR. FISCHER: Judge, I think at a minimum

 3   we'd like to finish this particular issue. I think our

 4   cross will be very limited, if any, for the Staff witness,

 5   the next Staff witness.

 6   JUDGE JORDAN: And then we also have --

 7   MR. MILLS: Mr. Meyer.

 8   JUDGE JORDAN: -- Mr. Meyer.

 9   MR. WOODSMALL: I would proceed to move on,

10   at least finish these two witnesses.

11   JUDGE JORDAN: Okay. And then we can

12   decide whether we want to continue after that. And I will

13   note also for those who do not have access to EFIS right

14   now the filing of a Nonunanimous Stipulation & Agreement

15   regarding class cost of service and rate design. Do I

16   understand that there is some opposition to that

17   stipulation from OPC, AARP and the Consumers Council of

18   Missouri?

19   MR. MILLS: Judge, as I understand it,

20   there have been two Nonunanimous Stipulation & Agreements

21   filed, one in 174 and one in 175.

22   JUDGE JORDAN: That is correct.

23   MR. MILLS: We do not object to the one

24   that was filed in 0175. We do object to the one that was

25   filed in 0174, and I will have perhaps five minutes of

 1   cross-examination for each of two witnesses with respect

 2   to that case, and that's the size of it.

 3   JUDGE JORDAN: Okay. And would someone

 4   like to update me on MEEIA issues? For our reporter's

 5   understanding, I just want to make sure, that is an

 6   acronym M-E-E-I-A, MEEIA.

 7   MR. WOODSMALL: The last e-mail I saw, the

 8   stipulation was being sent around and asking for parties

 9   to indicate support. Do you have any update on MEEIA?

10   MR. FISCHER: MEEIA?

11   MR. MILLS: Judge, I can tell you from

12   Public Counsel's perspective, we found an error earlier

13   this afternoon that has been corrected. I believe there

14   is a draft that corrects the last error, and as far as I

15   know, everyone is okay with it and it's simply a matter of

16   getting it finalized and filed.

17   JUDGE JORDAN: Thank you for the update.

18   MR. FISCHER: That was the last information

19   I had, too, Judge.

20   JUDGE JORDAN: Thank you. Anything else

21   before we continue with our next witness? Hearing

22   nothing.

23   Please raise your right hand.

24   (Witness sworn.)

25   LENA MANTLE testified as follows:

 1   DIRECT EXAMINATION BY MR. WILLIAMS:

 2   **Q.   Would you please state your name.**

 3   A.   Lena M. Mantle.

 4   **Q.   And, Ms. Mantle, are you the same person**

 5   **who caused to be filed portions of the Staff cost of**

 6   **service report that's been marked as Staff Exhibits 258**

 7   **and 259HC and are your credentials listed in the**

 8   **Appendix 1 to that report which has been marked as Staff**

 9   **Exhibit 260, and did you also cause to be filed prefiled**

10   **rebuttal testimony that has been marked as Staff**

11   **Exhibit 282?**

12   A.   Yes.

13   **Q.   And would you have any changes to Staff**

14   **Exhibit 258, 259, Staff Exhibit 260 or Staff Exhibit 282**

15   **regarding your portions of them for your testimony here**

16   **today?**

17   A.   I have no changes.

18   MR. WILLIAMS: With that, Staff offers, and

19   I believe it's already been admitted into the record, but

20   Staff Exhibit 258, 259, Staff Exhibit 260 and Staff

21   Exhibit 282.

22   MR. HATFIELD: Has that already been

23   admitted, Judge?

24   JUDGE JORDAN: I don't have that right in

25   front of me. Go ahead. Do you have an objection?

1   MR. HATFIELD: We do. On the rebuttal

2 testimony, page 1, lines 26 through 28 continuing through

3 page 2, line 3, Ms. Mantle testifies to evaluation for the

4 plants. I will not repeat my previous objection if it's

5 all right with your Honor. We have the same objection

6 regarding foundation and lack of testimony within a

7 reasonable degree of professional certainty.

8   JUDGE JORDAN: I understand that objection,

9 and I will overrule it as to this exhibit also. And if

10 they haven't been -- hearing no other objections, if they

11 haven't been admitted already, they are now.

12   (STAFF EXHIBIT NOS. 258, 259, 260 AND 282

13 WERE RECEIVED INTO EVIDENCE.)

14   MR. WILLIAMS: Thank you, Judge. I offer

15 Ms. Mantle for examination.

16   JUDGE JORDAN: Cross-examination from

17 Dogwood Energy, LLC?

18   MR. LUMLEY: No questions.

19   JUDGE JORDAN: Thank you. Mr. Coffman is

20 absent. So I will go to Southern Union Company.

21   MR. JACOBS: No questions.

22   JUDGE JORDAN: Mr. Woodsmall, any

23 questions?

24   MR. WOODSMALL: No questions. Thank you.

25   JUDGE JORDAN: Mr. Conrad?

1   MR. CONRAD: No questions, Judge. Thank

2 you.

3   JUDGE JORDAN: Any questions from GMO?

4   MR. HATFIELD: No questions, Judge. Thank

5 you.

6   JUDGE JORDAN: Any questions from the

7 Bench?

8   COMMISSIONER JARRETT: No.

9   COMMISSIONER KENNEY: No questions. Thank

10 you.

11   JUDGE JORDAN: I have no questions either,

12 which means that your examination is complete. Next

13 witness.

14   MR. WOODSMALL: Your Honor, MECG would call

15 Greg Meyer, and he has not testified yet. I believe he's

16 ready to be sworn.

17   JUDGE JORDAN: Thank you.

18   (Witness sworn.)

19   MR. WOODSMALL: Thank you, your Honor.

20 GREG MEYER testified as follows:

21 DIRECT EXAMINATION BY MR. WOODSMALL:

22   **Q.   Would you state your name for the record,**

23 **please.**

24   A.   Greg Meyer.

25   **Q.   By who are you employed and in what**

 1 capacity?

 2   A.   I'm a consultant for Brubaker & Associates,

 3 Inc.

 4   Q.   Did you cause to be filed in Case

 5 No. ER-2012-0174, the KCPL case, what has been marked as

 6 Exhibits 400, direct testimony, and 401, surrebuttal

 7 testimony?

 8   A.   Yes, I did.

 9   Q.   Do you have any corrections to make to

10 those pieces of testimony?

11   A.   Yes. In the surrebuttal on page 13,

12 compliance --

13   Q.   Could you tell me what issue this concerns?

14   A.   This is the property tax tracker.

15   Q.   Please do.

16   A.   Starting on line 3 through line 6, the

17 sentence that starts "in fact," I would delete the rest of

18 that answer. So it's -- I would delete "in fact, KCPL's

19 response to MECG Data Request 23.3 indicates that KCPL's

20 budgeted level of capital expenditures is decreasing. As

21 such, the incremental amount of property taxes should also

22 be decreasing. Needed to delete that.

23   Q.   Thank you. And did you cause to be filed

24 in Case No. ER-2012-0175, the GMO case, what has been

25 marked as Exhibit 425, direct testimony, and 426,

 1 surrebuttal testimony?

 2   A.   Yes.

 3   Q.   Do you have any changes to make to either

 4 of those pieces of testimony?

 5   A.   Yes, I do. On page 17, line 16 --

 6   Q.   Which piece of testimony?

 7   A.   Direct.

 8   Q.   The 2007 should be 2008. And page 18,

 9 line 10, again, 2007 should be 2008.

10   Q.   With those changes, corrections, if I were

11 to ask you the same questions that are contained therein,

12 if I were to ask you those questions today, would your

13 answers be the same?

14   A.   Yes.

15   Q.   And are those answers true and correct to

16 the best of your knowledge, information and belief?

17   A.   Yes.

18   MR. WOODSMALL: With that, your Honor, I'd

19 move for -- this is the last time Mr. Meyer will be taking

20 the stand. I'd move for the admission of Exhibit 400 and

21 401 in the 174 case, 425 and 426 in the 175 case.

22   JUDGE JORDAN: Hearing no objections, those

23 exhibits are admitted into the record.

24   (MECG EXHIBIT NO. 400, 401, 425 AND 426

25 WERE RECEIVED INTO EVIDENCE.)

 1   MR. WOODSMALL: Tender the witness for

 2   cross-examination.

 3   JUDGE JORDAN: Cross-examination from

 4   Dogwood?

 5   MR. LUMLEY: No, Judge.

 6   JUDGE JORDAN: Mr. Conrad, any

 7   cross-examination from Praxair?

 8   MR. CONRAD: In GMO, your Honor, I believe

 9   we're jointly sponsoring this witness, so I don't think

10   cross would be appropriate, although I'll do it if you

11   like.

12   JUDGE JORDAN: Office of Public Counsel?

13   MR. MILLS: No questions.

14   JUDGE JORDAN: Staff?

15   MR. WILLIAMS: No questions.

16   JUDGE JORDAN: Southern Union Company?

17   MR. JACOBS: No questions.

18   JUDGE JORDAN: Utilities?

19   MR. HATFIELD: No questions.

20   JUDGE JORDAN: Questions from the Bench for

21   this witness?

22   COMMISSIONER JARRETT: No questions.

23   COMMISSIONER KENNEY: No, thank you.

24   JUDGE JORDAN: I have no questions for you,

25   so that completes your examination. You may stand down.

 1   That completes the -- that completes the

 2   list of witnesses for the Crossroads issue, and I believe

 3   our next issue is the matter of rate design class cost of

 4   service.

 5   MR. WOODSMALL: Your Honor, asking for a

 6   little indulgence here to try to help some witnesses and

 7   get some people out of here if they want, one of the first

 8   witnesses to go up, the first witness on this list anyway,

 9   Mr. Rush, and I'm thinking he's probably going to have

10   maybe some cross-examination from MGE.   There are some

11   other witnesses like Mr. Normand that we could probably

12   put up, Mr. Johnstone, get them up and off, given the

13   statements I've heard from the other parties. So if we

14   could take witnesses out of order, if people want to do

15   that, I think we can get some people out of here.

16   JUDGE JORDAN: I do not have a problem with

17   that.

18   MR. FISCHER: Judge, we were going to call

19   Paul Normand first as our first witness anyway, so we can

20   do that, too.

21   JUDGE JORDAN: Okay. Well, the utility

22   witnesses are first on my list. I have Mr. Rush and

23   Mr. Normand. Whichever one you want to call first is

24   fine. Do I take it -- do I take it that we'll keep the

25   same list as far as the sequence of the parties, just so I

 1   have an idea of how it's going to go?

 2   MR. MILLS: Judge, given the fact that the

 3   two Stipulation & Agreements have been filed, it may be

 4   more helpful to have the parties identify the witnesses

 5   for whom they do have questions, because I have a feeling

 6   there are going to be some witnesses for whom there are no

 7   questions.

 8   JUDGE JORDAN: Let's take ten and put that

 9   together. The parties can discuss who they want to --

10   intend to cross and how much, and then we'll come back on

11   the record in ten minutes.

12   (A BREAK WAS TAKEN.)

13   JUDGE JORDAN: I'm unmuting now, and we're

14   back on the record, and now let's have an update as to the

15   rest of today's schedule, if we may.

16   MR. FISCHER: Judge, I'd be happy to give

17   you that. We've had conversations among counsel, and I

18   believe there -- on the rate design/rate structure issues,

19   there are four witnesses that have some cross. That would

20   be Paul Normand, Tim Rush, Mike Scheperle and Jay

21   Cummings. The remainder could be stipulated into the

22   record. We wouldn't have to call those witnesses. There

23   are also some opening statements, I believe.

24   JUDGE JORDAN: All right. I am not seeing

25   any head shakes or hearing any objections to that, so

1   that's how we will proceed. Why don't we -- can we take

2   care of the stipulated testimony first, the exhibits, and

3   we can start with -- well, we can just go down the order

4   of the witness list. First would be Mr. Brubaker.

5   MR. WOODSMALL: Your Honor, Mr. Brubaker

6   filed, let's see, six pieces of testimony: Exhibit 406,

7   direct in the 174 case; 407, his rebuttal in that case;

8   and 408, his surrebuttal in that case; as well as 431,

9   revised direct in the 175 case; 432, rebuttal in the 175

10   case; and 433, surrebuttal in that case. Offer all six

11   pieces, 406 to 408, 431 to 433, into evidence.

12   JUDGE JORDAN: Not hearing any objections

13   and the parties have agreed to that, so that will be

14   admitted into evidence.

15   (MIEC/MECG EXHIBIT NOS. 406 THROUGH 408 AND

16   431 THROUGH 433 WERE MARKED AND RECEIVED INTO EVIDENCE.)

17   JUDGE JORDAN: The next on that list of

18   witnesses whose testimony is stipulated to will be Barbara

19   Meisenheimer, I believe.

20   MR. MILLS: Yes, your Honor. And let me

21   take this opportunity to correct the exhibit list that I

22   circulated to the parties. It inadvertently listed

23   Exhibit 304 as Ms. Meisenheimer's rebuttal testimony in

24   Case No. ER-2012-0174. In fact, there was not any

25   rebuttal testimony in that case, so that's a number that

 1 we're not going to be using.

 2   But with respect to ER-2012-0174, I have

 3 Exhibit 302, the direct on revenue requirement, which may

 4 have already been admitted when she testified about policy

 5 considerations, and then direct on rate design, which is

 6 Exhibit 303. In Case No. ER-2012-0175, Exhibit 309, which

 7 is the direct with respect to revenue requirement, and

 8 rebuttal, which is Exhibit 310. And I would offer all

 9 four of those exhibits at this time.

10   JUDGE JORDAN: And those will be admitted

11 into the record.

12   (OPC EXHIBIT NOS. 302, 303, 309 AND 310

13 WERE MARKED AND RECEIVED INTO EVIDENCE.)

14   JUDGE JORDAN: And the next on that list

15 would be Mr. Johnstone.

16   MR. BARTELS: Yes. Reed Bartels. We have

17 Mr. Johnstone's rebuttal testimony, Exhibit 675, Case

18 No. ER-2012-0174. And additionally I have listed on my

19 circulation list surrebuttal, 676. That does not exist.

20 And with that to noted, I'll offer this exhibit.

21   JUDGE JORDAN: Those will be admitted into

22 the record.

23   (MEUA EXHIBIT NO. 675 WAS MARKED AND

24 RECEIVED INTO EVIDENCE.)

25   JUDGE JORDAN: The last on that list would

 1   be Mr. Goins, and I believe I excused him on the record at

 2   the beginning of this proceeding today. So we can go to

 3   opening statements.

 4   MR. FISCHER: May it please the Commission?

 5   I'm Jim Fischer. I will be representing the companies in

 6   this part of the case.

 7   As I think you've already noted on the

 8   record, a Nonunanimous Stipulation & Agreement Regarding

 9   Class Cost of Service Rate Design was filed in both the

10   174 case and the 175 case, and it's also my understanding

11   that there is some opposition in the 174 case from a

12   couple of the parties, so the Commission will have to take

13   a look at all of the issues in that based on the record in

14   the case.

15   As the Commission does that, when you look

16   at the list of issues that we've laid out for the

17   Commission to resolve, I think it's appropriate to look at

18   all of the cost of service studies that have been

19   presented in this case as you're developing a resolution

20   of the issues.

21   The company and Staff have both used the

22   base/intermediate/peak method that attempts to balance the

23   allocation across the classes on a layered allocation of

24   production plant. That's one of the main issues that if

25   you actually got into the cost of service studies, you'd

 1   see a difference of opinion. But we believe that it's

 2   important to look at all of the evidence, all of the cost

 3   of service studies as you resolve the issues.

 4   The company has recommended and we support

 5   the Stipulations & Agreements as resolutions of the

 6   matter, and we hope -- we would request that you approve

 7   those stipulations as written. There is one competitor in

 8   this case that has suggested that they intend to take the

 9   case to hearing on the issue of what is the residential

10   rate structure that should be approved by the Commission.

11   MGE's argument, I think, is that the Commission should

12   eliminate the residential space heating rate, and it

13   appears from our perspective to be an attempt by a

14   competitor to prevent Kansas City Power & Light Company

15   from providing cost-based rates for customers who choose

16   to use electricity to heat their homes.

17   From our perspective, MGE has not supported

18   its position, has not justified with a cost study its

19   recommendation. And I think most -- very important for

20   the Commission is to look at the impacts of that proposal

21   on the -- on Kansas City Power & Light and GMO's space

22   heating customers. It's important that you realize what

23   kind of impacts the resolution the way that MGE is

24   suggesting could have on those customers, and we ask that

25   you take a hard look at that.

1   We also think there's plenty of cost of

2   service evidence that would support just across the board

3   a resolution of that issue based upon the Stipulations &

4   Agreements that are before you.   Thank you.

5   JUDGE JORDAN: Thank you.   Opening

6   statement from Staff.

7   MS. KLIETHERMES: May it please the

8   Commission?

9   Speaking to the issue that Mr. Fischer just

10   raised, Staff comes out kind of in the middle on that

11   space heating issue.   What Staff recommends is that the

12   Commission take this opportunity in this rate case to

13   address some disparities in KCP&L's rates.

14   The Commission should increase the first

15   energy block of the residential schedules Res B and Res C,

16   both affecting space heating customers, by an additional 5

17   percent.   These rates should be adjusted to bring these

18   classes closer to the class cost of service for these

19   customers during the winter season.

20   What I've handed out is a copy of the KCPL

21   tariffs for res, or a couple of pages of it.   If you look

22   at the winter season, normal general use residential

23   customers have two blocks to run through before they get

24   to 1,000 kilowatt hours.   Those customers pay about .099

25   each kilowatt hour for the first 600 kilowatt hours and

 1   about .059 for the next 400 kilowatt hours to get up to a

 2   thousand.

 3   Space heat's customers' very first kilowatt

 4   hour costs .073. That's the rate for each of the first

 5   1,000 kilowatt hours. Now, blocks over 1,000 kilowatt

 6   hours aren't very far apart. We're looking at .04872 for

 7   space heat customers and .04968 for general use customers.

 8   What Staff wants to fix here, though, is

 9   the disparity in contribution to cost of service that

10   exists in the winter for customers on the space heating

11   rate but using less than 1,000 kilowatt hours.

