

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION TO INTERVENE
IN UNION ELECTRIC COMPANY D/B/A AMERENUE
PROPOSED TARIFF FILED UNDER TARIFF
NO. JG-2005-0145

Case No. GT-2005-0069

ORIGINAL

Oral Argument - Volume 1

October 13, 2004

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Public Service Commission*

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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Oral Argument

October 13, 2004
Jefferson City, Missouri
Volume 1

In the Matter of the Application)
to Intervene in Union Electric)
Company d/b/a AmerenUE Proposed) Case No. GT-2005-0069
Tariff Filed Under Tariff)
No. JG-2005-0145)

LEWIS MILLS, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

CONNIE MURRAY,
JEFF DAVIS,
LINWARD "LIN" APPLING,
COMMISSIONERS.

REPORTED BY:

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

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Service Commission.

25

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

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

4 JUDGE MILLS: Let's go on the record.
5 We're on the record this morning for oral argument in Case
6 No. GT-2005-0069. We'll begin by taking entries of
7 appearance. I'll just start at the front of the room and
8 sort of work my way back. We'll begin with Staff.

9 MS. SHEMWELL: Good morning. Lera Shemwell
10 representing the Staff of the Missouri Public Service
11 Commission, Post Office Box 360, Jefferson City, Missouri
12 65102.

13 JUDGE MILLS: Thank you. Mr. Comley?

14 MR. COMLEY: Thank you, Judge. Let the
15 record reflect the entry of appearance of Mark W. Comley,
16 Newman, Comley & Ruth, on behalf of Intervenor, Oneok
17 Energy Marketing Company and MFA Incorporated, and my
18 address is 601 Monroe, Jefferson City, Missouri.

19 Although the Order of the Commission
20 indicated this was oral argument, I took the liberty of
21 inviting representatives of the two companies I have the
22 privilege of representing, and I thought at this moment
23 I'd like to introduce them. To my far right is Alan
24 Wessler, who is vice president of the feed division for
25 MFA Incorporated, and to his left is Mr. Stacy Hower, who

1 is the manager of transportation support services for
2 Oneok.

3 JUDGE MILLS: Thank you.

4 MS. HENRICKSON: Good morning. I am Pamela
5 Henrickson, Goller, Gardner & Feather, PC. I'm here
6 representing Seminole Energy Services. My address is 131
7 East High Street, Jefferson City, 65101, and I, too,
8 brought Mr. Richard Pemberton from Seminole Energy here
9 with me today in case there are questions he can address.

10 JUDGE MILLS: Thank you. Mr. Scott?

11 MR. SCOTT: Thank you. Victor Scott, with
12 the law firm of Andereck, Evans, Milne, Peace & Johnson,
13 and my associate Lisa Chase, representing ProLiance
14 Energy. Our office address is 700 East Capitol, Jefferson
15 City, Missouri 65102.

16 JUDGE MILLS: Mr. Byrne?

17 MR. BYRNE: Tom Byrne representing
18 AmerenUE. My address is 1901 Chouteau Avenue, St. Louis,
19 Missouri 63103.

20 JUDGE MILLS: Okay. I think that covers
21 all the parties. I don't see a representative from the
22 Office of Public Counsel here this morning. We'll go
23 ahead and get started. So beginning with -- I'm sorry.
24 Ms. Shemwell?

25 MS. SHEMWELL: Good morning, and thank you,

1 Judge. Staff thought it might be beneficial to provide
2 what I described as a limited glossary of gas terms. This
3 is primarily from the American Gas Association. I have
4 handed it out to all of the parties, and I would offer it
5 as Exhibit 1.

6 JUDGE MILLS: Are there any objections to
7 the admission of Exhibit 1?

8 (No response.)

9 JUDGE MILLS: Hearing none, it will be
10 admitted.

11 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

12 JUDGE MILLS: Thank you, Ms. Shemwell.

13 MS. SHEMWELL: Thank you, Judge.

14 JUDGE MILLS: Mr. Byrne?

15 MR. BYRNE: Thank you, your Honor. May it
16 please the Commission? My name is Tom Byrne, and I'm the
17 attorney representing AmerenUE in this proceeding this
18 morning. I would like to take this opportunity to explain
19 exactly what the company has proposed in this tariff
20 filing and why we believe that the Commission should
21 permit the filing to take effect without further
22 suspension.

23 So that you can fully understand what is
24 going on here, it is necessary for me to provide a little
25 bit of background about AmerenUE's natural gas

1 distribution system in Missouri and the pipelines that
2 serve it. AmerenUE has a relatively small natural gas
3 distribution system in Missouri. We serve only about
4 120,000 customers located primarily in Jefferson City,
5 Columbia, Mexico, Cape Girardeau, Wentzville and a few
6 other small towns.

7 Gas provided to the vast majority of
8 AmerenUE's customers who are located in Jefferson City,
9 Columbia, Mexico and Wentzville and surrounding areas
10 comes from Panhandle Eastern Pipeline Company.
11 Panhandle is a large interstate natural gas pipeline that
12 extends from gas production areas in Texas, Oklahoma and
13 Kansas to the Detroit market area.

14 I brought a map. I don't know if you can
15 see it. But just to give you an idea of where Panhandle
16 is located, and it starts down here in west Texas and runs
17 all the way up to market areas in Detroit, and it drops
18 gas off to AmerenUE's distribution system in Columbia,
19 Jefferson City, Wentzville area. But it's a big-type line
20 that serves a lot of other customers.

21 AmerenUE's distribution system serving Cape
22 Girardeau receives gas from a separate Texas Eastern
23 Transmission, and it's another large interstate pipeline.
24 It runs from the gulf coast up to markets in the northeast
25 United States, and again just drops gas off in the Cape

1 Girardeau area for AmerenUE. Still other parts of
2 AmerenUE's Missouri distribution system obtain gas
3 supplies from Natural Gas Pipeline Company of America,
4 which is a third major interstate pipeline.

5 There are two categories of gas that each
6 interstate pipeline delivers to AmerenUE's distribution
7 system. First is system sales gas that AmerenUE itself
8 has purchased in the production area and transported
9 across the interstate pipeline system for resale to
10 customers in AmerenUE's Missouri service territory. All
11 of AmerenUE's residential customers and many commercial
12 customers receive their gas by purchasing gas directly
13 from AmerenUE.

14 The second category of gas that's sort of
15 the subject of this proceeding is gas that is purchased
16 independently by a customer and transported over both the
17 interstate pipeline company and AmerenUE's distribution
18 system for ultimate delivery to the customer's facility.
19 This transportation gas, AmerenUE never holds title to the
20 gas; it just simply transports it over its system to these
21 end use customers.

22 Gas is typically purchased and transported
23 in this manner by large industrial customers and
24 commercial customers such as, for example, Wal-Mart or
25 Steak-n-Shake restaurant. Because commercial customers

1 typically do not possess sufficient expertise to make
2 decisions concerning gas commodity and transportation
3 purchases, they typically employ the service of a
4 marketing company to assist them in those efforts.

5 ProLiance, Oneok and Seminole, who are all intervenors in
6 this proceeding, are examples of marketing companies that
7 serve such end users.

8 This case specifically involves the issue
9 of how transportation customer imbalances on AmerenUE's
10 system should be treated. A transportation customer
11 imbalance occurs when the customer takes more or less gas
12 than it delivered to AmerenUE's system due to fluctuations
13 in usage that can be caused by changes in weather or other
14 factors.

15 For more than a decade AmerenUE's tariff
16 has contained a comprehensive mechanism for addressing
17 imbalances. AmerenUE's tariff that says that if the
18 transportation customer uses more gas than he delivers to
19 the system on a given day, AmerenUE will make up the
20 shortfall, but it will charge the customer the firm PGA
21 rate for the gas that's used to make up the shortfall. In
22 other words, that's the same rate that it charges its
23 sales customers. So if it has to make up a shortfall of
24 gas, it will charge the sales customer rate. If the
25 shortfall is greater than 5 percent, then the customer is

1 charged 110 percent of the sales rate.

2 On the other hand, if the customer delivers
3 too much gas, if it delivers more gas than it uses on a
4 particular day, it is paid an index-based price for its
5 overdeliveries. And similarly, if it overdelivers more
6 than 5 percent, then the customer is paid 90 percent of
7 the index price.

