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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Hearing

April 14, 2015

Jefferson City, Missouri
Volume 6

In the Matter of the Empire)
District Electric Company for)
Authority to File Tariffs)
Increasing Rates for Electric) Case ER-2014-0351
Service Provided to Customers)
in the Company's Missouri)
Service Area)

KIM S. BURTON, Presiding,
REGULATORY LAW JUDGE.

ROBERT S. KENNEY, Chairman
STEPHEN M. STOLL,
WILLIAM KENNEY,
DANIEL Y. HALL,
SCOTT T. RUPP,
COMMISSIONERS.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR, CCR NO. 838
MIDWEST LITIGATION SERVICES

1 APPEARANCES:

2 DIANA C. CARTER, Attorney at Law

DEAN L. COOPER, Attorney at Law

3 Brydon, Swearngen & England, P.C.

312 East Capitol

4 Jefferson City, MO 65102-0456

(573)635-7166

5

FOR: Empire District Electric

6 Company.

7 DAVID WOODSMALL, Attorney at Law

Woodsmall Law Office

8 807 Winston Court

Jefferson City, MO 65101

9 (573)797-0005

david.woodsmall@woodsmallllaw.com

10

FOR: MECG.

11

MARC ELLINGER, Attorney at Law

12 Blitz, Bardgett & Deutsch

308 East High Street, Suite 301

13 Jefferson City, MO 65101-3237

(573)634-2500

14 Mellinger@bbdlc.com

15 FOR: City of Joplin.

16 ALEX ANTAL, Legal Counsel

OLLIE M. GREEN, Senior Legal Counsel

17 Department of Economic Development

301 West High Street

18 Jefferson City, MO 65102

(573)526-4806

19 Ollie.green@ded.mo.gov

20 FOR: Missouri Division of Energy.

21 STUART CONRAD, Attorney at Law

Finnegan, Conrad & Peterson

22 3100 Broadway

1209 Penntower Officer Center

23 Kansas City, MO 64111

(816)753-1122

24 stucon@fcplaw.com

25 FOR: MEUA.

1 DUSTIN ALLISON, Public Counsel
CHRISTINA BAKER, Assistant Public Counsel
2 Office of the Public Counsel
P.O. Box 2230
3 200 Madison Street, Suite 650
Jefferson City, MO 65102-2230
4 (573)751-4857
5 FOR: Office of the Public Counsel
and the Public.

6
ROBERT S. BERLIN, Senior Counsel
7 JEFF KEEVIL, Senior Counsel
Missouri Public Service Commission
8 P.O. Box 360
200 Madison Street
9 Jefferson City, MO 65102
(573)751-3234
10
FOR: Staff of the Missouri Public
11 Service Commission.
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13
14
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1 P R O C E E D I N G S

2 (WHEREUPON, the prehearing conference
3 began at 9:33 a.m.)

4 (EMPIRE EXHIBIT NOS. 100 - 136, STAFF
5 EXHIBIT NOS. 200 - 230, OPC EXHIBIT NOS. 300 - 312
6 AND DIVISION OF ENERGY EXHIBIT NOS. 400 - 407 WERE
7 MARKED FOR IDENTIFICATION BY THE REPORTER.)

8 JUDGE BURTON: Good morning,
9 everyone. Today is April 14th, 2015, and the time
10 is currently 9:33 a.m. The Commission has set this
11 time for a hearing in the matter of the Empire
12 District Electric Company for authority to file
13 tariffs increasing rates for electric service
14 provided to customers in the company's Missouri
15 service area, File No. ER-2014-0351.

16 My name is Kim Burton. I'm the
17 Regulatory Law Judge assigned to this matter.
18 Let's go ahead and begin with the entries of
19 appearance. On behalf of the Empire District
20 Electric Company?

21 MS. CARTER: Dean Cooper and Diana
22 Carter with Brydon, Swearngen & England, for the
23 Empire District Electric Company.

24 JUDGE BURTON: Thank you. On behalf
25 of the Staff of the Commission?

1 MR. BERLIN: Yes, Judge. Appearing
2 on behalf of the Staff of the Missouri Public
3 Service Commission, Robert S. Berlin and Jeff
4 Keevil at the Commission's address in
5 Jefferson City.

6 JUDGE BURTON: Okay. Thank you. And
7 for the Office of the Public Counsel?

8 MS. BAKER: Thank you. Christina
9 Baker and Dustin Allison appearing on behalf of the
10 Office of the Public Counsel and the customers.

11 JUDGE BURTON: Thank you. And for
12 the City of Joplin, Missouri?

13 MR. ELLINGER: Thank you, Judge.
14 Marc Ellinger with the law firm of Blitz,
15 Bardgett & Deutsch, representing the City of
16 Joplin, 308 East High, Suite 301, Jefferson City,
17 Missouri 65101.

18 JUDGE BURTON: Thank you. On behalf
19 of the Missouri Department of Economic Development,
20 Division of Energy?

21 MR. ANTAL: For the Department of
22 Economic Development's Division of Energy, Alex
23 Antal and Ollie Green.

24 JUDGE BURTON: Thank you. Midwest
25 Energy Users Association?

1 MR. CONRAD: For MEUA, Stuart W.
2 Conrad, 3100 Broadway, Suite 1209, Kansas City,
3 Missouri, and I have provided the rest of the
4 information to the court reporter.

5 JUDGE BURTON: Thank you. And on
6 behalf of the Midwest Energy Consumers Group?

7 MR. WOODSMALL: Good morning, your
8 Honor. David Woodsmall on behalf of MECG.

9 JUDGE BURTON: Okay. Thank you.
10 Now, I would ask the people who are observing the
11 hearing as well as the parties and the people up
12 here on the Bench to turn their phones on silent
13 right now. I do ask that the parties also remember
14 that, while they're speaking, to turn their
15 microphone on so that everyone who's watching this
16 at home can be sure and hear your wonderful voices.

17 Now, let's see. Are there any
18 procedural matters that we need to take up at this
19 time?

20 (No response.)

21 JUDGE BURTON: Okay. Seeing none. I
22 believe we have the order for opening statements
23 that were submitted by the parties. There was a
24 Stipulation & Agreement that was submitted, and we
25 have three issues that were not addressed in that

1 Stipulation & Agreement that was consented to by
2 all parties.

3 So at this time I believe we will
4 hear from Empire.

5 MS. CARTER: As noted by Judge
6 Burton, we have a stipulation which may be treated
7 as unanimous by the Commission, and this contains
8 an agreed-to black box revenue requirement number
9 and addresses the majority of issues in the case,
10 including all issues that would have been involved
11 in a true-up hearing.

12 A significant factor driving the need
13 for the rate case was the recently completed
14 environmental retrofit at Empire's Asbury plant,
15 and that is the majority of costs involved.

16 The prefiled testimony which should
17 be admitted into evidence in this case provides
18 competent and substantial evidentiary support for
19 the stipulation that may be treated as unanimous.

20 And as the Judge noted, we just have
21 three issues remaining for determination by the
22 Commission if that stipulation is accepted:
23 Whether SPP transmission costs and revenues should
24 flow through the FAC, whether Empire should be
25 required to submit a large power rate schedule in

1 its next rate case that recognizes a time
2 differentiated facilities demand charge, and then
3 also the proper rate design and revenue allocation.

4 The nonunanimous stipulation, which
5 will be treated as a joint recommendation of all
6 parties except MCEG, is a fair and reasonable
7 resolution of all three of those remaining issues
8 in the case. The prefiled testimony of the parties
9 also provides competent and substantial evidentiary
10 support for this joint recommendation.

11 The joint recommendation is that
12 Staff's proposed rate design and revenue allocation
13 methodology should be used in this case, with one
14 exception. Part of the stipulation that may be
15 treated as unanimous is that there's no increase in
16 the residential customer charge, but the joint
17 recommendation is that all other elements of
18 Staff's proposed rate design and revenue allocation
19 methodology should be used in total.

20 And Staff's testimony supports a
21 revenue neutral shift and increase to the
22 residential class of .75 percent and a .5 -- excuse
23 me -- .85 decrease for large power, total electric
24 billing service and general power service rate
25 classes. MCEG, who opposes that nonunanimous

1 stipulation, would like larger shifts to favor
2 those particular large power customers.

3 The joint recommendation is a step
4 towards the goals that are set forth in the tes--
5 excuse me, Empire testimony from witnesses Ed
6 Overcast and Scott Keith, but it also recognizes
7 possible rate shock and other policy concerns. It
8 does not move the various classes to true cost of
9 service, but it is a step in the right direction.

10 Next, MECG is asking that Empire be
11 ordered to submit a large power rate schedule that
12 recognizes a time differentiated facilities demand
13 charge. And Empire witness Scott Keith explains in
14 his testimony that Empire's billing system does not
15 accommodate the request, there is not a billing
16 system option for time of use rate, and this type
17 of billing would necessitate an unreasonable level
18 of manual intervention in the billing process and,
19 therefore, an increase in costs.

20 And then the other remaining issue to
21 be decided by the Commission is whether SPP
22 transmission costs and revenues should flow through
23 the FAC. You recently heard this issue in Ameren's
24 rate case, but there are very different arguments
25 in Empire's case and different parties involved.

1 Also, we're dealing with SPP as opposed to MISO.

2 Empire's customers are served from
3 energy purchased from the SPP integrated
4 marketplace which began March 1, 2014. Net revenue
5 produced from the sale of Empire's generating or
6 operating reserves in the SPP integrated
7 marketplace are used to offset fuel and purchased
8 power costs paid by the customers through the FAC.

9 In fact, a significant item
10 offsetting Empire's rate increase in this case is
11 the savings experienced through the SPP integrated
12 marketplace. Empire's customers are receiving the
13 benefits from Empire's participation in the
14 integrated marketplace, and Empire, along with the
15 other parties supporting the joint recommendation,
16 would like to match those benefits with the costs.

17 If benefits from the SPP integrated
18 marketplace are passed on to customers through the
19 FAC, then so too must the costs associated with the
20 development of the network that makes the
21 integrated marketplace reliable, efficient and
22 possible.

23 The alternative to flowing these
24 costs through the FAC is base rate recovery. Base
25 rate recovery of SPP transmission costs is not fair

1 or reasonable. These transmission charges are
2 directly related to the delivery of electric power
3 to Empire's customers, and they meet the
4 Commission's past standards of significant,
5 volatile and beyond Empire's control. And again,
6 the testimony in this case supports that joint
7 recommendation of all parties except MEGC.

8 Thank you. And I don't know if you
9 want us to stay for questions on economic
10 development or do that later.

11 JUDGE BURTON: Why don't -- why don't
12 we just check and see if any of the Commissioners
13 have questions first.

14 CHAIRMAN KENNEY: I have no
15 questions. Thank you.

16 COMMISSIONER STOLL: No questions.
17 Thank you.

18 COMMISSIONER W. KENNEY: No
19 questions.

20 JUDGE BURTON: Commissioner Hall?

21 COMMISSIONER HALL: Yeah, I have just
22 a couple. Good morning.

23 MS. CARTER: Good morning.

24 COMMISSIONER HALL: The unanimous
25 stip sets a revenue requirement increase of

1 17.1 million; is that correct?

2 MS. CARTER: 17.125, yes.

3 COMMISSIONER HALL: And you said in
4 your opening that this agreement eliminates the
5 need for a true-up determination?

6 MS. CARTER: That is correct.

7 COMMISSIONER HALL: Does it also
8 eliminate the need for a prudence review on rate
9 case expect?

10 MS. CARTER: That is a settled issue,
11 and I'm not sure how to answer that in terms of it
12 would eliminate the need for a future prudence
13 review. Unlike the Ameren case, we've agreed to a
14 set dollar amount that is done as of this point.
15 There's --

16 COMMISSIONER HALL: As of the date of
17 this hearing?

18 MS. CARTER: Yes, and as of the date
19 of this stipulation. That dollar amount is not
20 subject to change based on any costs that may be
21 incurred this point going forward as far as this
22 settlement is concerned.

23 COMMISSIONER HALL: So what about
24 rate case expense between the date that the
25 stipulation was signed and the date that the

1 tariffs are final?

2 MS. CARTER: It is a black box
3 settlement encompassing the whole host of items.

4 COMMISSIONER HALL: Including what I
5 just said?

6 MS. CARTER: Some parties may view
7 that differently, what they view as being included
8 in that black box amount, but there's no additional
9 rate case expense to be looked at this point going
10 forward in this case.

11 COMMISSIONER HALL: So there -- there
12 will not be a prudence review on any of those rate
13 case items? There's an agreement as a dollar
14 amount, and that's what the parties have agreed to?

15 MS. CARTER: There's an agreement as
16 to a total dollar amount. There is not an
17 agreement on rate case expense in particular.
18 Staff and Public Counsel would have already
19 reviewed the bills that were submitted and had that
20 opportunity for prudence review in arriving at the
21 settlement.