12   For those first thousand kilowatt hours,

13   general use customers pay a weighted average rate of

14   .083264, while space heat rate customers pay only .07382.

15   And general use customers only get to that approximately

16   .083 average rate if they use all 1,000 kilowatt hours.

17   Space heat customers are out the gate at .073 on the very

18   first kilowatt hour each month of the winter season.

19   Now, Mr. Fischer said that there's nothing

20   to indicate that those customers aren't paying all the

21   weighted cost of service. I think MGE is going to tell us

22   those customers should have their rate frozen altogether.

23   Staff's position is somewhat more moderate.

24   There's a similar phenomena for KCPL's

25   all-electric general service nonresidential rates, small,

 1   medium and large, and I'm quickly confirming that we

 2   didn't settle that this morning. I didn't think we did,

 3   but there's some confusion on that point.

 4   Staff's recommendation to address that

 5   issue is that the first energy block rate for all of those

 6   general -- electric general service winter rates, and

 7   again this is only on the winter, this is only on the

 8   first block, be increased by an additional 5 percent,

 9   which would bring it closer to that cost of service.

10   We have similar issue on the GMO case. Our

11   recommendation there is 6 percent for certain energy block

12   rates for residential space heating customers, again, on

13   the winter, and 6 percent increase on GMO for the

14   nonresidential space heating/water heating separate meter

15   customers.

16   And Mr. Scheperle is our witness and is

17   probably the best person to answer any questions on the

18   specifics of that.

19   Just an item to note. The Commission may

20   be aware that GMO has agreed to prepare and file in its

21   next general rate increase case a comprehensive study of

22   the impacts on its retail customers of eliminating the

23   separate rate districts of MPS and L&P, and going

24   towards -- and studying the implementation of company-wide

25   uniform rate classes.

 1   I think GMO has agreed to do that, but we

 2   just wanted to remind the Commission that that was out

 3   there, and if they wanted to mention that in the Report

 4   and Order, that would probably be a helpful thing to do.

 5   That's all. Thank you.

 6   JUDGE JORDAN: Thank you. Opening

 7   statement from the Office of Public Counsel?

 8   MR. MILLS: Thank you, your Honor. May it

 9   please the Commission?

10   As you're well aware, the set of issues

11   that comprise class cost of service and rate design have

12   been sort of a moving target, and the target is much

13   smaller now than it was just a few hours ago before a

14   Stipulation & Agreement was filed, one in each case.

15   From my perspective, one of the biggest

16   issues remaining is whether or not class cost of service

17   shifts should be made for KCPL, and if so, what should

18   those shifts be? Public Counsel recommends that in the

19   KCPL case, that before any revenue increase granted in

20   this case be applied, that the following shifts should be

21   made: That the large power class should be increased by

22     $5,458,572, that the small general service should be

23   decreased by $3,319,366, and that medium general service

24   should be decreased by $2,139,206. And following that,

25   any rate increase granted in this -- in the KCPL case

 1   should be made on a revenue neutral basis.

 2   In addition, Public Counsel believes that,

 3   as was agreed to in the GMO case, that any rate increase

 4   to the residential and small general service classes for

 5   KCPL should be applied only to the energy charges to those

 6   classes, and that the customer charge should remain at its

 7   current level for both of those two classes.

 8   Thank you.

 9   JUDGE JORDAN: Opening statement from the

10   Missouri Industrial Energy Consumers?

11   MS. ILES: Waive opening, your Honor.

12   JUDGE JORDAN: Mr. Conrad, any opening

13   statement?

14   MR. CONRAD: No, sir. We're not opposing

15   either of those stipulations. We're not joining in them,

16   but not opposing them.

17   JUDGE JORDAN: Mr. Woodsmall?

18   MR. WOODSMALL: Nothing, your Honor, other

19   than to mention that MECG is a signatory to both the GMO

20   and the KCP&L stipulation, and we agree -- we believe that

21   it will lead to just and reasonable rates and urge the

22   Commission to adopt that.

23   JUDGE JORDAN: Mr. Bartels?

24   MR. BARTELS: No, your Honor.

25   JUDGE JORDAN: Any opening statement from

 1   AARP or the Consumers Council of Missouri?

 2   MR. COFFMAN: Yes. Just briefly, your

 3   Honor.

 4   I would like to officially note on the

 5   record that my clients, AARP and the Consumers Council of

 6   Missouri, are not signatories to the KCPL rate design

 7   stipulation and do oppose that stipulation. We adopt the

 8   same position as the Office of Public Counsel. We believe

 9   that their cost of service and rate design recommendations

10   are the most just and reasonable and have particular

11   interest in not increasing the customer charges. We would

12   recommend that their shifts away from the residential

13   class be adopted and that the customer charge for KCPL

14   remain the same.

15   As to the GMO rate design stipulation that

16   was just filed, we are not opposed to that.

17   JUDGE JORDAN: Thank you.

18   MR. COFFMAN: Thank you.

19   JUDGE JORDAN: I see Mr. Lumley is now

20   absent. Southern Union Company?

21   MR. JACOBS: With your permission?

22   Judge, I want to outline some key

23   considerations that MGE has in our position in this case.

24   The questions really are, is it appropriate to have a

25   specially priced and discounted rate for electric space

 1   heating customers? Is it justified to have rates of this

 2   type, rates that are not cost based, as evidenced by

 3   KCPL's own class cost of service study? Is it equitable

 4   to have two neighbors, both KCPL or GMO residential

 5   customers, pay different rates and different prices for

 6   all of their electric services for eight months of the

 7   year solely because one customer has electric space

 8   heating equipment? Is KCPL's general use rate, their

 9   standard rate, insufficient in promoting winter load? And

10   is it logical in a time in which the Commission is

11   actively seeking ways to encourage conservation to have

12   such a specially priced rate that encourages use?

13   We respectfully submit that the answers to

14   these questions are no. These rates are not cost based,

15   they're not equitable, and they do not represent good

16   energy policy for the state of Missouri. We ask the

17   Commission to eliminate or freeze these rates.

18   What are these rates? KCPL and GMO have

19   specially discounted rates, like I talked about. They

20   feature the same monthly charge, the same summer rates for

21   four months, but in the winter, which is eight months out

22   of the year under KCPL/GMO's rate class design, they have

23   special winter electric space heating rates, and that's

24   from September through May. And as long as you have a

25   heat pump or electric resistance heat and you register

1   that with KCPL or GMO, you get a percentage discount

2   essentially on the rates that you pay. You pay reduced

3   rates.

4   This applies to new homes. It applies to

5   replacing equipment. And the discount as it's compared to

6   a general use rate, meaning a customer that's not on the

7   special rate, really varies by region and is detailed and

8   outlined in Mr. Cummings' testimony.

9   So what these rates are really are a

10   specialized subclass, and if you're not on the special

11   rate, if you use energy -- if you use any energy source

12   other than electricity to primarily heat your home, which

13   is -- could be natural gas, propane, wood pellet stoves,

14   you pay more for your electricity than your neighbor does.

15   And this is for all of your electricity, not just the

16   electric cost that it costs to heat your home.

17   Now, as Mr. Cummings notes in his

18   testimony, these rates really are leftovers from a

19   different era and with different energy priorities. We

20   are no longer in a time where we want to promote greater

21   use of electricity to heat homes through special rates.

22   There are no other investor-owned utilities in the state

23   of Missouri which have these specially priced rates. And

24   KCPL itself agreed in testimony to eliminate most of the

25   disparity in these rates in a recent rate proceeding in

 1   Kansas. That's detailed in Mr. Cummings' testimony.

 2   Are these rates cost justified? The clear

 3   answer to this question is no. They're not cost justified

 4   as shown in KCPL's own cost of service study. And that

 5   study shows clearly and definitively that electric space

 6   heating customers are contributing less than their fair

 7   share of KCPL's overall rate of return.

 8   In other words, unless this rate -- unless

 9   this differential is eliminated, the majority of KCPL and

10   GMO's customers are paying for through higher rates the

11   discounted rates of their neighbors. Current rates have

12   general use customers producing a higher rate of return

13   than their neighbors on these specially priced rates, and

14   accordingly the general use customers would pay for a

15   portion of the costs to serve the specially priced rates

16   in the winter.

17   Now, KCP&L with the kind of results that

18   are shown in their class cost of service study, which is

19   outlined in Mr. Normand's testimony, with the kind of

20   results that they show for the differential on the rate of

21   return, they've got a pretty unique challenge in this

22   case, and the challenge here is to convince the Commission

23   to shift its focus away from its own study, and it's a

24   study with findings that they do not otherwise refute.

25   They'll ask you to look at other studies,

1 studies which do not and cannot show the type of seasonal

2 and intraclass rate shifts that we advocate here. They

3 insist that we, we as in MGE, conduct a study of our own

4 when theirs already illustrates perfectly well what we're

5 trying to show.

6   And we ask with the countless issues

7 present in this case, the other issues present in this

8 case, that the Commission not be distracted by these

9 arguments and see these rates for what they really are.

10   Now, Staff in their testimony through

11 Mr. Scheperle, they note the need to bridge the gap in

12 some way. They note the need to move closer to cost-based

13 rates. And OPC generally in their position statement

14 agrees with Staff's position. MGE does not feel that

15 their proposal goes far enough, and it only prolongs the

16 issue and kicks the can down the road. It identifies a

17 problem, but it doesn't provide a solution that fixes the

18 issue.

19   Now, rate impact, a concern noted by Staff,

20 is an issue in any case, and what we ask you to note is a

21 key but very much overlooked point in Mr. Cummings'

22 testimony in the position he's taken, which while the

23 rates would increase for electric space heating customers,

24 by eliminating that discount, the net effect on most

25 customers is a net decrease or no increase in rates.

 1   And, of course, this is before any Commission authorized

 2   revenue increase as part of this case.

 3   But once that -- once that shift is made

 4   before new rates are applied for the vast majority of

 5   customers under general use, there's no increase or very

 6   small, very small increase. Pardon me. There's a net

 7   decrease but no increase in rates. And the reason for

 8   this is that general use customers would go down, they

 9   would pay less in revenue because they no longer pay that

10   subsidy. And Mr. Cummings is -- he accounts for that in

11   his testimony.

12   Now, when you look at the number of

13   customers that this would impact is a key consideration

14   for the Commission. Now, KCPL for general use, 79 percent

15   of their customer base is not -- they're not on the

16   special rate. And when you look at the analysis that

17   Mr. Cummings does in the case, 5. -- there's a 5.6 percent

18   decrease in rates. There's a 6.1 percent increase for

19   space heating. For GMO MPS, 64 percent of the customers,

20   the majority, are not on these special rates, and their

21   net increase would be around zero. For GMO L&P, general

22   use customers again a majority, 62.4 percent would not be

23   impacted by a rate increase before any

24   Commission-authorized revenue increase in this rate case,

25   but their rates would actually go down also another

 1   9.6 percent, and there's a corresponding increase of

 2   7.8 percent for space heating customers.

 3   So what do we need to do in this case?

 4   Now, consistent with Mr. Cummings' recommendation, which

 5   are two separate and distinct recommendations, we need to

 6   make revenue neutral adjustments in current rates, remove

 7   the seasonal inequities that exist, equalize rate of

 8   return at current rates, both summer and winter, remove

 9   inequities in winter revenue, and then either eliminate or

10   freeze, which were both recommendations by Missouri Gas

11   Energy and Mr. Cummings, electric space heating rate

12   schedules.

13   Now, there are significant ratemaking and

14   policy considerations that support the elimination of

15   these rates, and we can't simply delay and wait as KCPL

16   wants the Commission to do here. We respectfully request

17   that the Commission act to eliminate or freeze these

18   underpriced specially discounted electric space heating

19   rates. Thank you.

20   JUDGE JORDAN: Then we're ready for our

21   first witness.

22   MR. FISCHER: The company would call Paul

23   Normand.

24   (Witness sworn.)

25   PAUL NORMAND testified as follows:

 1   DIRECT EXAMINATION BY MR. FISCHER:

 2   Q.   **Please state your name and address for the**

 3   **record.**

 4   A.   My name is Paul M. Normand, and my address

 5   is 1103 Rocky Drive, Suite 201, Reading, Pennsylvania,

 6   19609.

 7   Q.   **And by whom are you employed and in what**

 8   **capacity?**

 9   A.   I'm employed by Management Applications

10   Consulting, and I'm a principal.

11   Q.   **Did you cause to be filed in this case**

12   **direct and rebuttal testimony in both the KCPL rate case**

13   **and the GMO rate case, which I'll tell you has been marked**

14   **as KCPL Exhibit 38 for your direct and KCPL 39, your**

15   **rebuttal, and GMO 132 for your direct and GMO 133 for your**

16   **rebuttal?**

17   A.   Yes, I did.

18   Q.   **Do you have any corrections or additions**

19   **that need to be made in that testimony?**

20   A.   No, I do not.

21   Q.   **If I were to ask you the questions**

22   **contained in that written testimony today, would your**

23   **answers be the same?**

24   A.   Yes, they would.

25   Q.   **And are they true and accurate to the best**

 1   **of your knowledge and belief?**

 2   A.   Yes, they are.

 3   MR. FISCHER: Judge, I would move then for

 4   the admission of KCPL Exhibit 38 and 39 and GMO Exhibit

 5   No. 130-- excuses me -- 132 and 133 and tender the witness

 6   for cross-examination. This will be his last time to

 7   testify.

 8   JUDGE JORDAN: I'm not hearing any

 9   objections, so I will admit those exhibits into the

10   record.

11   (KCPL EXHIBIT NOS. 38 AND 39 AND GMO

12   EXHIBIT NOS. 132 AND 133 WERE RECEIVED INTO EVIDENCE.)

13   JUDGE JORDAN: I believe you -- have you

14   tendered this witness for cross?

15   MR. FISCHER: Yes, I have.

16   JUDGE JORDAN: All right. Then let's find

17   out if there's any cross-examination from Southern Union.

18   MR. JACOBS: No questions.

19   JUDGE JORDAN: Any cross-examination from

20   AARP or the Consumers Council of Missouri?

21   MR. COFFMAN: No your Honor.

22   JUDGE JORDAN: Mr. Woodsmall, any

23   cross-examination?

24   MR. WOODSMALL: No questions. Thank you.

25   JUDGE JORDAN: Mr. Conrad, any

 1 cross-examination?

 2   MR. CONRAD: No questions, sir. Thank you.

 3   JUDGE JORDAN: Mr. Bartels is not in the

 4 room anymore. I don't see him. Office of the Public

 5 Counsel, any cross-examination?

 6   MR. MILLS: Just a few, your Honor.

 7 CROSS-EXAMINATION BY MR. MILLS:

 8   **Q.   Mr. Normand, are you familiar with the**

 9 **NARUC Electric Utility Cost Allocation Manual?**

10   A.   Yes. I've looked at it a couple of times.

11   **Q.   Are you aware that -- and I'll just**

12 **shorthand refer to that as the NARUC manual. Do you --**

13 **are you aware that the NARUC manual recognizes that some**

14 **analysts might treat uncollectibles as a general cost of**

15 **business rather than as customer-related costs?**

16   A.   I've seen it treated a whole bunch of

17 different ways, but uncollectible to me is dealing with

18 all of the revenues associated with the customer, if you

19 will.

20   **Q.   My question was not how you've seen it**

21 **treated. My question was, does the NARUC manual**

22 **specifically acknowledge that some analysts may treat it**

23 **as a general cost of doing business rather than as a**

24 **customer-related cost?**

25   A.   I haven't seen that. I don't know.

1   MR. MILLS: Judge, may I approach?

2   JUDGE JORDAN: You may.

3   BY MR. MILLS:

4   Q.   Mr. Normand, I've just handed you a copy of

5   the NARUC Cost Allocation Manual from 1992, which I

6   believe is the most recent version and the one that most

7   analysts refer to, and specifically I'd turn your

8   attention to page 103 and the description on that page of

9   customer account expenses, Accounts 901 to 905. Do you

10   see that explanation?

11   A.   Yes, I do.

12   Q.   And although it acknowledges that these

13   accounts are generally classified as customer related, it

14   goes on to say that some analysts prefer to regard

15   uncollectible accounts as a general cost of performing

16   business by the utility and would classify and allocate

17   these costs based upon an overall allocation scheme such

18   as class revenue responsibility. Do you see that

19   statement?

20   A.   Yes, I do.

21   Q.   And so I will again ask you the question.

22   Are you aware that the NARUC manual acknowledges that some

23   analysts might treat uncollectibles as a general cost of

24   doing business rather then as customer-related costs?

25   A.   Yes. I read the NARUC manual, and it says

1   what it says.

2   Q.   Okay. In terms of your calculation, would

3   excluding uncollectibles from your calculation reduce the

4   cost associated with the customer charge?

5   A.   Only partially.

6   Q.   Well, would it reduce or not reduce?

7   A.   It will reduce, but partially because I

8   don't classify as uncollectible all customer, because some

9   of it is on the energy charge.

10   Q.   And can you tell us the total amount of

11   Account 904 uncollectible is allocated to the residential

12   class in your study?

13   A.   If you'll give me a minute.

14   Q.   Certainly.

15   A.   I don't -- I don't have it.

16   Q.   Okay. Can you tell us, then, the total

17   amount of customer accounts expense allocated to the

18   residential class?

19   A.   Just the expense itself for residential was

20   7,790,339. That's on page 3 of 33 of Schedule 1,

21   line 1330.

22   Q.   And is that at the current rates or at the

23   proposed rates after the proposed rate increase?

24   A.   This is off the current rates.

25   Q.   And what would that number be under the

 1   **proposed rates?**

 2   A.   Well, what this is is the actual booked

 3   expenses. So that wouldn't float depending on the

 4   revenues. It is what it is. If you're trying to --

 5   there's no 904 in here. I'm not sure if you're trying to

 6   impute that 904 is buried in here, but it's not. These

 7   numbers wouldn't change.