8 All of the imbalance charges and credits
9 flow through AmerenUE's PGA and reimburse the company's
10 sales customers. AmerenUE does not profit in any way from
11 these imbalance provisions. The company's imbalance
12 mechanism is necessary for AmerenUE to maintain control
13 over its distribution system and to prevent transportation
14 customers or their marketing companies from jeopardizing
15 the reliability of our system by either over or
16 underdelivering a substantial amount of gas.

17 Just as important, it is a fair system that
18 ensures the transportation customers will be charged or
19 credited amounts for imbalance that are in line with
20 amounts that sales customers pay for gas. It avoids
21 subsidizing transportation customers at the expense of the
22 sales customers.

23 In the early to mid 1990s, long after our
24 tariffed imbalance mechanism was already in effect, as a
25 courtesy to transportation customers, Panhandle Eastern

1 Pipeline Company decided to allow burner tip balancing.
2 And burner tip balancing is a deal where customers --
3 well, transportation customers on AmerenUE's distribution
4 system were permitted to manage all of their imbalances on
5 Panhandle's system. In other words, Panhandle would
6 deliver to AmerenUE's city gate exactly the amount of gas
7 that transportation customers actually used each day, and
8 transportation customers paid for their imbalances under
9 the terms of Panhandle's tariff.

10 It was as though the imbalance occurred on
11 Panhandle's system, and AmerenUE's system was kept whole.
12 This arrangement was beneficial to transportation
13 customers and their marketing companies because
14 Panhandle's imbalance provisions are more liberal than
15 AmerenUE's, and they're more liberal than AmerenUE's
16 imbalance provisions for several reasons.

17 For one thing, Panhandle is directly
18 connected to gas supplies located in west Texas, Oklahoma
19 and Kansas. The pipeline starts out in the -- out in the
20 gas fields, and so to the extent, you know, a shipper
21 doesn't provide them with enough gas, they have direct
22 access to gas production areas and they can make up the
23 shortfall that way.

24 Secondly, Panhandle has four large
25 underground gas storage fields located along its pipeline.

1 And again, they can use those underground storage fields
2 to either add gas to the system or take it off the system
3 to manage their imbalances. Also, you know, Panhandle,
4 the pipeline is just a single blue line on this map, but
5 it really consists of four large-diameter pipelines, and
6 by four large-diameter pipelines, I mean they're two to
7 three feet in diameter.

8 And there's a lot of what is called in the
9 industry line pack, which is just gas that is sitting in
10 the pipeline. And again, this line pack, you know, if you
11 increase the amount of gas in the pipeline it increases
12 the pressure; if you decrease it, it decreases the
13 pressure. But the line pack is a source of gas that
14 Panhandle can use to do monthly balancing or to do
15 balancing of their system.

16 So as a consequence, Panhandle offers
17 monthly balancing at a 10 percent tolerance in a
18 market-based imbalance cash-out mechanism. AmerenUE's
19 system possesses none of the resources that Panhandle can
20 use to balance customers. We don't have any on-system
21 storage. We're not directly connected to any gas
22 supplies. We just have a small distribution system in
23 various cities and towns like Jefferson City and
24 Wentzville and Columbia.

25 Also, the distribution system consists of

1 small diameter pipes, so there's not even really any line
2 pack to speak of that can be used to manage imbalances.
3 The only way AmerenUE can manage imbalances is to
4 basically take gas from its sales customers and use
5 resources that are being paid for by its sales customers,
6 such as off-system storage to make up any shortfalls or to
7 take any extra gas.

8 It's also important to point out that
9 Panhandle's burner tip balancing program was offered
10 simply as a courtesy to customers. It was not set out in
11 Panhandle's FERC tariff. It was not like a tariffed
12 service that customers could rely on in that respect. And
13 as a consequence, Panhandle had the option to stop
14 offering the service at any time.

15 And AmerenUE's tariff specifically said
16 that transportation customers would be permitted to use
17 Panhandle's burner tip balancing so long as that service
18 was available, but provided that once Panhandle stopped
19 providing burner tip balancing, AmerenUE's customers would
20 revert to the balancing provisions that were already
21 contained in their tariff.

22 In March of 2004, Panhandle notified
23 AmerenUE that it would stop providing burner tip balancing
24 effective July 1st, 2004. Panhandle told AmerenUE that it
25 wanted to end burner tip balancing because of the

1 administrative difficulties it was creating for Panhandle
2 and would continue to create for Panhandle in the future.
3 Also, Panhandle noted that AmerenUE was the very last
4 local distribution company to have burner tip balancing on
5 its system.

6 Because AmerenUE needed to make changes to
7 its own system to accommodate this loss of burner tip
8 balancing and because AmerenUE wanted time to notify its
9 customers of this change, the company asked Panhandle to
10 delay the discontinuation of burner tip balancing until
11 October 1st, 2004, which Panhandle subsequently agreed to
12 do.

13 On October 1st, when Panhandle discontinued
14 burner tip balancing, under AmerenUE's existing tariff,
15 all of the transportation customers automatically reverted
16 to AmerenUE's pre-existing balancing provision.

17 So that is really not what is the subject
18 of the filing that we're talking about today. In the
19 filing that's the subject of this proceeding, AmerenUE is
20 attempting to amend its tariff to assist transportation
21 customers in adjusting to the new environment where burner
22 tip balancing is not available. Specifically, our tariff
23 filing permits group balancing, where positive and
24 negative imbalances occurring within a group of customers
25 can be netted against each other before imbalance charges

1 are applied.

2 This tariff provision is particularly
3 valuable to marketing companies who serve a number of
4 customers who may have offsetting imbalances.

5 The bottom line to this proceeding is that
6 Panhandle, not AmerenUE, has decided to offer -- to stop
7 offering burner tip balancing. AmerenUE's filing is
8 simply a reaction to Panhandle's decision in an effort to
9 help customers minimize imbalance costs under AmerenUE's
10 pre-existing tariff provisions. As a consequence,
11 AmerenUE believes that the proposed tariff changes should
12 be permitted to take effect without further suspension.

13 Now, the Intervenors in this case may argue
14 that the Commission should use this proceeding as an
15 opportunity to change AmerenUE's transportation balancing
16 provisions in some way. But these balancing provisions
17 are simply not the subject of this filing. The only
18 decision facing the Commission in this proceeding is
19 whether to approve or disapprove the company's proposed
20 group balancing tariff.

21 In addition, in AmerenUE's view, it would
22 be completely inappropriate to adjust or liberalize
23 AmerenUE's existing balancing provisions outside of the
24 context of a gas rate case where the additional cost of
25 liberalizing those provisions can be reflected in the

1 company's transportation rates and where the Commission
2 can carefully consider the appropriate allocation of
3 system resources between sales and transportation
4 customers.

5 The Intervenors may also argue that burner
6 tip balancing is still available to AmerenUE's
7 distribution system as a whole, if only AmerenUE would
8 install certain equipment. However, the truth is that
9 burner tip balancing is simply unavailable at the AmerenUE
10 delivery point effective October 1st, 2004, and Panhandle
11 has confirmed this fact in writing.

12 Panhandle has permitted certain large end
13 users to install special metering equipment and continue
14 balancing their deliveries on Panhandle, notwithstanding
15 the fact that burner tip balancing is no longer available
16 to AmerenUE's system as a whole. And AmerenUE has no
17 objection to that.

18 If these individual customers want to
19 negotiate an arrangement with Panhandle, if they want to
20 install whatever equipment Panhandle says they need to
21 install, then Ameren will not stand in the way of them
22 continuing to balance on Panhandle. But that's different
23 than what the circumstance was before October 1st when
24 burner tip balancing was generally available to AmerenUE.

25 Finally, I would note that some of the

1 Intervenor have or at least some of the customers have
2 expressed surprise by this filing. However, the fact is
3 that AmerenUE has been talking to the marketing companies
4 that serve these customers since May 2004 about this
5 filing. Any suggestion that the Intervenor were not
6 informed in advance of this filing is simply not true.