22 COMMISSIONER HALL: Okay. I've got
23 more questions about rate case expense, but I think
24 they're more properly addressed to the witnesses.

25 MS. CARTER: And Empire will not have

1 a witness here unless requested and then we can
2 bring someone in. If you wanted specific dollar
3 amounts, I have those for you.

4 COMMISSIONER HALL: What do you mean
5 by that?

6 MS. CARTER: As far as what Empire
7 has incurred on rate case expense.

8 COMMISSIONER HALL: Yeah. I'd be
9 interested in that.

10 MS. CARTER: Let me grab those for
11 you. And again, these amounts are not
12 necessarily -- in fact, they're not -- included in
13 the settlement since it was a black box amount
14 based on prior numbers when we entered into the
15 settlement agreement, although it took us a while
16 to get that on file with you. We arrived at that
17 number some time ago.

18 But as far as what has actually been
19 incurred by Empire, total rate case expenses are
20 \$195,207, and that total expense number includes
21 attorney fees of 52,989 and consulting fees of
22 122,695.

23 CHAIRMAN KENNEY: That's on a revenue
24 requirement increase of 17.1 million?

25 MS. CARTER: Yes.

1 COMMISSIONER HALL: You were reading
2 from a document. Does that contain any additional
3 information on that or is that -- is that the
4 extent of what you have?

5 MS. CARTER: I am reading from my
6 notes and my e-mail with the client.

7 COMMISSIONER HALL: Okay.

8 MS. CARTER: There are other things,
9 yes.

10 COMMISSIONER HALL: Okay. A general
11 comment. A couple of general comments. One, I
12 applaud Empire and the parties for the hard work
13 necessary to come to these agreements. That is
14 certainly to the advantage of all interested
15 parties when -- when the parties are able to come
16 to those types of agreements.

17 I'll also say, though, that I am
18 uncomfortable with black box settlements of this
19 amount for a company of this size that includes the
20 issues of this magnitude. I think that for
21 transparency purposes, it is better for ratepayers,
22 taxpayers and Missouri citizens if there's a little
23 more detail as to a revenue requirement, for
24 example, an ROE, for example, rate base. I think
25 those are some things that should be included and

1 delineated in a settlement of this nature.

2 Obviously -- I shouldn't say
3 obviously, but I -- my position on that does not
4 mean that I am going to look unfavorably upon the
5 settlement reached in this case. It's really more
6 my interest in letting you and other parties know
7 going forward that I've got some discomfort with
8 settlements of this size of this nature.

9 Thank you.

10 JUDGE BURTON: Thank you.

11 MS. CARTER: Thank you.

12 JUDGE BURTON: Next the Commission
13 will hear from Staff.

14 MR. BERLIN: Thank you. May it
15 please the Commission?

16 I have just a few remarks that I wish
17 to make that are in support of Ms. Carter's remarks
18 made by the company, for the company. I'll address
19 a little bit about the revised Stipulation &
20 Agreement that may now be treated as a unanimous
21 Stipulation & Agreement. I'll address the
22 nonunanimous Stipulation & Agreement that, upon its
23 objection by Midwest Energy Consumers Group or
24 MECG, now represents the joint position of the
25 signatory parties and has become our joint

1 recommendation to the Commission. And lastly, I
2 intend to address a little bit about the economic
3 development rider or EDR tariff and the matter of
4 the handling of rate case expense in this case.

5 The revised Stipulation & Agreement
6 is a product of many long hours of negotiation
7 involving a give and take process that recognized
8 the merits of all viewpoints as expressed in the
9 testimonies of the parties. This unanimous
10 agreement settles most of the issues of the case,
11 as Ms. Carter stated.

12 Staff supports the unanimous
13 agreement as a just and reasonable and fair
14 compromise of the different positions of the
15 parties, with the understanding that each party
16 arrived at the settled positions on the resolved
17 issues from a different direction.

18 This settlement also recognizes that
19 Empire, based on its public statements so far, will
20 be in again with a new rate case by the end of the
21 year principally due to the Riverton 12 plant
22 coming in service. So many of the issues that have
23 been resolved here will be revisited by the parties
24 sooner rather than later.

25 And most importantly, the settled

1 revenue requirement amount of \$17,125,000, though
2 it is a black box settlement, falls within the low
3 and the high range of Staff's revenue requirement
4 for the company based on its revised accounting
5 schedules in its EMS run dated March 26th, 2015.

6 And Staff, with the agreement of the
7 parties, will enter into the record later its
8 revised accounting schedules dated March 26th as
9 direct evidence in support of the settled amount of
10 the revenue requirement of \$17,125,000. And again,
11 this represents the Staff's perspective on revenue
12 requirement and Staff's position on revenue
13 requirement.

14 Now, with regard to the Nonunanimous
15 Stipulation & Agreement on Certain Issues that was
16 filed concurrently with the unanimous agreement,
17 and MCEG promptly filed its objection, and as I
18 stated, that has now become our joint position and
19 our joint recommendation to the Commission on the
20 resolution of the remaining issues.

21 Staff understands that the issues
22 disputed by MCEG, as Ms. Carter stated earlier,
23 have to do with the issue of whether the
24 transmission costs from SPPIM are included in the
25 FAC base rate. And, of course, the parties support

1 the inclusion of the transmission costs into the
2 FAC base. This is really no different than what
3 Ameren Missouri currently is doing by including
4 transmission costs in its FAC.

5 Staff's witness on this matter is
6 David Roos, whose testimony on this matter at
7 hearing has been waived by the parties, but he is
8 available if you have any detailed questions on
9 that matter.

10 Another issue mentioned is whether
11 Empire should be required to submit a large power
12 rate schedule in its next case that recognizes a
13 time differentiated facilities demand charge.
14 Joint position is no. The company stated its
15 support for its position, though Staff did not
16 directly address that matter in testimony.

17 On the matter of rate design, the
18 parties support Staff's recommendation for a
19 revenue neutral shift that includes a positive
20 .75 percent adjustment for the residential class
21 and a .85 percent adjustment, negative adjustment
22 for the large power, LP, the total electric
23 billing, TEB, and the general power, GP, classes.

24 The evidence in prefiled testimony
25 and the evidence that will be adduced here today at

1 hearing I believe shows that this is a just,
2 reasonable and fair solution based on the class
3 cost of service study results and the rate design
4 considerations, such as maintaining rate
5 continuity, rate stability, revenue stability,
6 reducing the number of rate switchers and
7 minimizing rate shock to any one customer class.

8 Staff's witness on rate design is
9 Mike Scheperle, and Robin Kliethermes is Staff's
10 witness on class cost of service. Both are here
11 today. Sarah Kliethermes is also a witness on
12 class cost of service, but the parties have waived
13 cross-examination on her, but she is present today
14 as well.

15 The other issue on rate design, as
16 Staff understands it, is whether the LP or large
17 power tailblock energy charge should be increased.
18 Staff is of the understanding that MECG wants to
19 adjust the tailblock energy charge downward by some
20 amount, but all of the evidence in the record
21 indicates that cost of energy in the tailblock is
22 at or above the current tailblock rate.

23 I'll move on a little bit here to --
24 oh, and I should also mention that, with regard to
25 the rate increase, the parties recommended that

1 each rate component of each class be increased
2 across the board for each class on an equal
3 percentage basis, of course with the exception of
4 the residential customer charge which, as you heard
5 earlier, the parties have agreed in unanimous
6 agreement should not be changed.

7 Now, with respect to economic
8 development rider, I'd like to make a few comments.
9 That tariff is relatively new. It became effective
10 with rates in the last rate case on April 1st,
11 2013. Staff is unaware at this point of any
12 customers on that tariff. The parties have
13 recommended no change to the EDR tariff.

14 And though Staff has no detailed
15 testimony prefiled on the matter of the EDR tariff,
16 Dan Beck can be available for any detailed
17 questions regarding that tariff if you have them.

18 I'll now move on to the matter of
19 rate case expense. Hope to address some of
20 Commissioner Hall's concerns. Historically Empire
21 rate case expense tends to be lower than the other
22 electric utilities, substantially lower, and has
23 always appeared to be reasonably incurred.

24 The rate case expense in this case is
25 subject to a two-year normalization. So from

1 Staff's perspective, there was \$128,000 of rate
2 case expense as of the February 26th reconciliation
3 that was included in the range of revenue
4 requirement that the black box settlement falls
5 within. So built into the range of the revenue
6 requirement that the settled position falls within
7 is \$128,000 of rate case expense, again, from
8 Staff's perspective and from Staff's schedules.

9 The \$128,000 included invoices paid
10 as of February 26th. And for Staff's view of this
11 settlement, expenses for March and April will be
12 borne by the company in this black box settlement.
13 Because the company has stated that it intends to
14 come in for another rate increase by year end, new
15 rates from that case will be in effect before the
16 two-year normalization runs. Therefore, that
17 remaining part of the expense will fall out. In
18 effect, it's borne by the company.

19 And if the Commission has any more
20 detailed questions regarding the expenses
21 surrounding rate case expense, Staff witness Ashley
22 Sarver is available. And Kim Bolin is available to
23 address any policy or issues with respect to rate
24 case expense with regard to Empire.

25 And in closing, the Staff supports

1 the unanimous agreement and believes it is a just
2 and reasonable settlement of the issues. Staff
3 also urges that the Commission approve the joint
4 recommendation of the signatory parties as those
5 recommendations and positions are amply supported
6 by the testimony in this case.

7 Unless there are any questions, that
8 concludes my opening remarks. Thank you.

9 JUDGE BURTON: Thank you. Chairman?

10 CHAIRMAN KENNEY: No, thank you.

11 COMMISSIONER STOLL: No. Thank you
12 for the opening.

13 COMMISSION W. KENNEY: No, thank you.

14 COMMISSIONER HALL: I've got a few,
15 very brief. You commented, and I agree, that
16 \$128,000 of rate case expense for a company of this
17 size is reasonable. Well, you said that Empire has
18 typically or maybe consistently, I'm not sure, had
19 rate case expense lower than other utilities; is
20 that correct?

21 MR. BERLIN: That is correct.

22 COMMISSIONER HALL: Do you have any
23 idea why that is, how they are able to do that?
24 And if you don't, that's fine.

25 MR. BERLIN: My experience, which is

1 somewhat limited with Empire, is that in many rate
2 cases with Empire and in the past we have settled
3 most all of the issues. So I know that contributes
4 to lower rate case expense. Other than that, I
5 might have to defer to Kim Bolin who might have
6 some other thoughts on that.

7 COMMISSIONER HALL: Thank you.

8 JUDGE BURTON: Commissioner Rupp?

9 COMMISSIONER RUPP: No questions.

10 JUDGE BURTON: Thank you. Public
11 Counsel.

12 MS. BAKER: May it please the
13 Commission?

14 Public Counsel supports and holds the
15 same thoughts as Empire and Staff that we support
16 the Unanimous Stipulation & Agreement as well as
17 the positions that are contained within the
18 Nonunanimous Stipulation & Agreement on Certain
19 Issues that were both filed on February the 8th.
20 They are a just and reasonable resolution of the
21 issues in this case.

22 Public Counsel would note that
23 settlement is inherently a give and take exercise.
24 In return, Public Counsel has received a reasonable
25 total revenue requirement stipulation with numerous

1 items that benefit the customers, the residential
2 customers, such as a tracker elimination, no
3 increase in the customer charge for residential,
4 and a fair cost of service movement of residential
5 rates. In fact, all the parties except MCEG found
6 settlement in this case to be reasonable.

7 Public Counsel is concerned that MCEG
8 is holding settlement hostage merely seeking intra
9 and interclass shifts that benefit only MCEG
10 members at the expense of other customers, mainly
11 residential, especially since, as you've heard
12 already, that the proposed settlement in this case
13 is not the true end of the story. Empire is coming
14 back for another rate case by the end of the year,
15 and so many of the issues in this case will be
16 revisited.

17 Public Counsel asks the Commission to
18 approve the Unanimous Stipulation & Agreement as
19 well as the joint recommendations that are
20 presented in the Nonunanimous Stipulation as just
21 and reasonable resolutions of the issues in this
22 case.

23 And I am -- that ends my opening
24 statements, but I am happy to address the
25 Commission's questions on economic development

1 rider and the rate case expense as the day
2 proceeds.

3 CHAIRMAN KENNEY: Just a couple. Not
4 on those issues. The rate design and revenue
5 allocation issues, I think you just indicated that
6 you believe it's a fair cost of service movement?

7 MS. BAKER: Yes.

8 CHAIRMAN KENNEY: And as I understand
9 it, it's a three-quarter percent increase for
10 residential consumers?

11 MS. BAKER: That's correct.

12 CHAIRMAN KENNEY: And a .85 percent
13 decrease for industrial and commercial?

14 MS. BAKER: LP, GC, TEB.

15 CHAIRMAN KENNEY: And is it fair to
16 characterize Public Counsel's position that that
17 movement gets us closer to cost of service rate
18 design without inducing any rate shock?