 8   **Q.   Do you have a copy of your direct testimony**

 9   **there with you?**

 10   A.   Yes, I do.

 11   **Q.   And referring to Schedule PMN -- PMN-3,**

 12   **page 2 of 4. Are you on that page?**

 13   A.   I'm sorry. Schedule PMN-3, page?

 14   **Q.   Page 2 of 4.**

 15   A.   Yes, I am.

 16   **Q.   And on that page, at line 33, you show a**

 17   **customer component for residential of $11.14 and for small**

 18   **general service of $16.58, correct?**

 19   A.   That's correct. You have to be very

 20   careful when you use these numbers because you have to

 21   look at line 1. So what happens in this schedule is

 22   you're presented with two different results. One is to

 23   reflect all of the components of cost, all the slices, if

 24   you will, at existing revenue levels.

 25   So when you're trying to look at this and

1 then compare against one class against another, you should

2 look at them at equalize, giving you the same rate of

3 return so that you can make a judgment call as to what

4 those levels ought to be. And that's a separate --

5 separate pages that follow.

6   **Q.**   **Okay. And if you would look at the same**

7 **schedule, PMN-3, page 4 of 4 --**

8   A.   That's correct.

9   **Q.**   **-- again at line 33, you show an**

10 **equalized -- if you equalize the rate of return for all**

11 **the classes, you show a customer component for residential**

12 **customers of 11.08 and for small general service of 16.61,**

13 **correct?**

14   A.   That's correct.

15   MR. MILLS: That's all I have. Thank you,

16 Judge.

17   JUDGE JORDAN: Cross-examination from

18 Staff?

19   MS. KLIETHERMES: Yes, briefly.

20 CROSS-EXAMINATION BY MS. KLIETHERMES:

21   **Q.**   **In your opinion as an expert on class cost**

22 **of service and rate design, does the KCPL stipulation**

23 **reasonably allocate any rate increase?**

24   A.   I haven't looked at it in detail, but I

25 think if I look at, for instance, the -- I remember seeing

 1 the large industrials, that the emphasis is on the front

 2 blocks, and I believe that's correct. And the rest I'm

 3 vague on because I wasn't intimately involved with the

 4 stipulations.

 5   **Q.   Fair enough. Thank you.**

 6   MS. KLIETHERMES: Nothing further.

 7   JUDGE JORDAN: Questions from the Bench.

 8 Commissioner Kenney?

 9   COMMISSIONER KENNEY: No questions. Thank

10 you very much.

11   JUDGE JORDAN: I have no questions for you.

12 Redirect?

13   MR. FISCHER: Just briefly.

14 REDIRECT EXAMINATION BY MR. FISCHER:

15   **Q.   Mr. Mills asked you some questions**

16 **regarding customer cap expense treatment or the treatment**

17 **of uncollectible expenses in cost of service studies,**

18 **particularly the NARUC manual. Do you remember that?**

19   A.   Yes, sir.

20   **Q.   Do other analysts treat uncollectible**

21 **expenses differently in cost of service studies?**

22   A.   Yes, and I for one do. I've never treated

23 it that way, and the reason being is when you use

24 revenues, what you are basically saying is on -- if you do

25 uncollectibles on total revenues, you are skewing the

 1 allocation of those expenses to large users, and that's

 2 inappropriate.

 3   MR. FISCHER: That's all I have, Judge.

 4 Thank you.

 5   JUDGE JORDAN: That concludes your

 6 examination. You may stand down. Next witness.

 7   MR. MILLS: While we're shuffling witnesses

 8 around, I will point out that earlier while we were off

 9 the record, MGE graciously allowed me to go ahead of them

10 when we get to cross-examination for Mr. Scheperle because

11 I believe I have less cross-examination for him than they

12 do, and I would be happy to remind you when we get there.

13   JUDGE JORDAN: Please do. That would be

14 very helpful.

15   Mr. Rush, I know I've already sworn you, so

16 you may proceed.

17   MR. FISCHER: Based on that, Judge, I would

18 just tender the witness for cross-examination on the issue

19 of rate design and rate structure, class cost of service

20 studies.

21   JUDGE JORDAN: Very good.

22 Cross-examination from Southern Union Company?

23 TIM RUSH testified as follows:

24 CROSS-EXAMINATION BY MR. JACOBS:

25   **Q.   Good evening, Mr. Rush.**

1   A.   Good evening.

2   Q.   I'm going to start with your surrebuttal

3   testimony in the 0174 case, and could you turn and let me

4   know when you get there to the table on page 8?

5   A.   I'm there.

6   Q.   Now, that table is entitled Bill Impact; is

7   that correct?

8   A.   It is.

9   Q.   And in the table you have categories, all

10   electric rate and then bill impact of high, typical and

11   low; is that correct?

12   A.   I do.

13   Q.   And you cover the Staff proposal, correct?

14   A.   That's correct.

15   Q.   And then you go into the MGE proposal; is

16   that right?

17   A.   That's right.

18   Q.   And you show that, in your table, that the

19   typical residential one meter bill will increase by

20   6.19 percent under MGE's proposal; is that right?

21   A.   That's right.

22   Q.   And the label for MGE proposal, just to

23   make sure that I know what you're talking about, is that

24   intended to mean MGE's proposal to eliminate residential

25   space heating services?

 1   A.   Yes.

 2   Q.   And just to -- keep the reference, because

 3 I'm going to shift you back to one of your schedules. You

 4 have a 6.19 percent residential one meter bill impact for

 5 typical -- a typical bill impact, and that comes from

 6 Schedule TMR-8, page 3 of 9; is that right?

 7   A.   To be honest, I thought it did. I'm not

 8 sure I do now. That was the intent of it.

 9   Q.   And basically what you've got is you're

10 talking about on the table is you've got a 6.19 percent

11 residential one meter?

12   A.   Right.

13   Q.   Which is the impact of the typical customer

14 in your testimony for the MGE proposal. And then going

15 back to TMR-8, 3 of 9, it says typical bill impact

16 analysis -- sorry. It's the title of the -- of that 3

17 of 9.

18   A.   Uh-huh.

19   Q.   Typical bill impact analysis of rate B

20 general use with space heat one meter.

21   A.   One meter, that's correct.

22   Q.   So that's the same number that you were

23 trying to refer to as 6.19 is basically to show that

24 calculation; is that right?

25   A.   That's right.

1   Q.   And that number's not there?

2   A.   It shows a typical bill at 5.19 percent.

3   Q.   And so that's the number that you think

4 should appear in the residential one meter?

5   A.   Yes. There was an awful lot of shuffling

6 that went around. I believe that would be the number I

7 would use, yes, it would be.

8   Q.   Now, for the bill impact calculation --

9   A.   It would also -- go ahead.

10   Q.   Thank you. For the bill impact

11 calculation, you used a summer energy charge, and it's the

12 top middle of that 3 of 9, TMR-8, summer energy chart of

13 .11028?

14   A.   That's right.

15   Q.   That's right? And with your permission,

16 I'm going to show you -- I assume you don't have

17 Mr. Cummings' testimony?

18   A.   I do not have his testimony with me.

19   Q.   I'm going to give you two schedules. I'll

20 run it by your counsel first. I'm not going to introduce

21 these into evidence. Just talk about them. It's Schedule

22 FJC-8 and Schedule FJC-8B which was revised on 8/22 of

23 '12.

24   So we were talking about TMR-8, 3 of 9 --

25   A.   That's right.

1   Q.   -- summer energy charge .11028.

2   Now, looking at FJC-8, isn't it correct

3   that MGE's proposal reduces the summer energy charge to

4   .10416? The way I'd help you out there is --

5   A.   Maybe you could point me to what you're

6   referring to.

7   Q.   Thank you. If you look at line 23 of

8   FJC-8, you see that the -- Mr. Cummings has reduced the

9   summer energy charge? There's a paren.

10   A.   I see what you call the summer energy

11   charge and something that's a credit, a .00612, and you

12   say the reference is apply to all Schedule FJC-1 some

13   energy charges, and I don't have FJC-1. That appears to

14   be a credit you're trying to post to some account. Part

15   of what I went through was the confusion of trying to

16   understand. I read what he sad he wanted to do, which was

17   the elimination, and --

18   Q.   Just taking out FJC-8 on its face, if

19   Mr. Cummings has in here that he's reducing this energy

20   charge, if you could just do the math for me. He's saying

21   he's reducing the summer energy charge, which right now is

22   .11028. He's subtracting .00619. My calculation is that

23   the result of that is .10416.

24   A.   Something to that effect, yes.

25   Q.   So that's the summer bill portion that

 1   Mr. Cummings uses.

 2   A.   All right.

 3   Q.   And so that would be the number you used to

 4   calculate TMR-8, 3 of 9. That summer energy charge is

 5   actually too high; isn't that right?

 6   A.   Well, from what you're representing, yes.

 7   Q.   So the calculation for the annual bills in

 8   TMR-8 3 of 9 is incorrect; is that right?

 9   A.   Well, this is what I did and how I

10   interpreted it. So if you'd help me understand what those

11   rates are, it's an easy calculation to describe and

12   calculate.

13   Q.   Right. You're trying to show -- you know

14   the summer rate for KCP&L right now?

15   A.   Yeah. I think it's .11028.

16   Q.   And by Mr. -- by FJC-8, Mr. Cummings

17   indicates that he's reducing that by .00612.

18   A.   Right.

19   Q.   And you're talking about MGE's proposal for

20   showing bill impacts here, right?

21   A.   I never saw the -- my interpretation of

22   this did not lead me to the conclusion to take out the

23   .00612. I never did see a bill comparison that went

24   through the rigor that what I tried to do here and

25   represent to --

1   Q.   I'm not trying to cast blame. I'm --

2   A.   No. I'm trying to -- what I was --

3   THE REPORTER: One at a time, please.

4   BY MR. JACOBS:

5   Q.   I'm just trying to show the number's

6   incorrect that you used. I mean, you're talking about

7   MGE's proposal.

8   A.   From what you just represented, you're

9   right.

10   Q.   In that same TMR-8, 3 of 9, I want to talk

11   a little bit about the winter rates that you use there.

12   Now, you show that in MGE's proposal, and I'm going to

13   refer you to the very top left -- correction -- the top

14   middle, at the bottom it says, MGE proposal RS6 to rate B

15   schedule, and in the winter there are three blocks there;

16   is that right?

17   A.   Say that again.

18   Q.   I'm sorry. In the winter in TMR-8, page 3

19   of 9 --

20   A.   I'm there.

21   Q.   -- you show under MGE's proposal, you

22   indicate that there are three blocks?

23   A.   That's right. It is my understanding --

24   Q.   Okay. I just needed a -- just needed a yes

25   or no. So I'm going to refer you back to FJC-8 again.

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 1              A.      I'm there.

 2              Q.      Now, I want you to look at -- and we're

 3    talking -- you're trying to analyze MGE's proposal, right?

 4    I want you to look at under eliminate space heat, and

 5    that's line 14 to 15, column B, can you tell me how many

 6    block rates are there?

 7              A.      It appears there's two.

 8              Q.      So if you're analyzing --

 9              A.      Two under the general use.

10              Q.      Right.  And if the space heating rates are

11    eliminated, there would only be general use, correct?

12              A.      Yes.

13              Q.      Is that correct?  So if you're referring

14    to, if you're trying show in TMR-8, page 3 of 9, if you're

15    trying to show what MGE's proposal is and you use three

16    winter blocks, and, in fact, when you turn to FJC-8,

17    Mr. Cummings there shows two winner blocks, then the

18    calculation that you use on page 3 of 8 for the bill

19    impact is incorrect; is that right?

20              A.      Yes.  It appears the percentage would

21    probably be greater for a typical customer from your

22    information.

