

Matter of the Request of The Empire District Electric Company

ER-2021-0312

February 10, 2022

Vol 7

PHIPPS REPORTING

Raising the Bar!

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

On-the-Record Presentation and Questions

Thursday, February 10, 2022
10:00 a.m. - 11:49 a.m.

Governor Office Building
200 Madison Street
Jefferson City, MO 65102-0360

VOLUME 7 Pages 130 - 215

In the Matter of the Request)
of The Empire District)
Electric Company d/b/a)
Liberty for Authority to File) File No. ER-2021-0312
Tariffs Increasing Rates for)
Electric Service Provided to)
Customers in its Missouri)
Service Area)

JOHN T. CLARK, Presiding
SENIOR REGULATORY LAW JUDGE

RYAN A. SILVEY, Chairman,
MAIDA J. COLEMAN,
JASON R. HOLSMAN,
GLEN KOLKMEYER,
SCOTT T. RUPP,
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A P P E A R A N C E S
(Continued)

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1	I N D E X	Page 133
2		Page
3	Opening Statement by Ms. Carter	139
	Opening Statement by Ms. Mers	145
4	Opening Statement by Mr. Williams	147
	Opening Statement by Mr. Woodsmall	149
5	Opening Statement by Mr. Jarrett	150
	Opening Statement by Mr. Opitz	151
6		
	Issue 15 Rate Base Issues	
7		
	AMANDA McMELLEN	
8	Questions by Judge Clark	153
9		
	Issue 31 and Income Statement Issues	
10		
	AMANDA McMELLEN	
	Questions by Judge Clark	155
11		
	Issue 31 Asbury	
12		
	AMANDA McMELLEN	
13	Questions by Judge Clark	157
14		
	Issue 27 CCOS and Rate Design Issues, Paragraphs 16-19)	
15		
	SARAH LANGE	
16	Questions by Judge Clark	162
17		
	Issue 27 CCOS and Rate Design Issues, Paragraph 16	
18		
	SARAH LANGE	
19	Questions by Judge Clark	164
20		
	Issue 27 CCOS and Rate Design Issues, Paragraphs 19, 20	
21		
	SARAH LANGE	
22	Questions by Judge Clark	166
23		
	GREG TILLMAN	
	Questions by Judge Clark	177
24		
25		

1	I N D E X	Page 134
2	(Continued)	Page
3	Issue 10 Green Button	
4	GREG TILLMAN Questions by Judge Clark	181
5	Issue 28 AMI	
6	Statement by Ms. Carter	184
7	Issue 3 Reliability Reporting	
8	CHARLOTTE EMERY Questions by Judge Clark	185
9	SAEID DINDARLOO	
10	Questions by Judge Clark	189
11	DR. GEOFF MARKE Questions by Judge Clark	191
12	Stipulation #3 (No questions)	
13	Issue 26 Asbury	
14	AMANDA McMELLEN	
15	Questions by Judge Clark	193
16	CHARLOTTE EMERY Questions by Judge Clark	194
17	Issue 20 Transmission Tracker	
18	Statement by Ms. Carter	199
19	AARON DOLL	
20	Questions by Judge Clark	199
21	Issue 18 Market Price Protection Mechanism	
22	AARON DOLL Questions by Judge Clark	201
23	KIMBERLY BOLIN	
24	Questions by Judge Clark	204
25	LENA MANTLE Questions by Judge Clark	206

1		I N D E X	Page 135
2		(Continued)	
3	Issue 22 AFUDC		Page
4	DAVID MURRAY		
5	Questions by Judge Clark		207
6	Issue 21 RoR, Capital Structure		
7	DR. SEOUNG JOUN WON		
8	Questions by Judge Clark		208
9	MARK OLIGSCHLAEGER		
10	Questions by Judge Clark		210
11	Certificate of Reporter		215
12		E X H I B I T I N D E X	
13	Commission's Exhibits:		Received
14	1 Surrebuttal EMS Run		139
15	2 McMellen Workpapers		157
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 The following proceedings began at 10:00 a.m.:

2 JUDGE CLARK: Good morning. We're on the
3 record. Please silence your cell phones if you haven't
4 already. This is the On-The-Record Presentation for
5 Commission Questions in the file captioned as In the
6 Matter of the Request of the Empire District Electric
7 Company d/b/a Liberty for Authority to File Tariffs
8 Increasing Rates for Electric Service Provided to its
9 Customers in its Missouri Service Area. This is File
10 No. ER-2021-0312.

11 My name is John Clark. I'm the RLJ presiding
12 over this On-the-Record Presentation and Questions
13 that's being held today, February 10, 2022, in Room 310
14 of the Governor Office Building in Jefferson City,
15 Missouri. The current time is 10:00 a.m.

16 At this point, I'm going to have counsel for
17 the parties enter their appearance for the record
18 starting with Liberty.

19 MS. CARTER: Diana Carter and Dean Cooper.

20 JUDGE CLARK: Thank you. Staff of the
21 Commission.

22 MS. MERS: Nicole Mers for Commission Staff.

23 JUDGE CLARK: Thank you. Office of Public
24 Counsel.

25 MR. WILLIAMS: Nathan Williams appearing on

1 behalf of the Office of Public Counsel and the public.

2 JUDGE CLARK: Thank you. Anyone present from
3 MECG?

4 MR. WOODSMALL: Good morning, Your Honor.
5 David Woodsmall on behalf of MECG and the Empire
6 District Electric SERP Recipients.

7 JUDGE CLARK: Thank you, Mr. Woodsmall. And
8 on behalf of the Empire District Retired Members and
9 Spouses Association, EDRA.

10 MR. JARRETT: Yes, Judge. Terry Jarrett of
11 Healy Law Offices for EDRA.

12 JUDGE CLARK: Thank you. Renew Missouri.

13 MR. OPITZ: Good morning, Your Honor. Tim
14 Opitz on behalf of Renew Missouri.

15 JUDGE CLARK: Thank you, Renew. And finally
16 the City of Ozark. Anyone present on behalf of the City
17 of Ozark?

18 MR. JARRETT: Judge, that's being handled by
19 my law firm. So I will enter my appearance for Ozark.

20 JUDGE CLARK: Okay. Thank you, Mr. Jarrett.
21 I'm going to remind everybody once again if you have a
22 phone, be sure that it is silenced. If you are joining
23 via WebEx, I'm going to ask that unless you're speaking
24 that you are muted. If you are joining us via WebEx via
25 phone and you wish to unmute to make comments, you will

1 need to dial *6 in order to do so.

2 I'm going to ask that since this is an
3 On-the-Record Presentation to answer Commission
4 questions and present the various stipulations and
5 agreement that before you speak if you identify yourself
6 so that the court reporter knows who is speaking.

7 I'm going to begin with allowing the parties
8 to make brief opening statements. I'll treat these
9 openings regarding the various stipulations and
10 agreements as in a contested case, but understand the
11 Commission may have questions and may at any time ask
12 those questions.

13 If the questions are for a witness today, at
14 least the first time that witness speaks, I would like
15 to swear that witness in so that we have a good record.
16 Now, the stipulation and agreements are not
17 confidential; but if confidential information is for any
18 reason introduced, I'd like the parties to let me know
19 so we can go in camera if necessary. And the last thing
20 that I want to talk about before we begin is there was a
21 Surrebuttal EMS Run that was referenced in the Fourth
22 Stipulation, I believe. I don't know if it was
23 referenced elsewhere off the top of my memory, but I had
24 asked Staff at one point to submit that and they did.
25 Is there any objection to the Commission making that a

1 Commission exhibit as part of the record? Okay. I see
2 none and hear none. So is it Staff's Surrebuttal EMS
3 Run will be admitted onto the hearing record as
4 Commission Exhibit 1.

5 (COMMISSION EXHIBIT NO. 1 WAS RECEIVED INTO
6 EVIDENCE AND MADE A PART OF THIS RECORD.)

7 JUDGE CLARK: With that in mind, I'm going to
8 start with opening statements starting I'll go the same
9 order that I called -- We'll go in the same order that I
10 called for entries of appearance. So Liberty, if you
11 would like to make your opening statement.

12 MS. CARTER: Thanks. Good morning. I am
13 Diana Carter, the Director of Legal Services for Liberty
14 Central Region which includes the Empire District
15 Electric Company. In addition to Dean Cooper, I have
16 with me today Empire's Director of Rates and Regulatory
17 Affairs, Charlotte Emery, and then we also have
18 available by WebEx attending with us Greg Tillman,
19 Senior Manager for Rate Design, Aaron Doll, Senior
20 Director for Energy Strategy and our Vice President for
21 Electric Operations, Tim Wilson.

22 Four partial stipulations have been filed with
23 the Commission. Taken together, they resolve all but
24 one issue, the question of how Empire's revenue
25 requirement should be allocated among Empire's customer

1 rate classes and we tried that issue here on Monday.
2 All prefiled testimony has been admitted into the record
3 with no objections. And although the four partial
4 stipulations were not signed by all parties, all
5 non-signing parties have now stated their
6 non-objections. So all of those stipulations may be
7 treated as unanimous and approved by the Commission as a
8 near global resolution of the case.

9 Pursuant to the stipulations, again taken
10 together, rates stemming from this case will not reflect
11 any increase.

12 JUDGE CLARK: Your mike is off.

13 MS. CARTER: Is there a button?

14 MR. WILLIAMS: Looks like a bad connection.

15 JUDGE CLARK: Thank you very much,
16 Mr. Williams.

17 MR. WILLIAMS: I don't know if that helped.

18 MS. CARTER: I will periodically kick that I
19 guess if necessary.

20 So pursuant to the stipulations, rates
21 stemming from this case will not reflect any increase
22 related to Storm Uri and Asbury will not be reflected in
23 those rates.

24 The Asbury AAO will continue with tracking
25 balances reset to zero. No determinations regarding

1 Asbury are being requested at this time. When the
2 Company filed this case, with Asbury recovery included,
3 the Company proposed to return to customers the Asbury
4 AAO regulatory liability going back to the retirement
5 date of Asbury. That same proposal will be made by the
6 Company in the securitization docket. From our
7 perspective, all issues on Asbury and Storm Uri will
8 move to those securitization dockets.

9 Disputes remain, including as to the AAO
10 balances, but it is our position that all of those
11 issues will be tried over in the securitization dockets
12 but with additional customer benefits created by
13 securitizing over there being traditional rate recovery.

14 The First Stipulation filed with the
15 Commission established some starting numbers using
16 Staff's rate base and other balances reflected in
17 Staff's surrebuttal filing. At the time, we assumed
18 that we would be trying all of those separate revenue
19 requirement issues. Numerous rate design matters were
20 also resolved with the First Stipulation, including the
21 establishment of tariffs to implement Empire's new
22 transportation electrification program, no increase in
23 the residential customer charge and the creation of time
24 of use or time variant rates for residential and small
25 commercial customers. And there was an error in that

1 portion of the First Stipulation. As was noted, Judge,
2 there are two subparagraph "a's" and the second "a"
3 should read time variant, as you had noted in your email
4 yesterday.

5 The time of use agreement of that First
6 Stipulation establishes a default more limited impact
7 time of use rate for all residential and small
8 commercial customers with AMI. As of today,
9 approximately 99.5 percent of Empire's residential
10 Missouri customers have AMI installed with those
11 customers having near realtime access right now to their
12 usage information.

13 We rolled out AMI to our Missouri customers
14 using eight geographic sectors. All but the eighth
15 sector has been completely accepted and that should
16 happen very soon. The time of use agreement from the
17 First Stipulation also maintains the option of the
18 current non-time of use rate and creates a limited
19 availability high differential time of use rate. This
20 portfolio of rates will introduce our customers to the
21 concept of time differentiated rates and will give the
22 Company an opportunity to understand how our customers
23 respond to these new rates.

24 Education of our customers is key. And the
25 Company supports the suggestion of filing and obtaining

1 approval of the educational materials in advance of the
2 new time differentiated rate options taking effect.

3 The parties continued to work together after
4 filing the First Stipulation, and additional issues were
5 resolved going down from the dollar figures that were
6 agreed to in the First Stipulation. The Fourth
7 Stipulation then resolved the global issue of the
8 appropriate annual revenue requirement increase with
9 rates to be designed using an annual increase of
10 approximately 35.5 million which is an increase of
11 approximately 6.4 percent.

12 The revenue requirement portion of that Fourth
13 Stipulation essentially supplants the initial dollar
14 figures that were agreed to in the First Stipulation.
15 It's what we call a black box settlement. So we can't
16 point to specific issue-by-issue resolutions and there
17 is no agreed upon rate of return.

18 The stipulated annual revenue requirement
19 increase is approximately \$10 million below Staff's
20 surrebuttal recommended revenue requirement increase
21 when you exclude all revenue requirement components of
22 Asbury and Storm Uri which is what the parties have done
23 here for purposes of settlement.