19 MS. BAKER: Yes. Yes, that is.

20 CHAIRMAN KENNEY: And you also
21 indicated that trackers were eliminated. Which one
22 specifically?

23 MS. BAKER: Vegetation management is
24 being eliminated, as well as the O&M trackers.

25 CHAIRMAN KENNEY: So on balance, OPC

1 is satisfied that this is protective of residential
2 ratepayers?

3 MS. BAKER: Most certainly, yes.

4 CHAIRMAN KENNEY: I don't have any
5 other questions. Thank you for your time. Thank
6 you for your effort.

7 MS. BAKER: Thank you.

8 COMMISSIONER STOLL: No questions.
9 Thank you.

10 COMMISSIONER W. KENNEY: No
11 questions. Thank you.

12 COMMISSIONER HALL: A general
13 question. Do you believe that from ratepayer
14 perspective there is any value in transparency as
15 to the components of a rate increase? Do you think
16 ratepayers would like to know, when they're paying
17 more, why they're paying more and specifically what
18 factors are causing that?

19 MS. BAKER: I think yes. People do
20 want as much transparency as possible, but they
21 also want their rates to be as low as possible.
22 And knowing that with a situation like this when
23 we're going into a settlement of pretty much all of
24 the issues, the flip side of the coin is to go to
25 evidentiary hearing on every one of the issues.

1 COMMISSIONER HALL: So you believe --
2 and I'm not saying you're wrong by any means. You
3 think that in this case if there had been efforts
4 to delineate the components of the revenue
5 requirement, it would have hindered the ability to
6 get to a settlement?

7 MS. BAKER: Yes, it certainly does
8 because settlement is the give and take, and Public
9 Counsel did put in some of the issues that are very
10 near and dear to customers' hearts, and they are
11 specifically stated in there, things like not
12 increasing the customer charge and having riders
13 and the trackers being eliminated, moving away from
14 some of those mechanisms.

15 Customers do find that to be very
16 helpful, and we have put those in very specifically
17 so that customers can see the benefit that they've
18 gotten.

19 COMMISSIONER HALL: And what about
20 ROE?

21 MS. BAKER: ROE is one of those
22 things where customers are well aware that that is
23 one of the most contentious issues within a case.
24 You can look at a case like Ameren where the rate
25 case expense was almost entirely because of ROE. I

1 believe in Ms. Roth's testimony, and we can talk
2 about it later, ROE itself was something like
3 25 percent of this particular case.

4 So it is case specific, and they also
5 know that to bring in high-priced experts of
6 hundreds of thousands of dollars, they are bearing
7 the cost of having to bring in those experts, and
8 the fight itself over ROE is very expensive.

9 COMMISSIONER HALL: All right. Thank
10 you.

11 COMMISSIONER RUPP: No questions.
12 Thank you.

13 JUDGE BURTON: Thank you. Division
14 of energy.

15 MR. ANTAL: Good morning. May it
16 please the Commission? My name is Alex Antal.
17 I'll be giving the opening statement on behalf of
18 the Department of Economic Development's Division
19 of Energy.

20 The Division of Energy has filed
21 testimony on four issues in this case: Energy
22 efficiency, low income weatherization, standby
23 service, and the Empire economic development rider.

24 DE is a signatory to the Revised
25 Stipulation & Agreement filed April 8th in this

1 case. It addresses the issues DE filed testimony
2 on and results in a just and reasonable resolution
3 of these issues and various other issues presented
4 in this rate case.

5 Because all of DE's issues are
6 addressed in the Revised Stipulation & Agreements,
7 I will discuss the agreements, the agreements that
8 the parties -- that the signatories came to and how
9 it relates to the Division of Energy's issues and
10 the positions we took in this rate case.

11 The revised agreement states that,
12 with the exception of low income weatherization
13 programs, the signatories agree that Empire will
14 continue its current energy efficiency programs at
15 current funding levels and with current recovery
16 mechanisms until Empire has an approved MEEIA
17 program or until the effective date of rates in the
18 next Empire rate case.

19 This agreement is consistent with the
20 prefilled testimony of DE witness Dr. Alex Schroeder
21 who recommended maintaining Empire's existing
22 pre-MEEIA energy efficiency programs even while
23 Empire continues to seek Commission approval of a
24 MEEIA energy efficiency program.

25 Empire's current energy efficiency

1 programs have resulted in real energy savings, real
2 energy and demand savings for Empire's customers
3 over the past several years. Furthermore, there's
4 no rule requiring an investor-owned electric
5 utility to cease all energy efficiency programs
6 prior to Commission approval of a MEEIA program.
7 In fact, Empire's existing energy efficiency
8 programs can serve as a bridge to a Commission-
9 approved MEEIA portfolio.

10 The agreement of the signatories
11 furthers the goal of promoting energy efficiency
12 and will continue to provide real benefits to
13 Empire's customers while the company seeks
14 Commission approval of a MEEIA portfolio.

15 The signatories have agreed that
16 Empire will continue its current low income
17 weatherization program with an annual budget of
18 approximately \$225,000. If the budget amount is
19 not spent in any given year, the balance will roll
20 over to be spent in a future year.

21 The parties have also agreed on a
22 going-forward basis low income weatherization
23 program is not to be -- is not a demand side
24 measure or program for purposes of the MEEIA
25 opt-out statute.

1 Costs for this program are built into
2 and will be recovered through an agreed-upon
3 revenue requirement as opposed to being booked to a
4 regulatory asset and amortized over -- after a rate
5 case.

6 Weatherization programs help low
7 income families and individuals pay their energy
8 bills. These programs also reduce the amount of
9 state and federal assistance needed to help low
10 income ratepayers with their utility bills.
11 Weatherization programs also have utility benefits
12 of reducing uncollectible accounts and collection
13 expenses.

14 As stated in the direct testimony of
15 DE witness John Buchanan, as of January of this
16 year there were 535 weatherization assistance
17 eligible families on a waiting list in Empire's
18 service territory. Based off this, there's clearly
19 still a need for these programs.

20 The signatories have also agreed to
21 adopt DE's recommendation that expenses associated
22 with Empire's weatherization program be collected
23 into base rates. This approach is consistent with
24 how weatherization expense is collected in the vast
25 majority of Missouri investor-owned electric and

1 natural gas utilities. This approach will also
2 provide continuity and allow recovery of
3 weatherization expense in a timelier fashion.

4 The signatories have also agreed that
5 language shall be added to Empire's current tariffs
6 to indicate that standby service is available to
7 qualifying facilities at the otherwise applicable
8 rates which would apply to full service customers.

9 Empire has further agreed to conduct
10 a standby service cost study, work towards
11 submitting a standby tariff in its next general
12 rate case, and hold two workshops with DE, Staff
13 and other interested stakeholders on the framework
14 and development of a standby tariff.

15 As stated in the direct testimony of
16 Dr. Alex Schroeder, the absence of tariff rates for
17 standby service makes it impossible for potential
18 cogenerators to assess the economic feasibility of
19 CHP in the Empire territory.

20 The lack of a standby tariff rate
21 could conceivably function as a barrier to CHP
22 adoption in the Empire service territory.

23 While Empire has no current CHP customers, adopting
24 language through its current tariffs and indicating
25 how standby service will be currently offered and

1 agreeing to develop a standby tariff to be filed in
2 a future rate case will help current and future
3 customers consider the economic viability of CHP in
4 Empire's service territory.

5 Lastly, the signatories have agreed
6 that there shall be no change to Empire's economic
7 development rider in this case. While DE still
8 believes that tying participation in the utility
9 administered energy efficiency programs to
10 participation in the utility's economic development
11 rider is good public policy and further enhances
12 Missouri's goal to value demand side investments
13 equal to traditional investments in supply and
14 delivery infrastructure, it became apparent over
15 the course of these proceedings that the other
16 signatories were not ready to adopt DE's
17 recommendation.

18 In the spirit of compromise, DE
19 decided to concede this issue for purposes of this
20 case but reserves the right to file testimony on
21 this issue in future rate cases.

22 For the aforementioned reasons, DE
23 respectfully requests the Commission to adopt the
24 Revised Stipulation & Agreements as a fair and
25 reasonable resolution of the various issues

1 discussed within.

2 DE witnesses Ms. Jane Lohraff and
3 John Buchanan are available for Commission
4 questions if they are -- if needed, and I will
5 entertain any questions at this time.

6 JUDGE BURTON: Thank you. Chairman?

7 CHAIRMAN KENNEY: Just a real quick
8 question. Mr. Antal, thank you. Has there been
9 any indication that the Division of Energy is aware
10 of that the lack of a standby rate is, in fact,
11 acting as a barrier or obstacle to potential CHP
12 development? I know it's a policy thought process,
13 but I mean has there been any developer that said
14 we're not coming to Missouri because there's no
15 standby tariff?

16 MR. ANTAL: The Division of Energy to
17 my knowledge is not aware of any specific instance.

18 CHAIRMAN KENNEY: All right. Thank
19 you. Thanks for your time.

20 COMMISSIONER STOLL: No questions.
21 Thank you.

22 COMMISSIONER W. KENNEY: No
23 questions. Thank you.

24 COMMISSIONER HALL: Just want to say
25 congratulations on the new job.

1 MR. ANTAL: Thank you very much,
2 Commissioner.

3 JUDGE BURTON: Thank you.

4 MR. ANTAL: Also, if I may, as
5 previously stated, DE, all of our issues were
6 contained within the Revised Stipulation &
7 Agreements. We'd respectfully request to be
8 excused from the proceedings at which time the
9 Commission takes up the remaining contested issues.

10 JUDGE BURTON: I don't believe that
11 any of the Commissioners have expressed an interest
12 in having any of the witnesses that you've offered
13 testify other than what's been provided with the
14 testimony. So at this time if you're going to be
15 excused, did you want to go ahead and request
16 admission of those exhibits?

17 MR. ANTAL: We would, yes.

18 JUDGE BURTON: Do you have them?

19 MR. ANTAL: Yes. The court reporter
20 has the exhibits. Would you like me to read the
21 exhibit number and --

22 JUDGE BURTON: Yes.

23 MR. ANTAL: -- what they are? Okay.

24 Exhibit 400 is the direct testimony of John
25 Buchanan filed on January 29th. Exhibit 401 is the

1 rebuttal testimony of John Buchanan filed on
2 March 9th. Exhibit 402 is the surrebuttal
3 testimony of John Buchanan filed on March 24th.

4 Exhibit 403 is the direct testimony
5 of Jane Lohraff filed on February 11th. 404,
6 surrebuttal testimony of Jane Lohraff filed on
7 March 24th.

8 405, direct testimony of Alex
9 Schroeder filed on January 29th. 406, direct
10 testimony of Alex Schroeder filed on February 11th.
11 And 407, surrebuttal testimony of Alex Schroeder
12 filed on March 24th. Those are all of our
13 exhibits.

14 JUDGE BURTON: Okay. Are there any
15 objections to Exhibits 400 through 407?

16 (No response.)

17 JUDGE BURTON: Seeing no objections,
18 we will admit Exhibits 400, 401, 402, 403, 404,
19 405, 406 and 407. Thank you.

20 (DIVISION OF ENERGY EXHIBIT NOS. 400
21 THROUGH 407 WERE RECEIVED INTO EVIDENCE.)

22 MR. ANTAL: Thank you very much.

23 JUDGE BURTON: Next the Commission
24 will hear from Midwest Energy Users Association.

25 MR. CONRAD: Your Honor, by your

1 leave, I'll be brief, so it would probably take
2 more time coming up there than would be necessary.

3 In something like 40 years of
4 practice here, it's been my observation that a
5 settlement and a compromise has no mother, no
6 father. Nobody kind of wants to acknowledge that
7 they gave up on their issue, but you reach a
8 compromise.

9 And I endorse Commissioner Hall's
10 comments that the parties really should be
11 concerned about the money that is spent for
12 everyone in achieving this. And beyond that, I
13 would simply say that we support the compromise
14 that has been reached here in its two parts, one a
15 unanimous stipulation, two a joint recommendation
16 that has been spoken to before.

17 And beyond that, I would endorse the
18 well-substantiated position of Lois Lerner in
19 having said already that I didn't do anything wrong
20 and I didn't violate any laws, I'm going to just
21 hush up at this point. Thank you very much.

22 JUDGE BURTON: Thank you, Mr. Conrad.
23 Any questions from the Commission?

24 CHAIRMAN KENNEY: No, thank you.
25 Thanks.

1 COMMISSIONER STOLL: No, no
2 questions.

3 COMMISSIONER W. KENNEY: No
4 questions.

5 COMMISSIONER HALL: No questions.
6 Thank you.

7 JUDGE BURTON: Next the Commission
8 will hear from the City of Joplin?

9 MR. ELLINGER: May it please the
10 Commission? I'm Marc Ellinger on behalf of the
11 City of Joplin.

12 Much like Empire, the Staff, the
13 Office of Public Counsel and MEUA, we do support
14 the Revised Stipulation & Agreement that's now
15 become unanimous. Particularly from the
16 perspective of City of Joplin, the holding of the
17 customer charge, which is the flat charge that all
18 customers pay, that was a very important issue to
19 us. We're very appreciative that that is included
20 in the stipulation and recommend that the
21 Commission adopt that stipulation as a settlement
22 of all those issues.