23              Q.      Take you to page 8 of your surrebuttal

24    testimony, and you talk about space heat one meter.  So

25    again, if the calculations that you used in your
```

1   supporting schedules are incorrect, then that bill impact

2   is not correct; is that right?

3   A.   That would be correct.

4   Q.   Turn to space heat two meter bill impacts,

5   and that's the same table, page 8, again for residential

6   two meters there's a high, typical and low impact of

7   13.19, 10.48 and then 3.03. Do you see that?

8   A.   I do.

9   Q.   I'm going to take you back to TMR-8, 4 of

10   9. It seems that 4 of 9 addresses what you're trying to

11   show in that section, meaning that you're trying to show

12   bill impacts in that section on general use and space heat

13   two meters; is that right?

14   A.   I am.

15   Q.   Now, if you look in that schedule and you

16   go to the summer charge that you use there, again, you use

17   .11028; is that right?

18   A.   That's correct.

19   Q.   Now, referring back to Mr. Cummings'

20   Schedule FJC-8, same issue as before, right? Mr. Cummings

21   indicates for the MGE proposal he says that he wants to

22   eliminate or reduce that -- strike that.

23   In the MGE proposal, he indicates that he

24   wants to reduce the summer energy charge and reduces that

25   in line 23, column G, as in golf, to by .00612; is that

 1 right?

 2   A.   That appears what he's saying, or that

 3 appears what this table shows.

 4   Q.   So that's the same --

 5   A.   I don't remember seeing that information.

 6   Q.   That's the same -- this hasn't changed, has

 7 it?

 8   A.   I don't remember seeing that in his

 9 testimony. I saw this schedule.

10   Q.   Got you. But it's on the schedule,

11 correct?

12   A.   It is on the schedule.

13   Q.   And it's been on the schedule since it was

14 filed?

15   A.   Sure.

16   Q.   So given that, the number that's used is

17 incorrect, and that means your bill impact analysis is not

18 correct; is that right?

19   A.   That's correct. I don't know what it would

20 be at this stage, but with these --

21   Q.   I'm going to turn you now -- thank you,

22 sir. I'm going to turn you to page 4 of your

23 Schedule TMR-8, same one that we've been talking about.

24   A.   Okay.

25   Q.   And in that you show the winter energy

 1   charge for space heat load to be .09914; is that right?

 2   A.   That is.

 3   Q.   Now, I'm going to refer you to FJC-8 again

 4   and ask you to look at line 22, column D, as in delta.

 5   A.   I'm there.

 6   Q.   Now, the -- what Mr. Cummings recommends or

 7   what Mr. Cummings has in his testimony, his schedule is

 8   that the heat load that he uses there is .06910; is that

 9   right?

10   A.   I don't know.

11   Q.   Well, you don't know?

12   A.   I mean. You said eliminate, and there's

13   nothing there. You have a number. I see .06910. Down at

14   the bottom it says separate meter all, but it's under

15   retain. So I mean, that's part of the confusion of all

16   this. So if you --

17   Q.   I misworded my question. I'll withdraw it.

18   Thanks for pointing that out.

19   I'm going to take you over to the KCPL case

20   175 and take you to page 11.

21   A.   Do you mean GMO's case?

22   Q.   I do. Thank you.

23   A.   And what testimony?

24   Q.   It's the surrebuttal testimony, page 11.

25   A.   I'm there.

1   Q.   And you have a table there. Again, it's

2   the same type of analysis you've been trying to show. It

3   shows bill impact?

4   A.   That's correct.

5   Q.   And you've got space heating rates, high,

6   typical and low; is that right?

7   A.   Right.

8   Q.   And then you talk about the MGE elimination

9   proposal and the MGE retention proposal, and I assume that

10   by the MGE elimination proposal you mean the proposal by

11   Mr. Cummings of MGE to eliminate space heating rates?

12   A.   That's correct.

13   Q.   Now, in L&P residential separate meter, it

14   shows that, by your calculations, that the separate meter

15   bill will increase by 12.58 percent under MGE's proposal

16   to eliminate space heating; is that right?

17   A.   Well, that was my understanding. There

18   might -- that's correct, from my knowledge of what was

19   recommended.

20   Q.   That's your testimony, right?

21   A.   That's right. You bet.

22   Q.   I'm going to take you back to TMR-12.

23   A.   All right.

24   Q.   On the third page.

25   A.   I'm there.

1   Q.   Now, for this bill impact calculation, you

2 used the winter energy charge of .0742; is that right?

3   A.   That's correct.

4   Q.   I'm going to refer you to Schedule FJC-8B,

5 which I've given you, and have you look at line 15,

6 column D as in delta.

7   A.   I'm there.

8   Q.   It says eliminate electric space heating is

9 the column and description in A on line 14; is that right?

10   A.   That's what it says, yes.

11   Q.   And the energy charge there for eliminate

12 electric space heating is .0664; is that right?

13   A.   Well, column D has that number, but

14 column A or B has .0742.

15   Q.   I'll have you look at the top, general use

16 B, it's .0742, right?

17   A.   But that's to eliminate. So I would have

18 assumed that's the rate you would have said to use to

19 eliminate from what you said on the KCPL section.

20   Q.   That wasn't my question. I'm just asking

21 you to look at things.

22   A.   Sorry.

23   Q.   General use has .0742; is that right?

24   A.   Under column B, which says general use, it

25 is .0742.

1   Q.   To eliminate electric space heating. And

2   then under column D, space heating general meter, line 15

3   is .0664; is that right?

4   A.   It says separate meter.

5   Q.   Thank you for reading it, but I'm just

6   asking you what the number is.

7   A.   Describe your question again.

8   Q.   I'm asking you just to tell me what the

9   number is on line 15, column D, space heating separate

10   meter, .0664. Is that the number there?

11   A.   Column D, line 15, .0664.

12   Q.   Thank you. Now, kind of general issues and

13   shifting away from your schedules, but the -- do you have

14   any idea based on your knowledge or on filings that KCPL

15   or GMO have put in front of the Commission about when you

16   anticipate you'll file the next rate case?

17   A.   We have not put anything in this proceeding

18   with regard to when we may file the next rate case.

19   Q.   What about another proceeding? Have you

20   indicated in other proceedings when you might file another

21   rate case?

22   A.   I'm not aware of any.

23   Q.   Do you anticipate you'll file a rate case

24   in the next two to three years?

25   A.   There's obvious -- there's always that

 1 possibility.

 2   Q.   Do you anticipate that you'll have costs

 3 associated with environmental updates at any of your

 4 plants?

 5   A.   I'm looking at GMO. Are you talking about

 6 GMO or KCP&L?

 7   Q.   Either or, GMO or KCPL.

 8   A.   We have a construction project going on

 9 right now at our Kansas City Power & Light operation at

10 LaCygne.

11   Q.   Do you anticipate that you'll have to have

12 a rate case to account for those costs?

13   A.   There's a possibility of that.

14   Q.   And do you think that that will happen in

15 the next two or three years?

16   A.   Again, there's that possibility.

17   Q.   Okay. Thank you. Now, you're putting in

18 environmental scrubbers at LaCygne; is that right?

19   A.   I don't know all the particulars, but I

20 believe that is correct.

21   Q.   But there's significance cost associated

22 with that?

23   A.   It's a significant cost. We've talked

24 about that in this case.

25   Q.   Do you anticipate that you'll have rate

1 cases as a result of carbon legislation or regulation?

2   A.   I have no idea. I don't know of the

3 legislation that's out there regarding carbon at this

4 point.

5   Q.   Do you anticipate -- strike that.

6   Now, one of your arguments, and I'll refer

7 you to your rebuttal in 0175 on page 7, and you indicate

8 that MGE's proposal is based on obvious self interest; is

9 that right?

10   A.   It's what?

11   Q.   It's based on obvious self interest?

12   A.   I would say that is a correct statement.

13   Q.   Now, in this case, have you -- have you

14 done anything or recommended anything in this case that is

15 contrary to the interests of your company or your

16 shareholders?

17   A.   I don't know if I can --

18   Q.   It's pretty straightforward. Do you feel

19 that you're representing -- do you think you're doing the

20 job effectively?

21   A.   I would hope so.

22   Q.   Do you believe that you've proposed rates,

23 proposed issues in this case that advance your company's

24 interests?

25   A.   I would hope so.

 1   Q.   And do you think that those interests are

 2   in line with those of your employees, your shareholders?

 3   A.   I would hope so.

 4   MR. JACOBS: No further questions.

 5   JUDGE JORDAN: Cross-examination from AARP

 6   or Consumers Council?

 7   MR. COFFMAN: No, your Honor.

 8   JUDGE JORDAN: Mr. Woodsmall, any

 9   cross-examination?

10   MR. WOODSMALL: No, thank you.

11   JUDGE JORDAN: Mr. Conrad?

12   MR. CONRAD: No, sir. Thank you.

13   JUDGE JORDAN: Mr. Bartels?

14   MR. BARTELS: Yes, please.

15   CROSS-EXAMINATION BY MR. BARTELS:

16   Q.   Good afternoon, Mr. Rush.

17   A.   Good afternoon.

18   Q.   I just have a couple of questions for you.

19   A.   No problem.

20   Q.   Mr. Rush, do you have a copy of Don

21   Johnstone's testimony?

22   A.   I do not.

23   Q.   Okay. Do you mind if I walk over?

24   A.   Absolutely.

25   MR. BARTELS: Judge?

 1   THE WITNESS: Come right over.

 2   JUDGE JORDAN: You may.

 3   BY MR. BARTELS:

 4   **Q.   If I could just direct you to page 3,**

 5   **Line 18, and if you could just read through that and take**

 6   **a little time. I'd just like to ask you a couple of**

 7   **questions.**

 8   A.   I read it.

 9   **Q.   Do you recall the technical conference that**

10   **Mr. Johnstone addressed?**

11   A.   I sure do.

12   **Q.   Okay. Is Kansas City Power & Light**

13   **reluctant to give space heating customers an above average**

14   **increase as might be indicated by Mr. Normand's class cost**

15   **of service study?**

16   A.   We are, and we've recommended that we not

17   do that. We think that there is some fallout that would

18   harm other customers, both non-heating customers and other

19   classes, particularly because of the margin contributions

20   that would come from this and the fallout that would come

21   from potentially losing customers and reducing load.

22   So we are very concerned with increasing

23   the space heating rate at a higher rate than the typical

24   increase that we're looking at, the average of that

25   increase, and we think that that is the wrong policy

 1 decision to go after.

 2   Q.   And it did appear that it is an above

 3 average increase?

 4   A.   It is above an average increase. I have

 5 learned much information from MGE about information that

 6 was not quite clear in their testimony, but the increase

 7 even looks greater than even maybe what I represented.

 8   Q.   That was just what I was kind of seeing

 9 back there. I wanted to make sure we were on the same

10 page.

11   A.   We are.

12   Q.   All right.

13   A.   We're very concerned with doing this, and

14 plus we've agreed to at MGE -- or pardon me -- at our GMO

15 operation to do an overall class cost of service and rate

16 design to look at bringing the two L&P and MPS units

17 together in prices. Quite frankly, that's the time to

18 look at that if you're really going to look at that

19 proportional share of what you should do as a rate design.

20   Q.   Is there anything that you might think

21 would add or your company could add to offering more space

22 heat or reintroducing some of these programs that have

23 been frozen?

24   A.   Well, one of the things that we need to

25 look at long-term is contribution to margin. That is,

 1   what are pricing schedules that contribute to the overall

 2   reduction in other costs and other customers' rates? And

 3   to try to say that space heating rates should be at an

 4   equal level return is not really a policy that makes a lot

 5   of sense if it's hurting the other customers themselves.

 6   So we don't want to hurt general use

 7   customers, we don't want to hurt businesses, we don't want

 8   to hurt anybody by taking away sales that would end up

 9   resulting in increasing rates higher than they are today.

10   That's what we're most concerned with.

11   MR. BARTELS: No further questions. Thank

12   you.

13   JUDGE JORDAN: Office of the Public

14   Counsel?

15   MR. MILLS: No questions.

16   JUDGE JORDAN: Staff?

17   MS. KLIETHERMES: Yes, Judge. Thank you.

18   CROSS-EXAMINATION BY MS. KLIETHERMES:

19   **Q.   Good evening, Mr. Rush.**

20   A.   Good evening.

21   **Q.   In your opinion as an expert on class cost**

22   **of service and rate design, does the stipulation filed in**

23   **the KCPL case reasonably allocate any rate increases?**

24   A.   It does reasonably allocate the rate

25   increases.

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 1              Q.      And, in fact --

 2              A.      You're talking about for KCP&L and you're

 3     talking about the proposal of which there would be a

 4     1 percent increase to the residential class and a like

 5     reduction on an equal basis to the small, medium, large

 6     and large power classes?

 7              Q.      I am.

 8              A.      Okay.

 9              Q.      And is that proposal that you just

10     referenced or that stipulated position you just

11     referenced, to your knowledge, is that similar if not

12     identical to Mr. Scheperle's recommendation in the KCPL

13     case?

14              A.      I don't remember the specifics, but I think

15     it's very close.  I don't remember the exact details of

16     that.  I'd just have to look at the schedule.

17              Q.      Fair enough.  And would you consider

18     Mr. Scheperle an expert on class cost of service and rate

19     design?

20              A.      I would.  I may have various disagreements

21     with allocations, but I do believe he is an expert in the

22     area.

23              Q.      Fair enough.  And as a mechanical point, in

24     the discussion that's just occurred about the MGE various

25     proposals regarding space heating, do I understand
```

1   **correctly that one of MGE's proposals would involve**

2   **freezing the tariff sheet?**

3   A.   They have made that proposal.

4   **Q.   And in your view, as someone at KCPL and**

5   **GMO with quite a bit of influence in how K-- is it true**

6   **that at KCPL and GMO you have quite a bit of influence in**

7   **how those companies interpret their tariffs?**

8   A.   I have a lot of involvement with the

9   interpretation of tariffs, yes.

10   **Q.   As you interpret those tariffs, what**

11   **language would be necessary in those tariffs to effectuate**

12   **a freeze? I understand you oppose MGE's recommendation,**

13   **but were the Commission to adopt that recommendation, what**

14   **language would need to appear in the tariffs or in a**

15   **Report and Order?**

16   A.   Quite a substantial amount. You have to

17   decide whether you're freezing the property, you're

18   freezing the customer, what -- what you're really trying

19   to do. It's a very complicated set of information. We

20   turn around, turn customers over. Almost a third of our

21   customer count names change every single year. So you

22   have to figure out, okay, did you freeze the premise? How

23   are you going to monitor and manage that premise and -- or

24   are you freezing it to the customer so if the customer

25   moves?

1   I mean, there's all kinds of things that

2 would have to be done to assure that that would occur if

3 you did freeze it. We had a similar case with regard to

4 our small business, and we've had quite a few

5 complications associated with that when the Commission

6 ordered us to freeze some of our small general service,

7 medium general service and large general service

8 all-electric rates.

9   **Q.   So if simply the word frozen was -- if the**

10 **Commission simply ordered KCPL and GMO to stamp the word**

11 **frozen on the designated tariff sheets, how would you**

12 **interpret that?**

13   A.   I don't know. I'd have to -- I'd have to

14 talk to the Staff and others to make sure I understood

15 what was the intent of that. I don't -- I don't know if I

16 could interpret it right away.

17   MS. KLIETHERMES: Thank you. Nothing

18 further.

19   JUDGE JORDAN: Questions from the Bench.

20 Commissioner Kenney, any questions for this witness?

21   COMMISSIONER KENNEY: Mr. Rush, no

22 questions. Thank you.

23   THE WITNESS: Okay. Thank you.

24   JUDGE JORDAN: I have no questions for you.

25 Redirect?

Page 1025

 1   MR. FISCHER: Thank you, Judge. Just

 2   briefly.

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 1   REDIRECT EXAMINATION BY MR. FISCHER:

 2   Q.   Let's go backwards, Mr. Rush.

 3   A.   Okay.

 4   Q.   Staff counsel asked you about how you would

 5   freeze the tariff sheet. Do you recall those questions?

 6   A.   I do.

 7   Q.   I believe you indicated that would be a

 8   rather complicated task?

 9   A.   It is a complicated task.

10   Q.   Would you explain why that's so

11   complicated?

12   A.   Well, you have many, many customers. So

13   you've got to come up with some mechanism of which when a

14   customer calls in and says I'm moving or turn off my

15   service, what does that mean, and we have to interpret.

16   There's a provision in there. Sometimes the meter is shut

17   off. Sometimes it's turned over to a different account.

18   Sometimes it's put into a management account. You have to

19   know what you're going to do at that stage.

20   Other issues might -- and that's just if

21   you're talking about a customer side. If it's a premise

22   side, then you've got to be able to manage the premise and

23   know what you're going to do with a frozen rate for the

24   premise because we have new construction activities

25   happening all the time. We have, you know, 250,000

1   customers that we're dealing with that all can potentially

2   qualify for electric heat.

3   **Q.   Have you had recent experience with**

4   **customer complaints and other problems related to quote,**

5   **freezing a space heating rate?**

6   A.   We've had a lot of complaints with regard

7   to our commercial side or our, we call it general service

8   side, which is small, medium, large general service.

9   We've had quite a few complaints because of the freezing,

10   because we had construction in progress and you're trying

11   to figure out, okay, this customer was building a home and

12   planning to put electric heat in and now all of a sudden

13   they're exempted from it after the fact, and they had a

14   plan to do so all up to that time, and they base their

15   decision on that electric heat rate or the heating rate.

16   **Q.   Have you had any formal complaints filed**

17   **before this Commission regarding the freezing of such**

18   **rates?**

19   A.   We have.

20   **Q.   Would you explain what's happened in that**

21   **regard?**

22   A.   Well, Briarcliff was the name of the

23   company, and we -- basically, the customer changed service

24   or changed names. They went from a management company

25   back to the original owner's name. We terminated their

1 electric heating rate, said it was no longer available.

2 They filed a complaint. The Staff supported us on that

3 position, if I remember all the details, because of the

4 interpretation. We went through a hearing on it, and the

5 Commission decided to let the customer stay on the -- or

6 the new customer to be on the electric heating rate

7 because of a management agreement between the management

8 company and the customer.

9   It was a very complicated argument, as I

10 understand it, because they didn't -- when the management

11 company took over the customer name, they still had the

12 responsibility to the customer for some reason. I didn't

13 quite under-- I mean, I just know that the liability still

14 resided with the company, the customer itself.

15   **Q.   Regarding those customer complaints, is**

16 **there -- was there a concern about customer impact by your**

17 **customers?**

18   A.   Absolutely, yes.

19   **Q.   And did that come about as a result of a**

20 **proceeding where a competitor suggested that the rates be**

21 **frozen?**

22   A.   Yes. Now we're talking about -- that was a

23 result of basically the steam business in Kansas City

24 arguing that we shouldn't have electric heating rates for

25 the small commercial, medium and large, and it's created

 1   quite a few problems.

 2   But the biggest problem I see, and it goes

 3   back, it's just the impact that this will have on

 4   customers without the evaluation of what really

 5   constitutes proper pricing.

 6   Q.   Let's go to that topic. Counsel for MGE

 7   asked you a lot of questions about your schedules and

 8   customer impacts.

 9   A.   Right.

10   Q.   I'd like to ask you to turn to some of

11   those schedules.

12   A.   All right.

13   Q.   I believe he asked you about your Schedule

14   TMR-8.

15   A.   He did.

16   Q.   I'd like to ask you to turn to

17   Schedule TRM-8, page 4 of 9.

18   A.   Okay.

19   Q.   You have a box in the middle around some

20   numbers, 24.03. Do you see that?

21   A.   That's correct.

22   Q.   Would you explain what that number

23   represents?

24   A.   Well, that represented from our

25   understanding of the rate design at the time, obviously

1 MGE has presented evidence that from theirs they didn't

2 mean it the way I interpreted it. So there's a different

3 price. But the problem I had is I didn't have anybody

4 showing what the impact to these customers would be on a

5 typical basis. This --

6   Q.   I'm sorry. I'm going to stop you there.

7 You didn't have an MGE customer impact study in this case?

8   A.   MGE did not do an impact study for typical

9 customers, and so I wanted to present something from our

10 interpretation that would show the level of impacts.

11   Q.   What does that 24.03 percent represent?

12   A.   The 24.03 represented the typical usage

13 for -- with no rate increase but simply taking MGE's

14 proposal. So if you took MGE's proposal for this class of

15 customer, the typical customer would see a 24 percent

16 increase in their bill before any rate increase occurred.

17   Q.   Okay. The company has proposed what

18 percentage rate increase for, let's see, is this KCP&L?

19   A.   This is KCP&L. It's -- it's approximately

20 15 percent, 15.1 percent, I believe.

21   Q.   Well, let's just assume the Commission

22 granted a 10 percent overall increase. How would that

23 affect these customers, if they adopted the MGE proposal

24 as well?

25   A.   Again, this is based on the numbers I used,

1   but it would be a 34 percent increase.

2   Q.   You think customers would have a concern

3   about the impact of a 34 percent increase on their bill?

4   A.   I think they might have a significant

5   concern.

6   Q.   You think the company would have a concern

7   about having a 34 percent increase on their bill?

8   A.   Yes, very much so. Very much so.

9   Q.   If we go to the other case, let's turn to

10 Schedule TR-12. I believe you were asked about that.

11   A.   I was.

12   Q.   Let's go to -- this is the L&P proposed

13 residential base rate. It's -- let's go to the seventh

14 page back where there is a box around the typical rate

15 that has a 12.58 percent increase.

16   A.   I'm there.

17   MR. JACOBS: I'm sorry. Could you help me

18 get there?

19   MR. FISCHER: It's TR-12, seventh page

20 back. It's entitled MGE L&P Proposed Residential Base

21 Rate Typical Bill Impact Analysis Rate Elimination.

22   MR. JACOBS: Thank you.

23 BY MR. FISCHER:

24   Q.   Mr. Rush, what does that 12.58 percent

25 increase represent to you?

1   A.   It represents for the L&P district, because

2   we do look -- we look at each district, it represents a

3   typical customer and what the impact would be from taking

4   MGE's proposal as we interpreted it and changing the rate,

5   and it would result in a 12.58 percent increase to a

6   customer before any rate increase were applied.

7   **Q.   And did the company propose a larger**

8   **increase for L&P than you did for KCP&L?**

9   A.   No, it wasn't a larger increase, but it was

10   about 13 percent, I believe, for L&P.

11   **Q.   Okay. And so if the Commission granted a**

12   **10 percent across-the-board increase, how would that**

13   **impact these customers if they also adopted the MGE**

14   **proposal?**

15   A.   Again, it would be 22.58 percent. So

16   customers would most likely be -- we would have a problem,

17   a concern.

18   **Q.   Did the company have a rate case last --**

19   **the last rate case where L&P customers got a larger than**

20   **average increase?**

21   A.   We did, yes. We have a phase-in that's

22   going on right now, and so we -- as a result of the Iatan

23   case --

24   **Q.   Did you --**

25   A.   -- L&P customers got a larger increase.

1   They got about a 21 percent rate increase overall.

2   **Q.   Did you have some customers raise some**

3   **concerns about that?**

4   A.   Yes.

5   **Q.   Would another above average increase for**

6   **these kinds of customers have -- be likely to invoke any**

7   **kind of reaction?**

8   A.   Very much so, yes. The concern obviously

9   is there's really no foundation to say let's do this

10   because these customers are providing a contribution to

11   the margins, and I don't think that it's in the best

12   interests -- you know, when we talk about cost-based

13   rates, we're not talking about every single rate category

14   provides an equal rate of return. We're talking about

15   overall we look at everybody has got to pay minimally

16   their variable costs, and we need to look at that.

17   **Q.   Mr. Bartels asked you some questions along**

18   **that line. Are the company's space heating rates covering**

19   **their incremental or variable costs and making a**

20   **contribution to fixed charge?**

21   A.   You know, that's a good question because in

22   my testimony I presented what I call a fixed variable

23   pricing, and that's similar to consistent with what MGE

24   did, does in their current pricing scheme. MGE's pricing

25   essentially covers all of their fixed costs in the

1 customer charge, and then they have a variable cost, which

2 is their gas cost. And I presented that both in the

3 MGE -- pardon me, in the GMO testimony in my surrebuttal

4 as well as in my KCP&L.

5 And for GMO, the variable price is

6 approximately 3 cents a kilowatt hour. So anything above

7 3 cents per kilowatt hour is contributing to the margins,

8 and at KCP&L it's much less than that. It's in the 2 cent

9 rate. So if you think about pricing, you would say for a

10 residential customer, as long as I'm contributing --

11 covering my variable costs, contributing to my margins,

12 you know, that's what you've got to assure that you're at.