7 For all these reasons, AmerenUE requests
8 that the tariff it has filed be permitted to take effect
9 as soon as possible. I would note that in the Order, the
10 Commission's Order suspending the tariff it was suspended
11 until -- I believe the Order says October 29th, 2005,
12 which I think might be a typo. Perhaps it should have
13 been 2004.

14 But in any event, I guess I would ask if
15 the tariff is going to be permitted to take effect, that
16 the Commission let it take effect at the beginning of a
17 month, you know, at the beginning of some month for
18 purposes of administrative convenience.

19 And I'm here to answer questions, and I
20 also have Ken Dothage and Dottie Anderson, who handle our
21 gas supply matters and transportation matters. So if the
22 Commission has any questions, we're available to answer
23 them. Thank you.

24 JUDGE MILLS: Don't step down. We are
25 going to see if there are questions for you at this point.

1 Commissioner Murray?

2 COMMISSIONER MURRAY: Thank you.

3 Mr. Byrne, in that there was a tariff in place that these
4 customers would revert to at the time Panhandle
5 discontinued its service, why wouldn't Ameren just
6 withdraw the tariff and let them operate under that, since
7 all of the Intervenors are complaining about the tariff
8 you filed?

9 MR. BYRNE: We thought about that. The
10 tariff that we filed is purely beneficial to them. I
11 guess we could have withdrawn it, but we think they're
12 starting to realize that it's beneficial to them and maybe
13 they won't object to it.

14 COMMISSIONER MURRAY: Is there any benefit
15 to Ameren?

16 MR. BYRNE: Group balancing? I think we're
17 pretty neutral about it. I don't think there's any
18 benefit, no.

19 COMMISSIONER MURRAY: Thank you.

20 JUDGE MILLS: Commissioner Davis?

21 COMMISSIONER DAVIS: No questions at this
22 time.

23 JUDGE MILLS: Commissioner Appling?

24 COMMISSIONER APPLING: Mr. Byrne, would you
25 go back and repeat for me one thing, if you can find it in

1 your notes there. You said that the Commission had two
2 things to do here, either approve or disapprove.

3 MR. BYRNE: Yes.

4 COMMISSIONER APPLING: Would you repeat
5 that for me again, if you can find it in your notes?

6 MR. BYRNE: Sure. Give me just a second.

7 COMMISSIONER APPLING: Somewhere close to
8 the end you said that the Commission only has one thing to
9 do here.

10 MR. BYRNE: Right. Right. Right.

11 COMMISSIONER APPLING: I just want to get
12 that right.

13 MR. BYRNE: Okay. The paragraph says, the
14 intervenors may argue that the Commission use this
15 proceeding to change AmerenUE's transportation balancing
16 provisions in some way, but these balancing provisions are
17 simply not the subject of this filing. The only decision
18 facing the Commission in this proceeding is whether to
19 approve or disapprove the company's proposed group
20 balancing tariff.

21 COMMISSIONER APPLING: Okay. Thank you.

22 MR. BYRNE: Sure.

23 JUDGE MILLS: And I've got a question for
24 you. I've been looking at your tariffs, and I'm trying to
25 track your argument that if -- that because of the changes

1 on Panhandle, transportation customers revert to the
2 already in place balancing provisions. Where is that in
3 your tariffs that says they revert?

4 MR. BYRNE: I don't have the tariff with
5 me. I believe it says to the extent that the burner tip
6 balancing is available, it will be used. Do you have the
7 tariff sheet in front of you?

8 JUDGE MILLS: Yeah. I think what you're
9 talking about is a sentence that says, in the event the
10 customer's upstream gas supplier does not nominate,
11 schedule or delivery in volumes to the company's delivery
12 points, da, da, da, then a balance shall be subject to the
13 terms and conditions of the section.

14 MR. BYRNE: Yeah, I -- my understanding is,
15 our view of this tariff is that there's -- there are
16 general balancing provisions that apply unless they're
17 superseded by something else, and -- and there's a
18 provision that says to the extent that Panhandle's burner
19 tip balancing service is available, that will take
20 precedence.

21 JUDGE MILLS: I understand that that's your
22 position. I'm trying to find the language in the tariff
23 that supports that position.

24 MR. BYRNE: Well, it says the company will
25 use -- I'm on Sheet No. 14, which is unfortunately the

1 only sheet I have, and I guess there are --

2 JUDGE MILLS: The daily balances of
3 customer-owned gas section?

4 MR. BYRNE: Yes. Sadly enough, I've been
5 handed a whole tariff now, so I can't say I don't have all
6 the pages. Now I have two whole tariffs, so I really
7 can't complain.

8 I guess, you know, on Sheet 14 in paragraph
9 I, it says, the company will use burner tip balancing at
10 every city gate where such balancing is available and at
11 every opportunity. You know, to my mind, in -- my view of
12 the tariff is, if it's not available, then burner tip
13 balancing doesn't apply, and you go to the next sheet, I
14 think, which tells how negative imbalances and positive
15 imbalances will be handled. You see what I'm saying?

16 JUDGE MILLS: Yeah.

17 MR. BYRNE: If it's not available, you
18 can't do it.

19 JUDGE MILLS: Right. The implication is
20 there. I thought when you said revert, I thought there
21 was some particular language I had missed that said that
22 these customers would revert to.

23 MR. BYRNE: The word "revert" isn't in
24 there.

25 JUDGE MILLS: It specifically mentions at

1 the end of that paragraph that transportation volumes
2 received in the company's Texas Eastern and Natural Gas
3 Pipeline service area and the service area formerly served
4 under Aquila's, then the daily imbalance is subject to the
5 terms and conditions of this section.

6 MR. BYRNE: Right. Because they never --
7 they never had burner tip balancing. They've always used
8 this, and I guess my reading of this tariff says -- is
9 that it says, while burner tip balancing is available on
10 Panhandle, you use that, but then to the extent it's not,
11 you would use the normal balancing provisions.

12 JUDGE MILLS: Okay. Thank you. Okay.
13 Staff, just a moment. While Ms. Shemwell is proceeding
14 with her statements, the Intervenors may want to quietly
15 debate among themselves the order that you wish to go.
16 And I have no preference, so if you-all have a preference,
17 that would be fine with me.

18 So please go ahead.

19 MS. SHEMWELL: Good morning. May it please
20 the Commission? I'm Lera Shemwell. I represent the Staff
21 in this matter.

22 There seems to be some confusion about the
23 purpose of this tariff, so I thought we would start with
24 who the parties are. And first, there's Ameren; they are
25 the local distribution company. They distribute gas to

1 transportation and sales customers. They actually buy the
2 commodity or buy the gas for their sales customers.

3 Panhandle Eastern is one of the interstate
4 pipelines that delivers gas to Ameren's city gate and
5 supplies some of their transportation customers, and as
6 Mr. Byrne told you, Panhandle has storage and line pack
7 capabilities on its system due to the size of the pipe,
8 and then they have storage which gives them the ability to
9 put gas into the system, or if there's excess gas, to put
10 it back into storage quite easily.

11 Transportation customers are customers who
12 put their -- buy their own gas and put it into Ameren's
13 system. Typically they are the larger customers,
14 businesses. Sales customers are primarily residential;
15 they receive both natural gas commodity and transportation
16 of that commodity to their homes or small businesses.
17 Marketers arrange purchases of natural gas for
18 transportation customers.

19 It's the Staff reading of this tariff that
20 the only thing that this tariff filing does is offer
21 Ameren's transportation customers the ability to aggregate
22 or to group balance to avoid penalties.

23 I put out a limited glossary of gas terms,
24 and balancing means the amount that they put into the
25 system is roughly equal to the amount that they're using

1 every day. And that's important because Ameren does not
2 buy gas for them, and so if they use more than they're
3 putting into the system, they're using gas that Ameren has
4 purchased for its sales customers. If they use less, then
5 there's more gas on the system, and Ameren needs to keep
6 its system in balance and its pressures in balance, know
7 how much gas it's delivering.

8 What's happened recently is that Panhandle
9 Eastern has decided to eliminate burner tip balancing
10 service for most of the transportation customers. They
11 have provided this service to Ameren and maintained the
12 balance, helped Ameren keep its system in balance, but
13 Panhandle is not required to do that, and they've decided
14 that they're no longer going to do it. And this is not
15 something that Ameren has decided. As a matter of fact,
16 Ameren asked the Panhandle to extend the service for a few
17 months.