23 Joplin also joined in the
24 Nonunanimous Stipulation which has been signed by
25 all the parties except for MECG. One of the key

1 issues in that particular stipulation that Joplin
2 was of interest in is the class revenue shifting,
3 the cost shifting. We've adopted Staff's position,
4 all the parties have, of a .75 percent shift to
5 residential consumers and .85 percent shift away
6 from certain larger customers.

7 I think this ultimately benefits
8 residential customers by holding that change to a
9 modest amount. Unlike large power producers or --
10 excuse me -- large power users, residential
11 customers would not have the ability to pass on
12 increases. So the transition to a direct and pure
13 cost of service based tariff system has to be
14 gradual to allow residential customers the ability
15 to shoulder that expense.

16 I would like to very briefly just
17 comment that Commissioner Hall made about black box
18 settlements, I think there are some real advantages
19 to black box settlements. I do think, however,
20 most customers as a general statement care less
21 about the details of how the revenue requirement is
22 reached and more about what the effect upon their
23 bill is going to be.

24 Really the more savvy customers, many
25 of them are individually represented or in groups

1 are represented, really do care about the details
2 because it has a bigger impact. Residential
3 customers, which are the great majority of
4 customers of Empire, really their biggest concern
5 is what's the bottom line to them. Holding the
6 customer charge flat, keeping that cost of revenue
7 shift modest, and the total amount of increase
8 they're going to see in the bills, those are the
9 things that customers in Joplin care most about.

10 We believe this to be a fair and
11 reasonable settlement of all provisions, and we
12 recommend that the Commission adopt the
13 Nonunanimous Stipulation which has the joint
14 position of all the signatory parties. I'd be
15 happy to answer any questions.

16 JUDGE BURTON: Thank you.

17 CHAIRMAN KENNEY: No questions.
18 Thank you.

19 COMMISSIONER STOLL: No questions.
20 Thank you.

21 COMMISSIONER W. KENNEY: No
22 questions. Thank you.

23 COMMISSIONER HALL: No questions.
24 Thank you.

25 JUDGE BURTON: Thank you very much.

1 MR. ELLINGER: Thank you.

2 JUDGE BURTON: And next MECG.

3 MR. WOODSMALL: Good morning. May it
4 please the Commission?

5 I hate to be the party pooper in this
6 case, but we had some issues that we wanted
7 Commission guidance on, so that's why we objected
8 to the Nonunanimous Stipulation.

9 This is going to be a little
10 different hearing than you had in the Ameren case.
11 In the Ameren case we had a lot of issues. We had
12 disputes among the parties as to facts. We don't
13 have that in this case. The facts are pretty much
14 all agreed to here. It's just a question for the
15 Commission's determination of how do we address
16 certain issues once we've agreed to those facts.

17 Now, the issues that I want to talk
18 about today are three things. First I want to talk
19 about class cost of service and revenue allocation,
20 and what that amounts to is an issue regarding
21 interclass subsidy. That is one class subsidizing
22 another class, in this case industrial customers
23 subsidizing residential customers.

24 The second issue I want to talk about
25 is an intra-class subsidy issue, the large power

1 rate design, certain customers in the large power
2 rate schedule, high load factor customers
3 subsidizing low load factor customers.

4 And finally I'll talk real briefly
5 about the inclusion and collection of transmission
6 costs in the fuel adjustment clause.

7 Now, when MEEG started this case, in
8 fact before we started this case, one of the things
9 that jumped out to us immediately was the
10 uncompetitive nature of Empire's industrial rates.
11 And when we looked at the EEI publication, this
12 jumped out immediately. What you will see -- and
13 this is key. What you will see are Empire's
14 industrial rates are 16 percent above the national
15 average. The industrial rates are above the
16 national average.

17 On the flip side, Empire's
18 residential rates are below the national average,
19 3 and a half percent below the national average.
20 So what that told us is we have a cost allocation
21 problem here.

22 And when we did class cost of service
23 studies in this case, it bore that out. We did --
24 there were four class cost of service studies done
25 in this case, and every one of those class cost of

1 service studies shows that there is a residential
2 subsidy. So the fact that residential rates are
3 under the national average isn't surprising.
4 There's a subsidy to keep them there. The question
5 that we want the Commission to address is, what do
6 we do about this subsidy?

7 Now, let's look at how much this
8 subsidy is. Here is Staff's class cost of service
9 study, and all the parties have agreed to Staff's
10 recommendations. So this shows that residential
11 rates are 8.1 percent below cost. In the meantime,
12 you will see down there the negative numbers, the
13 large power rates are 8.3 percent above cost.
14 Similarly, general power 7.9 percent above cost.
15 So that's Staff's class cost of service study.

16 Let's look at MECG's. Not vastly
17 different. We have identified a residential
18 subsidy of 10.1 percent, general power being
19 10.6 percent above cost, large power being
20 9.9 percent above cost.

21 And you will see if you delve in
22 further, if you look at Empire's class cost of
23 service study, it shows the same thing. Public
24 Counsel's on behalf of the residential customers
25 shows a residential subsidy. No question a

1 residential subsidy exists. What do we do about
2 in?

3 In fact, Public Counsel provides some
4 other additional information. Public Counsel shows
5 not only is the residential subsidy significant, it
6 is growing. Here's a quote from their testimony,
7 Mr. Dismukes -- is that how he says his name?

8 MS. BAKER: Yes.

9 MR. WOODSMALL: Mr. Dismukes, page
10 28, quote, the residential class relative rate of
11 returns decrease from .75 to .62 in the current
12 rate case. The rates of return are decreasing.
13 The subsidies are increasing. So the residential
14 subsidy is significant and it's growing, and it's
15 time for the Commission to do something about it.

16 If the Commission's interested in
17 economic development in the Joplin area, this is
18 the place to start, getting industrial rates to
19 cost.

20 Now, the settlement in this case
21 simply adopts a Staff revenue shift recommendation,
22 and to show that I can be agreeable, I agree with
23 what Mr. Ellinger said on behalf of Joplin. This
24 settlement is beneficial to the residential
25 customers. Quote, the signatories agree that

1 Staff's proposed rate design and revenue allocation
2 methodology should be used in this case, including
3 a revenue neutral shift to the residential class of
4 .75 percent with a .85 percent decrease for large
5 power, total electric billings and general power
6 rate classes.

7 So let's see what that does. As I
8 said earlier, under Staff's study, the residential
9 subsidy is 8.1 percent. They are only seeking to
10 move .75 percent. So that means in order to
11 eliminate this subsidy, it will take 11 rate cases.
12 Given that Empire files a case every 17 months,
13 this residential subsidy will exist for another 16
14 years. Certainly as Mr. Ellinger said, this is
15 beneficial to the residential customer class.

16 The differences are slightly higher
17 when you account for MEG's study, 10.1 percent.
18 It's going to take even longer to eliminate. So
19 when I say that settlement moves at a glacial pace,
20 I mean it. This keeps the residential subsidy for
21 at least 16 years.

22 So what is MEGC proposing? MEGC is
23 proposing that you eliminate 25 percent of the
24 residential subsidy in this case, one-fourth of it.
25 Given that Staff is at an 8.1 percent residential

1 subsidy, move 2 percent. This will keep the
2 subsidy for another four cases. 17 months a case,
3 it exists for another six years. So that is our
4 proposal.

5 Empire mentions the possibility of
6 rate shock in its opening statement. I contend you
7 don't have concerns with rate shock in this case.
8 When you have a case like Ameren's recent case,
9 KCP&L's case where they're seeking double-digit
10 rate increases, rate shock's a concern. The
11 revenue requirement in this case is only
12 3.9 percent. Moving 2 percent under MEGC's
13 proposal is not a rate shock situation.

14 So that was what I had on revenue
15 allocation, the interclass subsidy. Let's talk
16 intra-class subsidy for a while.

17 The large power rate schedule which
18 all my clients are served under collects a large
19 amount of fixed costs, those costs that are
20 incurred on a per kW basis through energy charges.
21 So the costs are incurred on a per kW basis but
22 collected on a per kWh basis. You have a mismatch
23 there.

24 As Mr. Overcast for Empire said,
25 Empire's current rates place far too much reliance

1 on volumetric recovery of fixed costs, unquote.

2 Another quote from him: Current rates are not
3 economically efficient, with the result being
4 inefficient use of resources resulting from
5 incorrect price signals, unquote.

6 And here you see a table taken from
7 Mr. Overcast's testimony, page 23, in which you
8 see -- boy, it's kind of small on the screen -- is
9 that 90 percent of residential rates are collected
10 through the energy charge. Look down, the large
11 power, almost 70 percent of their rates are
12 collected through the energy charge. And there is
13 other information available. 70 percent of the
14 costs aren't variable costs. So you have a
15 significant amount of costs, fixed costs that are
16 being collected through the energy charge, and
17 that's what we're trying to fix.

18 What is the impact of these improper
19 rates? Now, this is a long quote from page 25 of
20 Mr. Overcast's testimony, but you see the
21 emphasized portion there. Rates based on kWh
22 charges collect more revenue from the larger
23 customers in the class for essentially the same
24 cost or in some cases even lower total fixed costs.
25 There is a subsidy from the high load factor

1 customers to the low load factor customers in the
2 large power rate schedule.

3 Again, another quote from page 26:
4 This means that customers use electricity
5 inefficiently. It also means that other resource
6 allocation decisions are inefficient.

7 So this is how -- when he says
8 they're inefficient, this is what he means. Energy
9 price signals are too high. Energy price signals
10 are too high. Unlike the residential rate
11 schedule, there's another rate charge. It's not
12 just customer charges and energy charges. There is
13 a demand charge to pick up fixed costs.

14 So while energy price signals are too
15 high, demand price signals are too low. Therefore,
16 customers in inefficiently responding to inflated
17 energy prices when they should be responding to
18 high capacity prices. That's the inefficiency.
19 You're sending wrong price signals.

20 Proper price signals would encourage
21 these industrial customers to reduce peak, not
22 overall energy usage, reduce peak or shift your
23 peak off of certain times of the day to off-peak
24 hours. This would increase overall system
25 efficiency and postpone capacity additions.

1 So how do you fix this large power
2 rate inefficiency? What you do is you collect
3 fixed costs, those incurred on a per kW basis,
4 through demand charges. That's what they're there
5 for. Collect fixed costs on a demand basis.

6 On the other hand, make sure that the
7 energy charges, those collected on a per kWh basis,
8 only collect variable charges, that is those costs
9 that are incurred on a per kWh basis. Match the
10 rate with how the cost is incurred.

11 With that in mind, what MCEG
12 recommends is the Empire large power tailblock
13 energy rate be moved by half a cent. Reduce it by
14 half a cent and take those costs and put them into
15 the demand charge.

16 Now, we believe this is supported by
17 evidence in this case. A half a cent per kWh
18 reduction in the tailblock energy rate would
19 reflect the cost drivers in this case. This is
20 taken from Ms. Walters for Empire's direct
21 testimony. She shows the cost drivers in this
22 case, and as you can see, almost \$20 million of
23 this case is associated with the Asbury
24 environmental projects, a fixed cost.

25 Given that the cost drivers in this

1 case are fixed costs, all the rate impact should be
2 on the demand charge, but that's not what we have
3 here. Oh, another point. Just to show that all
4 the costs are fixed costs, look at the fuel
5 adjustment clause base rate. It's currently
6 2.831 cents. Under the Nonunanimous Stipulation,
7 it would be reduced to 2.588 cents.

8 Energy charges -- energy costs are
9 going down, in this case down 8.6 percent. Cost
10 drivers in this case are fixed costs. Energy costs
11 are going down 8.6 percent.

12 That said, the signatories to the
13 Nonunanimous Stipulation want to increase the
14 energy charge by 3.9 percent. It doesn't fit.
15 Fixed costs are going up, not energy charges, but
16 they want to increase the energy charge. This just
17 exacerbates the subsidy within the large power rate
18 schedule.

19 Again, what we want to do is reduce
20 the tailblock energy rate from 3 and a half cents
21 to 3 cents.

22 Finally, I want to talk about the
23 fuel adjustment clause. We have two points there.
24 The first one is simply we want you, whatever
25 decision you make in the Ameren case, we want it

1 applied to Empire as well. There's an issue in
2 Ameren to disallow transmission costs within the
3 fuel adjustment clause, and we agree with that.
4 When and if you make that decision, we want the
5 same thing applied to Empire.

6 The second thing, though, is a rate
7 design issue. Transmission costs are incurred on a
8 per kW basis. It's a fixed cost. But under the
9 FAC as proposed, it would be collected on a per kWh
10 basis, once again a mismatch. Costs incurred on a
11 fixed cost basis, per kW bases are being collected
12 under a per kWh rate.