24 The stipulated revenue requirement is a fair
25 compromise and balancing of the various parties'

1 opinions on the revenue requirement and rate base
2 issues. The parties also agreed to significant customer
3 benefits outside of the resolution of the revenue
4 requirement such as continuation of Empire's low income
5 pilot program, including with modifications to make it
6 even more customer friendly, additional shareholder
7 funding for low income programs, creation of a special
8 employee position to be devoted to low income programs
9 in Liberty's central region, creation of a critical
10 needs program with joint funding from customers and
11 shareholders and requirements for various additional
12 reports and stakeholder meetings to maintain open lines
13 of communication.

14 We kept our focus on the customers and worked
15 hard to minimize the rate increases using the
16 securitization legislation and working together with the
17 parties on the four stipulations. The stipulated rate
18 increase acknowledges the wind investments and other
19 improvements to our system like AMI that will pay off
20 for years to come for Empire, its stakeholders and its
21 customers.

22 In conjunction with the one remaining issue to
23 be decided by the Commission, we ask that the Commission
24 approve the four partial stipulations as a just and
25 reasonable resolution of the case. Thank you, and

1 again, Charlotte, Greg, Aaron, Tim and I and Dean are
2 available for any additional questions.

3 JUDGE CLARK: Thank you. I'll note for the
4 record at this point that all the Commissioners are
5 present via WebEx. If the Commissioners at any time
6 have any questions, they're welcome to just interrupt me
7 and ask them.

8 MS. CARTER: Excellent.

9 JUDGE CLARK: Next, would the Staff of the
10 Commission like to make an opening statement?

11 MS. MERS: Just briefly, Your Honor. Can
12 everybody hear me okay?

13 JUDGE CLARK: I think so.

14 MS. MERS: Okay. This is Nicole Mers on
15 behalf of the Commission Staff, and I have with me today
16 Amanda McMellen, Kim Bolin, Dr. Seoung Joun Won, Sarah
17 Lange, Mark Oligschlaeger, J Luebbert, Kim Cox, Cedric
18 Cunigan. There probably is a few others back there I'm
19 missing. If there are any questions that the
20 Commissioners have, they'd be happy to answer your
21 questions. And if there's anything that that motley
22 crew can't answer, we will be available to find and make
23 available the Staff witness who can either in the
24 hearing room or via WebEx.

25 Staff echoes many of the comments that Empire

1 has made of the stipulation. We thought that this was a
2 good resolution to the multitude of issues that were in
3 the case that Office of Public Counsel, Staff and
4 Empire, along with other parties such as MCEG were able
5 to work to come to good compromises to. I'll highlight
6 just a few significant ones for Staff's point of view.

7 There is time of use in this case. We are
8 beginning the process of educating customers on how the
9 time of day impacts the cost of energy. It is opt-out
10 with a low impact differential to prevent large customer
11 impacts. Storm Uri and Asbury are no longer in the
12 case. They will be dealt with in securitization
13 dockets.

14 The wind farms have met the in-service
15 criteria, and Empire has agreed to some additional
16 reporting requirements. Empire has also agreed to some
17 additional reporting requirements on PISA investments
18 and reliability investments. As the Company noted, the
19 agreed to revenue requirement is 10 million lower than
20 what was in Staff's Surrebuttal EMS Run as well.

21 So I am available for any questions or if
22 there's any questions for Staff, we are happy to help.

23 JUDGE CLARK: Thank you.

24 MS. MERS: Thank you.

25 JUDGE CLARK: Public Counsel.

1 MR. WILLIAMS: Thank you. May it please the
2 Commission. Nathan Williams appearing on behalf of the
3 Office of Public Counsel and the public. Like the other
4 parties have indicated, it's the Office of Public
5 Counsel's position that the stipulations taken together
6 are a just and reasonable resolution of the issues in
7 this case aside from the rate design issue that has been
8 tried.

9 Among the things that Public Counsel views to
10 be important about these agreements are the
11 implementation of the time of use rates, the low income
12 program --

13 JUDGE CLARK: Could you speak up just a bit.
14 I'm sorry about that. I'm trying to see if I can get
15 the speakers turned up a bit in here.

16 MR. WILLIAMS: I really believe it's a
17 connection problem.

18 Among the things that the Public Counsel
19 obtained in this case was a \$20 million reduction in the
20 rate base from what Staff had agreed to in connection
21 with the wind projects. It is a black box settlement as
22 to the revenue requirement increase and no specification
23 of the rate of return, including the return on equity
24 and debt or capital structure.

25 Public Counsel got some additional items,

1 including the loss of load study, which we believe is
2 important for planning purposes for things like Storm
3 Uri. Public Counsel also agrees that the Storm Uri
4 impacts and the Asbury impacts are no longer to be
5 addressed in this case. They're not part of the
6 stipulation in terms of a resolution. We anticipate
7 those to be addressed in securitization cases.

8 There is one pending securitization case for
9 Storm Uri now, and there's been a notice filed for
10 Asbury and we anticipate that Empire will go forward
11 with filing that application. And we'll be raising the
12 same issues that we raised in the rate case in the
13 securitization cases in terms of how the Commission
14 should treat those under regular ratemaking for viewing
15 what it should do on securitization.

16 In addition, we got some clarification of the,
17 let's see, what's it called, the NPPM which is the
18 benefits to customer, or some assurance that customers
19 are limited on -- somewhat limited on exposure in case
20 the wind farm plan does not go forward as indicated --

21 THE STENOGRAPHER: I'm sorry?

22 MR. WILLIAMS: -- the wind farm projects do
23 not reap the benefits that are anticipated.

24 We also got clarification on the fuel
25 adjustment clause and what is and is not included in

1 terms of items that are part of the wind projects and
2 the NPPM. And with that, our witnesses are available to
3 answer any questions the Commission may have as am I.

4 JUDGE CLARK: Thank you, Public Counsel. On
5 behalf of the Midwest Energy Consumers Group.

6 MR. WOODSMALL: Good morning, Your Honor.
7 David Woodsmall. I'll be very brief. We filed
8 testimony on a number of issues that are covered in the
9 settlement. First on revenue allocation that's a live
10 issue still. We tried it on Monday. But we filed
11 testimony on rate design for the largest rate schedules.

12 This resolves that issue by placing 70 percent
13 of any rate increase or large power class into demand
14 charges. The remainder will be split between the energy
15 charges. That's resolved by the First Stipulation. The
16 other issues that we addressed in our testimony relate
17 to Asbury and Uri. Our testimony on Uri focused on the
18 idea that those costs should be taken out of this case
19 and should be securitized. As the Company and others
20 has stated, the Company is taking those costs out and
21 that securitization docket is filed now.

22 On Asbury, we filed testimony on a number of
23 issues, including the retirement date, the
24 quantification of the regulatory asset and the
25 regulatory liability flowing out of the last rate case

1 and the need to securitize that. The Company has
2 already filed a 60-day notice for the securitization of
3 Asbury. Those costs and those issues have all been
4 taken out of this case and will be live issues in that
5 securitization case.

6 So given that Uri and Asbury are both taken
7 out of this case and headed for securitization docket,
8 we're happy about that resolution. So that took care of
9 all of our issues except for the revenue allocation
10 issue that I mentioned earlier. So if the Commission
11 has any questions, I'll be happy to answer those.
12 Otherwise, Greg Meyer I know is on the WebEx call and
13 can answer any questions regarding the Asbury and Uri
14 issues. Thank you.

15 JUDGE CLARK: Thank you, Mr. Woodsmall. I
16 just want to clarify for the record you're not objecting
17 to any of the stipulations at this point, correct?

18 MR. WOODSMALL: No. In fact, we are a
19 signatory to the First Stipulation and we're not
20 objecting to any of the other three.

21 JUDGE CLARK: Thank you for clarifying that
22 for me. Did the Empire District Retired Member and
23 Spouses Association wish to make an opening statement?

24 MR. JARRETT: Yes. Good morning,
25 Commissioners and Judge. Just very briefly. Also

1 participating with me this morning I believe by phone is
2 Bill Gibson who provided testimony on the retirees issue
3 in this case. This relates to Stipulation No. 3 as to
4 EDRA. This makes some minor changes to the stipulation
5 and agreement that was approved in the 2016 merger case.
6 From EDRA's perspective, these really aren't substantive
7 changes. They are more clarifying, basically clarifying
8 the continued benefits of the retirees moving forward
9 and also giving some clarity as to what the plan might
10 look like going forward in the future.

11 We agree with Ms. Carter that this is just and
12 reasonable and meets that standard, and we look forward,
13 Bill and I, to any questions that the Commissioners
14 might have.

15 JUDGE CLARK: Okay. Thank you very much.

16 MR. JARRETT: Thanks.

17 JUDGE CLARK: Mr. Woodsmall, did the SERP
18 Retirees wish to make an opening statement?

19 MR. WOODSMALL: Just to note, Your Honor, that
20 the SERP retirees did not oppose any of these
21 stipulations. Other than that, we have no opening
22 statement.

23 JUDGE CLARK: Thank you. Any opening
24 statement on behalf of Renew Missouri?

25 MR. OPITZ: Very briefly, Your Honor. Good

1 morning. May it please the Commission. Renew Missouri
2 is a signatory to the First Stipulation filed in this
3 case, and we ask the Commission approve that as a
4 reasonable resolution to those issues. We are a
5 non-objecting party to the other three stipulations, and
6 we have no issue with the Commission resolving those
7 issues in that manner. I'm happy to answer any
8 questions if there are any. Thank you.

9 JUDGE CLARK: Thank you very much. And
10 Mr. Jarrett, did the City of Ozark wish to make an
11 opening statement?

12 MR. JARRETT: No, Judge.

13 JUDGE CLARK: Thank you. I'm going to note
14 for the record that I had, because there's a lot of
15 ground we're covering today and there are a lot of
16 questions in order to keep the answers to those
17 questions as concise and specific as possible, I
18 distributed the questions to the parties so that they
19 could properly prepare for them.

20 The Commission may have additional questions
21 as we go along. The questions that were sent out were
22 based on the first list of issues that was filed by the
23 parties. And so when I reference like an Issue 15,
24 that's referencing the rate base issues from the First
25 Stipulation -- or not First Stipulation, I'm sorry, from

1 the first list of issues. So with that in mind, I'm
2 going to go forward.

3 It appears that, Ms. McMellen, that most of
4 these are to be aimed at you at least initially. So I'm
5 going to go ahead and swear you in.

6 JUDGE CLARK: Would you raise your right hand
7 to be sworn.

8 Do you solemnly swear or affirm that the
9 testimony you're about to give at this on-the-record
10 presentation is the truth?

11 MS. McMELLEN: I do.

12 JUDGE CLARK: Thank you.

13 AMANDA McMELLEN,
14 having been first duly sworn, was examined and testified
15 as follows:

16 QUESTIONS

17 BY JUDGE CLARK:

18 Q. As I said before, starting with Issue 15,
19 those are rate base issues. Those would be the ones
20 that were based on the Surrebuttal EMS Run that I had
21 referenced earlier. The first question was can Staff
22 walk through the steps to reconcile the starting rate
23 base amount of, and I believe it's \$2,049,632,599 -- am
24 I correct on that?

25 A. Correct.

1 **Q. -- with its Rate Base Schedule 2, Surrebuttal**
2 **Accounting Schedules (EMS Run) prepared January 20 of**
3 **2022 to identify the rate base items related to the**
4 **Asbury power plant?**

5 A. Yes. On Schedule 2, there are two items that
6 are related to Asbury. It's Asbury retirement asset and
7 the Asbury retirement liability are the two items that
8 are in the rate base.

9 **Q. Is that the only difference between those**
10 **amounts?**

11 A. No, there are other taxes and tax impacts of
12 the rate base issues.

13 **Q. But those are the only Asbury ones?**

14 A. Yes.

15 **Q. Okay. Question 2 in regard to that issue.**
16 **Does the starting rate base amount represent Empire's**
17 **rate base after the removal of the Asbury Retirement**
18 **Asset of \$1,297,499 and the Asbury Retirement Liability**
19 **of \$46,810,043 that were included in the Surrebuttal**
20 **Accounting Schedules or did those amounts change?**

21 A. No, those amounts were removed. There are
22 additional amounts for tax purposes that were included
23 and that was the main difference.

24 **Q. I'm sorry. You may be answering something and**
25 **I'm going to go ahead and ask the next question anyway.**

1 A. Okay.

2 Q. So I apologize about that. The Surrebuttal
3 Accounting Schedules, Schedule 2, line 41, Total Rate
4 Base, is \$1,957,450,852. And that amount includes
5 Staff's Asbury Retirement Asset and Liability
6 adjustments to rate base, correct?

7 A. Yes.

8 Q. Does the \$2,049,632,599 starting rate base
9 replace the line 41 amount?

10 A. Yes, it does.

11 Q. And this is the difference -- That's the
12 difference of about 92 million; is that correct?

13 A. Correct.

14 Q. I'm going to move on to Issue 31. And that's
15 involving Income Statements. And again it's been
16 recommended that you're the witness for that. If any of
17 the parties have witnesses that at any time they think
18 would be better suited to answer the questions, let me
19 know.