18 Since transportation customers buy their
19 own gas to put into Ameren's system, it's Staff's belief
20 that these customers should be doing a good job of putting
21 the right amount into the system. They -- most of them
22 have equipment where they're measuring their use. It's my
23 understanding that if a -- customers who want to remain on
24 Panhandle have to have real time use that transmits that
25 information to Panhandle, and that's quite expensive

1 equipment. So a lot of smaller customers will probably
2 not be able to maintain on Panhandle.

3 Balancing may be accomplished on a daily,
4 monthly or seasonal basis, and penalties are generally
5 assessed on customers for imbalances within a certain
6 tolerance. Ameren has imbalances of 5 percent. Mr. Byrne
7 has explained to you why that's necessary on their system,
8 to maintain the integrity on their system, because they
9 don't have storage or line pack.

10 Staff is supporting the tariff because it
11 believes that this tariff is beneficial to transportation
12 customers. We see no particular benefit to Ameren. The
13 group balancing allows transportation customers to
14 aggregate, and that means that, overall, they're much less
15 likely to go beyond the tolerances that Ameren has
16 specified, the 5 percent tolerances.

17 The tariffs containing the penalties have
18 been in place for at least three years on Ameren's system.
19 So those are not the subject of this particular filing.

20 So the proposed tariff changes currently in
21 front of the Commission simply permit transportation
22 customers to join together or to group together, to
23 aggregate their usage so that they will be less likely to
24 incur a penalty. Ameren has provided this service to
25 other transportation customers who receive their natural

1 gas on other pipeline companies, and Staff does not
2 recommend further suspension of the tariff because it
3 believes that this actually is beneficial to the
4 transportation customers.

5 It should also be beneficial to the sales
6 customers, largely again the residential customers,
7 because the integrity of Ameren's system should be
8 maintained so that those customers can be served
9 adequately.

10 That's all I have. Mr. Imhoff is here as
11 well if you have technical questions for him.

12 JUDGE MILLS: Thank you. Questions from
13 the Bench, Commissioner Murray?

14 COMMISSIONER MURRAY: No questions.

15 JUDGE MILLS: Commissioner Clayton -- I
16 mean Commissioner Davis?

17 COMMISSIONER DAVIS: No questions.

18 JUDGE MILLS: Commissioner Appling?

19 COMMISSIONER APPLING: I don't know how to
20 follow that. Anyway, no questions.

21 JUDGE MILLS: Thank you.

22 MR. SCOTT: Good morning. My name is
23 Victor Scott and I represent Panhandle -- or I'm sorry --
24 ProLiance Energy, LLC, which is a marketer and broker for
25 natural gas to large commercial customers.

1 In response to some of the things that
2 AmerenUE presented this morning, I'd first like to say
3 that the determination of this Commission is whether or
4 not the tariff is fair and reasonable.

5 Despite the fact that Ameren has couched
6 this argument as they're only changing one item in their
7 current tariff, that is is the elimination of burner tip
8 balancing and moving to a group balancing provision, is
9 one of the things that -- one way to look at the tariff.
10 But from our standpoint is that, when making that change,
11 the rest of the tariff comes into play to determine
12 whether or not the tariff as a whole is just and
13 reasonable.

14 The terms and conditions of service of
15 AmerenUE are regulated by this Commission and are a
16 contract between the customer and AmerenUE. We don't have
17 the right to go into the marketplace to change those terms
18 and conditions as they are found by the Commission to be
19 just and reasonable.

20 Therefore, as ProLiance stated in its
21 motion to intervene, we have no problem with group
22 balancing. It makes sense, and we understand that if
23 Panhandle is no longer offering burner tip balancing, then
24 group balancing is an effective way to manage the
25 pipeline.

1 There were several things that AmerenUE
2 didn't go into detail on how the gas pipeline and the
3 interstate pipeline work in great detail, but they did
4 outline overall regarding congestion, line pack, storage
5 and those things that affect how the pipeline operates.
6 And based on those operations, group balancing makes
7 sense, because it does allow large customers and a large
8 group to manage their gas portfolio so as not to imbalance
9 the local distribution systems because of the lack of
10 additional capacity and space, the size of their pipeline
11 and their small geographical area.

12 But what needs to be looked at from our
13 standpoint is, with the removal of burner type balancing,
14 do the penalties as they are currently stay in the tariff
15 fair and reasonable as applied when you do group
16 balancing? That's what we're asking the Commission to
17 look at if you suspend this tariff. It is not just is
18 group balancing good, because we believe it is, but should
19 the penalties as they're provided, do they still make
20 sense to be revenue neutral?

21 AmerenUE suggests that the tariff ought to
22 be looked at in a full-blown rate case. Our position is
23 why should you wait until then to determine whether or not
24 this tariff is revenue neutral today? And that's the key;
25 is this tariff change revenue neutral?

1 AmerenUE suggests that while they as a
2 company do not make any profit from the penalties, that it
3 benefits the end user, the residential customers or their
4 own small businesses. There is some benefit to AmerenUE
5 in the event that the penalties for being short are so
6 great that the large industrial customers pack the line
7 with their gas for overnominations.

8 Why? Because there's a difference in how
9 they buy the gas, what they're willing to pay us if we're
10 over, if the commercial customer has to buy gas from
11 AmerenUE at their stated price plus 10 percent. If we
12 have to sell gas because we are long, they buy it at a
13 market rate minus 10 percent. Well, that is one way to
14 ensure that you're providing gas to your residential
15 customers below market rates.

16 And part of the benefits of having group
17 balancing or burner tip balancing is that the large
18 commercial customers have the ebb and flow to not only
19 work with the market, but work with the forces that are
20 driving the natural gas demand. When weather's high and
21 usage is high, the balancing allows not only AmerenUE but
22 the customers to increase their gas usage and try to keep
23 the system in balance so as not to incur penalties on both
24 sides.

25 And going back to group balancing, again,

1 we think that we're in favor of it. The question becomes,
2 is why should the penalties be as narrow as they are? And
3 again, how does it affect the overall AmerenUE system?
4 With burner tip balancing, it was done on Panhandle's
5 system, which is larger and takes in more commercial
6 customers than the individual group balancing that's
7 currently proposed.

8 There are other positions taken by the
9 other Intervenor as to why this tariff should be
10 suspended which we would join in, such as the current
11 tariff language says if it's available, AmerenUE will
12 provide it. If AmerenUE is going to provide it for some
13 customers because Panhandle allows it, then we believe it
14 should be nondiscriminatory and be allowed across the
15 system. So if Panhandle requires additional metering
16 equipment or different telecommunications equipment for
17 one customer and provides it to one customer, that their
18 tariff ought to reflect that it ought to be available
19 under the same terms and conditions for any customer who
20 is willing to use burner tip balancing and pay the
21 additional cost for that additional equipment.

22 So in summary, again, while we believe
23 group balancing is good, we believe that this is an
24 opportunity to take a look at the entire tariff and to
25 determine how it affects the commercial customers at this

1 time, because the business conditions have changed.
2 Burner tip balancing is a benefit to all commercial
3 customers. It has different penalties as AmerenUE stated.
4 The penalties allowed by Panhandle are greater. The
5 constriction in the more narrowness of the penalty
6 provisions in AmerenUE's tariffs ought to be revisited
7 based on what they're changing and how business will be
8 conducted.

9 Are there any questions?

10 JUDGE MILLS: Commissioner Murray?

11 COMMISSIONER MURRAY: Thank you. It's my
12 understanding that when we're presented with a tariff, we
13 either accept it or reject it. We don't modify it. Is it
14 your position that we should reject this tariff?

15 MR. SCOTT: I haven't thought that process
16 out. If it's up or down, then the answer has to be yes,
17 we support group balancing, but without doing a full-blown
18 hearing, I can't honestly say whether or not the penalty
19 provisions as being applied are beneficial or detrimental
20 to my client.

21 COMMISSIONER MURRAY: If we were to reject
22 the tariff and you were being dealt with under the current
23 tariff and you believe that it was unlawful or being
24 applied unlawfully, would it not -- would your option then
25 not be to file a complaint rather than to be proceeding

1 here?