13 So we ask you, to the extent you do
14 include the transmission costs in the FAC, that you
15 change the FAC to allow these costs to be collected
16 on a per kW basis. That was all I had.

17 JUDGE BURTON: Thank you. And
18 Chairman?

19 CHAIRMAN KENNEY: Thanks,
20 Mr. Woodsmall. Let me ask the first question about
21 the subsidy in the residential between -- the
22 interclass subsidy.

23 MR. WOODSMALL: Uh-huh.

24 CHAIRMAN KENNEY: Your client's
25 suggestion is 2 percent increase for the

1 residential class, and you said that rate shock
2 isn't really implicated here because of the amount
3 of overall revenue requirement. Can you tell me,
4 what would it do for the average thousand kilowatt
5 hour a month customer?

6 MR. WOODSMALL: I don't know.

7 CHAIRMAN KENNEY: You have no idea
8 what it would do to customer bills?

9 MR. WOODSMALL: I know -- I assume
10 whatever the residential rate was before, it will
11 just be 2 percent higher, but I don't know how the
12 billing determinants within the residential class
13 may have changed, so I can't answer that.

14 CHAIRMAN KENNEY: Regarding the
15 intra-class subsidy, is what your client is asking
16 for essentially a demand charge based tariff? Is
17 that --

18 MR. WOODSMALL: There's already a
19 demand charge within the tariff. What we want is
20 the demand charge to be used as it's structured, to
21 be used to collect fixed costs, and that the energy
22 charge be used to collect variable costs. Now,
23 we're not asking to go there on one fell swoop.
24 We're just simply asking you to move a half a cent
25 of costs out of the tailblock energy rate and move

1 them to demand -- to the demand charge. It won't
2 get us there. It's a step in the right direction.

3 CHAIRMAN KENNEY: Why would Empire
4 care?

5 MR. WOODSMALL: Why would Empire
6 care? I don't think Empire does. If you read
7 their direct testimony of Mr. Overcast and the
8 testimony of Mr. Keith, they make the same
9 suggestion. So I don't think they care. I think
10 they state some opposition in this case simply
11 because they are a party to the stipulation. But I
12 don't think in the grand scheme of things they care
13 given what their testimony says.

14 CHAIRMAN KENNEY: How about the other
15 large power users?

16 MR. WOODSMALL: Why would they care?

17 CHAIRMAN KENNEY: Yeah.

18 MR. WOODSMALL: The only large power
19 users that would care would be those with a low
20 load factor. So the high load factor customers are
21 trying to pay their cost of service and eliminate
22 this subsidy. The low load factor customers will
23 oppose it because they want to preserve the
24 subsidy.

25 CHAIRMAN KENNEY: And it's your

1 argument that this will essentially send a better,
2 more correct price signal which should have the
3 effect of shifting the peak?

4 MR. WOODSMALL: It sends -- correct.
5 It sends the price signal that capacity is
6 important. It prices capacity closer to what the
7 fixed costs are and energy closer to what the
8 variable costs are.

9 Therefore, it sends a signal that
10 it's not only energy that's important, it's
11 capacity. Do things to keep from setting a peak
12 during the peak hours. So it sends that price
13 signal and hopefully postpones any capacity
14 additions.

15 CHAIRMAN KENNEY: Then lastly
16 regarding fuel adjustment clause, it's not your
17 client's position that it's -- that there's
18 anything illegal about collecting transmission
19 charges through the FAC?

20 MR. WOODSMALL: I haven't reviewed
21 that. I know in the Ameren case, I believe MIEC
22 has made that argument, and I was so buried in the
23 Noranda stuff in that case that I didn't really
24 review that. So I haven't made that determination
25 but I know that's an issue in the Ameren case.

1 CHAIRMAN KENNEY: But you're not
2 making it here?

3 MR. WOODSMALL: No, I'm not. In
4 fact, as part of the settlement, we have agreed to
5 a continuation of the FAC. We just don't agree
6 with the transmission costs. And no, I'm not
7 making that argument that they're illegal yet.

8 CHAIRMAN KENNEY: Thanks for your
9 time, presentation.

10 MR. WOODSMALL: You're welcome.

11 JUDGE BURTON: Commissioner Stoll?

12 COMMISSIONER STOLL: I just have one
13 quick question. Are you aware of the subsidy issue
14 arising in a past Empire case by either the group
15 that you represent or someone else?

16 MR. WOODSMALL: The evidence in this
17 case indicates that the subsidy has existed in the
18 past. Public Counsel's witness shows that the
19 subsidy did exist in the past case and has grown.

20 COMMISSIONER STOLL: Okay. So MECG,
21 not that you had to, but didn't raise this question
22 in the previous case that you're aware of?

23 MR. WOODSMALL: I honestly don't
24 recall how the previous case was resolved. I don't
25 know. I'm sorry.

1 COMMISSIONER STOLL: That's okay.

2 Okay. Thank you.

3 JUDGE BURTON: Commissioner Kenney?

4 COMMISSIONER W. KENNEY: Judge, I
5 just have a question. The Chairman asked a couple
6 of questions that I was very interested in. Can I
7 ask a general question to get a quick answer?

8 MR. WOODSMALL: I won't guarantee a
9 quick answer.

10 COMMISSIONER W. KENNEY: Not you.

11 MR. WOODSMALL: Good.

12 COMMISSIONER W. KENNEY: Who can tell
13 me the average residential bill for Empire? Yes.

14 MR. SCHEPERLE: It's \$131.

15 COMMISSIONER W. KENNEY: 131 the
16 average residential bill monthly?

17 MR. SCHEPERLE: Yes.

18 MS. CARTER: I think there's a
19 possibility we're not streaming.

20 MR. WOODSMALL: They didn't want to
21 watch me anyway.

22 MS. CARTER: Empire was watching.

23 MR. CONRAD: I'm sure all the ships
24 at sea are deeply disappointed.

25 MR. WOODSMALL: Broadcasting on Armed

1 Forces Radio.

2 CHAIRMAN KENNEY: Can I jump in?
3 Commissioner Stoll's question reminded me of
4 something that I meant to ask and I intended to
5 ask, but regarding the interclass subsidy, how did
6 we get here in the first place? Do you know?

7 MR. WOODSMALL: I don't know if this
8 is -- part of the problem was the subsidy we know
9 from the evidence in this case existed in the last
10 case, but I can't tell you how far back it goes
11 from there. So I don't know if it is a continual
12 problem from lack of -- lack of movement by the
13 parties, the Commission, what have you, or if it's
14 a change in the billing determinants of the classes
15 relative to each other. I can't comment on that.

16 CHAIRMAN KENNEY: Or whether there
17 was some social policy that we were trying to
18 implement 20 years ago and we've just never gotten
19 away from it?

20 MR. WOODSMALL: Right. Well, I was
21 around 20 years ago and I'm not aware of a social
22 policy, no.

23 COMMISSIONER W. KENNEY: Okay. 30
24 years ago.

25 MR. WOODSMALL: There you go.

1 CHAIRMAN KENNEY: Thank you.

2 MR. WOODSMALL: You're welcome.

3 JUDGE BURTON: Commissioner Hall.

4 COMMISSIONER HALL: Good morning.

5 MR. WOODSMALL: Good morning.

6 COMMISSIONER HALL: Concerning your
7 argument that we should disallow transmission costs
8 from the fuel adjustment clause charge, are you
9 speaking about all transmission costs or just the
10 transmission costs related to serving the utility's
11 native load?

12 MR. WOODSMALL: Our position in this
13 case was to eliminate all transmission costs, and
14 that is largely based upon the belief that the
15 transmission benefits to be derived from SPP, the
16 SPP integrated marketplace is still rather new. So
17 any benefits associated with that are largely
18 tenuous still at this point.

19 Given that we don't know if there's
20 benefits of being in SPP, the SPP IM market, take
21 those revenues out, take the costs out as well, and
22 then review it again in the case that will be
23 coming up to be filed before the end of this year.

24 COMMISSIONER HALL: Do you know how
25 much, either as a percentage basis or an actual

1 dollar amount, how much the transmission costs make
2 up of the entire fuel adjustment amount?

3 MR. WOODSMALL: I will be putting in
4 a data request that -- a Staff response. The total
5 dollar amount of net transmission costs, that is
6 costs less revenues, is \$4.9 million.

7 And the data request will also show
8 the impact on the FAC base rate of eliminating
9 that. I think it was a tenth of a cent, but that
10 will be in a data request that I'll offer probably
11 right after we finish opening statements.

12 COMMISSIONER HALL: Thank you.

13 MR. WOODSMALL: You're welcome.

14 JUDGE BURTON: Commissioner?

15 COMMISSIONER RUPP: I just had a
16 quick one. You started off talking about the
17 national average of the industrial rates and
18 residential rates. Have you looked at what --
19 where these fall on the Missouri average?

20 MR. WOODSMALL: Empire's rates on all
21 classes are higher than the Missouri IOU rates.
22 They're higher than GMO, KCP&L and Ameren. I don't
23 know how they would compare to certain
24 municipalities or coops, but for IOUs they're the
25 highest.

1 COMMISSIONER RUPP: Have you done a
2 little percentage like you did for the national
3 average of where they are?

4 MR. WOODSMALL: No, but I can provide
5 that to you.

6 COMMISSIONER RUPP: That would be
7 great. Thank you.

8 COMMISSIONER W. KENNEY: I just had a
9 quick question that Commissioner Rupp had mentioned
10 to me privately on an issue. From the last couple
11 rate cases after the tornado, was there a larger
12 increase due to all the repairs that need to be
13 done?

14 MR. WOODSMALL: There was -- I
15 wouldn't say it is directly tied to a rate case.
16 There was an AAO following the tornado that picked
17 up all those costs and then later they were
18 recovered, amortized through a rate case. So the
19 costs for the tornado are being recovered.

20 COMMISSIONER W. KENNEY: So it was
21 probably pretty substantial, I would imagine.

22 MR. WOODSMALL: I don't remember what
23 the number was.

24 COMMISSIONER W. KENNEY: Thank you.

25 CHAIRMAN KENNEY: That wouldn't

1 create the subsidy?

2 MR. WOODSMALL: No. It may -- to the
3 extent that it was passed through on an equal
4 percent basis, it may exacerbate the subsidy.

5 CHAIRMAN KENNEY: Okay.

6 MR. WOODSMALL: Thank you.

7 JUDGE BURTON: I believe that
8 concludes the opening statements. I'm showing it
9 is 10:47 right now. Why don't we take a break and
10 resume at 11, and I believe we will hear from
11 Ms. Robin Kliethermes at that point. Go off the
12 record.

13 (A BREAK WAS TAKEN.)

14 JUDGE BURTON: It's 11:00. Let's go
15 back on the record. I believe before we hear from
16 Staff's witness, Ms. Carter, you had something to
17 offer?

18 MS. CARTER: I was going to offer all
19 of the Empire testimony. Per the agreement of the
20 parties, cross-examination has been waived on all
21 Empire witnesses, and it's Exhibit Nos. 100 through
22 136, and it is all of the direct, supplemental
23 direct, rebuttal and surrebuttal testimony
24 submitted by Empire in this case. Would you like
25 me to go item by item? Each party has a witness

1 list.

2 JUDGE BURTON: If every party has a
3 copy of that list and if you could provide me a
4 copy of that list.

5 MS. CARTER: And I believe the court
6 reporter has a copy of that list as well as all of
7 the testimony.

8 JUDGE BURTON: So we have Empire's
9 Exhibits 100 through 136 that have been offered.
10 Are there any objections?

11 (No response.)

12 JUDGE BURTON: Hearing none,
13 Exhibits 100 through 136 are admitted into the
14 record.

15 (EMPIRE EXHIBIT NOS. 100 THROUGH 136
16 WERE RECEIVED INTO EVIDENCE.)

17 MS. BAKER: We can take up Public
18 Counsel's as well if you like.

19 JUDGE BURTON: Since we have the
20 time, why don't we?

21 MS. BAKER: And I'll give you this
22 list after I read it because this is the only copy
23 I have other than what I gave to the court
24 reporter. Public Counsel has all of their
25 witnesses that have been waived, and so 300 through

1 312 are the numbers that were given to Public
2 Counsel's prefiled testimony, and we would offer
3 those.

4 JUDGE BURTON: And have you provided
5 a list of those with the marked numbers to the
6 other parties?

7 MS. BAKER: I have given it to the
8 court reporter. I'll make copies and give them
9 to --

10 JUDGE BURTON: Why don't you go ahead
11 and just read it real quick into the record?

12 MS. BAKER: Okay. 300 is the direct
13 testimony of David Dismukes. 301 is the rebuttal
14 testimony of David Dismukes. 302 is the
15 surrebuttal testimony of David Dismukes.