20 Paragraph 2 includes a starting net operating
21 income available of \$104,315,916. Does this take the
22 place in the Surrebuttal Accounting Schedules, Schedule
23 1, line 4 of the \$100,596,932?

24 A. Yes, it does.

25 Q. Now, later in paragraph 2 it states the

1 starting net operating income available is minus any
2 expenses and associated taxes reflected in Staff's case
3 related to Asbury. Can you please explain what is
4 included in associated taxes?

5 A. It's the calculation of current income tax.

6 Q. That's current income tax due?

7 A. Based on our EMS run, it's a calculation of
8 current income taxes, yes.

9 Q. Thank you. Are the Asbury expenses that have
10 been subtracted in reaching the 104 million amount those
11 included in the Surrebuttal Accounting Schedules,
12 Schedule 10 related to Asbury's operation and
13 maintenance adjustments?

14 A. Yes, those have been removed from the rate
15 case and from expenses.

16 Q. That's inclusive of operation and maintenance?

17 A. Yes.

18 Q. Does the \$104 million amount also reflect the
19 removal of 4.4 million Asbury AAO amortization expense
20 adjustment of you?

21 A. Yes. Yes, it does.

22 Q. Sorry. It said Staff Witness McMellen. Does
23 your Asbury amortization adjustment include the Asbury
24 AAO categories approved by the Commission in the last
25 rate case for Empire which is ER-2019-0374?

1 A. Yes. And I believe you were sent an email by
2 Kim Bolin that has my workpapers that shows all the
3 numbers for Asbury. I have printed copies as well.

4 Q. I do believe I have received that. Has every
5 other party had an opportunity to view that? Is there a
6 party that has not received those workpapers? I hear
7 none and see no responses. Is there any party that
8 objects to making those a Commission exhibit? I see
9 none. McMellen's workpapers are made Commission Exhibit
10 2 and admitted onto the hearing record.

11 (COMMISSION'S EXHIBIT NO. 2 WAS RECEIVED INTO
12 EVIDENCE AND MADE A PART OF THIS RECORD.)

13 BY JUDGE CLARK:

14 Q. And finally in regard to this issue, does your
15 Asbury AAO amortization adjustment include amounts
16 recorded from January 2020 through June 30, 2021?

17 A. Yes, it does.

18 Q. Thank you. Bear with me just a second. Okay.
19 Moving on to Issue 31. This is the Asbury issue and
20 that's paragraph 4.

21 This paragraph seems to go beyond the
22 settlement of Issue 31, Asbury c taken from the January
23 25, 2022 Issues List allowing the AAO to continue.
24 What's the purpose of Staff's inclusion of a
25 quantification of Asbury AAO amounts in paragraph 4?

1 A. That was just Staff's balance of the AAO, but
2 all those costs will be moved to the securitization case
3 and all the baseline amounts will be reset to zero. Any
4 other costs will be continued in that tracker or in that
5 AAO.

6 Q. This is not on the sheet. I'm just going to
7 ask this to the best of your understanding. There were
8 gains that were received -- at least I'm going to assume
9 that there were gains that were received in regards to
10 items that were still in -- that the Company was still
11 receiving in rates after the retirement of Asbury. Is
12 it your opinion that those will also be addressed in the
13 securitization docket?

14 A. Yes, that's my understanding.

15 Q. Thank you, Ms. McMellen. I don't know who's
16 best to answer these questions. So I'm going to throw
17 them out there and we'll see. These are under the same
18 thing. You may be the witness for these as well.

19 Can Staff provide a quantification by category
20 of the Asbury balances at the end of the test year in
21 this case, June 30, 2021, similar to that reflected in
22 the previous rate case ER-2019-0374 Global Stipulation
23 and Agreement, Appendix D, filed as Exhibit 750 in that
24 case?

25 A. Yes, that's what was sent to the judge and is

1 now an exhibit.

2 Q. That's what I just received.

3 A. Yes.

4 Q. That answers that question. Thank you so
5 much.

6 A. You're welcome.

7 Q. Can Staff identify where within in Appendix --
8 and if this is answered within that, please let me know.
9 Can Staff identify where within Appendix D each category
10 of Asbury AAO approved in the previous rate case Amended
11 Report and Order is included?

12 A. It's included in my workpapers and then those
13 amounts were put together and then included in rate
14 base.

15 Q. I'll be able to separately identify those as
16 rate of return on the Asbury plant? I have "a" through
17 "i" listed there as different categories.

18 A. Yes.

19 Q. So I have "a" through "i" and those list
20 things like rate of return on Asbury plant, accumulated
21 depreciation, accumulated and excess deferred income
22 tax, EDIT. All of those items are individually noted
23 within your workpapers; is that correct?

24 A. Correct.

25 Q. Could Staff identify where each amount is in

1 **the Surrebuttal Accounting Schedules?**

2 A. There is two amounts in rate base and one in
3 the income statement that I mentioned earlier. In rate
4 base it was the Asbury retirement asset. So it's
5 accumulation of all the costs put together. And then
6 also the Asbury retirement liability is in the rate
7 base.

8 **Q. That's what you talked about earlier and the**
9 **other amount was the taxes?**

10 A. Yes. And then there's also the amortization
11 in the income statement.

12 **Q. Now, why are your workpapers for the period**
13 **ending September 30 of 2020?**

14 A. Oh, that was just the test year in this case.
15 The calculations go through June of 2021.

16 **Q. Okay. Thank you. Can Staff provide a**
17 **quantification of the OPC proposed AAO items in the**
18 **Commission's approved for inclusion in the AAO through**
19 **June 30, 2021?**

20 A. Yes, that's in the second page of my
21 workpapers.

22 **Q. That's in your workpapers too. I remember**
23 **that because I had ordered each of the parties to submit**
24 **a list of things that they would have liked included in**
25 **the AAO. With the exception of consolidating any**

1 doubles, it was a pretty extensive list. So cash
2 working capital, income tax, gross up associated with
3 Asbury, fuel or SPP revenues or expenses associated with
4 Asbury that do not flow through the FAC and revenues
5 from scrap value or value of items sold are all in that
6 second page of your workpaper?

7 A. Correct.

8 Q. Thank you. Can Staff identify where each
9 amount is in the Surrebuttal Accounting Schedules?

10 A. It's the same answer. The accumulated costs
11 are in rate base and then the income statement as
12 amortizations.

13 Q. Thank you. I know some of this is repetitive
14 but if you'll bear with me. I'm not as technical so
15 these are questions that I need to ask. Now, quoting
16 from paragraph 4, the Asbury AAO authorized in the
17 previous rate case for Empire will continue, but upon
18 the effective date of new rates in this case, the
19 baseline balances are reset to zero. What happens to
20 the amounts collected from the end of the test year,
21 June 30, 2021, to the effective date of new rates in
22 April 2022?

23 A. Those will be reflected in the securitization
24 case.

25 Q. Okay. That actually answers my next question.

1 JUDGE CLARK: Let's move on to Issue 27.
2 That's Class Cost of Service and Rate Design Issues.
3 Are the customer charges reflected in Attachment A to
4 the Fourth Stipulation the amounts to be implemented
5 under paragraphs 16 to 19?

6 MS. MERS: If you'll bear with us a second,
7 that is more appropriately directed to Staff Witness
8 Sarah Lange who will swap in and be able to answer the
9 next round of questions.

10 JUDGE CLARK: Ms. Lange, would you raise your
11 right hand to be sworn.

12 Do you solemnly swear or affirm that the
13 testimony you're about to give in this on-the-record
14 presentation is the truth?

15 MS. LANGE: Yes.

16 JUDGE CLARK: Thank you.

17 SARAH LANGE,
18 having been first duly sworn, was examined and testified
19 as follows:

20 QUESTIONS

21 BY JUDGE CLARK:

22 Q. Did you hear the last question or would you
23 like me to repeat it?

24 A. I did. That was the customer charges?

25 Q. That is correct in Attachment A to the Fourth

1 **Stipulation, are those the amounts being implemented**
2 **under paragraphs 16 to 19?**

3 A. I was a bit confused by that because I think
4 the question should probably reference Attachment A to
5 the First Stipulation rather than the Fourth. That's
6 where those customer charges are contained.

7 **Q. Okay. With that change, can you answer the**
8 **question?**

9 A. Yes. The purpose of the Attachment A was to
10 indicate what the billing determinants are in this case
11 and to that respect the customer charges listed are
12 incidental. That said, per the agreement, most of the
13 customer charges are remaining the same and that would
14 include residential, CPSH and I believe Praxair
15 (phonetic spelling) is held the same as what was in the
16 Company's proposal. There will be some changes to the
17 customer charges experienced by some other classes.

18 **Q. Those were the ones that were referenced by**
19 **Mr. Woodsmall in his opening statement or am I in a**
20 **different world?**

21 A. No, I'm struggling to recall exactly which
22 ones he said. PFM customers will experience change in
23 customer charge. The GP and TEB customers will
24 experience a change in customer charge.

25 **Q. Okay. Thank you. And moving on to the next**

1 issue, Issue 27. Are you the person also for these next
2 few questions?

3 A. Yes.

4 Q. Would you clarify that the CB is commercial
5 service?

6 A. Yes. It may be commercial building, but yes,
7 that is the general character of customers that are
8 served on that.

9 Q. SH is small heating?

10 A. Yes.

11 Q. And PFM is feed mill and grain elevator
12 service?

13 A. Yes.

14 Q. I think I saw that elsewhere in the case. On
15 page 5, are two items "a" that both state to produce
16 non-time variant rates, the following procedure will be
17 followed. Please clarify the second "a." Should that
18 be time variant rates?

19 A. Yes, that is correct.

20 Q. Thank you. On page 5, the second item a for
21 sub items Roman numeral "i" through "iii," can you
22 provide an example of how this would work for a
23 hypothetical customer using 10,000 kWhs in a month?

24 A. The short answer to that is no. But if I
25 might explain?

1 **Q. Please.**

2 A. The calculation that's provided there is to
3 develop the rates that will be in the tariff, not for
4 individual. You know, you wouldn't perform this
5 calculation for an individual customer. We will perform
6 this calculation once we get the report and order that
7 tells us how much rate shifts to implement and then that
8 will be part of the published tariff that will be
9 effective in April or whenever that effective date is.

10 Under the design that is contemplated, a
11 customer using 10,000 kWh would see no more than a plus
12 or minus hundred dollar variation a month and that would
13 be a pretty extreme case. The average customer, average
14 being a thing that doesn't exist mind you, but the
15 average customer will see zero bill variation and just
16 to note that a customer using 10,000 kWh would actually
17 be targeted for review and movement to a larger class
18 under the terms of this tariff given the size ranges
19 that are applicable to each class.

20 **Q. Thank you. Now, what happens under the**
21 **time-variant rate to the winter reduction in the CB rate**
22 **for kWhs over 700?**

23 A. The decline is preserved, and I've prepared an
24 example that walks through this on the residential rate
25 schedule that I think might address some of these

1 questions that were proposed on the CB schedule. It's
2 just easier to follow on the scale that occurs in
3 residential. So I'll distribute that when we get to
4 that point.

5 Q. Okay. And we're going to move on to Issue 27.
6 Is that also an issue which you would best be able to
7 address?

8 A. It is.

9 Q. On page 7, items "a" and "b" under paragraph
10 19 both refer to non-time variant. Please clarify if
11 the second "a" should also be time variant rates?

12 A. Yes.

13 Q. On page 7, under 19b, I'm assuming that's
14 Roman numeral "i", the rates will be increased by .02
15 cents per kWh; is that correct?

16 A. Not necessarily. And to clarify, you said .02
17 cents. It's 2 cents or .02 dollars. That will be the
18 first step in the mathematic process, but then it will
19 be adjusted back so that the rate design is revenue
20 neutral to the increased rates and mathematically I
21 would expect that to be right around 1 cent the rates
22 will actually be increased for the general period rates
23 with the 2 cent decrease to be applied off peak. So the
24 2 cent is just a starting point.

25 Q. Thank you. Thank you for correcting me. I

1 **didn't mean to misspeak on that. Under 19b.i through**
2 **19b.iii, would an example of the calculation be similar**
3 **to what's provided for the CB rate class?**

4 A. Yes, and I do have an example prepared. I'll
5 say that a customer using 2,000 kWh, which would be on
6 the larger side for commercial customer but within the
7 realm of what we would expect in a high usage summer or
8 true winter month, a customer using 2,000 kWh would
9 experience a bill change of no more than about \$20 would
10 average, again average not existing, results being zero
11 and I do have a calculation prepared that I can --

12 **Q. Okay. Did you want to present that now?**

13 A. If that's acceptable.

14 **Q. That would be great.**

15 MR. WILLIAMS: Judge, just as a minor point of
16 clarification, on 19 you referred to "a" and "b" and
17 then you referred to a second "a" in the question --

18 JUDGE CLARK: I did.

19 MR. WILLIAMS: -- it's actually "b" that it
20 should be time variant rates.

21 JUDGE CLARK: Thank you for correcting me,
22 Mr. Williams.

23 MR. WILLIAMS: Just a point of clarification.

24 JUDGE CLARK: No, I think that's important. I
25 want as clean a record as possible. So if I have

1 misspoken, please feel free to correct me. You provided
2 this. I'm assuming that this is demonstrative and not
3 evidence?