2 MR. SCOTT: As I understand your question,
3 yes. If this tariff were rejected, it's our position that
4 burner tip balancing is available. While AmerenUE has
5 stated that Panhandle has provided written notification
6 that burner tip balancing is unavailable, my client has
7 not -- or my client's customers has not been given that
8 written confirmation that it has been or is no longer
9 available. So our position is that AmerenUE should be
10 operating under their existing tariff providing burner tip
11 balancing because Panhandle allows it.

12 Now, to finish that up is, if Panhandle
13 requires additional equipment to have burner tip
14 balancing, then AmerenUE under the current tariff is
15 obligated to install that equipment and have it available
16 so as to meet their tariff obligations.

17 COMMISSIONER MURRAY: So you're not
18 challenging the lawful use of the current tariff, you're
19 just challenging the way it might be applied; is that
20 right?

21 MR. SCOTT: Correct.

22 JUDGE MILLS: Commissioner Davis?

23 COMMISSIONER DAVIS: Okay. Earlier, you
24 know, I heard you saying that we should examine this
25 tariff and determine whether it's fair and reasonable or

1 whether the penalties are fair and reasonable in light of
2 group balancing; is that correct?

3 MR. SCOTT: Correct, as compared to the
4 penalties under burner tip balancing.

5 COMMISSIONER DAVIS: Okay. And are you
6 arguing that they are not just and reasonable?

7 MR. SCOTT: As I said earlier, without
8 doing a full-blown rate analysis, our base -- our first
9 instinct is that there will be greater penalties under the
10 existing -- under the proposed group balancing as compared
11 to burner tip balancing. And again it goes back to under
12 burner tip balancing, those penalties are handled at the
13 Panhandle level for all customers versus then having
14 AmerenUE aggregate each marketers group.

15 Secondly, as Ameren stated that Panhandle
16 has a 10 percent leeway, Ameren's is 5 percent. So yes,
17 it would be unreasonable, the penalties would be
18 unreasonable under group balancing.

19 COMMISSIONER DAVIS: Okay. Thank you.

20 JUDGE MILLS: Commissioner Appling?

21 COMMISSIONER APPLING: No questions.

22 JUDGE MILLS: I've got just a few. Let me
23 just ask you to clarify one thing you said. You said you
24 think that we ought to look at all the tariffs and not
25 just the group balancing; is that correct?

1 MR. SCOTT: The tariff sheets, the entire
2 language of the tariff.

3 JUDGE MILLS: You're not talking about the
4 entire tariff?

5 MR. SCOTT: Correct.

6 JUDGE MILLS: Let me narrow that in a
7 little bit more. It's my understanding that the only two
8 things that change in the tariff filing from the current
9 tariff are, one, some clarification of that paragraph I
10 that Mr. Byrne and I just discussed, and two, the addition
11 of group balancing. Is that your understanding?

12 MR. SCOTT: Those are the two additions,
13 yes.

14 JUDGE MILLS: Those are the only two
15 changes. All the balance, the balance, the 5 percent and
16 the penalty provisions are already in the tariff and they
17 aren't changed in the tariff filing; is that correct?

18 MR. SCOTT: They're not changed, right.

19 JUDGE MILLS: So really the only reason
20 they are in there is because of the whims of pagination?
21 Because Ameren wants to change that paragraph I on
22 Sheet 14 and wants to add group balancing, because of the
23 way it was paginated, those other terms are contained in
24 the proposed tariff that the Commission has suspended; is
25 that correct?

1 MR. SCOTT: I slightly disagree.

2 JUDGE MILLS: Okay. Explain your
3 disagreement.

4 MR. SCOTT: Those changes are derived from
5 the fact that they're eliminating burner tip balancing.
6 While those provisions are in their current tariff, those
7 changes are there, the question becomes, then how do those
8 provisions apply to the ultimate elimination of burner tip
9 balancing and then the inclusion of group balancing?

10 JUDGE MILLS: Okay. Let me ask it this
11 way: If Ameren were to simply withdraw this tariff, the
12 proposed tariff that's been suspended, refile separate
13 sheets that had the group balancing provisions and not
14 make any other changes to its tariff, simply label them, I
15 don't know, for example, 14.1, 14.2, so that they're
16 entirely new sheets and they don't file any of the tariff
17 sheets that have the current -- the currently affected
18 imbalance provisions in them, would your client oppose the
19 group balancing addition?

20 MR. SCOTT: If they had the same penalty
21 amounts? Probably.

22 JUDGE MILLS: If the penalty amounts were
23 not included in the tariff filing.

24 MR. SCOTT: I'm looking at the tariff to
25 see how they're structured.

1 JUDGE MILLS: Okay.

2 MR. SCOTT: I think I understand your
3 question, and the answer probably would be there would --
4 there probably would be no objection, if it were presented
5 differently. You're probably right.

6 JUDGE MILLS: Okay. That's all the
7 questions I have. Thank you.

8 Mr. Comley?

9 MR. COMLEY: May it please the Commission?
10 I'm appearing today on behalf of MFA Incorporated, who I
11 think many will recognize in this group. It's a
12 member-owned, producer-owned cooperative corporation of
13 about 45,000 members. It is a gas transportation
14 customer.

15 I also represent Oneok Energy Marketing
16 Company. It is a marketer that serves MFA Incorporated,
17 as well as other gas transportation customers behind UE's
18 city gate.

19 Mr. Byrne mentioned that -- I think he
20 couched it that this was sort of a small change to their
21 tariff. But I think at the outset I need to let the
22 Commission know that right now the customers that Oneok
23 serves, for instance, don't pay penalties to AmerenUE.
24 They don't pay for the imbalances that may show up on a
25 daily basis for their gas purchases.

1 It's anticipated by Oneok, based upon last
2 year's history of gas purchases, that it's conceivable
3 that over \$800,000 will be exchanged between the gas
4 customer and AmerenUE because of the tolerances set forth
5 in its tariff. That's \$800,000 more than those customers
6 are paying now.

7 And I want to emphasize to you as well, our
8 understanding of the facts are that nothing is really
9 changing. Burner tip balancing is still available from
10 Panhandle Eastern. AmerenUE has indicated that much in
11 its filing with the Commission and also its response to
12 the application to intervene filed by ProLiance. The only
13 thing that's changing, as I understand it, is that
14 Panhandle Eastern is expecting a more rapid exchange of
15 information, primarily from Union Electric, on the amount
16 of gas flowing through the city gate. That is the only
17 thing that's changing.

18 So I think right now we have a difference
19 on what the facts are. The information my clients have
20 found out is that panhandle Eastern is going to continue
21 to supply burner tip balancing, as it has in the past.
22 Again, the only change is how that information is going to
23 be relayed to Panhandle from the city gate.

24 This brings up the question of whether or
25 not this tariff is absolutely necessary. You have already

1 quizzed Union Electric about the language of its tariff.
2 The position that our companies would take is that since
3 burner tip balancing is still available, whether it's to
4 qualifying customers or all customers, it is available,
5 Union Electric has to follow that tariff and continue to
6 allow burner tip balancing. If there is an issue of cost,
7 then that is something for UE to square with itself.
8 There is nothing in its tariff that suggests it's
9 qualified. If it's available, burner tip balancing is
10 done, and that's how it is. The tariff does not give them
11 any way out.

12 Presuming -- let me also make it clear to
13 you that the clients that I'm representing are in favor of
14 a group balancing technique. They're in favor of a group
15 balancing technique that is going to be fair to all that
16 use it. The exchange of \$800,000 or more in penalties as
17 a consequence of the minor change that AmerenUE is making
18 to its tariff is just simply too much to bear and to be
19 considered reasonable.

20 We filed our application to intervene, and
21 let me just make a few points about it. Going to the
22 tariff itself on group balancing, I'd like to point out
23 several points about how group balancing would be done and
24 our objections to the way that Union Electric has tried to
25 create it.

1 Looking at paragraph 8 of our motion, we
2 noted that on Sheet 13.1 under the subheading
3 denominations, the tariff required the group manager to
4 provide Ameren with 21.5 hours advance notice. We
5 consider this a severe restriction on the group managers
6 and is unreasonable.