16 303 is the direct testimony of Lena
17 Mantle. 304 is the rebuttal testimony of Lena
18 Mantle. 305 is the surrebuttal testimony of Lena
19 Mantle.

20 306HC is the HC version of the
21 rebuttal testimony of Geoff Marke. 306NP is the NP
22 version of the rebuttal testimony of Geoff Marke.

23 307 is the direct testimony of Keri
24 Roth. 308HC is the HC version of the rebuttal
25 testimony of Keri Roth. 308NP is the NP version of

1 the rebuttal testimony of Keri Roth. 309 is the
2 surrebuttal testimony of Keri Roth.

3 310 is the direct testimony of Lance
4 Schafer. 311 is the rebuttal testimony of Lance
5 Schafer. And 312 is the surrebuttal testimony of
6 Lance Schafer.

7 JUDGE BURTON: Thank you, Ms. Baker.
8 Exhibits 300 to 312 have been offered. Are there
9 any objections?

10 (No response.)

11 JUDGE BURTON: Seeing none, then
12 those exhibits are admitted into the record.

13 (OPC EXHIBIT NOS. 300 THROUGH 312
14 WERE RECEIVED INTO EVIDENCE.)

15 JUDGE BURTON: And I believe,
16 Mr. Woodsmall, you wanted to make a statement.

17 MR. WOODSMALL: Yeah. Not so much a
18 statement but a question, an inquiry. During my
19 opening statements, Commissioner Rupp asked about a
20 comparison of Empire's rates to other Missouri
21 utilities. I ran back to the office and I got the
22 EEI book, and I can do it one of two ways. Either
23 I can read those into the record or probably the
24 cleanest way would be if I copy those and just make
25 them a late-filed exhibit.

1 JUDGE BURTON: Are there any
2 objections to option B that Mr. Woodsmall has
3 offered of having him provide a copy, photocopy of
4 those exhibits to be offered later as an exhibit
5 after the fact?

6 MS. BAKER: I think we would like to
7 see them before they are admitted. If they're
8 offered and we're given the opportunity to respond,
9 I think that's fine.

10 JUDGE BURTON: Why don't you see
11 about making a copy and then we can see about
12 addressing that issue after lunch today.

13 MR. WOODSMALL: Over lunch I'll go
14 back, I'll make a copy. I'll scan it and send it
15 to the parties, and if not after lunch, certainly
16 when we reconvene on Friday we can take it up.

17 JUDGE BURTON: That would be fine.
18 Are there any additional procedural matters before
19 we begin? As I stated to the parties beforehand,
20 we will be taking a recess at 11:45 today so that
21 the Commission can prepare for agenda at noon.

22 MR. BERLIN: Judge, did you want to
23 go through Staff's list of exhibits?

24 JUDGE BURTON: Why don't we hold off
25 on that right now and we'll go ahead and hear the

1 testimony from Ms. Kliethermes.

2 (Witness sworn.)

3 JUDGE BURTON: Thank you. You may be
4 seated.

5 ROBIN KLIETHERMES testified as follows:

6 DIRECT EXAMINATION BY MR. BERLIN:

7 Q. Good morning, Ms. Kliethermes. Would
8 you please state your name for the record.

9 A. Robin Kliethermes, last name
10 K-l-i-e-t-h-e-r-m-e-s.

11 Q. And what is your job title?

12 A. I'm a Regulatory Economist 2 with the
13 Missouri Public Service Commission.

14 Q. And you are the Staff's expert
15 witness on the issue of class cost of service?

16 A. Yes.

17 Q. In this rate case proceeding, did you
18 cause to be prepared certain prefiled direct
19 testimony in report format and rebuttal and
20 surrebuttal testimonies in question and answer
21 format?

22 A. Yes.

23 Q. Noting that your direct report class
24 cost of service testimony has been premarked as
25 Exhibit 204 in HC and NP formats, rebuttal

1 testimony is premarked as Exhibit 210 and your
2 surrebuttal testimony is premarked as Exhibit 219
3 in HC and NP formats, do you have any corrections
4 to any of your prefiled testimonies at this time?

5 A. At this time, no.

6 Q. Is the information that you presented
7 in your direct, rebuttal and surrebuttal
8 testimonies true and correct to your best
9 information and belief?

10 A. Yes, it is.

11 Q. And if I were to ask you today the
12 same questions contained in your rebuttal and
13 surrebuttal testimonies, would your answers be
14 substantially the same?

15 A. Yes.

16 MR. BERLIN: All right. Judge, I'll
17 hold off on a motion to move the prefiled
18 testimonies into evidence and tender
19 Ms. Kliethermes for cross-examination.

20 JUDGE BURTON: Okay.

21 MR. WOODSMALL: Your Honor, can I ask
22 a quick question? When you said her direct, did
23 she have direct testimony?

24 MR. BERLIN: Her direct testimony is
25 contained in Staff's rate design and class cost of

1 service report.

2 MR. WOODSMALL: Okay.

3 MR. BERLIN: And the revenue
4 requirement as well.

5 JUDGE BURTON: I believe all of the
6 parties excepting MECG have waived
7 cross-examination of this witness. Okay.

8 MR. WOODSMALL: My turn? Thank you,
9 your Honor.

10 CROSS-EXAMINATION BY MR. WOODSMALL:

11 Q. Good morning, Ms. Kliethermes.

12 A. Good morning.

13 Q. I guess first question, are you any
14 relation to Ms. Sarah Kliethermes?

15 A. Not that I know of.

16 Q. I've often wondered that. Okay. You
17 conducted the class cost of service study in this
18 case, is that correct, for Staff?

19 A. With Sarah Kliethermes, I did,
20 together.

21 Q. And was that done under the
22 supervision of Mr. Scheperle?

23 A. Yes. Mike's our supervisor.

24 Q. Okay. And the results of your class
25 cost of service study are reflected in the table at

1 **page 5 of your rebuttal testimony; is that correct?**

2 A. That was after -- that was your
3 corrected results, yes.

4 **Q. Okay. Those are your most recent**
5 **results; is that correct?**

6 A. Let me look. Yes. Page 5 of my
7 rebuttal testimony has our most recent run of the
8 CCOS.

9 **Q. And just so the record's clear, it's**
10 **my understanding that the results there include an**
11 **overall 2.64 percent revenue requirement increase**
12 **for Empire; is that correct?**

13 A. Yes. The total revenue deficiency
14 was 2.64 percent.

15 **Q. So if I wanted to get each class'**
16 **revenue neutral result, I would have to subtract**
17 **2.64 from the column labeled CCOS percent increase;**
18 **is that correct?**

19 A. That is one way you could do that,
20 yes.

21 **Q. Therefore, just to give a couple**
22 **examples, under this class cost of service study,**
23 **the revenue neutral increase for the residential**
24 **class would be 8.06 percent; is that correct?**

25 A. Yeah. That sounds about right.

1 **Q. And then revenue neutral decrease for**
2 **the large power class would be 8.35 percent; is**
3 **that correct?**

4 A. To fully match cost of service.

5 **Q. Right.**

6 A. Yes.

7 **Q. And similarly, the revenue neutral**
8 **decrease for the general power class would be**
9 **7.90 percent; is that correct?**

10 A. Yeah, I mean, give or take a few
11 percentages. I would have to -- it's in the range
12 of, yes, that sounds about correct, but I don't
13 have that exact number in front of me.

14 MR. WOODSMALL: Okay. I have no
15 further questions, your Honor.

16 JUDGE BURTON: Okay. Thank you.

17 QUESTIONS BY CHAIRMAN KENNEY:

18 **Q. Ms. Kliethermes, thank you.**
19 **Regarding the interclass subsidy that we were**
20 **discussing, you were in the room for**
21 **Mr. Woodsmall's opening?**

22 A. Yes.

23 **Q. Do you know how we got here in the**
24 **first place?**

25 A. Okay. Yes. But the first -- the

1 first thing I just wanted to clarify was the word
2 using subsidy, because each class is covering their
3 expenses. They just have different levels of rate
4 of return.

5 So residential does have a positive
6 rate of return. So they're covering the expenses
7 that have been allocated to them. They're just not
8 contributing the same level of return as let's say
9 a different class, one of the ones that are showing
10 a negative adjustment. So --

11 **Q. That's an important distinction.**

12 A. Yes.

13 **Q. And I'm glad that you clarified that.**

14 **So the interclass subsidy, the notion of a subsidy**
15 **doesn't mean that the residential rate class isn't**
16 **covering its fixed costs?**

17 A. Correct.

18 **Q. So it is, in fact, covering its fixed**
19 **costs?**

20 A. The total expenses, yes.

21 **Q. It's just not contributing as much to**
22 **the overall rate of return as the other classes?**

23 A. That is how I understand it.

24 **Q. So the subsidy is as to the profit**
25 **component?**

1 A. Yes.

2 Q. Okay. Continue. Thank you.

3 A. Okay. So just a general overview
4 of -- and this is just based on a general overview
5 that I did of the last couple cases back to 2010
6 yesterday. So Mike Scheperle may be able to add a
7 little bit more detail to this.

8 In 2010 and 2011 cases, they were
9 back to back. In 2010 I think there was an early
10 agreement that said no one would do a class cost of
11 service, they would do it in 2011. So it was an
12 equal percent across the board, I believe.

13 In 2011 and in 2012 rate cases, they
14 were both settled out. So I'm not for sure what
15 actually ended up. But in Staff's direct testimony
16 of those two cases, in 2011 res was under--
17 residential was underpaying, and usually
18 residential is found to be underpaying. And what I
19 mean by underpaying, total class cost of service,
20 so return on investment plus expenses.

21 However, the large power class in
22 2011 was also slightly underpaying as well. And in
23 2012 it was less than 2011 but it was still a
24 smidge underpaying. And this was based on Staff's
25 direct. So what actually ended up in the end of

1 the case, it was settled out and that wasn't
2 actually provided. But this is just based on
3 our -- Staff's direct class cost of service reports
4 in the last couple cases.

5 So to my knowledge, this is probably
6 one of the first shifts that has been done. One of
7 the things that for any class cost of service
8 study, any allocator that is developed is based on
9 class energy usage, number of customers in a class,
10 class coincident peak, so when a class is peaking
11 with the system or a class' individual peak.

12 If those relationships change in
13 between rate cases or allocator methods changes,
14 that will change the costs that get allocated to
15 any given class, which will change your class cost
16 of service results. So case to case things are
17 different.

18 One of the things that was different
19 in this case was Dr. Overcast submitted a minimum
20 distribution system study, and that study basically
21 will allocate -- normally the distribution system
22 is divided -- I'm talking about like poles,
23 Account 364 on down, poles, lines, it's divided
24 between primary voltage, secondary voltage and a
25 component that customers could impact more than

1 demand impacts it.

2 So in the last rate case, those
3 accounts were allocated on demand because there was
4 no minimum distribution system study, no zero
5 intercept study or no study that did that.

6 In this case, there was a little bit
7 more detailed study, more detailed analysis, and so
8 it did weight more distribution costs, and this is
9 probably coming into some of the tornado costs as
10 well got allocated to residential. So it's
11 shifting some of costs towards res, maybe more so
12 than was in the last case. I'm not for sure
13 exactly what was in the last case. This was just a
14 general overview.

15 But that could give you some
16 explanation of why res is a little bit higher and
17 the large power classes are a little bit lower
18 because any type of demand allocator will allocate
19 more towards a larger power class than a smaller
20 class like res.

21 **Q. That was helpful.**

22 A. That was a long analysis. I'm sorry.

23 **Q. That's okay. I think I understood.**

24 **No. That actually was helpful. Thank you.**

25 CHAIRMAN KENNEY: I don't have any

1 other questions. That was it. Thank you.

2 COMMISSIONER STOLL: I have no
3 questions. Thank you for your testimony and that
4 lengthy explanation.

5 THE WITNESS: Sorry. Thank you.

6 COMMISSIONER W. KENNEY: No
7 questions. Thank you.

8 COMMISSIONER HALL: No questions.
9 Thank you.

10 JUDGE BURTON: I have a quick
11 question.

12 THE WITNESS: Yes.

13 QUESTIONS BY JUDGE BURTON:

14 **Q. Do you support there being no**
15 **increase in the residential customer charge?**

16 A. Yes.

17 **Q. And why is that?**

18 A. With the global -- for purposes of
19 everyone settling and everyone coming together and
20 agreeing to that, then I agree as well.

21 **Q. And that's the reason why?**

22 A. Yes.

23 JUDGE BURTON: All right. Thank you.

24 Any questions based on the questions from the
25 Bench?

1 MR. WOODSMALL: Yes, your Honor, just
2 a couple.

3 RECROSS-EXAMINATION BY MR. WOODSMALL:

4 Q. You were asked some questions about
5 the residential subsidy, and you said something to
6 the effect that residential customers are
7 recovering their costs; is that correct?

8 A. Their expenses. They're covering the
9 expenses, and they have a positive rate of return,
10 just less than other classes.