4 THE WITNESS: It is. It is indicating if you
5 step through the calculations, it provides the current,
6 and this would be for a winter bill for a residential
7 customer, and that's therefore showing that tail block
8 that was mentioned in the CB question, that second block
9 rate is lower to start with. And then if you go down,
10 it is showing that non time variant rate calculation
11 which is contained under letter "a" of each of these and
12 that's showing that the \$13 customer charge is preserved
13 and this is just I forget what number I threw in. I
14 think I made it a 15 percent increase to the energy
15 charges so the math would show up. Again, that's purely
16 demonstrative. That will be based on the outcome of the
17 report and order. And so there you see the rates are
18 going up.

19 So then in example "a" where customer is
20 perfect average, you see where that 2 cent off peak
21 usage rider has been introduced and in this example the
22 customer's usage is 40 percent off peak and so the bills
23 or the charges for block one and block two have been
24 increased by I believe it is 1.8 cents per kWh. No, it
25 is .8 cents per kWh I think was the number that it took

1 to balance out the 2 cent off peak discount which then
2 results in, if you see to the side there the customer's
3 regular charges go up by \$10.80 and then the off peak
4 usage takes it back down to \$10.80. So we still see
5 that same bill of 186.54 from the implementing example
6 rate increase example to the 186.54 to the customer
7 usage's perfect average example. And then below that
8 you'll see where the customer -- examples where the
9 customer's usage is less off peak. I believe I used 20
10 percent off peak in that example and example "c"
11 customer usage is more off peak and I believe I used 60
12 percent off peak usage in that example. You can see
13 that those two changes introduce a bill variation of
14 \$5.40 for a customer using 2,000 kWh in a winter month
15 under these assumptions.

16 **Q. Just to clarify one more time, a lot of these**
17 **are hypothetical because they're based ultimately on**
18 **what the Commission determines on a contested issue?**

19 **A. Yes. It's just intended to show the rate**
20 **design calculation.**

21 **Q. Okay. Thank you. Now, under 19b, will**
22 **customer bills include separate lines for the kWhs**
23 **calculated from 6:00 a.m. to 9:59 p.m. and from 10:00**
24 **p.m. to 5:59 a.m.?**

25 **A. My expectation would be that there would be a**

1 presentation similar to what you've just seen on this
2 example where there would be lines for the declining
3 block charge. In the summer it's a flat charge, but
4 still there would be the normal energy usage line and
5 then there would be an off peak rider line. So it would
6 give you the off peak kWh and the total kWh would be my
7 expectation, but the Company has tended to be very
8 cooperative in working with Staff and OPC and other
9 parties to address that. I'm hopeful that that will
10 continue in this case.

11 **Q. And so not by time but more by on rider or off**
12 **rider?**

13 A. Yes. Because the on, if you will, under this
14 design, the on portion is just normal. So it's normal
15 usage and then it's discounted usage.

16 **Q. Thank you. Where is the proposed tariff**
17 **language for the time variant rates?**

18 A. In the deleted language bin on my desktop
19 where we at the last minute converted very tariff
20 languagey reading items from the stipulation to more
21 stipulation reading language and that's how I did silly
22 things like accidentally have two letter "a's" in two
23 different portions.

24 **Q. Okay. Thank you for answering that. How will**
25 **Empire's opt-in time of use participation caps work with**

1 **the time variant rates?**

2 A. They won't. They're unrelated.

3 **Q. Would you explain that to me?**

4 A. So these rates that we've just been discussing
5 are the generally applicable rates that all Empire
6 customers will begin paying in October of 2022 unless
7 they take steps to say they don't want to be on that or
8 unless they do not have an AMI meter due to opting out.

9 The opt-in rates that are subject to caps are
10 entirely separate. Those are high differential and a
11 customer would have to call up Empire or whatever means
12 will be in place for them to say we would like to
13 participate in that. So as an educated guess, I would
14 expect that a year from now we will have probably 90
15 percent of Empire's customers on these low differential
16 rates. Maybe 5 to 7 percent on the, you know, on the
17 opt-out non-time variant rates or have opted out to the
18 non-time variant rates and the I think it was 200
19 residential customers would be on, you know, as the most
20 that would be on the high differential rates.

21 **Q. Just to refresh my memory, I remember reading**
22 **somewhere that one of those is limited to 2,000**
23 **participants?**

24 A. 2,000 sounds much better than 200 now that I
25 say that out loud, yes. I apologize.

1 **Q. What percentage of Empire -- I'm sorry. I**
2 **skipped over one. Paragraphs 19 and 20 seem to**
3 **contradict each other. If so, which controls. If not,**
4 **how do they work together?**

5 A. The bracketed language that was on the version
6 says or are they two different types of TOU rates, one
7 with a low differential as proposed by Staff and then
8 Empire also has the opportunity to offer the other
9 opt-in TOU rate. That is the accurate characterization
10 that the low differential will be opt-out starting with
11 the fall billing months and the high differential will
12 be opt-in starting with the fall billing months.

13 **Q. So it's the same as your previous answer?**

14 A. Yes.

15 COMMISSIONER RUPP: Judge, this is
16 Commissioner Rupp. Can I interject?

17 JUDGE CLARK: Please. Go ahead, Commissioner.

18 COMMISSIONER RUPP: Great. Thank you. I just
19 -- You're on the line of questioning that I had a couple
20 thoughts on. Ms. Lange, so the way I'm understanding it
21 is that the opt-in rates or the time of use, am I
22 understanding that there's a 2 cent per kW discount for
23 energy between 10:00 p.m. and 6:00 a.m.?

24 THE WITNESS: Not for the opt-in rates. The
25 opt-out rates are the 2 cent discount. The opt-in rates

1 are more aggressive. I don't have the numbers in front
2 of me, but it is more what you would expect for an
3 opt-in bill savings opportunities type time of use.

4 COMMISSIONER RUPP: Okay. So the default
5 opt-out rate is 2 cents, and you had spoke earlier how
6 that was just a number but you thought it was actually
7 going to be less. Was that differencing on the block
8 rates or is that similar to what you're referencing
9 here?

10 THE WITNESS: No, I must have been unclear in
11 how I said that. The 2 cent differential for the
12 residential class will be a 2 cent differential. It is
13 how much revenue recovery do you have to incorporate per
14 kWh into the existing block rates in order for that
15 offering of the 2 cent differential to be revenue
16 neutral.

17 COMMISSIONER RUPP: Okay. Great. Thank you.
18 Is the opt-in rate similar in design to the Ameren
19 opt-out default TOU rate for their customers?

20 THE WITNESS: No. The opt-in rate --
21 Mr. Tillman I believe is on the phone and can speak
22 better to the design, but I think it's something like a
23 3 to 1 differential. It's fairly aggressive. It's
24 something along the lines of, you know, 20 some
25 approaching 30 cents during peak hours and under 10

1 cents during off peak hours is my recollection.

2 COMMISSIONER RUPP: Okay. So there's a larger
3 incentive for those that wish to participate. I'm just
4 going to review my notes real quick. Pause for one
5 second. I think you answered all my questions. Thank
6 you, Judge.

7 JUDGE CLARK: Thank you, Commissioner.

8 BY JUDGE CLARK:

9 **Q. What percentage of Empire's customers**
10 **currently have AMI?**

11 A. The opening statement by Ms. Carter accurately
12 reflected my understanding that I've received from
13 Company technical staff regarding that virtually all
14 customers have AMI. It's just a matter of some final
15 testing on a final tranche. And I believe there's a
16 handful of customers who have either opted out of
17 receiving an AMI meter or I think there's a handful of
18 isolated technical circumstances where AMI metering is
19 not feasible for customers who are on a very long kind
20 of end of the circuit situation, but the Company would
21 be better suited to correct anything I've misstated
22 there.

23 **Q. Okay. I understand that you're referring to**
24 **Empire's opening statement, but that has no evidentiary**
25 **value for us. That's why I'm asking an expert witness.**

1 A. Sure, and I was attempting to endorse in a
2 manner that you could then cite the specific percentage
3 unless Ms. Carter would be so kind as to repeat it to me
4 at this time. 99.5 percent.

5 **Q. So that's -- Is that remaining .5 percent, I'm**
6 **going to assume that those are people that have opted**
7 **out?**

8 A. That is my understanding, yes.

9 **Q. So in regard to there's nobody that still has**
10 **to by the October 15th date when time of use starts**
11 **there's nobody at that point who will still have to**
12 **receive an AMI meter who hasn't opted out?**

13 A. My understanding is there may be incredibly
14 isolated in both the numerical and physical sense
15 customers who will not have an AMI meter and in that
16 respect they will kind of be opted out by default. The
17 rate can't be billed to a customer who doesn't have an
18 AMI meter. My understanding is on most systems, and I
19 assume Empire's is not an exception, that's a matter of
20 literally, you know, a handful of customers who are at
21 the end of a very long circuit or are in a very
22 physically isolated location.

23 **Q. Thank you. If paragraph 19 controls, time of**
24 **use goes -- let me clarify this for myself. I'm not**
25 **sure I understand the question here, but I'm going to**

1 **ask it to the best of my ability.**

2 A. Sorry. I think I do understand the question,
3 but I think it was addressed in the response to your
4 prior question which is that if a customer does not have
5 AMI either because they have opted out or that very
6 small number who are physically unable to have that
7 technology, they are effectively opted out of TOU.

8 Q. Thank you. I see that. That does make sense
9 in that context. I know this has been an important one
10 and this is one that's been asked. Obviously a
11 Commission concern is what's going to be done to educate
12 customers about this, because this is a huge shift.
13 What educational plans, I don't know if this is better
14 addressed to Empire because they're going to be -- what
15 educational plans do you have prepared to educate the
16 customers before that date?

17 A. My note on there I have defer to Empire. With
18 that said, we have more specific guidance than we have
19 in prior stipulations provided in this First Stipulation
20 regarding what should be included and what the focus of
21 that information should be and also Empire has the
22 advantage that a number of co-ops in its adjacent
23 service territory have implemented daytime demand
24 charges, and so I think that generally speaking
25 customers in that area will be more familiar with the

1 concepts of time of use and off peak usage than perhaps
2 some of the other utilities have had with their customer
3 base.

4 JUDGE CLARK: Is there an Empire witness who
5 could address this?

6 MS. CARTER: Yes, Greg Tillman is available by
7 WebEx.

8 MR. TILLMAN: Yes, Your Honor.

9 JUDGE CLARK: Okay. Mr. Tillman, would you
10 raise your right hand to be sworn.

11 Do you solemnly swear or affirm that the
12 testimony you're about to give at this on-the-record
13 presentation is the truth?

14 MR. TILLMAN: I do.

15 GREG TILLMAN,
16 having been first duly sworn, was examined and testified
17 as follows:

18 QUESTIONS

19 BY JUDGE CLARK:

20 Q. Did you hear the question or would you like me
21 to repeat it?

22 A. I did hear the question. Generally I guess we
23 haven't got all of our detailed plans prepared yet. But
24 from our initial direct testimony, we identified several
25 areas where we will execute that campaign and just to

1 name a few of them, bill inserts, we'll prepare an
2 informational video, we'll do website landing pages on
3 our website that describe TOU, how the costs are
4 impacted, how the rates themselves reflect costs to
5 provide that education. We'll have a social media
6 presence and perform two specific campaigns, one, a
7 digital campaign and another a radio campaign. So as we
8 proceed from this point, we'll put together the detailed
9 plans and have agreed with Commission Staff and OPC and
10 Renew Missouri and any other party that wants to be
11 involved in developing materials in those campaign plans
12 we'll be reviewing those with all the parties to make
13 sure we're addressing the issues that they all would
14 like to see addressed.

15 JUDGE CLARK: Thank you, Mr. Tillman. This is
16 a broader question, this next question is a broader
17 question for all the parties in relation to that
18 education.

19 Would the parties object if the Commission
20 required the educational materials and plans to be filed
21 in this case and approved by the Commission at least 60
22 days prior to the implementation of time of use rates
23 going opt-out?

24 MS. LANGE: I have a concern with I would say
25 just to make sure that all entities the Commission

1 included are on the same page regarding the timing at
2 which the educational materials be made available to
3 Empire customers. I think through the course of the
4 discussions that we've had with the Empire personnel I
5 was under the impression that the target to get the
6 educational materials available was much more like kind
7 of the beginning of summer, that time frame. So I don't
8 think it was the Commission's intent to imply that the
9 education shouldn't begin until 60 days prior to that,
10 but I think that is a very workable concept just with a
11 targeting of an earlier date for that educational
12 material to go live.

13 JUDGE CLARK: So what you're saying is 60 days
14 isn't going to work because you're actually looking at a
15 120-day campaign roughly?

16 MS. LANGE: Yes.

17 JUDGE CLARK: In regard to that 120-day
18 campaign, would there be any objection from the parties
19 in regards to filing that educational material for
20 Commission approval?