7 There are rules imposed by the North
8 American Energy Standards Board which we think are quite
9 reasonable that we think the Commission should investigate
10 to find out why in the world wouldn't Union Electric be
11 able to accommodate those. We think the tariff on this
12 respect should mirror the rules of North America Energy
13 Standards Board.

14 There is a paragraph devoted to written
15 notice, no later than ten business days prior to the
16 beginning of the month whether there is an intent to have
17 accounts managed by group manager. We think the ten days
18 notice is unreasonable. We give an example in there about
19 why it is.

20 On page 15, that was submitted -- and this
21 may reach a point of legality that I think that the Bench
22 and Mr. Scott went through. When Ameren filed the present
23 tariff, it did file a tariff involving the tolerances it
24 was willing to -- it wanted to use on its system.

25 And to me, at least, I considered that to

1 be coming back an issue, irrespective of the fact that
2 they may have had an identical tariff on file. It seems
3 to me that this has brought those percentages back to the
4 forefront and are worthy to be investigated by the
5 Commission, respective of whether or not a previous tariff
6 exists.

7 It's unclear whether or not the company
8 itself may have considered that changed circumstances
9 existed that warranted a reevaluation of these tolerances.
10 It's unclear to me. At any rate, we think they have been
11 placed in issue by the fact that Union Electric submitted
12 them for review.

13 We notice how the balance percentages are
14 different from other jurisdictions, from other balances
15 that Union Electric uses in other jurisdictions. We think
16 that is subject to be investigated. We also point out
17 some problems with Sheet 16. I'll not go into those in
18 detail.

19 One thing I think the Commission should
20 know, and I want to emphasize, what our clients believe is
21 happening is that AmerenUE, now that they claim that
22 burner tip balancing is no longer available, is
23 establishing a group balancing idea that has really a zero
24 tolerance. It is a zero tolerance in effect.

25 As a consequence of the zero tolerance, the

1 fact that every single day, every single day a gas
2 transportation customer uses the Union Electric transport
3 system it will face a penalty, then we think that there's
4 going to be at some point a decision by transportation
5 customers to migrate to the PGA. And here's my
6 understanding of how this would work.

7 I know right now that the January contracts
8 for gas are in the vicinity of over \$8 per thousand cf,
9 Mcf. Right now Union Electric's PGA is at \$7.91. I think
10 that's right. So right now there is a difference between
11 the PGA and the market rate. If transport customers
12 believe that if they use market rate gas and transport it
13 over UE's system and face a penalty, and it may be higher
14 than the PGA rate, then you could possibly see, and it's
15 very likely you would see, many of the transport customers
16 migrate to system sales. After all, the market rate is
17 higher.

18 I don't know what AmerenUE's anticipated
19 change to its PGA might be. I think the heating season is
20 coming up. But if the market rate is higher than their
21 PGA, and the transportation customer knows that no matter
22 what that customer does it faces a penalty each day it
23 uses Union Electric's system, I think it would be
24 encouraged to become a system sales customer buying at the
25 PGA rate and forcing UE to go to the market and buy it at

1 higher than their PGA. Then that becomes a burden on UE's
2 ratepayers. That's where this becomes a very acute issue
3 and isn't in the public interest.

4 There's a few points about Ameren's
5 response that I wanted to bring to your attention.
6 Mr. Byrne filed a response to ProLiance Energy's
7 application to intervene in late September, September 24,
8 and I just wanted to point out, I think Ameren understands
9 that qualifying customers are going to continue to burner
10 tip balance.

11 Like Mr. Scott, we think that if there are
12 qualifying customers, what would disqualify the rest of
13 them from burner tip balancing? If one customer can
14 qualify for a burner tip balancing function, then the rest
15 of those customers should. Otherwise we're facing
16 discrimination that we consider unlawful.

17 We think that the changes that are being
18 proposed to the tariff are not in compliance with
19 paragraph 14 of its own tariff. We've covered that a
20 little bit, but I wanted to make that clear. That is a
21 major point for us. We think that under the proposed
22 tariff, unlike what's been said in paragraph 5 of the
23 response, in paragraph 5 Ameren says that it's not
24 changing its base rates, but indirectly it is. It will
25 force people to consider going to PGA rates, and

1 technically, during the course of an imbalance of any sort
2 under the tariff, the gas transportation customer does pay
3 PGA rates. So it is an indirect change in rates.

4 Along the arguments that I've heard about,
5 well, AmerenUE has a tariff in place, Sheet 15 that
6 already sets out these tolerances, I want to make it clear
7 to the Commission that for Panhandle Eastern gas
8 transportation customers, this will be the first time,
9 this will be the first time the tolerances set out on
10 Sheet 15 will be enforced. And I think it's the perfect
11 opportunity for the Commission to take a long review at
12 whether or not they are indeed reasonable to the company
13 and the customer alike.

14 On page 7 -- or rather on paragraph 7 of
15 the response, Ameren noted that if the proposed tariff
16 sheets do not go into effect, then all of Ameren's
17 transportation customers will be balanced pursuant to the
18 existing transportation tariffs. Well, again, that is not
19 accurate. As AmerenUE has indicated, there are qualifying
20 customers that are getting burner tip balancing.

21 Another point in paragraph 4, Ameren says
22 that Ameren will allow gas transportation customers to
23 continue to be burner tip balanced by Panhandle if
24 Panhandle allows it, which we understand it will, under
25 terms acceptable to AmerenUE. This is contrary to

1 paragraph 14 of Ameren's tariff. There is nothing
2 rendering the service to burner tip balance for gas
3 transportation customers where it is available.

4 And again our position is that Panhandle
5 Eastern is offering that, we are entitled to burner tip
6 balancing. And Commissioner Murray had brought up the
7 idea of the complaint. My clients -- position of my
8 clients are that if burner tip balancing is available, as
9 we think it is, and Ameren is interpreting its tariff such
10 that it isn't, we consider that an unlawful interpretation
11 of its tariff and the application of the tolerances set
12 forth on page 15 are being unlawfully applied and, if
13 necessary, we will file a complaint to correct that.

14 We're grateful to have the opportunity to
15 visit with the Commission about this. Any questions?

16 JUDGE MILLS: Commissioner Murray?

17 COMMISSIONER MURRAY: Mr. Comley, as to the
18 tariff that is before you, is it your position that we
19 should reject the tariff?

20 MR. COMLEY: Our position is you should
21 reject the tariff and hold it for investigation. We think
22 there is a sufficient problem with the group balancing
23 that it merits your attention. We think that the issue
24 concerning whether or not burner tip balancing is
25 important for you to consider in connection with whether

1 or not this tariff is just and reasonable.

2 COMMISSIONER MURRAY: Would it not be more
3 appropriate for us to reject this tariff, and if there are
4 customers who feel that it is being -- under the current
5 tariff is being unlawfully applied, that those customers
6 file a complaint?

7 MR. COMLEY: I know that we -- the
8 complaint process is certainly a procedure that is
9 available by statute. The issue of whether it's more
10 appropriate, Judge, I would say that going through the
11 investigative process before you where the company still
12 has the burden of proof of showing the reasonableness of
13 its proposal, that is more appropriate in this setting.

14 I think that again we're asking group
15 customers to suddenly pay what we analyze to be over
16 \$800,000 more for their gas. And in that setting, I think
17 it would be appropriate to have the investigation here,
18 keep the burden of proof on the company rather than
19 switching it to the customers who are expected to pay this
20 cost.

21 COMMISSIONER MURRAY: Could you point out
22 the language in the current tariff that you say is being
23 violated?

24 MR. COMLEY: On page 14.

25 COMMISSIONER MURRAY: And I don't believe I

1 have the current tariff in front of me, because I only
2 have 13 and 15. So would you read it?

3 MR. COMLEY: Yes, ma'am. This is a tariff
4 that was issued on April 27, 2004, and became effective
5 May 1, 2004. This apparently was after Union Electric
6 acquired notice that burner tip balancing may not be
7 available on October 1.