11 Q. Would you agree that return on equity
12 is a cost for the utility?

13 A. For when we calculate total class
14 cost of service, return on equity is included in
15 that value.

16 Q. Okay. So the residential customers
17 aren't recovering in rates their entire cost of
18 equity; is that correct?

19 A. I don't know. I don't -- could you
20 restate the question one more time?

21 Q. Residential rates are not recovering
22 their entire cost which includes the cost of
23 equity; is that correct?

24 A. I don't know.

25 Q. You don't know. So when it shows --

1 when you say that -- for instance, let's just do an
2 example. If Staff's ROE in this case is midpoint
3 9.50 percent, would you agree that under Staff's
4 class cost of service study, residential rates are
5 not recovering a 9.50 percent return on equity?

6 A. Right. Right.

7 Q. So residential rates are not
8 recovering the entire cost of equity; is that
9 correct?

10 A. If every customer class is supposed
11 to give the same return on equity, yes.

12 Q. So some other classes then are paying
13 a higher cost of equity; is that correct?

14 A. Some classes have a higher rate of
15 return than others, yes.

16 Q. So they're paying a higher cost of
17 equity than the residential customers; is that
18 correct?

19 A. You could say that.

20 Q. Okay. You would agree with that
21 statement?

22 A. I think we're using terms differently
23 maybe, and I would say from the class cost of
24 service study, not every class has the same rate of
25 return.

1 **Q.** But you agree that return on equity
2 **is a utility cost; is that correct?**

3 A. Yes.

4 **Q.** Okay. You were talking about
5 **distribution system costs. Would you agree that**
6 **some industrial customers take service at**
7 **transmission substation or primary voltage levels?**

8 A. Yes.

9 **Q.** And would you agree then that they
10 **wouldn't use the distribution system?**

11 A. They wouldn't use portions of the
12 distribution system. Primary voltage customers
13 will use portions of the distribution system.

14 **Q.** Certainly transmission and substation
15 **customers wouldn't take any trans-- or wouldn't use**
16 **any distribution system?**

17 A. If you're including substation and
18 distribution costs, which distribution in the FERC
19 account substation is included at the high end of
20 the list of distribution accounts, your substation
21 customers will have costs at the substation.

22 **Q.** But under any situation, those
23 **industrial customers that take a transmission**
24 **substation or primary cost should avoid some of the**
25 **distribution costs for the utility; is that**

1 **correct?**

2 A. Some distribution costs. It depends
3 on what voltage they're at and where the
4 allocations play out.

5 MR. WOODSMALL: Thank you. No
6 further questions.

7 JUDGE BURTON: Thank you. Redirect?

8 MR. BERLIN: I have no questions,
9 Judge.

10 JUDGE BURTON: Okay. You may be
11 excused.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 JUDGE BURTON: Staff, would you like
15 to call your next witness?

16 MR. BERLIN: Staff calls Mike
17 Scheperle.

18 JUDGE BURTON: And, Mr. Woodsmall, I
19 would ask that you turn on your microphone.

20 MR. WOODSMALL: I'm sorry. I will.

21 (Witness sworn.)

22 JUDGE BURTON: Thank you.

23 MICHAEL SCHEPERLE testified as follows:

24 DIRECT EXAMINATION BY MR. BERLIN:

25 **Q. Good morning. Good morning,**

1 **Mr. Scheperle. Please state your full name for the**
2 **record.**

3 A. My name is Michael Scheperle.

4 **Q. And what is your job title?**

5 A. I'm the Manager of Economic Analysis
6 with the Missouri Public Service Commission.

7 **Q. And you are the Staff's expert**
8 **witness on the issue of rate design?**

9 A. Yes.

10 **Q. And in this rate case proceeding, did**
11 **you cause to be prepared certain prefiled direct**
12 **testimony premarked as Exhibit 203 and surrebuttal**
13 **testimony premarked as Exhibit 225 in a question**
14 **and answer format?**

15 A. Yes.

16 **Q. And do you have any corrections to**
17 **any of those prefiled testimonies at this time?**

18 A. No.

19 **Q. And is the information you presented**
20 **in your direct and surrebuttal testimonies true and**
21 **correct to your best information and belief?**

22 A. Yes.

23 **Q. And if I were to ask you today the**
24 **same questions contained in your direct and**
25 **surrebuttal testimonies, would your answers be**

1 substantially the same?

2 A. Yes.

3 MR. BERLIN: Judge, I would normally
4 move to enter that in the record, but I understand
5 we're going to do that later.

6 BY MR. BERLIN:

7 Q. But, Mr. Scheperle, have you adopted
8 other prefiled testimony as your own in this
9 proceeding?

10 A. Yes, I have, Mr. Brad Fortson's.

11 Q. And for the record, were you
12 supervisor of Mr. Fortson, who's no longer employed
13 by the Commission?

14 A. That is correct.

15 Q. Okay. As Mr. Fortson's supervisor,
16 you are sponsoring the rate design testimony
17 prepared by Mr. Fortson as contained in Exhibit 204
18 in HC and NP format?

19 A. Yes.

20 Q. And the rebuttal testimony of
21 Mr. Fortson which is premarked as Exhibit 206?

22 A. Yes.

23 Q. Do you have any corrections to make
24 to any of Mr. Fortson's testimonies?

25 A. No. For Mr. Fortson, I do not. It

1 was brought to my attention that there might have
2 been a date wrong in the COS report, which I was
3 not a part of, but I would be willing to correct
4 the date or clarify the date that was -- that was
5 wrong.

6 **Q. And so to the best of your knowledge,**
7 **is Mr. Fortson's testimony on rate design true and**
8 **correct?**

9 A. Yes.

10 MR. BERLIN: I'll withhold moving to
11 enter it into the record and tender Mr. Scheperle
12 for cross-examination.

13 JUDGE BURTON: I believe all the
14 parties excepting MEGC have waived
15 cross-examination of this witness. Okay. It's
16 your witness.

17 MR. WOODSMALL: Thank you, your
18 Honor.

19 CROSS-EXAMINATION BY MR. WOODSMALL:

20 **Q. I believe you stated, Mr. Scheperle,**
21 **that you are the manager of the economic**
22 **development section of the Commission; is that**
23 **correct?**

24 A. Yes.

25 **Q. And to get to the date that you**

1 mentioned --

2 JUDGE BURTON: Mr. Woodsmall, could
3 you please turn your microphone on.

4 MR. WOODSMALL: It's on. Maybe I'm
5 just not talking into it. Is that better?

6 BY MR. WOODSMALL:

7 Q. Okay. Would you tell us what date
8 you wanted to correct in the cost of service
9 report?

10 A. It was in the Staff's COS report of
11 revenue requirement. It's on page 10, and it had
12 to do with the Empire rate case history, and it had
13 to do with the chart there, the effective date.
14 It's got listed that it was December 14th of 2007.
15 The original rates went in on January 1st, 2007.

16 This case went to the Supreme Court
17 and they had a ruling, and the Commission vacated
18 the original order. And so the date that's
19 reflected there is actually the correct date, but
20 the original rates began January 1 of 2007.

21 Q. Thank you. So the date that's there
22 is the date that the rates were reapproved by the
23 Commission; is that correct?

24 A. That's my understanding.

25 Q. Okay. Thank you for that

1 clarification.

2 And getting back, you said you were
3 the manager of the economic analysis section. In
4 this role, are you responsible for supervising and
5 conducting class cost of service studies for the
6 Missouri electric utilities?

7 A. I am responsible for that, yes.

8 Q. And would you agree that the results
9 of the class cost of service study is to show
10 whether specific customer classes are paying rates
11 that recover the utility's cost of service for that
12 class?

13 A. Yes.

14 Q. And the results of Staff's class cost
15 of service study in this case indicates that the
16 residential class are paying rates that are
17 8.1 percent below Empire's cost of service; is that
18 correct?

19 A. That is correct, if -- the latest
20 CCOS run showed that it was 10.70, and then if you
21 subtract the system average, that is correct.

22 Q. Okay. So the revenue neutral cost
23 difference is 8.1 percent; is that correct?

24 A. That is correct.

25 Q. Okay. Now, after you complete a

1 class cost of service study, it's my understanding
2 that the next step is to make recommendations
3 regarding how to allocate any rate increase; is
4 that correct?

5 A. That is correct.

6 Q. And for purposes of this
7 cross-examination, I'll refer to that as revenue
8 allocation. Are you comfortable with that term?

9 A. Yes.

10 Q. In this case, Staff's recommendation
11 was to increase residential rates by .75 percent on
12 a revenue neutral basis; is that correct?

13 A. On a revenue neutral basis, that is
14 correct.

15 Q. And this recommendation was adopted
16 in the Nonunanimous Stipulation; is that correct?

17 A. That is correct.

18 Q. Would you agree, given that Staff's
19 class cost of service study shows 8.1 percent below
20 cost, that this .75 percent would only move
21 9.2 percent towards cost of service?

22 A. I have not done the math on that, but
23 it would not move all the way, right.

24 Q. Okay. It's less than 10 percent; is
25 that correct?

1 A. I have not done the calculation.

2 Q. You would agree that 8.1 percent
3 revenue neutral increase, a 10 percent movement
4 would be .81 percent; would you agree?

5 A. That is correct.

6 Q. And this is somewhat shy of that?

7 A. Yes.

8 Q. Slightly shy. Thank you. Okay. So
9 given that this moves less than 10 percent, all
10 else staying equal, it would take approximately
11 11 rate cases to eliminate the residential subsidy
12 under Staff's proposal?

13 A. I would not agree with that. There's
14 a lot of things that enter into when we do a class
15 cost service, and one of the big principals is the
16 energy efficiency programs, the MEEIA programs that
17 are going on, and those tend to shift the costs
18 around a little bit.

19 Q. All else being equal, though?

20 A. Well, that's not an equal thing.
21 That's part of the reason -- when the costs shift
22 around, that's part of the reason of, I guess, in a
23 way being conservative that you don't want to shift
24 a bunch of costs and then have to shift it back.
25 It's just not reasonable to do.

1 Q. Are you familiar with the term
2 **ceteris paribus?**

3 A. Yes.

4 Q. Can you tell me what that means?

5 A. Well, I think it's all else equal.

6 Q. Okay. So **ceteris paribus, all else**
7 **equal, under Staff's proposal it would take 11 rate**
8 **cases to eliminate the 8.1 percent residential**
9 **subsidy?**

10 A. Well, in this case not all things are
11 equal, but if everything stood that way, it would
12 take -- it would take a while to get there.

13 Q. **11 rate cases?**

14 A. I wouldn't say 11 rate cases, no.

15 Q. **8.1 percent divided by .75?**

16 A. It just depends on what we would do
17 in the next rate case.

18 Q. **But again, we're talking about all us**
19 **else staying equal.**

20 A. All else staying equal.

21 Q. **It would take 11 cases?**

22 A. It could.

23 Q. **It would. 8.1 percent divided by**
24 **.75. I have a calculator if you need it.**

25 MR. BERLIN: I'm going to object.

1 He's already stated and answered your question.

2 MR. WOODSMALL: He said it could.

3 THE WITNESS: I think each case we
4 take a look at the class cost of service and we
5 make adjustments based on the class cost of
6 service, and there's other factors that enter into
7 the recommendations.

8 BY MR. WOODSMALL:

9 Q. Okay. And you said it would take a
10 while; is that correct?

11 A. It could on gradually moving towards
12 it, yes.

13 Q. Can you tell me what considerations
14 go into your recommendation on how much to
15 eliminate of the residential subsidy in any
16 particular case?

17 A. Mostly look at a few things would be
18 rate shock, increasing the rates too fast, rate
19 switchers. Now, that doesn't always enter in on
20 maybe residential, but it does enter in on
21 commercial and industrial. And the relationship
22 between classes, rate simplicity, you know, rate
23 riders. There's a lot of factors that go into
24 that.

25 Q. Okay. Are there any factors that

1 **went into your recommendation in this case that are**
2 **unique to Empire?**

3 A. Yes.

4 **Q. For instance?**

5 A. The recommendations of the
6 nonresidential, the GP recommendation, the general
7 power, the TEB and the LP of 0.85. Basically the
8 rate shock and the potential for rate switchers.

9 **Q. When you say rate shock, could you**
10 **elaborate on that?**

11 A. In this case where they're going
12 down, I don't believe there would be a rate shock.
13 But when you're decreasing certain classes, you
14 would have to be increasing other classes to make
15 it revenue neutral.

16 **Q. Okay. And how much of an increase**
17 **would have to occur in order for Staff to believe**
18 **that there is a rate shock situation?**

19 A. It could be anywhere from 1 percent
20 up, depending on the situation.

21 **Q. So you believe in a situation like**
22 **this where there's a 3.9 percent increase called**
23 **for under the revenue requirement stipulation, that**
24 **a 1 percent shift in addition to that for an**
25 **overall shift to residential of 4.9 percent could**

1 **be rate shock?**

2 A. It could be. I looked at the
3 increase from the Stipulation & Agreement, and I
4 think the average bill was going to go up like, I
5 think, \$6.24 a month, and that's just on the .75.
6 So if you really went higher, it would be a lot
7 more. It could get up to the \$10, and that to me
8 could be a potential for rate shock. It enters
9 into the decision.