21 MS. LANGE: Not from Staff, no.

22 JUDGE CLARK: I'm just going to go through the
23 party list. Office of Public Counsel.

24 MR. WILLIAMS: No objection.

25 JUDGE CLARK: Liberty.

1 MS. CARTER: No objection. We support that.

2 JUDGE CLARK: EDRA.

3 MR. JARRETT: No objection.

4 JUDGE CLARK: SERP Retirees.

5 MR. WOODSMALL: No objections from MECG or the
6 SERP Retirees, Your Honor.

7 JUDGE CLARK: Thank you for getting ahead of
8 me. From Renew Missouri.

9 MR. OPITZ: No objection, Your Honor.

10 JUDGE CLARK: And City of Ozark.

11 MR. JARRETT: No objection.

12 JUDGE CLARK: Okay. Thank you for going
13 through that. And that doesn't mean that that's going
14 to happen. I just wanted to clarify that in case that
15 is something the Commission wanted to do given that
16 these are -- most of the stipulations are do not alter
17 stipulations.

18 I'm going to move on to Issue 10 which is the
19 Green Button Issue. I believe the witnesses I have, and
20 thank you, Ms. Lange, the Green Button issue which I
21 believe is best addressed by the Company's witness Greg
22 Tillman and by Public Counsel's witness Geoff Marke. So
23 with that in mind, whoever would like to take these if
24 you'll just let me know so that there's not people
25 talking over that would be great.

1 GREG TILLMAN,
2 having been previously sworn, testified as follows:

3 QUESTIONS

4 BY MR. CLARK:

5 Q. Empire plans to implement the time variant
6 rates by October of 2022 but not provide customers
7 access until March 31 of 2024; is that correct?

8 A. Yes, Your Honor, I can address that.

9 Q. Please, Mr. Tillman, go ahead.

10 A. Thank you. So these are really two different
11 things. So Green Button itself is sort of a protocol or
12 a technical implementation of how customers can access
13 their data. The Company currently provides customers
14 with access to their data. They can log onto our My
15 Account portal and view their information and download
16 their consumption information. So it's not that
17 customers cannot access their data today.

18 The Green Button issue is we'll provide for
19 lack of a better term better tools for customers to
20 access and download their data electronically.

21 Q. So they will be able to see and dissect their
22 time variant rates by October 2022?

23 A. Yes. When those rates go into effect, and in
24 fact today customers can see their usage data and how
25 those impact their bills. So that's a function right

1 now that customers have access to.

2 **Q. As it currently is, what is the interval**
3 **period that that data is made available?**

4 A. I might be stepping a little bit beyond my
5 expertise in our system but definitely hourly and it may
6 be available to them in a smaller increment of 15
7 minutes, but absolutely they can see it on an hourly
8 basis.

9 **Q. It's not a timing thing where they have to**
10 **break it down like you can only go up to a certain week**
11 **or so?**

12 A. Right.

13 **Q. Okay, thank you.**

14 A. They can see it all the way down to an hourly
15 interval that I'm positive of and maybe even lower than
16 that. The Green Button capabilities when we provide
17 those, the data is available in 15-minute increments.
18 So it would, you know, be reasonable for them to be able
19 to see that on a 15-minute basis at that point, but I'm
20 not sure about the My Account portal.

21 **Q. As it is now, what specific time of use data**
22 **will customers be able to see based upon the system as**
23 **it is now once it takes effect?**

24 A. And this may take a little bit of work on our
25 part, but we can provide them with their on peak and off

1 peak usage. That will definitely be on the bill and the
2 pricing around that. I'm not certain that we've got the
3 designs in place to show them exactly how time of use
4 will impact them, but the consumption data is certainly
5 available for them to view that.

6 **Q. So they'll be able to see that on a monthly**
7 **bill but they probably won't be able to check that and**
8 **when they check their AMI data online?**

9 A. Right. What I don't know is how exactly that
10 will present itself to them. Definitely they can see
11 their consumption data. I'm not certain how that will
12 be tied to the prices on the My Account portal.

13 **Q. I think I follow you. Thank you.**

14 A. But the desire would be to give them a place
15 where they can go and see how their consumption impacts
16 their bills, how they use their electricity will
17 actually impact the bill they pay in a month.

18 JUDGE CLARK: Okay. Thank you, Mr. Tillman,
19 for clarifying.

20 Moving on to Issue 28 which is, I believe it's
21 AMI Advanced Metering Infrastructure, paragraph 5. And
22 this is for all parties. Paragraph 5 of the stipulation
23 states that it addresses Issue 28 related to AMI. The
24 first question in the list of issues were the following.
25 What return should be authorized for Empire on its

1 capital investment in AMI, 43.4 million, when Empire
2 does not have time of use rates generally available to
3 all of its customers. And (b), what return should be
4 authorized for Empire on the net book value of Empire's
5 retired meters.

6 The only time AMI was mentioned in the
7 stipulation was under paragraph 23. Could somebody
8 please explain how and where the AMI issue was resolved
9 by the parties in the stipulation. Ms. Carter.

10 MS. CARTER: Thank you, Judge. The subpart
11 (a), that issue was withdrawn by Public Counsel as part
12 of the stipulation based on the fact that Stipulation
13 One creates time of use rates to be generally available
14 for Empire's customers, therefore making subpart (a) no
15 longer an issue. And subpart (b), that is part of our
16 black box settlement resolution on all revenue
17 requirement issues.

18 JUDGE CLARK: Thank you. Moving on to the
19 Second Stipulation. This is Issue 3 Reliability
20 Reporting. And I believe the listed witness for this
21 right now is Mr. Westfall, and Mr. Westfall, are you
22 available?

23 MS. CARTER: Mr. Westfall is not available for
24 us today. Judge, I may be able to address these
25 questions or Charlotte Emery if you're wanting someone

1 sworn in could do that as well for the Company. I think
2 it might be something I can address though as a starting
3 point.

4 JUDGE CLARK: If I'm given a preference, I
5 prefer somebody I can swear in.

6 Ms. Emery, would you raise your right hand to
7 be sworn.

8 Do you solemnly swear or affirm that the
9 testimony you're about to give at this on-the-record
10 presentation is the truth?

11 MS. EMERY: Yes.

12 CHARLOTTE EMERY,
13 having been first duly sworn, was examined and testified
14 as follows:

15 QUESTIONS

16 BY JUDGE CLARK:

17 Q. Now, one of the columns in Schedule JW-1 to
18 Mr. Westfall's direct testimony is named Sum of Activity
19 Cost. Can you explain what the information in that
20 column represents?

21 A. Yes. So it is to represent the dollars spent
22 to date for those specific projects.

23 Q. So that is costs to date?

24 A. Correct.

25 Q. Thank you. The last paragraph -- The last

1 line in paragraph 2 references the additional
2 information. What is the additional information that
3 this is referring to?

4 A. Sure. So that is one of the reasons we were
5 needing or requested and agreed to meet with the parties
6 is just to get a better understanding of what additional
7 information is needed and requested by the parties. The
8 schedule itself is not a normal schedule that the
9 Company prepares on a normal basis and it was only
10 prepared for testimony purposes. So we just had a
11 desire to meet with the parties just to ensure that we
12 reported the additional information as they had wanted
13 it.

14 Q. Is there additional information or is that
15 unnecessary at this point?

16 A. Well, depending on what Staff, I think was the
17 individual party that was wanting the information,
18 depending on what they may want in addition to what was
19 already reported, there may be other factors or other
20 items that they would like to see that the Company would
21 be willing to bring forth for them if they think it was
22 valuable.

23 Q. At this point there's nothing specific
24 contemplated but what you're telling me is that the
25 Company is open to providing additional information --

1 A. Correct.

2 Q. -- should Staff request it?

3 A. Correct.

4 Q. And Staff is the determinant as to what that
5 additional information is?

6 A. That is my understanding, yes.

7 Q. This may be the same exact answer, but I'm
8 going to ask it. What additional information should be
9 provided in your schedule to provide Staff and OPC with
10 the status on the reliability improvement projects?

11 A. Yes, similar to the same answer that I was
12 provided we just needed to meet or had a desire to meet
13 with the parties to determine if anything else needed
14 further reporting.

15 Q. So again, that's on request?

16 A. Yes.

17 JUDGE CLARK: All right. I've got
18 Mr. Dindarloo and OPC witness Geoff Marke. I apologize.

19 MS. MERS: Looks like Mr. Dindarloo might not
20 be -- oh, he is on WebEx available for your questions.

21 JUDGE CLARK: Okay. I'm going to go ahead and
22 swear, because I'm sure they're going to come up both.
23 Mr. Dinderloo, I'm going to swear you in and then I will
24 swear Mr. Marke in and then I'll ask the question and
25 see who can best answer it.

1 Mr. Dindarloo, would you raise your right hand
2 to be sworn.

3 Do you solemnly swear or affirm that the
4 testimony you are about to give at this on-the-record
5 presentation is the truth? I can't hear you. I believe
6 you're muted.

7 MR. DINDARLOO: Yes, I do.

8 JUDGE CLARK: Thank you so much. And
9 Dr. Geoff Marke, would you raise your right hand to be
10 sworn.

11 Do you solemnly swear or affirm that the
12 testimony you are about to give at this on-the-record
13 presentation is the truth?

14 DR. MARKE: I do.

15 JUDGE CLARK: I'm getting a little feedback.
16 I believe, Mr. Dindarloo, that may be from you. You may
17 want to mute in between when you're not answering a
18 question. Okay. Thank you.

19 All right. The last line in paragraph 2
20 references the additional information. This is a very
21 similar question. What is the additional information
22 being referred to? Is it in addition to what's listed
23 in Schedule JW-1? Who would like to answer that
24 question? Seems like that would be a question for you,
25 Mr. Dindarloo.

1 SAEID DINDARLOO,
2 having been previously sworn, testified as follows:

3 QUESTIONS

4 BY JUDGE CLARK:

5 **Q. Does Staff have contemplated additional**
6 **information at this time?**

7 A. Yes, additional information --

8 THE STENOGRAPHER: I'm sorry. I'm not hearing
9 that.

10 BY JUDGE CLARK:

11 **Q. Could you speak up a little bit?**

12 A. Can you hear me now?

13 **Q. A little bit better, yes.**

14 A. I tried to get closer to my microphone. The
15 additional information refers to information in
16 additional --

17 THE STENOGRAPHER: I'm sorry. I can't
18 understand him.

19 JUDGE CLARK: Hold on just a second,
20 Mr. Dindarloo. We're all having a little difficulty
21 hearing you. I'm going to get the microphone as close
22 as I can.

23 BY JUDGE CLARK:

24 **Q. Can you say that one more time fairly loud?**

25 A. Yes. The additional information is in

1 addition to those information that record by Commission
2 rule on providing -- This information is not in addition
3 only to Westfall's schedule.

4 THE STENOGRAPHER: I'm sorry. I just can't
5 understand him.

6 JUDGE CLARK: Mr. Dindarloo, I'm sorry. The
7 court reporter can't hear you. I can hear you enough to
8 catch part of it. Would you tell me -- You said this
9 was listed in your testimony. What page is it listed in
10 your testimony?

11 MR. DINDERLOO: The very last page of my
12 testimony under the last question.

13 JUDGE CLARK: Very last page of your testimony
14 under the last question. Okay. Thank you. What
15 additional information should be provided in the
16 schedule to provide Staff and OPC with the status on the
17 reliability improvement projects? Estimated start and
18 finished dates of projects? Actual start dates?
19 Projected finish start dates? Budget percentage? And
20 percent completed on schedule? I'm trying to see if
21 there's a way I can condense that down to a shorter
22 question.

23 DR. MARKE: Judge, this is Geoff Marke. All
24 of those factors can and should be considered.

25 DR. GEOFF MARKE,

1 having been previously sworn, testified as follows:

2 QUESTIONS

3 BY JUDGE CLARK:

4 Q. All of those factors should be considered.

5 I'm sorry. I'm just trying to look at this and make it
6 a little clearer.

7 A. All those questions?

8 Q. Yes. So you believe additional information in
9 regard to all of those items should be provided?

10 A. That seems eminently reasonable.

11 JUDGE CLARK: Thank you, Dr. Marke. Now, there
12 were no questions in regard to the -- I'm sorry. I was
13 just reminded I did not swear in Dr. Marke. So I'm
14 going to go ahead and do that and ask you the same
15 question again.

16 MS. MERS: Judge, I think you did.

17 JUDGE CLARK: I did? Okay. Somebody
18 indicated they didn't think I had.

19 MR. WILLIAMS: Judge, if we could go back to
20 the AMI. Public Counsel, of course, did not join in the
21 First Non-Unanimous Stipulation and Agreement where that
22 issue was addressed. From our perspective with the time
23 of use rates that were agreed to that implementation and
24 the agreed to revenue requirement increase in rate base,
25 that issue is resolved.