13 You do not want to sell electricity below the variable

14 price that you have.

15 **Q. Mr. Rush, if the Commission adopted a**

16 **proposal that would cause space heating customers to drop**

17 **the service, would you lose that margin?**

18 MR. JACOBS: I would object to that as

19 being beyond the scope of cross.

20 MR. FISCHER: Judge, there were questions

21 regarding the fallout regarding the loss of margin

22 contribution earlier on when Mr. Bartels was asking about

23 that.

24 JUDGE JORDAN: Overruled.

25 THE WITNESS: I believe that we would have

 1   a large fallout if you increase customers' rates to where

 2   essentially they were priced out of their product line and

 3   they said, you know, that it doesn't make sense to keep

 4   electric heat here. That, quite frankly, is not the way

 5   rates are designed. We -- the space heating class is a

 6   class of customer that has distinct usage characteristics

 7   much different than all other customers that are general

 8   use, particularly because they have electric heat and how

 9   the characteristics of the load profile that's used.

10   **Q.   If you lost space heating customers, would**

11   **that affect general use residential customers or other**

12   **customers?**

13   A.   It would result in increasing their rates

14   to recover the lost margins of the space heating

15   customers.

16   **Q.   Would that be a good thing?**

17   A.   I don't believe it is.

18   **Q.   You also mentioned in answer to Mr. Bartels**

19   **that it would be appropriate to look at this kind of an**

20   **issue I believe when you were looking at the L&P/MPS rate**

21   **consolidation study; is that true?**

22   A.   That is very true. One of the things that

23   we have committed to doing in this case, in the GMO case

24   is to take an overall look at our class cost of service

25   for both the L&P and the MPS districts and then look at

1   bringing their rates together or merging the rates to one

2   system rate.

3   The thing that's in particular been very

4   much emphasized to us is we need to also consider how that

5   might impact KCP&L, so that at some time down the road

6   that may occur. But for right now, it's -- we're agreeing

7   to do the L&P and MPS evaluation, but we need to keep in

8   consideration what impact that may have with KCP&L and

9   their overall rate design that should be attributable to

10 both, both companies.

11   Q.   Let's go to the counsel for MGE. I think

12 at the end of the examination you were asked a question

13 whether you had ever done -- suggested anything contrary

14 to your shareholders' interests. Do you recall that

15 question?

16   A.   I do.

17   Q.   Has MGE proposed anything that would

18 advance the competitive interests of MGE's shareholders in

19 your opinion, in this case?

20   A.   I believe that's specifically what they're

21 doing.

22   Q.   You were also asked a question about a

23 point in your testimony about the self interest of MGE in

24 this case. Do you recall that?

25   A.   I do.

1   Q.   Why do you believe that MGE has a self

2   interest in this case?

3   A.   Because their hope in my mind is to

4   eliminate the all-electric rate so that they can promote

5   and encourage customers to switch to natural gas.

6   Q.   Has KCPL ever intervened in an MGE rate

7   case to propose rate design changes that would benefit

8   your customers?

9   A.   I'm not aware of any. I've been at KCPL

10   for 11 years and 30-some years in the business in this

11   area of the country, and I don't ever remember doing that.

12   Q.   Did MGE include -- they challenged some of

13   your numbers, I believe, in your cross-examination.

14   A.   Right.

15   Q.   Do you recall that?

16   A.   Yes.

17   Q.   Did I understand that if you corrected

18   those numbers, there might be an impact on those?

19   A.   Just a quick evaluation. First of all, I

20   didn't grasp the schedule that he had because there was no

21   billing comparison information. That's why I introduced

22   bill comparison information into my testimony. But based

23   on his -- based on the cross-examination and my knowledge,

24   it appears that those increases for space heating may even

25   be larger, but without an evaluation, I couldn't attest

1 that that is correct.

2   Q.   So that would be one thing a policymaker

3 might want to look at?

4   A.   Absolutely. I mean, I'd be happy to -- if

5 I had all the facts, further facts, I could redo all of

6 this. I'd be happy to do that.

7   Q.   Did you understand at the time you filed

8 your testimony there would be any impact on summer rates

9 if the Commission adopted the MGE proposals?

10   A.   I did not.

11   Q.   There's been a lot of talk about customer

12 impacts. Would you in closing explain why this company's

13 so concerned about customer impacts?

14   A.   Well, the company has gone through a huge

15 construction cycle since the implementation of the

16 regulatory plan back in 2005 and customers' rates have

17 gone up. To exaggerate that increase further by changing

18 rates at this time when we're looking at doing studies,

19 we've done evaluations I don't think is appropriate, and I

20 think it will cause a lot of stresses on customers at a

21 time when the economy is not in the best shape.

22   I further think that we have done class

23 cost of service studies in every one of those cases.

24 We've done what the Commission directed and followed all

25 the principles of that. To bring it up at this time will

 1   just cause further problems with customers.

 2   MR. FISCHER: Judge, that's all I have.

 3   Thank you very much.

 4   JUDGE JORDAN: That was redirect, so that's

 5   the end of your examination. You may stand down. Next

 6   witness.

 7   MS. KLIETHERMES: Staff calls Michael

 8   Scheperle.

 9   (A BREAK WAS TAKEN.)

10   JUDGE JORDAN: We will go back on the

11   record. You may proceed.

12   MS. KLIETHERMES: Thank you, Judge.

13   Ms. KLIETHERMES: Good evening,

14   Mr. Scheperle. Could you please spell your last name for

15   the record?

16   MR. SCHEPERLE: Yes. Scheperle,

17   S-c-h-e-p-e-r-l-e. And I probably need to be sworn in.

18   JUDGE JORDAN: That was what I was about to

19   say. Sorry to mislead you. Please raise your right hand.

20   (Witness sworn.)

21   JUDGE JORDAN: Sorry about that.

22   MS. KLIETHERMES: Thank you, Judge.

23   MICHAEL SCHEPERLE testified as follows:

24   DIRECT EXAMINATION BY MS. KLIETHERMES:

25   Q.   And, Mr. Scheperle, has your spelling

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 1   changed since you've been sworn in?

 2        A.    No.

 3        Q.    Could you please state your address and

 4   your business title?

 5        A.    The address is Post Office Box 360, 65102,

 6   and my title is manager of economic analysis section,

 7   energy unit.

 8        Q.    Thank you.  Did you prepare direct

 9   testimony in these matters given Exhibit Nos. 212 and 268?

10        A.    Yes.

11        Q.    And did you participate in the preparation

12   of Staff's class cost of service report, Nos. 211 and 267?

13        A.    Yes.

14        Q.    And did you prepare rebuttal No. 233 and

15   287?

16        A.    Yes.

17        Q.    And surrebuttal No. 255 and 3011?

18        A.    Yes.

19        Q.    Do you have any changes or corrections to

20   make to any of those documents?

21        A.    No corrections.

22        Q.    And were I to ask you the same questions

23   today, would your answers be the same?

24        A.    Yes, they would.

25              MS. KLIETHERMES:  Judge, I would tender
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1 this witness and offer the totality of the Staff class

2 cost of service reports in both matters, and of course his

3 direct, surrebuttal and rebuttal testimonies. And if this

4 is a convenient time, if this is the last issue, I I

5 would offer remainder of Staff's testimony including the

6 cost of service reports in their totalities.

7 　　　　　　　JUDGE JORDAN: I do not know whether this

8 is the last issue.

9 　　　　　　　MS. KLIETHERMES: I've just been directed

10 that we still have MEEIA as an issue, and so I will

11 withdraw that offer of the testimonies other than those

12 participated in by Mr. Scheperle.

13 　　　　　　　JUDGE JORDAN: Not hearing any objections.

14 　　　　　　　MR. FISCHER: No objection here.

15 　　　　　　　JUDGE JORDAN: Those -- that will be

16 admitted into the record.

17 　　　　　　　(STAFF EXHIBIT NOS. 211, 212, 233, 255,

18 267, 268, 287 AND 3011 WERE RECEIVED INTO EVIDENCE.)

19 　　　　　　　MS. KLIETHERMES: Thank you, Judge, I

20 tender this witness for cross.

21 　　　　　　　JUDGE JORDAN: Cross-examination from AARP

22 or Consumers Council of Missouri? I think there won't be

23 any. And from the Office of Public Counsel?

24 　　　　　　　MR. MILLS: Thank you, Judge. Just a few

25 questions.

 1   CROSS-EXAMINATION BY MR. MILLS:

 2   Q.   Mr. Scheperle, Staff used the base,

 3   intermediate and peak method for allocating production

 4   costs, did you not?

 5   A.   Yes.

 6   Q.   And KCPL used that as well for allocating

 7   production costs, correct?

 8   A.   We both call it the base, intermediate and

 9   peak method.

10   Q.   And in your testimony, you noted that the

11   base, intermediate and peak method is discussed in the

12   NARUC manual, did you not?

13   A.   Yes.

14   Q.   Is that sort of an important stamp of

15   approval for an allocation method, that it's actually

16   discussed in the manual?

17   A.   I would say yes.

18   Q.   It gives it some legitimacy?

19   A.   Yes.

20   Q.   Now, in that manual it generally discusses

21   how to use a particular allocation method as well as just

22   describing what it is, correct?

23   A.   Correct.

24   Q.   And do you happen to have a copy of the

25   manual there with you?

1   A.   No, I do not.

2   MR. MILLS: Judge, may I approach?

3   JUDGE JORDAN: You may.

4   BY MR. MILLS:

5   Q.   **Now, the base, intermediate and peak method**

6   **is discussed at page 60 of the manual, correct?**

7   A.   Yes.

8   Q.   **And at page 61 there is a table that shows**

9   **the implementation of the base, intermediate and peak**

10   **method, correct?**

11   A.   That is correct.

12   Q.   **And in that table it shows the demand**

13   **allocation factor using three summer and three winter**

14   **peaks, correct? That's the first column after the labels?**

15   A.   Yes. That's Table 4-17.

16   Q.   **Correct. And in the NARUC explanation of**

17   **the base, intermediate and peak allocation method, are**

18   **those three summer and three winter peaks coincident or**

19   **non-coincident?**

20   A.   It really doesn't say there, but from my

21   experience, I would say they're coincidental peaks.

22   Q.   **Let me get you to turn back to page 45.**

23   A.   I'm there.

24   Q.   **And on page 45 of the NARUC manual, does it**

25   **not show that the development of the demand allocation**

1   factors that are reflected on Table 4-17, are those not

2   the same allocation factors?

3   A.   They are the same allocation factors.

4   Q.   And doesn't the description of the

5   derivation that goes with the table on page 45 show that

6   those are coincident peaks?

7   A.   Yes, they do.

8   Q.   In your implementation of the base,

9   intermediate and peak, did you use coincident or

10   non-coincident peaks for your demand allocation factor?

11   A.   I used non-coincidental peaks because I was

12   trying to eliminate free ridership, and that's explained

13   quite a bit in the class cost of service study.

14   Q.   In KCPL's implementation of the base, and

15   peak, did they use coincident or non-coincident peaks?

16   A.   As far as my recollection, I think they

17   used coincidental peaks.

18   Q.   And is that difference one of the drivers

19   behind the different class revenue responsibilities that

20   your study showed in relation to KCPL's study?

21   A.   Yes, that would be one of the differences.

22   Q.   Okay. Because your study shows that there

23   is a shift to residential necessary, correct?

24   A.   That is correct.

25   Q.   And KCPL's study did not?

1   A.   I believe that's correct.

2   MR. MILLS: Okay. That's all I have.

3   Thank you.

4   JUDGE JORDAN: Mr. Woodsmall?

5   MR. WOODSMALL: Yes, briefly, your Honor.

6   CROSS-EXAMINATION BY MR. WOODSMALL:

7   Q.   **Good afternoon, Mr. Scheperle, or evening.**

8   A.   Good evening.

9   Q.   **Mr. Scheperle, is it true that you**

10   **performed a class cost of service study using a method**

11   **which you describe as base, intermediate and peak, or BIP?**

12   A.   Yes.

13   Q.   **Mr. Normand also calls his study a BIP**

14   **method, too, doesn't he?**

15   A.   Yes, he does.

16   Q.   **Is it correct to state that Staff's version**

17   **of the BIP is considerably different than Mr. Normand's**

18   **version?**

19   A.   It's considerably different, yes.

20   Q.   **And you have outlined the difference**

21   **between your methodology and Mr. Normand's methodology at**

22   **pages 8 through 13 of your rebuttal; is that correct?**

23   A.   Yes.

24   Q.   **Okay. You have -- in your rebuttal**

25   **testimony, I believe at Schedule MSS-R1, you have provided**

1   a summary of the results of the various cost of service

2   studies presented in this case; is that correct?

3   A.   Yes.

4   Q.   For the record, you use the term index of

5   return there. Can you tell me what index of return means?

6   A.   It's the -- the rate of return of each

7   class or rate schedule. Like, an index of return of one

8   means that the class is paying its way. If you're below

9   one, the class is not paying its way. If it is over one,

10   the class is contributing more than the class cost of

11   service.

12   Q.   And do you have that table in front of you?

13   A.   Yes, I do.

14   Q.   Looking at the results for the six cost of

15   service studies presented in this case, and focusing first

16   on the residential class, would you agree that the cost of

17   service results for Staff, DOE and the three studies by

18   Mr. Brubaker are all fairly close to one another?

19   A.   Yes.

20   Q.   And the results for Mr. Normand's study for

21   residential are quite different, aren't they?

22   A.   Yes. He is -- for the whole residential

23   class, he's at .98. The other studies are in the range of

24   .53 to .42.

25   Q.   And moving down to the lower part of that

1   schedule, looking at the large power class, would you

2   agree that the conclusion is similar, that Staff's, DOE's

3   and Industrials' numbers are fairly close and

4   Mr. Normand's results are considerably different?

5   A.   Yes.

6   Q.   Mr. Scheperle, are you aware that the

7   Commission has explicitly adopted the use of the average

8   and excess 4NCP methodology in a recent Ameren Missouri

9   case?

10   A.   Yes, I am.

11   Q.   Do you know the methodology by which

12   Missouri allocates costs between Missouri and Kansas,

13   allocates generation costs between Missouri and Kansas?

14   A.   My recollection is that they use a 4CP.

15   Q.   And looking at the results of your study,

16   your version of the BIP method produces results fairly

17   similar to the A&E average and excess 4NCP method used by

18   Mr. Brubaker; is that correct?

19   A.   That is correct.

20   Q.   And Mr. Normand's studies aren't

21   comparable, are they?

22   A.   For the small general service, for the

23   class in its entirety is close in Mr. Normand's and

24   everybody else's. The medium general service is not --

25   there's a difference, but it's not very large. But the

1 residential, large general service and large power

2 service, there's quite a difference.

3   MR. WOODSMALL: Thank you. No further

4 questions.

5   JUDGE JORDAN: Cross-examination from

6 Southern Union?

7   MR. JACOBS: Let me ask a procedural

8 question in terms of timing. I don't want to be -- I

9 don't want to run too long. I'm at your disposal

10 obviously, but I've got a fair amount of cross.

11   JUDGE JORDAN: Well, I've been proceeding

12 on the assumption that the parties will let me know they

13 want to break, whether they want to, because they have a

14 better understanding of what they're going to do than I

15 do. I do not have a preference. I'll just put it that

16 way. Is that something that the parties want to discuss?

17   MR. FISCHER: I think we should press

18 ahead, Judge.

19   JUDGE JORDAN: And so we're going to

20 proceed with this witness, cross-examination of this

21 witness, and so we'll go through all remaining issues

22 tonight. Is that the parties' preference?

23   MR. FISCHER: I think we can get it done.

24   MR. WOODSMALL: I'd prefer it.

25   MR. MILLS: Judge, the only caveat I'd add

1   is that I think we've got some sort of ministerial stuff

2   at the end because there is a lot of testimony that the

3   parties have stipulated to admit into the record because

4   of the various stipulations and agreements, and I don't

5   know, do you want to take that up on the record tonight as

6   well?

7   JUDGE JORDAN: I don't really have a

8   preference. It sounds like the parties want to wrap this

9   up today and not use tomorrow, but we do have tomorrow

10   reserved.

11   MR. MILLS: It doesn't matter to me.

12   MR. FISCHER: I can do it either way. I'd

13   be happy to come back if it's just ministerial and let the

14   witnesses go too. I think we can get it all done. I

15   really do.

16   JUDGE JORDAN: Let's go through the

17   witnesses and send them on their way and take it from

18   there.

19   CROSS-EXAMINATION BY MR. JACOBS:

20   **Q.   Good evening, sir.**

21   A.   Good evening.

22   **Q.   How are you?**

23   A.   Just fine.

24   **Q.   Good. I want to take you first to your**

25   **surrebuttal testimony, bear with me one minute, and I want**

 1   to take you to 0175.

 2   A.   Which case?

 3   Q.   0175, GMO. And taking you to the table at

 4   page 4, and there's two tables there; is that right? Let

 5   you get there. Sorry.

 6   A.   Yes, there is two tables.

 7   Q.   Okay. And I'm going to spend a little bit

 8   of time on this. But on reading your testimony, it says

 9   that your intent -- at least my understanding of your

10   intent in Table 1 is to show customer bill impacts

11   associated with Mr. Cummings' recommendation to eliminate

12   in Table 1 MPS's residential space heating service; is

13   that right?

14   A.   That is correct.

15   Q.   And so this shift is your attempt to show

16   what Mr. Cummings' recommendation is, what the results of

17   his recommendation were?

18   A.   I think it was my attempt not to take into

19   account Mr. Cummings' recommendation but to show what just

20   eliminating the space heat, space heating rate, the

21   impacts.

22   Q.   I'm going to hand you a document, if I can

23   approach.

24   JUDGE JORDAN: You may.

25   BY MR. JACOBS:

1   Q.   Okay.   This is just for illustrative

2   purposes.   I'm not planning on entering this into the

3   record.   But what I've handed you is what I understand to

4   be your work papers, is that correct, at least on the

5   first -- I'll go through each document, but on the first

6   page, these are your work papers?