10 **Q. Do you, when you do these analysis,**
11 **look at the average industrial bill?**

12 A. Yes.

13 **Q. Can you tell me what would be the**
14 **impact on the average industrial bill from**
15 **eliminating the residential subsidy?**

16 A. Well, the large power is actually
17 getting below the system average increase, so they
18 would get below the system average increase.

19 **Q. Right. But could you tell me, if**
20 **completely eliminated the residential subsidy, the**
21 **industrial customers would actually receive a**
22 **decrease in this case; is that correct?**

23 A. Would you repeat the question?

24 **Q. If you eliminated the 8.1 percent**
25 **residential subsidy in its entirety, industrial**

1 customers would receive a rate decrease; is that
2 correct?

3 A. Yes.

4 Q. Now, you were responsible for
5 supervising the recent Ameren class cost of service
6 study as well; is that correct?

7 A. Yes.

8 Q. Would you agree that the results of
9 Staff's class cost of service study in that case
10 identified --

11 MR. BERLIN: I'm going to object.
12 It's not relevant here. This is the Empire rate
13 case.

14 MR. WOODSMALL: I'm allowed to
15 cross-examine on any matter relevant, and what I'm
16 attempting to show is Staff's method for addressing
17 residential subsidies appears arbitrary. It
18 changes case to case.

19 JUDGE BURTON: I'm going to overrule
20 that objection for now.

21 MR. WOODSMALL: Thank you.

22 BY MR. WOODSMALL:

23 Q. Would you agree that the results of
24 Staff's class cost of service study in the Ameren
25 case identified a residential subsidy a

1 2.94 percent?

2 A. I believe that's the number.

3 Q. Okay. Would you agree that Staff's
4 recommendation in that case was to eliminate a half
5 a percent of the residential subsidy; is that
6 correct?

7 A. That is correct.

8 Q. Okay. So in the Ameren case, a half
9 a percent was 17 percent of the overall residential
10 subsidy; would you agree?

11 A. I don't have the calculation.

12 Q. If I give you a calculator, can you
13 divide .5 by 2.94, or would you accept that it's
14 17 percent?

15 A. I would accept.

16 Q. Thank you. So all else staying equal
17 again, the Ameren subsidy will be eliminated
18 quicker than the Empire subsidy?

19 A. I believe that's correct.

20 Q. Thank you. Shifting a little bit,
21 would you agree that Empire's -- Empire initially
22 sought a \$23.4 million rate increase in this case?

23 A. Yes.

24 Q. And would you agree that that amounts
25 to a 5.57 overall revenue increase?

1 A. I've seen the 5.7, but I've also seen
2 a 5.45 percent.

3 Q. Would you accept that Staff's cost of
4 service report, page 10, says 5.57 percent?

5 A. I don't have the -- this is the
6 revenue requirement?

7 Q. Yes.

8 A. I don't have that with me.

9 MR. WOODSMALL: May I approach the
10 witness, your Honor?

11 JUDGE BURTON: You may.

12 THE WITNESS: That's got 5.5.

13 BY MR. WOODSMALL:

14 Q. 5.57.

15 A. What did you say?

16 Q. 5.57.

17 A. Okay. I thought you said 5.77. I
18 missed it.

19 Q. I'm sorry. Just to clarify the
20 record, then, would you agree that Empire's
21 requested increase would amount to a 5.57 percent
22 revenue increase?

23 A. Yes.

24 Q. Are you aware that the parties
25 executed a settlement, unanimous settlement and it

1 provides for a \$17.125 million rate increase?

2 A. Yes.

3 Q. Would you agree that that amounts to
4 a 3.92 percent revenue increase for Empire?

5 A. I calculate 3.88.

6 Q. Okay. I'll accept that. Now, just
7 so I understand, the Nonunanimous Stipulation
8 provides for a .85 percent decrease for the large
9 power, the general power and the total electric
10 billing rate schedules; is that correct?

11 A. Yes.

12 Q. Okay. And that would be applied
13 first, you would reduce those rates by .85 percent
14 and then add the overall revenue increase on top of
15 that; is that correct?

16 A. That is correct, with a technicality
17 that we're also taking into account the pre-MEEIA
18 increase.

19 Q. Okay. So aside from that
20 technicality, the impact on large power rate
21 schedule as a result of these stipulations would be
22 a 3.03 percent increase, 3.88 minus .85; is that
23 correct?

24 A. What did you say the percentage would
25 be?

1 Q. 3.03.

2 A. Okay. I calculated 3.07. You're
3 talking about the LP class?

4 Q. Yes.

5 A. 3.07 is what I calculated.

6 Q. Thank you. Okay. And the
7 settlement, the nonunanimous settlement proposes
8 that this 3.07 percent increase would be applied to
9 all rates within that schedule; is that correct?

10 A. That is correct.

11 Q. So it would be applied to the
12 customer charge, the billing demand, the energy
13 charge and all other charges within the LP rate
14 schedule; is that correct?

15 A. That is correct.

16 Q. So the first block in tailblock
17 energy charges would actually increase by
18 3.07 percent as a result of the unanimous
19 stipulation and the nonunanimous stipulation; is
20 that correct?

21 A. That is correct.

22 Q. Are you familiar -- let me show you a
23 document.

24 MR. WOODSMALL: May I approach the
25 witness?

1 JUDGE BURTON: You may.

2 BY MR. WOODSMALL:

3 Q. Show you a document and ask you if
4 you're familiar with that?

5 A. That is not in my expertise.

6 Different Staff witness filed something on the fuel
7 and purchased power adjustment clause.

8 Q. But you can identify that as Empire's
9 fuel adjustment clause tariff?

10 A. It looks like it is with the date
11 effective. I can recognize it, yes.

12 Q. Okay. And the only question I'm
13 going to ask you from that is, if you look at the
14 bottom, if you could tell me what the base charge
15 is in the fuel adjustment clause currently?

16 A. The BF factor is 0.02831 dollars.

17 Q. Thank you. Per kilowatt hour; is
18 that correct?

19 A. Yes.

20 MR. WOODSMALL: Thank you. I have no
21 further questions. Thank you.

22 JUDGE BURTON: Thank you. It's
23 currently 11:41. I don't know how many questions
24 the Commission has.

25 CHAIRMAN KENNEY: I've got a couple.

1 QUESTIONS BY CHAIRMAN KENNEY:

2 Q. Mr. Scheperle, thank you.

3 Mr. Woodsmall asked you some questions about
4 Staff's position in Ameren's case versus the
5 position in this case and moving closer to the
6 class cost of service study.

7 Can you explain, in your mind is
8 there any inconsistency in Staff's position in that
9 case and this case and, if so, what it is?

10 A. No. I think the average bill for the
11 residential Ameren customer is about \$104. In this
12 case, I believe I quoted \$131. There's a
13 difference there. And we look -- or take a look at
14 what the charges are, the current charges are, and
15 I don't believe there's any inconsistencies. I
16 think we just -- we take a look and we try to move
17 towards the class cost of service.

18 We're not making one full swoop, but
19 we're moving everything towards it and we've -- I
20 don't think there's really any inconsistency.
21 We're talking about point -- a half of 1 percent
22 for Ameren, and here we're .75 for Empire. I don't
23 think there's any inconsistencies.

24 I also look at the percents, and for
25 Ameren it was, what -- I forgot what it was. It

1 was between 2 and 3 percent, and we moved a half a
2 percent. Here it was 8.1 and we're moving .75. So
3 I don't think there's any inconsistencies at all.

4 **Q. Just based on a particular**
5 **circumstance of the utility and based upon all the**
6 **circumstances of that individual utility?**

7 A. Yes.

8 **Q. Okay. Thank you.**

9 COMMISSIONER STOLL: No questions.

10 COMMISSIONER W. KENNEY: No

11 questions.

12 COMMISSIONER HALL: No questions.

13 COMMISSIONER RUPP: No questions.

14 Thank you.

15 MR. WOODSMALL: One brief question.

16 RECROSS-EXAMINATION BY MR. WOODSMALL:

17 **Q. You were just asked some questions by**
18 **the Chairman and you were talking about Ameren and**
19 **Empire. You also do class cost of service studies**
20 **for KCP&L and GMO; is that correct?**

21 A. I have in the past, yes.

22 **Q. Can you tell me, since you've been**
23 **the manager of the economic analysis department,**
24 **have you ever seen residential rates recovering**
25 **greater than their cost of service?**

1 A. Actually, I believe in the last -- in
2 the last Kansas City Power & Light case, that there
3 was a ruling that the rates were so close to class
4 cost of service that they didn't do anything.
5 There was no revenue neutral adjustments.

6 **Q. Okay. But -- never mind.**

7 MR. WOODSMALL: I have no further
8 questions. Thank you.

9 JUDGE BURTON: Redirect?

10 REDIRECT EXAMINATION BY MR. BERLIN:

11 **Q. Mr. Scheperle, Mr. Woodsmall asked**
12 **you a hypothetical. Do you recall his questions**
13 **regarding a hypothetical?**

14 A. Yes.

15 **Q. Didn't Mr. Woodsmall's hypothetical**
16 **assume that there would be no changes in the class**
17 **cost of service results for the foreseeable future?**

18 A. Yes. It remained the same.

19 **Q. Now, is that a reasonable assumption?**

20 A. No. We've seen some things, I've
21 seen it with the Ameren case, current case going
22 on, where the MEEIA has had a big influence on the
23 allocations that are used and the -- well, the cost
24 of service for classes, especially for the
25 residential class.

1 **Q. Do the frequency of expected rate**
2 **cases impact Staff's rate design recommendation?**

3 A. I think it does, because certain
4 issues you can in a stipulation agree to knowing
5 that the issue will be revisited in a short time
6 frame.

7 **Q. And do you know whether incorporating**
8 **a combined cycle unit into Empire's revenue**
9 **requirement will do -- what that would do to the**
10 **class cost of service results?**

11 A. It depends on the allocations that
12 are used.

13 **Q. So you don't know?**

14 A. I don't know.

15 **Q. Okay. What considerations do you**
16 **make when you recommend a revenue neutral shift**
17 **between the classes?**

18 A. Well, basically, I look to avoid rate
19 shock. I mean, that's the biggest thing for one
20 class to increase a lot at one time. That's --
21 that shouldn't be done.

22 The potential for rate switchers, I
23 think you've got to -- we have some current cases
24 going on now where there's a relationship between
25 the commercial and industrial customers and the --

1 how many rate switchers are involved. And in this
2 case, I know in the cost of service report that
3 Empire had over 200 rate switchers in the
4 commercial and industrial sector.

5 **Q. And lastly, Mr. Woodsmall had asked**
6 **you an FAC-related question. Does the base charge**
7 **in the FAC include only costs?**

8 A. I'm not the expert on that, to tell
9 you the truth. I mean, I do know there's costs
10 involved, but whether there's something else, I'm
11 just not that familiar with it.

12 **Q. So you would defer to Staff's FAC**
13 **witness --**

14 A. Yes.

15 **Q. -- on that?**

16 A. Yes, I would.

17 MR. BERLIN: Thank you. No further
18 questions, Judge.

19 JUDGE BURTON: You may be excused.

20 (Witness excused.)

21 JUDGE BURTON: And why don't we go
22 ahead and recess until --

23 COMMISSIONER HALL: Real quick. I'm
24 not going to have any questions on rate case
25 expense for those witnesses that provided direct

1 testimony or any other questions on economic
2 development rider. So anyone prepared to answer
3 those questions anticipating such questions need
4 not do so.

5 JUDGE BURTON: Well, if there's
6 nothing further, then, why don't we just adjourn
7 for today? I believe we will resume, then, on
8 Friday at ten o'clock. Does that work for everyone
9 here? That's what we have currently scheduled.

10 MR. BERLIN: Judge, how about the
11 housekeeping on the entry of Staff's exhibits, do
12 you want --

13 JUDGE BURTON: Why don't we wait and
14 handle that on Friday? And we are adjourned for
15 today. Thank you.

16 (WHEREUPON, the hearing was recessed
17 at 11:46 a.m.)

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C E R T I F I C A T E

STATE OF MISSOURI)

) ss.

COUNTY OF COLE)

I, Kellene K. Feddersen, Certified
Shorthand Reporter with the firm of Midwest
Litigation Services, do hereby certify that I was
personally present at the proceedings had in the
above-entitled cause at the time and place set
forth in the caption sheet thereof; that I then and
there took down in Stenotype the proceedings had;
and that the foregoing is a full, true and correct
transcript of such Stenotype notes so made at such
time and place.

Given at my office in the City of
Jefferson, County of Cole, State of Missouri.

Kellene K. Feddersen, RPR, CSR, CCR

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