1 JUDGE CLARK: Okay. So from OPC's position,
2 that's resolved?

3 MR. WILLIAMS: It was characterized as
4 withdrawn, but yes, it's resolved.

5 JUDGE CLARK: Okay. Thank you for the
6 clarification. I'm not going to ask you that question
7 again, Dr. Marke, since I've already sworn you in.

8 I'm going to move on. It appears that there's
9 no questions from the Commission in regard to the EDRA
10 stipulation. So I'm going to move on to Stipulation 4.
11 Mr. Jarrett, you had something you wanted to say?

12 MR. JARRETT: Yes, Judge. If there are no
13 questions, then may Mr. Gibson be excused for the rest
14 of the hearing?

15 JUDGE CLARK: I can think of no reason I would
16 need him here. So yes, that would be fine.

17 MR. JARRETT: Thank you, Judge.

18 JUDGE CLARK: Mr. Gibson, you're excused. I'm
19 going to move on to Stipulation 4, the last stipulation.
20 And the issue numbers on this are based on the amended
21 issues list and not the first issues list, just for
22 everybody's reference. Let's go to Issue 26 Asbury.
23 This, Ms. McMellen, again appears to be a question for
24 you.

25 AMANDA McMELLEN,

1 having been previously sworn, testified as follows:

2 QUESTIONS

3 BY JUDGE CLARK:

4 Q. Issue 14 (rate base issue) is one of the
5 Asbury AAO categories the Commission authorized to be
6 posted to the regulatory asset/liability accounts. It
7 says rate base -- I'm sorry. Issue 14 is one of the
8 Asbury AAO categories the Commission authorized to be
9 posted to the regulatory asset/liability accounts. What
10 amount did Staff include in its Surrebuttal EMS Run for
11 this category?

12 A. That is one of the amounts in rate base,
13 Schedule 2 is included in the Asbury retirement asset of
14 1.3 million.

15 Q. Say that again, please.

16 A. It's included in the Asbury retirement asset
17 of 1.3 million.

18 Q. Is there a place I would find that with
19 particularity laid out separately?

20 A. Yes, in my workpapers.

21 Q. So that is available in your workpapers too?

22 A. Yes, it is.

23 Q. Do you know which workpaper it's on off the
24 top of your head?

25 A. I believe it's included in the first and

1 second page.

2 **Q. First and second page. Thank you.**

3 JUDGE CLARK: And the next question seems to
4 be for there's a number of witnesses that could answer
5 this: Mr. Graves, Mr. Oligschlaeger, Dr. Marke and
6 possibly Mr. Meyer for MECG. As I understand it, the
7 issue and all subissues related to Asbury and the
8 related Uri storm costs are withdrawn from this case and
9 are to be addressed in securitization; is that correct?
10 Who can answer that?

11 MS. CARTER: Charlotte Emery is here to answer
12 questions related to the Asbury and Storm Uri accounting
13 matters for the Company.

14 CHARLOTTE EMERY,
15 having been previously sworn, testified as follows:

16 QUESTIONS

17 BY JUDGE CLARK:

18 **Q. Did you hear the question, Ms. Emery?**

19 A. I did.

20 **Q. Can you answer that, please?**

21 A. Sure. All issues on Asbury and Storm Uri will
22 move to the securitization dockets. Disputes remain
23 including the AAO balances, and those will be tried in
24 those respective securitization dockets.

25 **Q. This may be outside the realm of that**

1 question. So are all AAO issues as related to Asbury
2 moving over to the securitization docket?

3 A. Yes.

4 Q. Thank you. Issue 26 (c) and (d), which again
5 is I believe the Asbury issue again, relate to what
6 should be the balances of the Asbury AAO regulatory
7 asset and liability. How are the regulatory asset and
8 liability addressed in the Fourth Stipulation?

9 A. They are addressed to move over to the
10 securitization docket. They're removed.

11 Q. So same answer?

12 A. Yes.

13 Q. And you already answered the next question,
14 are those amounts set, are they considered in the
15 revenue requirement in this case?

16 A. No, sir.

17 Q. Okay. Is that noted both, they're not set and
18 they're not considered in the revenue requirement?

19 A. It's no to both.

20 Q. No to both. Thank you. And do the parties
21 envision the Commission making a determination as to the
22 regulatory asset and liability balances in the
23 securitization?

24 A. Yes.

25 Q. Okay. So you believe that those are within

1 the realm of the Commission's determinations in the
2 securitization?

3 A. Yes.

4 Q. Are the balances going to be netted and
5 treated as an offset to the Asbury stranded investment
6 to be securitized?

7 A. Yes.

8 Q. And this is a more difficult question. Under
9 what legal authority can the asset and liability balance
10 be considered/addressed in the securitization docket? I
11 think what this question gets to is, I don't see a
12 mechanism in the new securitization statute to net
13 things. I just see it appears securitization just
14 addressed costs. I'll repeat the question. Under what
15 legal authority --

16 MR. WOODSMALL: Your Honor --

17 JUDGE CLARK: Yes. Who is speaking, please?

18 MR. WOODSMALL: This is Dave Woodsmall. To
19 the extent you're asking for a legal response, I would
20 say the Commission's ability to net those is included in
21 -- is implied in its ability to set the amount to be
22 securitized. So while it's not stated out explicitly,
23 it's certainly implied in the ability of the Commission
24 to set the amount of the securitized cost.

25 JUDGE CLARK: So it is your opinion that in

1 determining what costs are securitized it is that the
2 Commission has the authority to reduce that amount,
3 reduce the cost securitized?

4 MR. WOODSMALL: That is my opinion. It's not
5 something that the parties have talked about and is
6 agreed to in any way.

7 MR. WILLIAMS: Judge, this is Nathan Williams.

8 JUDGE CLARK: Give me just a second, would
9 you.

10 MR. WILLIAMS: Okay.

11 JUDGE CLARK: That brings me to my next.
12 That's Mr. Woodsmall's opinion. I'm going to ask is
13 that the opinion of the other parties? Liberty, is that
14 your opinion?

15 MS. CARTER: Judge, the Company concurs that
16 the securitization statute will allow for that netting.
17 I read it as being implied in the definition of energy
18 transition costs where it lists specifically things to
19 be included but the statute specifically says that's not
20 an exhaustive list.

21 JUDGE CLARK: I do remember that in there. Is
22 that Staff's position as well?

23 MS. MERS: Yes, Your Honor. Unfortunately I'm
24 trying to read from a cell phone. There is language in
25 there about the Commission can consider any appropriate

1 factors to make sure that the securitization is in the
2 best interest and we believe that any offsets would be
3 included in that.

4 JUDGE CLARK: Can you cite me to that portion
5 of the statute, please?

6 MS. MERS: Let me scroll back.

7 JUDGE CLARK: While you're asking that, I'm
8 going to ask since I've got the other parties here, is
9 there any party that disagrees with that assessment?
10 That includes parties by WebEx. Okay. I hear no
11 disagreement. I'm not trying to put you on the spot. I
12 just off the top of my head I don't remember that
13 language.

14 MS. MERS: Yes, it looks like it is -- Not to
15 hold everybody up, I can look through this under less
16 pressure and email it to all the parties and the judge
17 and the Commissioners if that's acceptable to you.

18 JUDGE CLARK: That's acceptable to me.

19 MS. MERS: Okay. Thank you.

20 JUDGE CLARK: Since I'm merely asking for a
21 citation. I'm going to skip over the next question
22 since that seems to have been answered and we're going
23 to move on to Issue 20, the Transmission Tracker,
24 paragraph 1. And this appears to be a question for
25 Mr. Doll, Ms. Bolin and Ms. Mantle. The stipulation

1 says that the issue is resolved, but no reference is
2 made to it in the body of the stipulation. So has
3 Liberty, for the purposes of this case and without
4 prejudice in future cases, withdrawn its special request
5 for a transmission tracker?

6 MS. CARTER: That is correct, Judge. And
7 Aaron Doll is available. He would be this issue and the
8 next one.

9 JUDGE CLARK: I'll go ahead. Mr. Doll, I'm
10 going to swear you in.

11 Would you raise your right hand to be sworn.

12 Do you solemnly swear or affirm that the
13 testimony you're about to give at this on-the-record
14 presentation is the truth?

15 MR. DOLL: Yes, Judge.

16 AARON DOLL,
17 having been first duly sworn, was examined and testified
18 as follows:

19 QUESTIONS

20 BY JUDGE CLARK:

21 Q. Has that request for a special transmission
22 tracker been withdrawn?

23 A. Without prejudice, yes, it has.

24 Q. That answers that question in its entirety and
25 very succinctly. Thank you.

1 JUDGE CLARK: I'm going to move on to Issue
2 18. This is the Market Price Protection Mechanism.
3 This is the one that I believe was approved in a
4 stipulation filed in a prior case, and the Commission
5 basically has some questions about how that stipulation
6 is going to survive changes that are being proposed in
7 these stipulations.

8 Now, the stipulation filed under EA-2019-0010,
9 states that the revenue for the MPPM will be calculated
10 based on SPP revenue. But the Fourth Stipulation states
11 in response to issue 18a is it necessary and appropriate
12 for the Commission to make changes to the MPPM in this
13 case? Is that for clarification only? I may be
14 misreading that.

15 Let me move on. Maybe the next question will,
16 because that first one does not appear to be a question.
17 In response to Issue 18b.iii, the Fourth Stipulation
18 states that the revenue included should be all revenue
19 returned to the customer, including SPP IM revenue, REC
20 revenues, PAYGO, value of tax credits and all
21 miscellaneous revenues. The Stipulation has revenue as
22 only the SPP revenue.

23 AARON DOLL,
24 having been previously sworn, testified as follows:

25 QUESTIONS

1 BY JUDGE CLARK:

2 Q. Please explain how this clarification is not a
3 material change to the approved stipulation.

4 A. Thank you, Judge. The Company viewed this as
5 a clarification. But if others viewed this as a change,
6 it should only be considered a change that further
7 provides clarity to ensure what the customers are truly
8 paying and receiving are more accurately represented.
9 The construct of the agreed MPPM was preserved but
10 further granularity was provided similar to sort of an
11 FAC level specificity to ensure that the calculations
12 made and ultimately decided ten years from now at the
13 conclusion of the MPPM are as accurate as possible.

14 Q. Thank you. Now, paragraph 21c in the second
15 sentence states balances as of the end of each MPPM year
16 will be submitted to the Commission 60 days following
17 the end of each MPPM year. Would you clarify what is
18 meant by balances in the context of the terms used in
19 the Fourth Stipulation?

20 A. Sure. The balances ought to reflect the
21 different costs and revenues as outlined in the
22 Non-Unanimous Stipulation and Agreement in the
23 EA-2019-0010 docket and then further refined in the
24 Stipulation and Agreement No. 4 in this docket.

25 Q. I'm just going to ask, maybe you can reconcile

1 this for me and maybe I don't know what I'm talking
2 about, but you said previously to be determined at the
3 end of the ten-year period from I guess its
4 implementation and then these balances are to be
5 submitted to -- the balances each year are submitted to
6 the Commission. How are those yearly balances
7 determined?

8 A. Those balances are determined by the
9 calculation of the different components that go into the
10 MPPM construct, namely the revenue less the wind revenue
11 requirement plus the PPA replacement, and the idea
12 between the balances being provided annually is just to
13 kind of give an update, but as the MPPM was constructed
14 in the 2019-0010 docket, any liability that could be
15 created would be dealt with at the conclusion of the ten
16 years. So this is just going to give kind of an annual
17 representation of where those balances stand.

18 Q. Will that annual representation be based on
19 this Commission's order in this case?

20 A. I believe that it will.

21 Q. So it's based upon the rates as set in this
22 case?

23 A. That is my understanding.

24 Q. This is a rather long question. I'll do my
25 best not to butcher it. Related to the MPPM, Issue

1 18(b)ii reads what costs should be included? Similarly,
2 Issue 18(b)iii reads what revenues should be included?
3 The language resolving these issues in the stipulation
4 is very general. The original Report and Order
5 requiring implementation of the MPPM adopted the
6 specific MPPM mechanism outlined in Appendix B to the
7 Non-Unanimous Stipulation and Agreement filed in that
8 case. That Appendix set out a very detailed list of
9 items to be included in the mechanism for calculating
10 the Wind Revenue Requirement and Annual Wind Value. Is
11 it the understanding of the parties that this general
12 language somehow alters the requirements set out there?
13 I'll leave it at that for right now and then ask the
14 follow-up question if necessary. Is that the parties'
15 understanding?

16 A. I can speak for the Company. The Company's
17 position is that the language does not alter the
18 agreement but further refines the agreement to ensure an
19 accurate representation, costs and revenues paid for and
20 received by customers as possible and while maintaining
21 the construct and the spirit of the MPPM as outlined in
22 EA-2019-0010. So we see this as a companion piece to
23 further refine where we thought there could be some
24 additional questions as far as ambiguity.

25 Q. So it doesn't alter any of that but it either

1 clarifies or adds to. I'm assuming adds to would be
2 incorrect actually.