7   A.   I believe this is the same thing I have in

8   Table 1.

9   Q.   And that shows the calculations that you

10   used to come up with the impact or the differences that

11   you show on Table 1?

12   A.   That is correct.

13   Q.   Now, the rates that you use to calculate

14   the bill impacts, those are -- those are the current

15   general use rates and the current space heating rates for

16   MPS; is that right?

17   A.   Those are the -- I believe those are the

18   current rates, yes.

19   Q.   And so when you look at the annual

20   percentage difference in that column in Table 1, that

21   represents a difference between a general use customer's

22   annual bill today at current rates and a space heating

23   customer's annual bill today at various usage levels; is

24   that right?

25   I'm sorry.   Let me start that again.   What

1 you're trying to do in this table and what you use in your

2 work papers is that you've got various monthly usage,

3 you've got general use, annual bills, general use space

4 heating annual bills, annual difference, percent

5 difference and that's all at current rates; is that right?

6   A.   That is current rates, yes.

7   Q.   Now, have you looked at -- you've reviewed

8 I'm sure as part of your preparing your testimony, you've

9 looked at Mr. Cummings' testimony recommendations; is that

10 right?

11   A.   Yes.

12   Q.   One of the documents that I've handed you

13 in that stack is -- it refers -- I've given you some of

14 Mr. Cummings' schedules; is that right?

15   A.   Yes.

16   Q.   Now, is your understanding of Mr. Cummings'

17 recommendation -- this will be a long sentence, so I'll

18 just ask you to listen to it -- is that in Mr. Cummings'

19 recommendation, is he recommending that when you eliminate

20 space heating service, that the space heating customers

21 would be shifted to the general use schedule and,

22 therefore, would pay the same winter rates that current

23 general use customers pay today?

24   A.   There would have to be a rate design if you

25 were actually eliminating electric space heating rates.

1   Q.   I'm not asking what should be done. I'm

2   asking what Cummings did.

3   MR. FISCHER: Judge, I'm going to object.

4   I don't -- it's calling for speculation if Mr. Scheperle's

5   being asked what Mr. Cummings did.

6   MR. JACOBS: I'm asking just for what his

7   understanding is.

8   JUDGE JORDAN: I'll overrule that

9   objection. That's my understanding of the question also.

10   THE WITNESS: Mr. Cummings had quite a few

11   recommendations in there. I mean, some of them were to

12   reassign the rates. There was another proposal of

13   eliminating rates, and there was quite a few scenarios

14   involved there.

15   BY MR. JACOBS:

16   Q.   And it's hard to probably get a synopsis of

17   that in a single answer. So let me help you out. Does he

18   recommend that there's a revenue neutral adjustment in the

19   case?

20   MS. KLIETHERMES: Judge, I'm going to

21   object. I think it's mainly an objection to the form of

22   the question, but perhaps in how I state my objection

23   counsel will choose to rephrase his question. I think

24   that there's an objection to the question as phrased, that

25   it assumes facts that are not in evidence. He's asked

1   what is his recommendation. I think Mr. Scheperle has

2   just testified there are multiple recommendations that are

3   potentially confusing. So I think if counsel would want

4   to clarify that question to a particular recommendation,

5   Mr. Scheperle would like to provide an answer.

6   MR. JACOBS: I can walk through if you

7   like.

8   JUDGE JORDAN: That's fine by me.

9   BY MR. JACOBS:

10   Q.   One of the questions I asked you is if you

11 reviewed Mr. Cummings' testimony and recommendations,

12 right?

13   A.   Yes.

14   Q.   And I also asked you -- well, let me ask

15 you now, then. You read Mr. Cummings' testimony.

16 Obviously this is at different stages in the proceeding,

17 but when he filed testimony, recommendations or had

18 schedules, you read that; is that right?

19   A.   I read them.

20   Q.   And did you review his recommendations

21 prior to writing your testimony, obviously given the fact

22 that some would be filed before and after you came up with

23 testimony at different stages in the proceeding?

24   A.   I did not -- I mean, I -- Staff made

25 their -- its direct case in its direct testimony and its

 1   class cost of service. From that point, then,

 2   Mr. Cummings, I think, filed direct testimony at the same

 3   time.

 4   **Q.   Let me try a different question. You**

 5   **reviewed his testimony, correct?**

 6   A.   Yes.

 7   **Q.   And do you recall in Mr. Cummings'**

 8   **testimony that he recommended a revenue neutral adjustment**

 9   **in the case?**

10   A.   As one of his proposals, there was a

11   revenue neutral adjustment.

12   **Q.   And he also recommended that there's a**

13   **removal of seasonal inequities, as he describes it, now**

14   **between summer and winter rates; is that right?**

15   A.   I remember the wording in there, yes.

16   **Q.   And he also recommends to, after that**

17   **adjustment, to equalize winter rates, equalize the winter**

18   **rate of return; is that right?**

19   A.   I remember reading that.

20   **Q.   And he recommends that there's an**

21   **elimination of or freeze of the electric space heating**

22   **rates in both cases; is that right?**

23   A.   Yes. You're getting into different

24   proposals now. I mean, you're getting into revenue

25   neutral and then you're getting into another freeze

1   proposal.

2   Q.   I'm not trying to be tricky. I'm just

3   going through his recommendations, trying to see what you

4   understand his recommendations to be. But you recall

5   that -- I've walked you through some of his

6   recommendations in not a lot of detail. What I'm just

7   asking is, do you recall that he recommends to eliminate

8   or freeze electric space heating rates?

9   A.   That was one of his recommendations.

10   Q.   Okay. I believe I've handed you for review

11   Mr. Cummings' Schedule FJC-8A as in alpha. Can you find

12   that, please?

13   A.   Yes.

14   Q.   Could you look at winter rates that apply

15   with the elimination of space heating? And to get you

16   there, it's general use B, lines 16 through 18.

17   A.   I'm there.

18   Q.   Can you tell me how those numbers compare

19   to current general use rates?

20   A.   Are you in column B? Is that what you were

21   asking?

22   Q.   Yes, sir.

23   A.   Well, they're different. I don't know

24   what -- eliminate electric space heating, I don't know if

25   that's summer or --

```
 1          Q.       Well --

 2          A.       -- winter or what we're doing.

 3          Q.       Do you know how those compare to current

 4   rates?

 5          A.       The first one is -- that you have in

 6   line 17 is higher than the current rates under general

 7   use.  The second --

 8          Q.       What's your understanding of the current

 9   rate for that first block?

10          A.       I think the current rates for the first

11   600 is 10.880.

12          Q.       Okay.  And what number is in line B-17?

13          A.       .1147.  So he has -- he has -- Mr. Cummings

14   has a higher rate than the current rate.

15          Q.       And I want to go to the next 400.

16          A.       Yes.  Okay.  The next 400 would be -- it

17   would be -- if we're talking about summer rates -- no,

18   wait a minute.  Okay.  Line 12 says it's winter energy

19   charges.  Okay.  The second rate in the winter energy

20   charges would be less than the current rates.

21          Q.       Right.  And what MG's recommending is

22   .0645?

23          A.       That is correct.

24          Q.       And the current rate and the rate that you

25   used in your calculation is .0745?
```

1   A.   Yes.

2   Q.   And that's lower?

3   A.   No. Mr. Cummings has a lower rate there.

4   Q.   Thank you. So going back to your work

5   paper, I guess what I'm trying to get to is that

6   Mr. Cummings, when he gives a recommendation, he's given

7   his recommendation in this case, he's not recommending

8   that general use customers for the summer -- does he

9   recommend general use customers for the summer go to the

10 same rate?

11   MS. KLIETHERMES: I'm going to object to

12 the form of the question just because it was unclear how

13 rate was used there. I think I understand what counsel is

14 saying.

15   MR. JACOBS: Let me withdraw that. Thank

16 you for the clarification. It's late.

17 BY MR. JACOBS:

18   Q.   In line 16 through 19, okay, we just talked

19 about how the rates that Mr. Cummings has in his schedule

20 for general use are different than what current rates are;

21 is that right?

22   A.   For the winter, yes.

23   Q.   For the winter. Thank you. And so when

24 you talk about your calculation, you're assuming current

25 rates for both after you eliminate space heating rates in

1   your Table 1; is that right?

2   A.   Yes.

3   Q.   And so what Mr. Cummings is proposing is

4   different than that because he's -- he's accounting for a

5   change?

6   A.   Yes. I'm -- in my -- in my schedule, I'm

7   just taking basically what a general use annual bill would

8   be under the current rates and what a space heating annual

9   bill would be under the current rates. That is different

10 than Mr. Cummings' recommendation.

11   Q.   And I maybe inartfully tried to get you

12 there, but all I'm trying to do really is to show that

13 this is your -- what you say in your testimony at Table 1

14 is not the same as what Mr. Cummings recommends, right?

15 It's really a -- I'll just stop there. It's not the

16 same -- you don't have the same recommendation?

17   A.   That's correct.

18   Q.   And so when you compare what you showed to

19 be the impact on customers, in terms of the increases or

20 differences that would apply, that it's your -- it's not

21 really an apples-to-apples comparison; is that right?

22   A.   That is correct.

23   Q.   Meaning that you're not trying to

24 illustrate in that table what Mr. Cummings' recommendation

25 is?

 1   A.   That is correct.

 2   Q.   You're illustrating what you recommend in

 3 the case in terms of if there is elimination of the space

 4 heating rate, that you're accounting for the difference

 5 that would happen if everybody went over to the general

 6 use, right?

 7   A.   That is correct.

 8   Q.   And that doesn't account for any

 9 adjustments that have been made by Mr. Cummings in his

10 recommendations because your analysis and what you're

11 illustrating is different; is that right?

12   A.   Yes.

13   Q.   So one of the surrebuttal schedules

14 for Mr. Cummings that I handed you was surrebuttal

15 Schedule FJC-2. Could you turn to that?

16   A.   Okay. I'm there.

17   Q.   And I'm going to refer you to --

18   A.   Wait a minute. You said --

19   Q.   Sir, Schedule FJC 2, page 1.

20   A.   Okay. Yes.

21   Q.   Take a look on page 1, line 8 of the

22 schedule.

23   A.   Okay.

24   Q.   What that shows is for electric space

25 heating, the annual impact that Mr. Cummings shows, not

 1   **what you show but what Mr. Cummings shows, is that if you**

 2   **eliminate space heat, that he shows a 3.2 percent**

 3   **difference or increase that customers would pay; is that**

 4   **right?**

 5   A.   What line are you on?

 6   **Q.   Line 8, and then column C.**

 7   A.   My -- I've got line 18 free space heat, and

 8   then there's nothing -- there's nothing in column B or C,

 9   unless I'm in the wrong -- oh, I'm in the 174 case. I'm

10   sorry.

11   **Q.   0175.**

12   A.   Yeah. We're --

13   **Q.   It may have come loose, so it's 0175,**

14   **page 1, surrebuttal Schedule FJC-2.**

15   A.   Yeah. It's column C, line 8 shows

16   3.2 percent.

17   **Q.   Now, given the fact you agree that you're**

18   **not making the same comparison between what the rate**

19   **impact is, because Mr. Cummings has a different proposal**

20   **than what you propose, do you have any reason to doubt**

21   **that 3 -- and subject to check the math, but do you have**

22   **any reason to doubt that Mr. Cummings' analysis under his**

23   **proposal, not yours, do you have any reason to doubt that**

24   **his proposal would show 3.2 percent increase?**

25   MR. FISCHER: I'm going to object that the

 1 witness has obviously been confused by the proposal and I

 2 don't think he can make an evaluation based on that kind

 3 of a question whether he can verify the figures that have

 4 been provided by MGE in this case.

 5   JUDGE JORDAN: If the answer to the

 6 question is I don't know, the witness can say I don't

 7 know.

 8   THE WITNESS: I have not verified the

 9 3.2.

10 BY MR. JACOBS:

11   **Q.   But based on the fact you've got different**

12 **comparisons, it wouldn't surprise you that you have**

13 **different numbers?**

14   A.   I haven't verified that number. I mean,

15 I -- yeah, because they are different comparisons.

16   **Q.   So it wouldn't surprise you that they're**

17 **different numbers?**

18   A.   That's correct.

19   **Q.   I'm going to shift down and back to your**

20 **surrebuttal testimony. It's Table 2 for L&P. It's on**

21 **page 4 of your surrebuttal testimony.**

22   A.   Okay.

23   **Q.   And that's constructed in the same way as**

24 **Table 1; is that right?**

25   A.   That is correct.

1   Q.   And so given the fact that we've talked

2   about how these comparisons really aren't the same, that

3   you're not trying to show what Mr. Cummings'

4   recommendation is in the case, right?

5   A.   In this case, I wasn't. I was basically

6   showing what -- why Staff is not recommending that we

7   eliminate any space heating rates.

8   Q.   Okay. What you're trying -- I'm just

9   trying to show that -- I understand your recommendation,

10   but I'm just trying to show that the analysis is

11   different.

12   A.   The analysis is different.

13   Q.   And so the bill impact would be different

14   as well, wouldn't it?

15   A.   Yes, it would.

16   Q.   I'm sorry. Bear with me one second. I'm

17   going to shift you over to Case 0174.

18   A.   Okay.

19   Q.   And page 9 of your surrebuttal.

20   A.   Yes.

21   Q.   Okay. On page 93 to 4, you indicate that

22   you oppose the elimination of the space heating rate

23   because of potential rate shock; is that right?

24   A.   Yes.

25   Q.   And do you have a similar calculation like

1 **you did in the GMO case Tables 1 and 2 that we were**

2 **talking about that show bill impacts associated with the**

3 **elimination of space heat?**

4   A.   I don't believe I showed it in here, but

5 when I was talking about the potential rate shock, I'm

6 talking about the increases that KCP&L's had since January

7 of 2007. They've had four cases since then.

8   Q.   **I'm just trying to get an understanding of,**

9 **did you do the same type of --**

10   A.   Well, I'm explaining the potential rate

11 shock. Like, in January of '07 they had 10.46 percent

12 increase. January 1 of 2008 they had a 6.50. In

13 September 1 of '09 they had a 16.16 percent increase, and

14 in May they had a --

15   Q.   **Just asking you a question about this case.**

16   A.   5.25, and that's --

17   Q.   **Mr. Scheperle?**

18   A.   That's 43.80.

19   Q.   **Mr. Scheperle?**

20   A.   And that's the potential rate shock of

21 eliminating --

22   JUDGE JORDAN: Mr. Scheperle.

23   THE WITNESS: I think I got -- if I can

24 answer the question.

25 BY MR. JACOBS:

1   Q.   I just want to know if you have a table.

2   A.   No, I do not.

3   Q.   So do you have a table in the same way that

4   you did in the other case --

5   A.   No.

6   Q.   -- that shows bill impacts?

7   A.   No.

8   Q.   I have to approach and show you in

9   Mr. Rush's surrebuttal in 0174, page 7. I'll let the

10   parties get their Rush surrebuttal in 0147, page 7. Are

11   you at Mr. Rush's surrebuttal at page 7?

12   A.   I believe so.

13   Q.   And there's a table there; is that right?

14   A.   Yes.

15   Q.   Is there a title on the table?

16   A.   There's no title, but --

17   Q.   Is there a Staff -- a column that says

18   Staff column?

19   A.   Yes.

20   Q.   And just asking if you're familiar with

21   what those numbers are, yes or no?

22   A.   I believe I'm --

23   Q.   I'm just asking about your numbers.

24   A.   I believe it's the same table that

25   Mr. Woodsmall pointed me to earlier --

1   Q.   Okay. And --

2   A.   -- for further residential class.

3   Q.   Are these annual impacts? Or correction.

4   Are these annual indexes?

5   A.   Yes.

6   MR. JACOBS: Okay. May I approach?

7   JUDGE JORDAN: You may.

8   (MGE EXHIBIT NO. 631 WAS MARKED FOR

9   IDENTIFICATION.)

10   JUDGE JORDAN: I'm sorry. Did you ask that

11 that be marked?

12   MR. JACOBS: Yes.

13   JUDGE JORDAN: Have you got copies for me?

14   MR. JACOBS: I do.

15   JUDGE JORDAN: And we'll need copies for

16 the Commissioners also.

17 BY MR. JACOBS:

18   Q.   Have you had a chance to look at that

19 document?

20   A.   I have a copy of it.

21   Q.   And the first two pages, if I'm correct,

22 are your Schedule MSS-1 in the 0174 case; is that right?

23   A.   Yes.

24   Q.   And you prepared those documents?

25   A.   Yes.

1   Q.   The next several pages after the first two

2   pages of MSS-1 are your work papers that show the

3   allocation of costs in various schedules, rate schedules

4   to seasons; is that right?

5   A.   Yes.

6   Q.   And you prepared these in conjunction with

7   the case?

8   A.   Yes. They were part of the work papers.

9   Q.   And are they true and accurate to the best

10   of your knowledge and belief?

11   A.   Yes.

12   MR. JACOBS: Your Honor, I'd seek to admit

13   MGE 631 into evidence.

14   JUDGE JORDAN: Not hearing any objections,

15   so that document is entered into the record.

16   (MGE EXHIBIT NO. 631 WAS RECEIVED INTO

17   EVIDENCE.)

18   BY MR. JACOBS:

19   Q.   Okay. Mr. Scheperle, I just want to go

20   through fairly quickly just to kind of get some numbers

21   established on these. The first sheet you're showing the

22   annual results of increases, and then so you show

23   31.9 million for Res A; is that right?

24   A.   The revenue deficiency for Res A would be

25   31. -- yes, 31.9 million.

1   Q.   And then 7.0 million for Res B

2 all-electric?

3   A.   Yes.

4   Q.   And I'm -- I'm giving you general numbers.

5 That number's actually 6.967592?

6   A.   Right. Right. Yeah.

7   Q.   And then for space heat separate meter,

8 3.2 million?

9   A.   Yes.

10   Q.   And all of that is based on an overall

11 system increase of 33.7; is that correct?

12   A.   Yes. That was Staff's accounting schedules

13 in their direct testimony.

14   Q.   Thank you. If you go to your first work

15 paper, it's Res A.