8 Daily balancing of customer-owned gas,
9 subparagraph letter I. Daily transportation gas receipts
10 and delivery shall be maintained in balance by the
11 customer to the maximum extent practicable. The company
12 will use burner tip balancing at every city gate where
13 such balancing is available and at every opportunity.
14 Currently transportation volumes received in the company's
15 Panhandle Eastern service area will be maintained in
16 balance by burner tip balancing through which the
17 customers' actual metered volumes, gross deficits and
18 losses will be allocated by the company directly to
19 Panhandle Eastern.

20 There's another paragraph in there. It
21 talks about the event when the customers' upstream gas
22 supplier does not nominate, schedule or deliver any
23 volumes to the company's delivery points. I'm not going
24 to consider that as relevant as the other portion, but it
25 is something for interpretation.

1 Our position is that Panhandle Eastern is
2 rendering burner tip balancing available at every city
3 gate. If it's available for qualifying customers, we
4 ought to be able to qualify. Union Electric says that's
5 how they're going to do it.

6 COMMISSIONER MURRAY: So you're referring
7 to the language of the second sentence, the company will
8 use burner tip balancing at every city gate where such
9 balancing is available and at every opportunity?

10 MR. COMLEY: Yes, ma'am. And if this
11 tariff is going to be in effect, it says, currently,
12 transportation volumes received on company's Panhandle
13 Eastern service area will be maintained and balanced by
14 burner tip balancing. It seems to be a very positive
15 declaration of what they're intending to do, and again, it
16 is unconditional. It does not say as long as burner tip
17 balancing is offered on terms that Union Electric will
18 accept.

19 COMMISSIONER MURRAY: Okay. Thank you.

20 JUDGE MILLS: Commissioner Davis?

21 COMMISSIONER DAVIS: It's your position
22 that all gas transportation customers have to be treated
23 equally; is that correct?

24 MR. COMLEY: Yes.

25 COMMISSIONER DAVIS: Okay.

1 MR. COMLEY: With respect to burner tip
2 balancing availability, they should all be given the
3 opportunities that are given to --

4 COMMISSIONER DAVIS: Well, you said they
5 should be. Is there any law, tariff or anything that
6 backs that up?

7 MR. COMLEY: We think AmerenUE is --
8 AmerenUE can't discriminate among its customers.

9 COMMISSIONER DAVIS: What about Panhandle,
10 can Panhandle discriminate?

11 MR. COMLEY: Now you're getting to areas of
12 the law I just don't know, Judge Davis. In fact, you may
13 see me more often in telephone cases than in gas cases.

14 COMMISSIONER DAVIS: So whether or not
15 Panhandle can discriminate is an open question?

16 MR. COMLEY: Right. They're regulated, no
17 doubt, on their wholesale business through the Federal
18 Energy Regulatory Commission, and I'm unfamiliar exactly
19 with the levels to which they might be able to
20 discriminate lawfully.

21 COMMISSIONER DAVIS: Okay. Now, my
22 impression -- and feel free to correct me if I'm wrong --
23 but my impression is that Panhandle has told AmerenUE, you
24 know, we're going to discontinue this burner tip
25 balancing, but for a few special customers out there we'll

1 still do it. Is that correct?

2 MR. COMLEY: I don't know what they've told
3 AmerenUE. I know what they've told us.

4 COMMISSIONER DAVIS: And what did they tell
5 you?

6 MR. COMLEY: Burner tip balancing is
7 available just as it was before. You just -- we need to
8 have information from AmerenUE more quickly than we have
9 received it in the past, and that may mean the
10 installation of greater reliable information-gathering
11 facilities, electrical kind of things for real-time
12 information gathering. That's all we know. So that's
13 what we know.

14 COMMISSIONER DAVIS: Okay.

15 MR. COMLEY: And there apparently is a
16 difference between AmerenUE and my clients and Panhandle
17 on what that means.

18 COMMISSIONER DAVIS: Okay.

19 MR. COMLEY: So again I look at that -- I
20 look at that as an issue that you as the Commission, you
21 have the authority to investigate yourself.

22 COMMISSIONER DAVIS: All right. Thank you.

23 JUDGE MILLS: Commissioner Appling?

24 COMMISSIONER APPLING: Help me, if you can,
25 on the clarification of the burner tip. If UE decided to

1 do this and provide that equipment that is necessary to do
2 that for the customer, has there been any communication or
3 any talk that you've heard or talked about the cost that
4 would be for UE to do that?

5 MR. COMLEY: Here's what I know: I
6 understand that representatives of AmerenUE have visited
7 with some of their customers about the cost of
8 installation of certain metering equipment. My
9 understanding is that the metering equipment that was
10 quoted was in the vicinity of \$1,200, that the meter came
11 with -- that software needed for the meter would be free.

12 The other issue would be how the meter
13 would communicate and the cost of the communication
14 devices between the meter and Panhandle Eastern. That's
15 all I know. I don't know the cost. I'm not clear on
16 whether the software will be free to everybody. I'm not
17 clear on whether the communication device necessary to
18 allow the meter and Panhandle facilities to shake hands
19 will be cost -- will be priced. I don't know that. So
20 that's what I know.

21 COMMISSIONER APPLING: Would that be \$1,200
22 per customer?

23 MR. COMLEY: Yes.

24 COMMISSIONER APPLING: What's the number of
25 customers? Do you have an estimate on that?

1 MR. COMLEY: The number of gas
2 transportation customers?

3 COMMISSIONER APPLING: Yes, just an
4 estimate.

5 MR. COMLEY: I don't.

6 COMMISSIONER APPLING: Okay. Thank you,
7 sir.

8 JUDGE MILLS: Thank you. Thank you,
9 Mr. Comley.

10 MS. HENRICKSON: Good morning. May it
11 please the Commission? I'm Pamela Henrickson representing
12 Seminole Energy Services Company.

13 Most of the points that I have to make here
14 today have already been made and I won't belabor them, but
15 I do want to say that we wholeheartedly agree that it is
16 our belief and our interpretation that burner tip
17 balancing is still currently available, and if you'll
18 check the changes in the language of the tariff, it
19 certainly leads me to the conclusion that that is -- that
20 burner tip balancing is still available or otherwise they
21 wouldn't need to make a change. Because if burner tip
22 balancing is not available, the tariff that's already in
23 place says they don't need to provide it. The new tariff
24 language says they need to provide it on terms that are
25 acceptable to UE.

1 Now, Mr. Comley's point about the impact on
2 the end user customers is very, very important. Our
3 customers, like those of Mr. Comley's client, have never
4 had to pay penalties before. Yes, these penalties have
5 been in place, but because of use of burner tip balancing,
6 our clients have never had to pay those prices.

7 We have customers who nominate quantities
8 of gas that are so small it is impossible for them to meet
9 that 5 percent tolerance level. We have customers that on
10 certain days nominate 1 BTU of gas for purchase.
11 Obviously if you miss that, you face a penalty. Most of
12 our customers cannot meet these 5 percent tolerances.

13 Group balancing would help that to some
14 degree, but since many of the customers have small
15 quantities that they purchase, that 5 percent number is so
16 tight for them that, even grouped together, they're not
17 going to be able to make that 5 percent tolerance.

18 And since many of them are collocated, if
19 you will, they're going to be impacted by the same weather
20 conditions that cause -- which is one of the major causes
21 of imbalance
22 is when unexpected weather conditions change your gas
23 usage. They're all going to be facing the same imbalance
24 in the same direction at the same time.

25 So the group doesn't -- unless you have a

1 large group of large consumers, the grouping does not
2 allow for the offsets that you -- that it would in theory.
3 In practice it doesn't allow for the offsets that would
4 get you within the tolerance levels.

5 We think that it's very important that the
6 Commission reject this tariff filing and leave the
7 language in place as it is today. That's all I have to
8 say.

9 JUDGE MILLS: Thank you. Questions from
10 the Bench, Commissioner Murray?

11 COMMISSIONER MURRAY: Yes. Could you
12 clarify a little bit what you were saying about the group
13 balancing doesn't allow for the -- in practice it doesn't
14 allow for the offsets?

15 MS. HENRICKSON: If you have -- well, what
16 group balancing assumes is that one customer will be using
17 more and another customer will be using less, and that's
18 how you balance. If you have two customers that are
19 collo-- two restaurants, for example, as some of
20 Seminole's customers are in Columbia, Missouri, on the
21 same day when the temperature unexpectedly drops 20
22 degrees, they're both going to be using more gas than they
23 nominate. There's no offset.