3 A. That is correct.

4 Q. It doesn't alter any of those items, correct?

5 A. It is the Company's opinion that it just
6 provides further clarity into those components.

7 Ms. Bolin, do you want to address this?

8 MS. BOLIN: I concur with Mr. Doll.

9 JUDGE CLARK: Can I swear you in first?

10 MS. BOLIN: Yes.

11 JUDGE CLARK: Would you raise your right hand
12 to be sworn.

13 Do you solemnly swear or affirm that the
14 testimony you're about to give at this on-the-record
15 presentation is the truth?

16 MS. BOLIN: I do.

17 KIMBERLY BOLIN,
18 having been first duly sworn, was examined and testified
19 as follows:

20 QUESTIONS

21 BY JUDGE CLARK:

22 Q. Okay. Would you please repeat your answer and
23 then explain to me?

24 A. Yes, I concur with Mr. Doll. This is just
25 clarifying costs and revenues that are to be included in

1 the MPPM without changing the construct of the
2 stipulation for the MPPM.

3 **Q. Are there specific modifications being made?**

4 A. I don't believe there's a specific
5 modification that would change the whole way we
6 constructed the MPPM, the whole purpose of it. I do
7 think these are mostly clarifications if not all of
8 them.

9 **Q. Now, the original MPPM had assuming of the**
10 **annual amounts for the final determination. Is that**
11 **being changed?**

12 A. I don't believe it is, no.

13 **Q. Are any of the components changing?**

14 A. I think we've added a couple revenues that
15 were not listed previously.

16 **Q. Those are added but none of the previous**
17 **components are being lost?**

18 A. Correct.

19 JUDGE CLARK: Ms. Mantle, would you raise your
20 right hand to be sworn.

21 Do you solemnly swear or affirm that the
22 testimony you're about to give at this on-the-record
23 presentation is the truth?

24 MS. MANTLE: Yes.

25 LENA MANTLE,

1 having been first duly sworn, was examined and testified
2 as follows:

3 QUESTIONS

4 BY JUDGE CLARK:

5 **Q. Do you concur with Ms. Bolin's assessment in**
6 **regard to that?**

7 A. With respect to the annual amounts, what was
8 clarified in this agreement that was not in the last
9 agreement was that interest at the long-term borrowing
10 rate would also be included so that the time value of
11 money is included in the analysis that was not
12 specifically stated previously in the previous
13 stipulation.

14 **Q. So all of the previous components plus these**
15 **that the parties have felt are now necessary to add in?**

16 A. Yes.

17 JUDGE CLARK: All right. I'm going to move on
18 to Allowance for Funds During Construction, AFUDC. This
19 appears to be -- Thank you, Ms. Mantle and Ms. Bolin.

20 This appears to be -- This is Issue 22. This
21 appears to be for OPC Witness David Murray and Empire
22 Witness Mooney. Are both of those witnesses available?

23 MS. CARTER: Charlotte Emery will be able to
24 answer these questions for the Company.

25 JUDGE CLARK: Charlotte has already been sworn

1 in. Mr. Murray, I'm going to go ahead and swear you in.

2 Would you raise your right hand to be sworn.

3 Do you solemnly swear or affirm that the
4 testimony you're about to give at this on-the-record
5 presentation is the truth?

6 MR. MURRAY: Yes, I do.

7 JUDGE CLARK: Thank you.

8 DAVID MURRAY,
9 having been first duly sworn, was examined and testified
10 as follows:

11 QUESTIONS

12 BY JUDGE CLARK:

13 Q. Now, paragraph 26 states that the parties
14 agree that the AFUDC will be calculated in accordance
15 with FERC Uniform System of Accounts for Electric
16 Utilities.

17 Does anything in this agreement impact the
18 decision the Commission made regarding AFUDC in the
19 previous Empire rate case ER-2019-0374?

20 A. No, it does not.

21 JUDGE CLARK: Thank you. And moving on to
22 Issue 21 which is Rate of Return and Capital Structure.
23 It appears potential witnesses for this are, again, I
24 assume it's going to be Emery and you, Mr. Murray, and
25 Dr. Won.

1 Dr. Won, do want to raise your right hand just
2 to be sworn in in case you have to testify.

3 Do you solemnly swear or affirm that the
4 testimony you may be asked to give at this on-the-record
5 presentation is the truth?

6 DR. WON: Yes.

7 JUDGE CLARK: Thank you.

8 DR. SEOUNG JOUN WON,
9 having been first duly sworn, was examined and testified
10 as follows:

11 QUESTIONS

12 BY JUDGE CLARK:

13 Q. Thank you. Now, this is paragraph 26. This
14 paragraph states for purposes of the calculation of
15 rates, Empire's revenue requirement increase is an
16 annual increase of \$35,515,913. Based on this
17 agreement, what weighted average cost of capital do the
18 parties plan to use in future cases?

19 A. There is no such number.

20 Q. Why not?

21 A. Because this is a black box settlement.

22 Q. And that is an acceptable answer. So that is
23 part of the black box?

24 A. Yes.

25 Q. And is there a number agreed to, and that may

1 **elicit the same answer, do the parties have an agreement**
2 **as to what that number is?**

3 A. No.

4 Q. No. I'm just going to answer. There's a lot
5 **of shaking of heads. Can somebody say that out loud?**

6 MR. WILLIAMS: This is Nathan Williams for
7 Public Counsel. No.

8 JUDGE CLARK: Thank you. With that in mind,
9 if there's no number agreed to at this point in time,
10 what number is going to be agreed to -- or what is the
11 number that's going to be used for the upcoming
12 securitization case?

13 MR. WILLIAMS: From Public Counsel's position,
14 I don't anticipate we will be using weighted average
15 cost of capital, and it would I anticipate be a
16 litigated issue potentially in those cases.

17 JUDGE CLARK: Why wouldn't you be using the
18 weighted average cost of capital?

19 MR. WILLIAMS: The Asbury asset is no longer
20 used and useful. We don't view that there should be any
21 return on investment for the remaining value. And as to
22 Uri storm costs, those are fuel and purchased power
23 costs which are expenses, not capital items.

24 JUDGE CLARK: Okay. Thank you. Is Staff's
25 assessment the same?

1 MR. OLIGSCHLAEGER: It is, sir.

2 JUDGE CLARK: Mr. Oligschlaeger, can I swear
3 you in.

4 Do you solemnly swear or affirm that the
5 testimony you're about to give at this on-the-record
6 presentation is the truth?

7 MR. OLIGSCHLAEGER: I do.

8 MARK OLIGSCHLAEGER,
9 having been first duly sworn, was examined and testified
10 as follows:

11 QUESTIONS

12 BY JUDGE CLARK:

13 **Q. Can you tell me that again?**

14 A. Sure. To expand on perhaps what Mr. Williams
15 was alluding to a little bit, the good or bad news about
16 securitization is most weighted average cost of capital
17 or cost of capital --

18 JUDGE CLARK: Would you speak up just a touch?
19 I apologize.

20 THE WITNESS: I'm sorry. In a securitization
21 context, most of the cost of capital issues you would be
22 facing in a general rate case will not be relevant
23 because of the way the interest rate is set on the
24 bonds, and so on. There is -- Based on a reading of the
25 securitization law, there is no requirement that a

1 preset weighted average cost of capital or any other
2 cost of capital value be determined for use in the
3 securitization case.

4 JUDGE CLARK: Thank you very much. Those are
5 all the questions that were submitted to me in writing
6 in regard to having the parties answer the questions
7 today.

8 Are there any additional questions from the
9 Commission at this time? I hear none. I don't have any
10 additional questions. I would, however, I know those
11 were an extensive number of questions and myself and the
12 Commission genuinely appreciate the effort and time
13 that's gone into answering those questions for us today.

14 Is there anything further at this point that
15 this Commission needs to address today?

16 MS. MERS: I did find that citation for you.

17 JUDGE CLARK: Okay. Would you go ahead and
18 give it to me? I've got a pen handy.

19 MS. MERS: Sure. It's under (3)(c)a, and I
20 can read the quote out for the record as well.

21 JUDGE CLARK: Please.

22 MS. MERS: The amount of securitized utility
23 tariff costs to be financed using securitized utility
24 tariff bonds and a finding that recovery of such costs
25 is just and reasonable and in the public interest.

1 That's the portion that Staff would believe allows the
2 Commission to look at any offsets to the amounts to be
3 securitized.

4 JUDGE CLARK: To net the costs?

5 MS. MERS: Yes, exactly.

6 JUDGE CLARK: Thank you very much, Ms. Mers.

7 MS. MERS: Thank you for your patience.

8 JUDGE CLARK: Is there anything else that the
9 Commission needs to address at this time? Is there
10 anything pending from the parties that the Commission
11 needs to address? I see none. Okay. Again, I would
12 like you all for your time here today. I'm going to
13 adjourn this proceeding and we will go off the record.

14 MS. CARTER: Judge, I have one procedural
15 question.

16 JUDGE CLARK: Yes. I'm going to go back on
17 the record for a procedural question. We're back on the
18 record. Yes, go ahead. You have a procedural question?

19 MS. CARTER: Yes. We have briefing scheduled.
20 Are you contemplating the briefing just being on the one
21 contested issue?

22 JUDGE CLARK: That would be my assumption
23 because this was about the stipulations today. So that
24 would be my assumption. If for some reason I'm told
25 otherwise, I'll issue an order letting the parties know.

1 If you'll remember, I moved the due date of the initial
2 briefs, I believe, one day to the 25th.

3 As long as we're on the record, I did get one
4 additional question it appears. It goes again to that
5 weighted cost of capital, and it appears that is used
6 for the MPV calculation. Does that ring a bell to
7 anybody?

8 MR. OLIGSCHLAEGER: Yes, it does.

9 JUDGE CLARK: Is that in securitization?

10 MR. OLIGSCHLAEGER: That is securitization. I
11 think there's certainly no predetermined method for
12 determining all the assumptions that go into the MPV
13 analysis and I think each party potentially could
14 propose a different value.

15 JUDGE CLARK: So your belief is that weighted
16 cost of capital number would be ultimately for
17 determination by the Commission?

18 MR. OLIGSCHLAEGER: The appropriate value for
19 the MPV, yes, which could be the weighted average cost
20 of capital.

21 JUDGE CLARK: Thank you very much. Is there
22 anybody else who wanted to address that or further
23 expand on it? All right. Then I will do what I just
24 did a minute ago. I will adjourn this hearing. We will
25 go off the record.

1 CHAIRMAN SILVEY: Thank you, Judge.

2 JUDGE CLARK: Thank you very much, Chairman.

3 (Thereupon, the proceedings concluded for
4 for the day at 11:49 a.m.)

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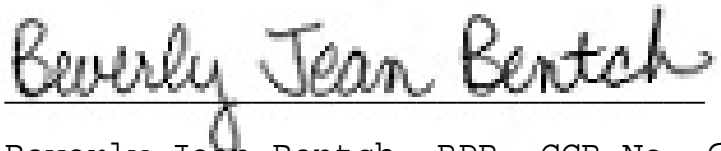
CERTIFICATE OF REPORTER

STATE OF MISSOURI)
COUNTY OF COLE)

I, Beverly Jean Bentch, RPR, CCR No. 640, do hereby certify that I was authorized to and did stenographically report the foregoing Public Service Commission procedural conference and that the transcript, pages 130 through 214, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or counsel connected with the action, nor am I financially interested in the action.

Dated this 24th day of February, 2022.