16   A.   Yes.

17   Q.   And you show in that case a seasonal change

18 for general use, and that percentage is an increase of

19 16.08 percent; is that right?

20   A.   Yes.

21   Q.   And then in Res B, the next page, annual

22 increase in all-electric 14.8 percent?

23   A.   Yes.

24   Q.   And then the winter increase, the column

25 right next to it, is 29.53 percent increase?

 1   A.   Yes.

 2   Q.   You go to Res C, percentage change in that

 3   case for annual cost 24.66 percent; is that right?

 4   A.   Yes.

 5   Q.   And then winter increase of 35.55 percent;

 6   is that right?

 7   A.   Yes.

 8   MR. JACOBS: I have no further questions.

 9   JUDGE JORDAN: Thank you, sir.

10   THE WITNESS: Thank you.

11   JUDGE JORDAN: Mr. Conrad, any

12   cross-examination?

13   MR. CONRAD: No, sir. Thank you.

14   JUDGE JORDAN: Mr. Bartels, any cross?

15   MR. BARTELS: Briefly.

16   CROSS-EXAMINATION BY MR. BARTELS:

17   Q.   I'm not sure if this is good evening or

18   good night, Mr. Scheperle. A little late for myself.

19   Just one quick question for you. Would you agree that the

20   Brubaker 4NE NCP class cost of service does not support an

21   above average increase for the all-electric LGS subclass?

22   A.   I do know that Mr. Johnstone had sent me

23   some three pages of comparisons Friday night. It was

24   isolated to those three pages, but it did show that.

25   Q.   You were able to review those and

 1   differentiate?

 2   A.   I could only review those three pages.

 3   Q.   **Those three little points?**

 4   A.   Pages.

 5   Q.   **And would you think that method was also**

 6   **adopted in the recent Ameren UE case?**

 7   A.   That method was adopted. It's been

 8   about -- well, there's a current case before the

 9   Commission now. I think it was two cases ago for Ameren,

10   but an A&E method was adopted.

11   Q.   **And that was -- that was showing that the**

12   **all electric LGS, that's what I'm kind of drilling into**

13   **and that's what Mr. Johnstone's three pages that were sent**

14   **to you on Friday were regarding?**

15   A.   Yes. It was isolated to those three pages,

16   though.

17   MR. BARTELS: Thank you very much.

18   JUDGE JORDAN: Mr. Fischer?

19   MR. FISCHER: Yes. Thank you, Judge.

20   CROSS-EXAMINATION BY MR. FISCHER:

21   Q.   **Mr. Scheperle, let's make this somewhat**

22   **short. I want to go back to that table that we talked**

23   **about. I think it was included in Mr. Rush's surrebuttal,**

24   **and it was also included in your surrebuttal, that showed**

25   **the indexes of returns. Do you recall that?**

 1   A.   Yes, but it was -- was it in the KCP&L

 2   case?

 3   Q.   It's in both of your cases. Let's look

 4   at -- let's look at your surrebuttal first of all in the

 5   GMO case, the 175 case. On page 3 of your surrebuttal --

 6   I'm sorry, your rebuttal testimony.

 7   A.   I'm there.

 8   Q.   Okay. And I believe you indicated that if

 9   the index of return is 1.0, that means there's no need for

10   an increase or a decrease; is that right?

11   A.   Yes. Yes. The class is paying its way.

12   Q.   It's paying its way. Okay. If we look at

13   the Staff column under the Staff's cost of service study,

14   would it be correct to say that the space heating rate

15   is -- has an index of 0.96; is that right?

16   A.   Yes.

17   Q.   And that compares to an overall residential

18   index of 0.91; is that right?

19   A.   Yes.

20   Q.   So is it correct to conclude that Staff's

21   study shows that the space heating rate is actually

22   contributing to a higher rate of return for KCPL than the

23   overall residential rates?

24   A.   It is for MPS, and then that's part of

25   Staff's recommendation that there be no revenue neutral

1   adjustment for the MPS rate district.

2   Q.   Okay. And let's look at -- let's look at

3   your rebuttal testimony in the Kansas City Power & Light

4   case, the same table, which is found on page 3.

5   A.   Yes, I'm there.

6   Q.   Okay. Does that show that the all-electric

7   rate under the Staff's cost of service study is

8   contributing 0.57 index of return?

9   A.   Yes.

10   Q.   And is that -- does that compare to the

11 overall residential of 0.53?

12   A.   Yes.

13   Q.   Would it be correct to conclude that, for

14 the KCPL rates, based on Staff's cost of service study,

15 that the all-electric rates are actually contributing a

16 higher rate of return than the overall residential rates,

17 based on those indexes of return?

18   A.   Based on those indexes, but they're --

19 yeah, they're 0.53 and 0.57, yes.

20   Q.   And if you look at the next column over, is

21 that the U.S. DOE cost study results?

22   A.   Yes.

23   Q.   And doesn't that show the same results that

24 the -- they're close, but it appears that the all-electric

25 rates are actually contributing about the same or higher,

 1   slightly higher than the overall residential rates of

 2   return?

 3   A.   Well, the total residential on the USDOE

 4   study, Department of Energy for residential 0.49, for the

 5   all-electric it's 0.550.

 6   Q.   So that would be correct, the conclusion,

 7   correct?

 8   A.   Yes.

 9   Q.   Okay. Would you agree with me that cost of

10   service study results are as much art as science

11   sometimes?

12   A.   I would agree.

13   Q.   And should the Commission take into account

14   the results of several cost of service studies whenever

15   they make public policy changes to a company's rate

16   design?

17   A.   In this case, I think we've got six studies

18   here, so they could look at all of them.

19   Q.   Let's turn to your rebuttal testimony on

20   page 6 in your KCPL case, 174 case.

21   A.   Okay. You said page?

22   Q.   Page 6 at line 8.

23   A.   Okay. I'm there.

24   Q.   You were asked the question, does Staff

25   agree with MGE's rate design recommendation, and your

1   **answer is no. Do you see that?**

2   A.   Yes.

3   **Q.   Why do you have that no there? Why do you**

4   **disagree with the MGE recommendation?**

5   A.   The main reason I disagreed with MGE is the

6   amount of increases that KCPL has experienced in the

7   last -- since the beginning of January of 2007, they've

8   had about four increases, and if you put them together, I

9   think it's --

10   MR. JACOBS: Judge, I may have an objection

11 to this. If he's talking about information that's in his

12 testimony, I'll withdraw the objection. If he's talking

13 about information that is not in his testimony, I would

14 argue that this is improper supplementation of this

15 record. He was given an opportunity to put that in his

16 testimony, and to my recollection, I don't know if it's

17 there.

18   MS. KLIETHERMES: Judge, I would interject

19 that this information is in Scheperle's testimony. This

20 is the very information that he was trying to state when

21 him and Mr. Jacobs had a moment where they were speaking

22 over each other.

23   MR. JACOBS: Then happily withdraw.

24 Withdrawn.

25   THE WITNESS: It's -- since 2007, KCP&L has

1 had about a 43.8 percent increase in rates, and to

2 eliminate an all-electric rate is -- it's too much for the

3 customer to bear, and that's part of the reason of not

4 wanting to eliminate rates but to gradually bring them

5 into -- bring them into line.

6 BY MR. FISCHER:

7 **Q.   Percentages are interesting, but sometimes**

8 **dollar amounts are even more telling. Counsel for MGE**

9 **showed you, I think it was your work papers from the MS--**

10 **or the 175 case, MPS. Do you recall that, where you had a**

11 **billing comparison eliminating space heating schedules?**

12 A.   I remember that for GMO, yes.

13 **Q.   Do you still have that in front of you?**

14 A.   Yes.

15 **Q.   I understand that perhaps this document was**

16 **not exactly the same as Mr. Cummings may now have**

17 **clarified what he was recommending, but the annual**

18 **difference in dollars for your billing comparison**

19 **eliminating space heating rate schedules, does that vary**

20 **from $50.88 for the lowest usage all the way up to $674.88**

21 **for the 4,000 kilowatt hours of usage?**

22 A.   Yes.

23 **Q.   And at that higher level, it's a**

24 **17.53 percent increase?**

25 A.   Yes.

1   Q.   And that would be on top of whatever

2 across-the-board increase the Commission might grant in

3 this case; is that right?

4   A.   Yes, but I think it kind of -- this would

5 be if you eliminated it completely and moved all-electric

6 to the general service rate.

7   Q.   As an expert in rate design and cost of

8 service studies, were you confused by the testimony of MGE

9 in this case?

10   A.   There was -- there was a lot of scenarios

11 there.

12   Q.   Did you make some similar errors as were

13 pointed out in Mr. Rush's testimony?

14   A.   The purpose of these schedules, and there's

15 two of them on page 4 there, one's for MPS and one's for

16 L&P, was to show the impact if you actually eliminated it

17 completely. I mean, that was the intent, and there's

18 been -- even for MPS and L&P, there's been quite a few

19 increases in the last couple years. So I was -- I was

20 concerned about the customer impacts.

21   Q.   Do you think the Commission should take

22 that into account whenever they decide this case?

23   A.   Definitely.

24   Q.   And if we go to your work papers on the L&P

25 jurisdiction, on page 5, do you see a similar table, the

 1   billing comparison eliminating space heating rates

 2   schedules?

 3   A.   I have it on page 4.

 4   Q.   **Page 4. Okay.**

 5   A.   I don't know if I printed off the --

 6   Q.   **Okay. Well, mine's on page 5. But does it**

 7   **have annual differences if you eliminated the space**

 8   **heating rate schedules from $100.24 to over $604?**

 9   A.   Yes.

10   MR. FISCHER: That's all I have, Judge.

11   Thank you.

12   JUDGE JORDAN: Questions from the Bench.

13   Any questions from Commissioner Kenney.

14   COMMISSIONER KENNEY: No. I think they've

15   all been asked. Thank you, Mr. Scheperle.

16   THE WITNESS: Thank you.

17   JUDGE JORDAN: I have no questions for you.

18   Redirect?

19   MS. KLIETHERMES: Yes, Judge. I'll stand

20   to encourage my own brevity.

21   REDIRECT EXAMINATION BY MS. KLIETHERMES:

22   Q.   **Mr. Jacobs asked you about a difference**

23   **that Mr. Cummings had identified caused by eliminating**

24   **these rate schedules of 3.2 percent. Do you remember that**

25   **figure?**

1   A.   I remember that figure.

2   **Q.   Was the specific magnitude of the bill**

3 **comparison you did the sole basis for your recommendation?**

4   A.   No. I mean, I did the bill comparison, but

5 I also -- the --I took into account the four previous rate

6 increases that KCP&L has experienced and the last two or

7 three increases that GMO has experienced.

8   **Q.   So if your math was wrong, if you were**

9 **comparing the wrong items, would your recommendation still**

10 **be the same?**

11   A.   My recommendation is still the same.

12   **Q.   Do you believe that recommendation is a**

13 **reasonable resolution given what GMO and KCPL have stated**

14 **and what MGE is requesting as that's been clarified this**

15 **evening?**

16   A.   I think they're reasonable, yes.

17   **Q.   Mr. Woodsmall discussed with you the**

18 **similarities of some studies that have been submitted in**

19 **this matter, many of which relate to the settlement that**

20 **was filed earlier today. Do you recall that?**

21   A.   Yes.

22   **Q.   In general, do those studies support the**

23 **recommendation that was reached in the stipulation filed**

24 **today?**

25   A.   Yes, they do.

1   Q.   And, in fact, is the stipulation filed

2   today, at least on the KCPL side, as far as interclass

3   shifts go, identical to your recommendation?

4   A.   Yes.

5   Q.   Mr. Bartels or Bartels -- I'm sorry.

6   MR. BARTELS: Bartels.

7   BY MS. KLIETHERMES:

8   Q.   Bartels -- asked you about an analysis you

9   had received from Mr. Johnstone. Do you recall that?

10   A.   Yes.

11   Q.   Did you make any effort to replicate that

12   analysis?

13   A.   No.

14   Q.   Mr. Fischer worked you through some indices

15   of returns and a table. Do you recall that?

16   A.   Yes.

17   Q.   Did that table as presented take into

18   account the differences in summer and winter rates of

19   return?

20   A.   I may be a little confused. We went

21   through quite a few tables, and I'm not sure if I know

22   which ones we're --

23   Q.   I'll try to wrap a few of these together,

24   then. To your recollection, I know there was some

25   discussion of the Res B rates of returns, for example.

1   Does that 14.8 percent rates of return that was discussed

2   take into account the differences between the summer and

3   winter rates of return that the Res B class would produce?

4   A.   The 14.80 is the -- is the 12 months. I

5   mean, we'd have to break those down between summer and

6   winter.

7   Q.   But would the winter rate of return be

8   approximately 29.53 and the summer rate of return be

9   approximately negative 3.34 percent?

10   A.   For Res B, yes.

11   Q.   And does Staff's recommendation take into

12   account that the winter is the time when that class is not

13   contributing adequately and in summer, in fact, they're

14   over-contributing?

15   A.   It takes into account the winter and summer

16   differential.

17   Q.   So is it safe to say that Staff's

18   recommendation is a nice, good, reasonable, happy medium

19   between what KCPL would like to continue and what MGE is

20   requesting occur?

21   A.   It moves it closer to the class cost of

22   service.

23   Q.   And one final question. Has Staff ever, to

24   your recollection, in one case eliminated a rate schedule

25   where customers were taking service? And if you don't

1 **recall, that's fine.**

2   A.   I can't think of any.

3   MS. KLIETHERMES: That's all I have. Thank

4 you.

5   JUDGE JORDAN: That concludes your

6 examination. You may step down. Next witness.

7   MR. JACOBS: MGE calls Jay Cummings.

8   JUDGE JORDAN: I note that I do not have a

9 sequence of cross-examination for witnesses by Southern

10 Union.

11   MS. KLIETHERMES: We'll just all ask at

12 once. That will go quicker.

13   JUDGE JORDAN: Fine by me.

14   MS. KLIETHERMES: Staff has none.

15   MR. MILLS: I have none either.

16   MR. CONRAD: I won't have any questions.

17   MR. BARTELS: No questions.

18   JUDGE JORDAN: Will the company have

19 questions?

20   MR. FISCHER: Welcome back to Missouri. I

21 have no questions either.

22   JUDGE JORDAN: Well, then we won't need a

23 sequence of cross-examination, will we? I'll go ahead and

24 swear you in then.

25   MS. KLIETHERMES: We could stipulate to

 1 his --

 2   MR. JACOBS: We have a couple of

 3 corrections.

 4   JUDGE JORDAN: Let's do that.

 5   (Witness sworn.)

 6 F. JAY CUMMINGS testified as follows:

 7 DIRECT EXAMINATION BY MR. JACOBS:

 8   **Q.   Good evening, sir. Could you please state**

 9 **your name for the record?**

10   A.   F. Jay Cummings.

11   **Q.   And by whom are you employed and in what**

12 **capacity?**

13   A.   I'm employed by Ruhter & Reynolds

14 Consulting, Inc. That's spelled R-u-h-t-e-r. I'm a

15 senior economist.

16   **Q.   And have you caused to be prepared for**

17 **purposes of this proceeding certain direct, rebuttal and**

18 **surrebuttal testimony in question and answer form?**

19   A.   Yes, I have.

20   **Q.   And is it your understanding that testimony**

21 **has been previously marked as Exhibits 625, 626, 627, 628,**

22 **629 and 630 for identification?**

23   A.   Yes.

24   **Q.   Do you have any changes that you'd like to**

25 **make to your testimony at this time?**

1   A.   I have a couple of corrections I'd like to

2   point out. First of all, in 174, in the direct, I'd like

3   to mention that on September 12th we filed a corrected

4   page 28 to be sure that everybody has that. Also in that

5   same direct testimony, on page 1, line 12, the date 2003

6   should be 2001. On page 21, in Footnote 13, there's a

7   date of October 24th, 2011. That date should be

8   October 31st, 2011.

9   Then in any rebuttal, in 0174, on page 6,

10   line 6, it reads, does this conclude your direct

11   testimony? It should say, does this conclude your

12   rebuttal testimony.

13   In ER-2012-0175, the direct, which is MGE

14   627, on -- excuse me. On August 22nd, 2012, we filed a

15   realized Schedule FJC-B. On September 12, 2012, we filed

16   corrected pages 28 and 31.

17   They're very similar changes to those I

18   noted in 174. In my direct on page 1, line 12, that date

19   should read 2003, not 2001. Similarly, on page 23,

20   Footnote 15, the third line, the date should read

21   October 31st, not October 24th.

22   Parallel change in rebuttal in 0175.

23   Page 7, line 9, the word direct should be rebuttal. And I

24   would also note on the bill impact information in

25   surrebuttal, FJC-2, page 2, Footnote 2, in 175 the annual

1   bill impact shown there for space heat are 13.7 percent

2   and 10.9 percent. There was a slight formula error, and

3   those numbers should be 13.8 and 11.0. That's all the

4   changes I have.

5   **Q.   So if I asked you the questions which are**

6   **contained in these exhibits today, would your answers as**

7   **amended be the same?**

8   A.   Yes, they would.

9   **Q.   Are those answers as amended true and**

10 **correct to the best of your information, knowledge and**

11 **belief?**

12   A.   Yes, they are.

13   MR. JACOBS: Your Honor, I'll offer

14 Exhibits 625 through 630 and into evidence and I would

15 otherwise tender the witness for cross-examination.

16   JUDGE JORDAN: And I understand there is no

17 cross-examination for this witness, which would explain

18 why I have no proposed order of cross-examination for this

19 witness.

20   MS. KLIETHERMES: That is a theory.

21   JUDGE JORDAN: It's a theory. Questions

22 from the Bench. Commissioner Kenney?

23   COMMISSIONER KENNEY: No questions. Thank

24 you very much.

25   JUDGE JORDAN: I have no questions for you.

 1   So that concludes your examination. You may stand down.

 2   I believe that takes care of our witnesses

 3   for rate design and class cost of service.

 4   MR. JACOBS: Judge, did you admit those

 5   into evidence? I'm sorry.

 6   JUDGE JORDAN: I'm sorry. I might not have

 7   ruled on that. I will admit those into evidence.