24 COMMISSIONER MURRAY: I see what you're
25 saying. And then in terms of -- is it your position or

1 has it been your position that being a transportation
2 customer is more economical to you than being a system
3 sales customer?

4 MS. HENRICKSON: We are a marketer.

5 COMMISSIONER MURRAY: Oh, you're a
6 marketer. I'm sorry.

7 MS. HENRICKSON: Yes.

8 COMMISSIONER MURRAY: Okay. I don't know
9 why I didn't pick that up when you came forward.

10 MS. HENRICKSON: I probably spoke too
11 quickly. That's one of my faults.

12 COMMISSIONER MURRAY: It is your position,
13 though, that this tariff should be rejected?

14 MS. HENRICKSON: Yes, ma'am.

15 COMMISSIONER MURRAY: Thank you.

16 JUDGE MILLS: Commissioner Davis?

17 COMMISSIONER DAVIS: I'll defer to
18 Commissioner Appling.

19 COMMISSIONER APPLING: Pamela, how are you
20 doing?

21 MS. HENRICKSON: Fine, sir. How are you?

22 COMMISSIONER APPLING: For all the
23 information, Pam used to be my attorney. So I will pass
24 on you this morning. For many years, for eight years we
25 enjoyed working together. So good to see you.

1 MS. HENRICKSON: Thank you.

2 JUDGE MILLS: Thank you. I have no
3 questions.

4 Mr. Byrne, responsive argument, please.

5 MR. BYRNE: Sure. I guess at the outset,
6 one issue that has kept coming up in our discussions with
7 marketers and end users and came up today is what's
8 Panhandle's position on availability. Is it available or
9 is it not? They kept telling us it was not available to
10 us. You've heard from marketers they think it is, if only
11 we will spend some money.

12 We asked Panhandle to put in writing what
13 their position was on the availability of the burner tip
14 balancing, and I have copies of their two-sentence letter
15 that they sent us if you'd like me to pass it out, if that
16 would be helpful, or I can read it if you want, or none of
17 the above. What would you prefer?

18 JUDGE MILLS: Why don't you read it to us?

19 MR. BYRNE: It's a letter from Gregory
20 Russell, the general manager of market sales at Panhandle
21 Energy, which is part of Panhandle Eastern Pipeline, to
22 Mr. Scott Glazer, who's in charge of our gas supply
23 function at AmerenUE. It says: Dear Scott, as previously
24 discussed, effective October 1, 2004, the operator value
25 allocation methodology, open parentheses, referred to as

1 burner tip balancing on the AmerenUE system, closed
2 parentheses, is no longer available at the UNELE city gate
3 delivery point. This is consistent with Section 8.5C of
4 the general terms and conditions of Panhandle Eastern
5 Pipeline Company's FERC gas tariff. Sincerely, Greg
6 Russell.

7 It's not available. Doesn't say -- doesn't
8 say if you do X, Y and Z, it will be available. It says
9 it's not available. Now, to the extent it is available,
10 it's available to individual end use customers, and --
11 and, you know, I don't know what criteria Panhandle is
12 using to determine who they will offer it to.

13 I suspect it makes sense for the larger
14 industrial customers, but AmerenUE doesn't care. Anybody
15 who can get Panhandle to agree to let them do it and who
16 can put in the equipment that Panhandle wants them to put
17 in, we don't have any problem with it. If every single
18 end use customer puts in the equipment and gets Panhandle
19 to agree with it, that's fine with us.

20 But burner tip balancing is not available
21 to the AmerenUE system as a whole at the UNELE city gate.
22 The UNELE city gate is just the delivery point between
23 Panhandle and AmerenUE. It's simply not available.

24 I guess there were a couple other issues
25 I'd like to respond to, if possible. You know, Mr. Scott

1 for ProLiance was suggesting that because we made the
2 group balancing tariff filing, I think he was saying that
3 basically opens the whole of AmerenUE's tariff to
4 reconsideration, and I don't think that's really true.
5 You know, the specific 5 percent balancing tolerance,
6 that's not -- that's not part of this filing, you know,
7 any more than the -- any of the other terms and conditions
8 of the tariff are.

9 And I guess I would suggest if we were
10 going to open the whole tariff, maybe we ought to look at
11 how costs are allocated and maybe we ought to change the
12 transportation rates that these marketing companies pay
13 us, because I'll tell you right now, there's no storage
14 costs built into those transportation rates.

15 To the extent that these end users and
16 marketing companies run imbalances on our system, they're
17 using resources that are dedicated to our sales customers.
18 They're using the storage that our residential sales
19 customers are paying for and they're not paying for.
20 They're using the resources of the system. And that's why
21 we have the imbalance provisions that sort of make them
22 pay for those resources.

23 You know, when they short the system, we
24 make them pay a sales rate because when they pay that
25 sales rate, it's paying for a little bit of the storage

1 that they're using. It's paying for a little bit of the
2 full cost of bringing gas up to the system, just like
3 sales customers pay for it.

4 You know, again, AmerenUE doesn't make
5 anything off these imbalance provisions. They're designed
6 to keep a fair balance between the -- between the sales
7 customers and the marketing customers and the
8 transportation customers. And obviously they want their
9 costs to be as low as possible, and they want to shift as
10 many of those costs over to the residential sales
11 customers as they can, but I would suggest we shouldn't
12 let them do it.

13 You know, Mr. Comley suggested -- he said
14 it's conceivable that these customers can pay \$800,000
15 more for imbalance charges. Well, I would suggest that
16 it's conceivable they could pay zero dollars more if they
17 kept their deliveries in balance with their receipts. You
18 know, I mean, they have a lot of control over this, and
19 they have a lot of control over whether they're going to
20 be beyond the 5 percent tolerance or not.

21 I mean, he says right now they don't pay
22 any imbalance charges. Well, I don't think that's
23 probably the right way to -- the right way to run a
24 railroad either. That's on Panhandle's system, not ours,
25 but anyway . . .

1 Mr. Comley had some concerns about some of
2 the specific provisions of the group balancing tariff, and
3 I'm glad to respond to those, because those actually do
4 involve the filing that we made, unlike a lot of the other
5 criticisms which don't involve the filing that we made.
6 But he was critical of having 21.5 hours advance notice, I
7 think, for nomination changes, but, you know, that -- and
8 we do have that provision in group balancing, but it
9 mirrors the provision that's already in our tariff for
10 transportation.

11 There's a ten-day notice provision for --
12 for marketers providing a list of the groups that they're
13 representing, and that's not in our existing tariff, but
14 I've been told we need that ten-day lead time for
15 administrative purposes to line up the software, to make
16 sure that we can do the group balancing.

17 Mr. Comley also suggested that there are
18 differences in our balancing provisions for UE and those
19 that apply in other jurisdictions, and I guess he -- I
20 think he was talking about the other Ameren affiliates,
21 CILCO, CIPS, Illinois Power, and I guess the big
22 difference between AmerenUE and those other utilities is
23 those other utilities have on-system storage.

24 AmerenUE has no on-system storage, and some
25 of the cost of that on-system storage is allocated to the

1 transportation function on those systems, so that they're
2 paying to use the storage to give them the balancing
3 provisions that are a little more liberal. That's not the
4 case on AmerenUE's system today. They're not paying for
5 it.

6 Mr. Comley also suggested that we might be
7 trying to, I guess, sort of drive the customers -- drive
8 the transportation customers back to the sales tariff.
9 But the truth is we're indifferent. We don't care. In
10 terms of ratemaking, the margin that we make on a
11 transportation customer is the same as on a sales
12 customer.

13 So it doesn't make any difference at all to
14 AmerenUE whether they're sales or transportation
15 customers, but we do want the sales and transportation
16 customers to be treated fairly in terms of what costs are
17 allocated to them.

18 I think that's all I have.

19 JUDGE MILLS: Thank you. Is there anything
20 further before we adjourn this morning?

21 (No response.)

22 JUDGE MILLS: Okay. Hearing nothing, we're
23 off the record. Thank you all very much for coming.

24 WHEREUPON, the oral argument was concluded.

25

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