 8   (MGE EXHIBIT NOS. 625 THROUGH 630 WERE

 9   RECEIVED INTO EVIDENCE.)

10   JUDGE JORDAN: Thank you for reminding me.

11   MR. FISCHER: Judge, it's my understanding

12   that the MEEIA stipulation has been filed in the GMO

13   docket now.

14   JUDGE JORDAN: Well, I've not received any

15   message.

16   MS. HERNANDEZ: It would be in the

17   EO-2012-0009 case.

18   JUDGE JORDAN: Would you like to enter an

19   appearance?

20   MS. HERNANDEZ: Jennifer Hernandez

21   appearing on behalf of the Staff of the Missouri Public

22   Service Commission.

23   JUDGE JORDAN: And will you give as an

24   update on the -- as to how that case relates to this case?

25   MS. HERNANDEZ: Right. It's my

1 understanding the way the two cases relate is a Commission

2 decision in the EO-2012-0009 case, that revenue impact

3 would be taken from the Commission's decision in that case

4 and moved into this case for the revenue requirement of

5 GMO.

6   JUDGE JORDAN: Do I correctly understand,

7 then, that a stipulation filed in that case has resolved

8 the issues as to this case?

9   MR. FISCHER: Judge, I would request that

10 that Stipulation & Agreement either be filed in this case

11 or if you could take official notice of it, that might

12 simplify it as well, but it should be definitely a part of

13 this record.

14   JUDGE JORDAN: I would feel more

15 comfortable if it were filed in this action also.

16   MS. HERNANDEZ: I can go do that as soon as

17 as we're finished discussing.

18   JUDGE JORDAN: Well, does that take care of

19 the need to present any witnesses on the MEEIA issue?

20   MR. FISCHER: Yes, from company's

21 perspective.

22   MS. HERNANDEZ: John Rogers has not

23 appeared. As long as we can stipulate to his admission of

24 testimony and the cost of service report, there's no need

25 to put him on the stand.

1   MS. KLIETHERMES: As point of

2 clarification, Staff has a number of witnesses who did not

3 appear that we would be offering their sections of cost of

4 service report and respective testimonies.

5   JUDGE JORDAN: Yes, we'll need to do that.

6 Are the parties willing to stipulate as to the testimony

7 of witness Rogers?

8   MR. FISCHER: Yes.

9   MR. MILLS: Yes.

10   JUDGE JORDAN: I'm not hearing any

11 objections to that. And we already introduced all the

12 testimony of Mr. Rush; is that correct?

13   MR. FISCHER: Yes. And I'd move for

14 admission --

15   MS. KLIETHERMES: And Judge, Mr. Rush is

16 the witness, Mr. Rush, Mr. Ives and is it Mr. Blunk?

17   JUDGE JORDAN: On my list it says Rush,

18 Rogers and Scheperle.

19   MS. KLIETHERMES. I'm sorry. I believe

20 Mr. Rush has sections of his testimony to which people

21 have the pending motion to strike, just to refresh the

22 recollection.

23   JUDGE JORDAN: Right. And when I admit his

24 exhibits, it will be subject to the motions, pending

25 motions to strike those are not been resolved. They are

1 still pending.

2   So if I understand correctly, the answer to

3 my inquiry as to whether there is any need to present any

4 witnesses on the MEEIA issues is that there is no need to

5 present witnesses on the MEEIA issues; is that correct.

6   MR. MILLS: I believe so.

7   MR. WOODSMALL: The only caveat I would add

8 is, all these witnesses that we're going to be putting in

9 stipulating their testimony, I have no problems with it

10 being put into evidence subject to if the Commission

11 rejects any stipulation, that we will need to go back and

12 do cross-examination.

13   JUDGE JORDAN: Understood.

14   COMMISSIONER KENNEY: Can I ask a question?

15   JUDGE JORDAN: Yes, you may.

16   COMMISSIONER KENNEY: Sorry about that. I

17 didn't mean to startle anybody I hope. Am I correct in

18 understanding that there's a nonunanimous stipulation in

19 the EO-2012-0009 case that will settle the issues in this

20 case?

21   MS. HERNANDEZ: That's correct. Mr. Conrad

22 is here. I believe he's the only party that did not --

23 states he would not object. I don't know if he wants to

24 address that point now.

25   MR. CONRAD: Yes. We indicated no

 1 objection to that stipulation.

 2   COMMISSIONER KENNEY: No objections, but

 3 you're not signing off on it?

 4   MR. CONRAD: That's correct, for AGP and

 5 SIEUA. That's done.

 6   MS. HERNANDEZ: Union --

 7   COMMISSIONER KENNEY: Okay. Thank you.

 8   MS. HERNANDEZ: I'm sorry. Union Electric

 9 Company and Southern Company, Southern Union also did not

10 were -- not signatories but stated they would not oppose.

11   COMMISSIONER KENNEY: Thank you.

12   JUDGE JORDAN: Well, I think we have

13 disposed of the MEEIA issue for purposes of these actions.

14   MS. HERNANDEZ: Would it be beneficial, do

15 you want me to file in the case the stipulation, or I can

16 go run a copy and bring it down and enter it as an

17 exhibit. Is there a preference?

18   JUDGE JORDAN: Let's have that entered into

19 EFIS.

20   MS. HERNANDEZ: Okay.

21   JUDGE JORDAN: Any objection to that?

22   MS. KLIETHERMES: Judge, would it make

23 sense to assign that an exhibit number and just call that

24 a late-filed exhibit so there's no confusion about which

25 parties would need to oppose or not oppose?

 1   JUDGE JORDAN: Sure.

 2   MS. HERNANDEZ: I'll file it as 392,

 3 late-filed exhibit.

 4   JUDGE JORDAN: Else that we would like to

 5 address as far as MEEIA issues?

 6   MR. FISCHER: Judge, we're just happy any

 7 time the Commission has questions, we can come back and

 8 visit about it after you've had a chance to review it like

 9 the others, but we don't have any need to go forward on

10 it.

11   JUDGE JORDAN: All right, then. I think

12 that takes care of the MEEIA issues then. And that, I

13 think we have only a few ministerial loose ends to tie up

14 as far as admission of exhibits; is that correct.

15   MR. WOODSMALL: Yes, your Honor.

16   JUDGE JORDAN: Who would like to go first.

17   MR. WOODSMALL: I will, since I have so few

18 of them. Your Honor, we had a witness file testimony in

19 the KCPL case. Mr. Nick Phillips filed direct and

20 surrebuttal testimony. It's been labeled as 402 and 403

21 in the KCPL case, and direct testimony in the GMO case

22 labeled 429. Move for the admission of his testimony.

23   JUDGE JORDAN: Objections?

24   (No response.)

25   JUDGE JORDAN: Not hearing any. Those

 1 exhibits are entered into the record.

 2   (MIEC EXHIBIT NOS. 402, 403 AND 429 WERE

 3 RECEIVED INTO EVIDENCE.)

 4   MR. MILLS: I probably have the next

 5 fewest.

 6   JUDGE JORDAN: If Mr. Woodsmall is done.

 7   MR. WOODSMALL: I am done.

 8   JUDGE JORDAN: Okay. Mr. Mills.

 9   MR. MILLS: In the ER-2012-0174 case, I

10 have Exhibit 305, both NP and HC versions, which is

11 Robertson rebuttal, Exhibit 306 in the same case,

12 Robertson surrebuttal, also both NP and HC. In the 0175

13 case I've got Exhibit 311, both NP and HC, which is

14 Robertson's rebuttal, and finally Exhibit 312 in the 0175

15 case which is Robertson surrebuttal, also NP and HC.

16   JUDGE JORDAN: And is that it --

17   MR. MILLS: That's it.

18   JUDGE JORDAN: -- for Public Counsel?

19   MS. KLIETHERMES: I believe I have the

20 most, but I think I may be able to do it in the most

21 expeditious manner.

22   MR. MILLS: Judge, did you admit those

23 exhibits?

24   JUDGE JORDAN: Those exhibits are admitted

25 into the record.

1   (OPC EXHIBIT NOS. 305, 306, 311 AND 312

2   WERE RECEIVED INTO EVIDENCE.)

3   MS. KLIETHERMES: In the 0174 case, we have

4   Staff Exhibit No. 200 through 257 titled and of the

5   confidentiality level indicated in the prefiled exhibit

6   list, and in the 0175 case, we have Staff Exhibit 258

7   through 299 and then skipping ahead to 3001 through 3013,

8   again of the confidentiality level and titles indicated in

9   prefiled exhibit list.

10   JUDGE JORDAN: I'm not hearing any

11   objection, so those documents will be admitted to the

12   record.

13   (STAFF EXHIBIT NOS. 200 THROUGH 257, 258

14   THROUGH 299 AND 3001 THROUGH 3013 WERE RECEIVED INTO

15   EVIDENCE.)

16   MR. FISCHER: KCPL, Judge, would ask for

17   the admission of its exhibits. First in the KCPL case,

18   the 0174 case, we have KCPL Exhibit 1 through 52 in the

19   prefiled testimony. I can just quickly go through it to

20   make sure everybody has those. 1 is Alberts direct. 2 is

21   Bassham direct. 3 is Blunk direct, HC and NP. 4 is Blunk

22   supplemental direct, HC and NP. 5 is Blunk rebuttal, NP

23   and HC. 6 is public version of Blunk surrebuttal and an

24   HC version. Ryan Bresette is 7 on direct.

25   MR. MILLS: Jim, I hate to interrupt. We

 1 all have that exhibit list. I don't think you have to do

 2 that, unless the Judge wants you to.

 3   MR. FISCHER: Is that fine, Judge?

 4   JUDGE JORDAN: It will help me if you will

 5 read them.

 6   MR. FISCHER: Okay. Ryan Bresette is 7HC

 7 and NP. 8 is HC and NP rebuttal. Bresette surrebuttal is

 8 9HC and NP. Kevin Bryant, his rebuttal is 10HC and NP,

 9 and his surrebuttal is 11.

10   Carlson direct is 12. Carlson rebuttal is

11 13. Coleman is surrebuttal 14. Burton Crawford's

12 testimony is KCPL 15HC and NP. Rebuttal is 16, and his

13 surrebuttal is KCPL 17HC and NP. And then 18 is the

14 rebuttal testimony of Mark Foltz. Sam Hadaway's testimony

15 is KCPL 19HC and NP. Rebuttal testimony is KCPL 20.

16 Surrebuttal is KCPL 21.

17   Hardesty's testimony is KCPL 22 direct.

18 Rebuttal testimony is KCPL 23HC and NP. Surrebuttal is

19 KCPL 24HC and NP. Heidtbrink testimony is rebuttal

20 testimony KCPL 25, and surrebuttal 26.

21   Hensley's testimony, David -- or Darrel L.

22 Hensley, is KCPL 27, and that's his rebuttal. William P.

23 Herdegen's testimony direct was KCPL 28. Darrin Ives'

24 testimony, his direct is KCPL 29. His rebuttal is

25 KCPL 30. Surrebuttal is 31. George McCollister's direct

1   is KCPL 32. Rebuttal is KCPL 33.

2   Salvatore Montalbano, his direct is

3   KCPL 34. Rebuttal is KCPL 35. Surrebuttal is KCPL 36.

4   Kelly R. Murphy direct is KCPL 37. Paul Normand is

5   KCPL 38. His rebuttal is KCPL 39.

6   And then Tim Rush has several pieces. KCPL

7   40HC and NP is his direct. His supplemental direct is

8   41HC and NP. Rebuttal is 42HC and NP. Surrebuttal is

9   43HC and NP. Michael Schnitzer's testimony is direct

10   KCPL 44HC and NP. 45 is the rebuttal HC and NP.

11   Steve Smith, Harold "Steve" Smith's direct

12   is KCPL 46. John Spanos' rebuttal and surrebuttal are 47

13   and 48. John B. Weisensee's direct is KCPL 49HC and NP.

14   His rebuttal is KCPL 50, and KCPL 51 is the surrebuttal.

15   Jeffrey M. Wolf has rebuttal testimony, KCPL 52. And if

16   there were any other outstanding exhibits, I'd ask that

17   they be admitted. I don't think there were. That's in

18   the KCPL case.

19   JUDGE JORDAN: Objection?

20   MS. KLIETHERMES: Yes, Judge. I would note

21   that a number of those exhibits are subject to the pending

22   motions to strike as the Bench is aware, and Staff would

23   preserve that motion.

24   MR. WOODSMALL: Also, your Honor, there

25   were exhibits that were demonstrative exhibits for opening

1 statements. I don't believe those are being offered

2 because they're not evidence.

3   MR. FISCHER: That's correct, I did not

4 offer those.

5   MR. WOODSMALL: So when he said any other

6 exhibits, I would object if --

7   MR. FISCHER: I assume that applies to all

8 the opening statements.

9   JUDGE JORDAN: Understood. Anything else?

10   MR. FISCHER: Judge, I also have GMO

11 exhibits for the 175 case.

12   JUDGE JORDAN: Well, let's take of what

13 you've offered so far. I've heard no objection except as

14 to -- except as just recited, and subject to that, I will

15 enter those into the record.

16   (KCPL EXHIBIT NOS. 1 THROUGH 52 WERE

17 RECEIVED INTO EVIDENCE.)

18   MR. FISCHER: Should I proceed to GMO?

19   JUDGE JORDAN: Yes.

20   MR. FISCHER: Jimmy D. Alberts had direct

21 testimony, GMO 100, which was adopted by Scott Heidtbrink.

22 Terry Bassham's direct was GMO 101. William Edward Blunk

23 had direct of 102HC and NP, rebuttal GMO 103HC and NP,

24 surrebuttal GMO 104HC and NP. Ryan Bresette had rebuttal,

25 GMO 105. Kevin Bryant had rebuttal, GMO 106HC and NP.

1 GMO 107 was Kevin Bryant's surrebuttal.

2   John Carlson had rebuttal of GMO 108 and

3 rebuttal of GMO 109. Burton Crawford has direct HC and

4 NP, which are GMO 110. His rebuttal is HC and NP GMO 111.

5 Surrebuttal is GMO 112HC and NP. Mark A. Foltz has

6 rebuttal testimony HC and NP, which is GMO 113.

7   Sam Hadaway had direct GMO 104HC and NP,

8 rebuttal GMO 115, and surrebuttal was GMO 116. Melissa

9 Hardesty's testimony was, the direct was GMO 117, rebuttal

10 was GMO 118HC and NP, surrebuttal was GMO 119HC and NP.

11 Scott Heidtrink was -- he had rebuttal testimony GMO 120

12 and surrebuttal GMO 121.

13   Bill Herdegen had testimony GMO 122, which

14 is direct. Darrin Ives has direct testimony of GMO 123.

15 GMO 124 is Ives rebuttal. 125 is Ives surrebuttal.

16 George McCollister had direct GMO 126, and rebuttal GMO

17 127. Montalbano's direct is GMO 128, rebuttal is 129, and

18 surrebuttal is 130. Kelly Murphy has direct at GMO 131.

19   Paul Normand has director of GMO 132,

20 rebuttal of 133. Tim Rush has direct of GMO 134HC and NP,

21 rebuttal of GMO 135, surrebuttal GMO 136. Harold "Steve"

22 Smith has direct GMO 137. John Spanos has rebuttal GMO

23 138 and surrebuttal GMO 139. John Weisensee has direct

24 GMO 140, rebuttal of GMO 141, and GMO 142 is surrebuttal.

25 Followed by Jeffrey M. Wolf. He has rebuttal adopting

 1 Bill Herdegen's testimony, GMO 143.

 2   With that, I would move for the admission

 3 of those exhibits, Judge.

 4   JUDGE JORDAN: Objections?

 5   MS. KLIETHERMES: I'm sorry. I didn't

 6 catch that. Can you repeat it?

 7   (Laughter.)

 8   MR. FISCHER: Sure.

 9   MS. KLIETHERMES: No objection.

10   JUDGE JORDAN: Okay. Then I will admit

11 those into the record also.

12   (GMO EXHIBIT NOS. 100 THROUGH 143 WERE

13 RECEIVED INTO EVIDENCE.)

14   JUDGE JORDAN: Anything else to take care

15 of before we go off the record?

16   MR. FISCHER: I think briefing schedule's

17 already scheduled in the procedural schedule, so I don't

18 know of anything.

19   JUDGE JORDAN: That's my recollection. It

20 looks like we will not need this hearing room for today.

21 So we will not be reconvening tomorrow morning at 8:30 or

22 any other time. We will probably not see each other until

23 true-up, and the last I heard, true-up numbers were

24 eliminating issues. Does that remain the case?

25   MR. WOODSMALL: I think we're still hopeful

 1 that that may be avoided.

 2   JUDGE JORDAN: Very good. Anything else

 3 that we can do before we go off the record and adjourn?

 4   MR. FISCHER: I'd like to thank the

 5 Commission and the parties.

 6   MR. WOODSMALL: You're welcome, Jim.

 7   JUDGE JORDAN: On behalf of the Commission,

 8 the Commission thanks the parties also, and the witnesses.

 9   COMMISSIONER KENNEY: Thanks, everybody.

10   JUDGE JORDAN: With that, if there's

11 nothing else? Not hearing anything else. We'll adjourn

12 this hearing and go off the record.

13   (WHEREUPON, the hearing was adjourned at

14 7:52 p.m.)

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MICHAEL SCHEPERLE

 7   MGE'S EVIDENCE:

 8   F. JAY CUMMINGS

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2   C E R T I F I C A T E

3   STATE OF MISSOURI   )

) ss.

4   COUNTY OF COLE   )

5   I, Kellene K. Feddersen, Certified

6   Shorthand Reporter with the firm of Midwest Litigation

7   Services, do hereby certify that I was personally present

8   at the proceedings had in the above-entitled cause at the

9   time and place set forth in the caption sheet thereof;

10 that I then and there took down in Stenotype the

11 proceedings had; and that the foregoing is a full, true

12 and correct transcript of such Stenotype notes so made at

13 such time and place.

14   Given at my office in the City of

15 Jefferson, County of Cole, State of Missouri.

16

                    _____

17   Kellene K. Feddersen, RPR, CSR, CCR

18

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