Beverly Jean Bentch, RPR, CCR No. 640

\$	(c) 195:4	152:23 153:18 168:14 182:6	172:22,25 173:5,11,12, 15 186:1 188:19 193:13
\$1,297,499 154:18	(d) 195:4	15-minute 182:17,19	2,000 167:5,8 169:14 171:22,24
\$1,957,450,852 155:4	<u>0</u>	15th 175:10	20 154:2 169:9 172:2 173:24 198:23
\$10 143:19	02 166:14,16,17	16 162:5 163:2	200 171:18,24
\$10.80 169:3,4	<u>1</u>	18 200:2	2016 151:5
\$100,596,932 155:23	1 139:4,5	18(b)ii 203:1	2019-0010 202:14
\$104 156:18	155:23 166:21 173:23 198:24	18(b)iii 203:2	2020 157:16 160:13
\$104,315,916 155:21	1.3 193:14,17	186.54 169:5,6	2021 157:16 158:21 160:15,19 161:21
\$13 168:12	1.8 168:24	18a 200:11	2022 136:13 154:3 157:23 161:22 171:6 181:6, 22
\$2,049,632,599 153:23 155:8	10 136:13 146:19 156:12 173:25 180:18	18b.iii 200:17	2024 181:7
\$20 147:19 167:9	10,000 164:23 165:11,16	19 162:5 163:2 166:10 167:16 172:2 175:23	21 207:22
\$35,515,913 208:16	104 156:10	19b 166:13 169:21	21c 201:14
\$46,810,043 154:19	10:00 136:1,15 169:23 172:23	19b.i 167:1	22 206:20
\$5.40 169:14	11:49 214:4	19b.iii 167:2	23 184:7
(120-day 179:15,17	<u>2</u>	
(3)(c)a 211:19	14 193:4,7	2 154:1,5,15 155:3,20,25 157:10,11 166:17,23,24 168:20 169:1	
(a) 184:11,14	15		
(b) 184:3,15			

25 157:23	4.4 156:19	700 165:22	199:7,16 200:23
25th 213:2	40 168:22	750 158:23	ability 176:1 196:20, 21,23
26 192:22 195:4 207:13 208:13	41 155:3,9	<hr/> 8 <hr/>	absolutely 182:7
27 162:1 164:1 166:5	43.4 184:1	8 168:25	acceptable 167:13 198:17,18 208:22
28 183:20,23	<hr/> 5 <hr/>	<hr/> 9 <hr/>	accepted 142:15
<hr/> 3 <hr/>	5 164:15,20 171:16 175:5 183:21,22	90 171:14	access 142:11 181:7, 12,14,17,20 182:1
3 151:3 173:23 184:19	5:59 169:24	92 155:12	accidentally 170:22
30 157:16 158:21 160:13,19 161:21 173:25	<hr/> 6 <hr/>	99.5 142:9 175:4	accordance 207:14
31 155:14 157:19,22 181:7	6 138:1	<hr/> A <hr/>	Account 181:15 182:20 183:12
310 136:13	6.4 143:11	a's 142:2 170:22	accounting 154:2,20 155:3,22 156:11 160:1 161:9 194:12
35.5 143:10	60 169:11 178:21 179:9,13 201:16	a.m. 136:1,15 169:23,24 172:23 214:4	accounts 193:6,9 207:15
<hr/> 4 <hr/>	60-day 150:2	AAO 140:24 141:4, 9 156:19,24 157:15,23,25 158:1,5 159:10 160:17,18,25 161:16 193:5, 8 194:23 195:1,6	accumulated 159:20,21 161:10
4 155:23 157:20,25 161:16 192:10,19 201:24	6:00 169:23 172:23	Aaron 139:19 145:1	accumulation 160:5
	<hr/> 7 <hr/>		accurate 172:9 201:13
	7 166:9,13 171:16		
	70 149:12		

203:19	148:5,7	affirm	172:17 180:7
accurately	149:16 158:12	153:8 162:12	181:9 187:21
174:11 201:8	176:3,14	177:11 185:8	191:14 199:9
acknowledges	178:14 180:21	188:3,11	207:1 211:17
144:18	191:22 194:9	199:12 204:13	212:18
Activity	195:8,9	205:21 207:3	aimed
185:18	196:14	208:3 210:4	153:4
Actual	addresses	AFUDC	allocated
190:18	183:23	206:18	139:25
add	addressing	207:14,18	allocation
206:15	178:13	aggressive	149:9 150:9
added	adds	173:1,23	Allowance
205:14,16	204:1	agree	206:18
addition	adjacent	151:11 207:14	allowing
139:15 148:16	176:22	agreed	138:7 157:23
186:18 188:22	adjourn	143:6,14,17	alluding
190:1,2	212:13 213:24	144:2 146:15,	210:15
additional	adjusted	16,19 147:20	alter
141:12 143:4	166:19	178:9 186:5	180:16
144:6,11	adjustment	191:23,24	203:17,25
145:2 146:15,	148:25	197:6 201:9	204:4
17 147:25	156:20,23	208:25 209:9,	alters
152:20 154:22	157:15	10	203:12
186:1,2,6,12,	adjustments	agreement	Amanda
14,25 187:5,8	155:6 156:13	138:5 142:5,	145:16 153:13
188:20,21	admitted	16 151:5	192:25
189:5,7,15,	139:3 140:2	158:23 163:12	ambiguity
16,25 190:15	157:10	191:21	203:24
191:8 203:24	adopted	201:22,24	amended
211:8,10	203:5	203:7,18	159:10 192:20
213:4	advance	206:8,9	Ameren
address	143:1	207:17 208:17	173:18
165:25 166:7	Advanced	209:1	AMI
170:9 177:5	183:21	agreements	142:8,10,13
181:8 184:24	advantage	138:10,16	144:19 171:8
185:2 204:7	176:22	147:10	174:10,14,17,
211:15 212:9,	Affairs	agrees	18 175:12,15,
11 213:22	139:17	148:3	18 176:5
addressed		ahead	183:8,21,23
		153:5 154:25	

184:1,6,8 191:20 amortization 156:19,23 157:15 160:10 amortizations 161:12 amount 153:23 154:16 155:4,9 156:10,18 159:25 160:9 161:9 193:10 196:21,24 197:2 211:22 amounts 154:10,20,21, 22 157:15,25 158:3 159:13 160:2 161:20 162:4 163:1 193:12 195:14 205:10 206:7 212:2 analysis 206:11 213:13 annual 143:8,9,18 202:16,18 203:10 205:10 206:7 208:16 annually 202:12 answering 154:24 170:24 188:17 211:13 answers 152:16 159:4 161:25 199:24	anticipate 148:6,10 209:14,15 anticipated 148:23 apologize 155:2 171:25 187:18 210:19 appearance 136:17 137:19 139:10 appearing 136:25 147:2 appears 153:3 192:8, 23 196:13 198:24 206:19,20,21 207:23 213:4, 5 Appendix 158:23 159:7, 9 203:6,8 applicable 165:19 171:5 application 148:11 applied 166:23 approaching 173:25 appropriately 162:7 approval 143:1 179:20 approve 144:24 152:3 approved	140:7 151:5 156:24 159:10 160:18 178:21 200:3 201:3 approximately 142:9 143:10, 11,19 April 161:22 165:9 area 136:9 176:25 areas 177:25 Asbury 140:22,24 141:1,2,3,5,7 143:22 146:11 148:4,10 149:17,22 150:3,6,13 154:4,6,7,13, 17,18 155:5 156:3,9,19,23 157:3,15,19, 22,25 158:11, 20 159:10,16, 20 160:4,6 161:3,4,16 192:22 193:5, 8,13,16 194:7,12,21 195:1,5,6 196:5 209:19 Asbury's 156:12 assessment 198:9 206:5 209:25 asset 149:24 154:6,	18 155:5 160:4 193:13, 16 195:7,22 196:9 209:19 asset/liability 193:6,9 Association 137:9 150:23 assume 158:8 175:6, 19 207:24 assumed 141:17 assuming 166:13 168:2 204:1 205:9 assumption 212:22,24 assumptions 169:15 213:12 assurance 148:18 Attachment 162:3,25 163:4,9 attempting 175:1 attending 139:18 authority 136:7 196:9, 15 197:2 authorized 161:16 183:25 184:4 193:5,8 availability 142:19 average
--	---	---	--

165:13,15 167:10 168:20 169:7 208:17 209:14,18 210:16 211:1 213:19	based 152:22 153:20 156:7 168:16 169:17 182:22 184:12 192:20 200:10 202:18,21 208:16 210:24	bill 151:2,13 165:15 167:9 168:6 169:5, 13 173:3 178:1 183:1, 7,17	bonds 210:24 211:24
<hr/> B <hr/>	baseline 158:3 161:19	billed 175:17	book 184:4
back 141:4 145:18 166:19 169:4 191:19 198:6 212:16,17	basically 151:7 200:5	billing 163:10 172:11,12	borrowing 206:9
bad 140:14 210:15	basis 182:8,19 186:9	bills 168:22 169:22 181:25 183:16	box 143:15 147:21 184:16 208:21,23
balance 158:1 169:1 196:9	bear 157:18 161:14 162:6	bin 170:18	bracketed 172:5
balances 140:25 141:10,16 158:20 161:19 194:23 195:6, 22 196:4 201:15,18,20 202:4,5,6,8, 12,17	began 136:1	bit 147:13,15 163:3 182:4, 24 189:11,13 210:15	break 182:10
balancing 143:25	begin 138:7,20 171:6 179:9	black 143:15 147:21 184:16 208:21,23	briefing 212:19,20
base 141:16 144:1 147:20 152:24 153:19,23 154:1,3,8,12, 16,17 155:4, 6,8 159:14 160:2,4,7 161:11 177:3 191:24 193:4, 7,12	beginning 146:8 179:7	block 168:7,8,23 170:3 173:7, 14	briefly 145:11 150:25 151:25
	behalf 137:1,5,8,14, 16 145:15 147:2 149:5 151:24	body 199:2	briefs 213:2
	belief 213:15	Bolin 145:16 157:2 198:25 204:7, 8,10,16,17 206:19	bring 186:21
	bell 213:6	Bolin's 206:5	brings 197:11
	benefits 141:12 144:3 148:18,23 151:8		broader 178:16

<hr/> <p style="text-align: center;">C</p> <hr/>	213:5,16,20	cases	201:3,5,6
calculated	caps	148:7,13	205:5
169:23 200:9	170:25 171:9	199:4 208:18	changed
207:14	captioned	209:16	205:11
calculating	136:5	cash	changing
203:9	care	161:1	205:1,13
calculation	150:8	catch	character
156:5,7	Carter	190:8	164:7
165:2,5,6	136:19	categories	characterizatio
167:2,11	139:12,13	156:24 159:17	n
168:10 169:20	140:13,18	193:5,8	172:9
202:9 208:14	145:8 151:11	category	characterized
213:6	174:11 175:3	158:19 159:9	192:3
calculations	177:6 180:1	193:11	charge
160:15 168:5	184:9,10,23	CB	141:23
201:11	194:11 197:15	164:4 165:21	163:23,24
call	199:6 206:23	166:1 167:3	168:12 170:3
143:15 150:12	212:14,19	168:8	charges
171:11	case	Cedric	149:14,15
called	138:10 140:8,	145:17	162:3,24
139:9,10	10,21 141:2	cell	163:6,11,13,
148:17	144:25 146:3,	136:3 197:24	17 168:15,23
camera	7,12 147:7,19	cent	169:3 176:24
138:19	148:5,8,12,19	166:21,23,24	Charlotte
campaign	149:18,25	168:20 169:1	139:17 145:1
177:25 178:7,	150:4,5,7	172:22,25	184:25 185:12
11 179:15,18	151:3,5 152:3	173:11,12,15	194:11,14
campaigns	156:2,15,25	central	206:23,25
178:6	158:2,21,22,	139:14 144:9	check
capabilities	24 159:10	cents	183:7,8
182:16	160:14	166:15,17	circuit
capital	161:17,18,24	168:24,25	174:20 175:21
147:24 161:2	163:10 164:14	173:5,25	circumstances
184:1 207:22	165:13 170:10	174:1	174:18
208:17	178:21 180:14	Chairman	citation
209:15,18,23	194:8 195:15	214:1,2	198:21 211:16
210:16,17,21	199:3 200:4,	change	cite
211:1,2	13 202:19,22	154:20 163:7,	175:2 198:4
	203:8 207:19	22,24 167:9	
	208:2 209:12		
	210:22 211:3		

City 136:14 137:16 152:10 180:10	172:17 174:7, 8 177:4,9,19 178:15	clearer 191:6	207:18 211:9, 12,15 212:2, 9,10 213:17
clarification 148:16,24 167:16,23 192:6 200:13 201:2,5	179:13,17,22, 25 180:2,4,7, 10,12 181:4 183:18 184:18 185:4,16 187:17,21	close 189:21	commission's 157:11 160:18 179:8 196:1, 20 202:19
clarifications 205:7	188:8,15 189:4,10,19, 23 190:6,13 191:3,11,17	closer 189:14	Commissioner 172:15,16,17, 18 173:4,17 174:2,7
clarified 206:8	192:1,5,15,18 193:3 194:3, 17 196:17,25 197:8,11,21 198:4,7,18,20 199:9,20	co-ops 176:22	Commissioners 145:4,5,20 150:25 151:13 198:17
clarifies 204:1	200:1 201:1 204:9,11,21 205:19 206:4, 17,25 207:7, 12,21 208:7, 12 209:8,17, 24 210:2,12, 18 211:4,17, 21 212:4,6,8, 16,22 213:9, 15,21 214:2	collected 161:20	communication 144:13
clarify 150:16 164:4, 17 166:10,16 169:16 175:24 180:14 201:17	class 149:13 162:2 165:17,19 167:3 173:12	column 185:20	companion 203:22
clarifying 150:21 151:7 183:19 204:25	classes 140:1 163:17	columns 185:17	Company 136:7 139:15 141:2,3,6 142:22,25 146:18 149:19,20 150:1 158:10 170:7 174:13, 20 181:13 185:1 186:9, 20,25 194:13 197:15 201:4 203:16 206:24
clarity 151:9 201:7 204:6	clause 148:25	comments 137:25 145:25	Company's 163:16 180:21 203:16 204:5
Clark 136:2,11,20, 23 137:2,7, 12,15,20 139:7 140:12, 15 145:3,9,13 146:23,25 147:13 149:4 150:15,21 151:15,17,23 152:9,13 153:6,12,17 157:13 162:1, 10,16,21 167:18,21,24	clean 167:25	commercial 141:25 142:8 164:4,6 167:6	completed 190:20
		commission 136:5,21,22 138:3,11,25 139:1,4,5,23 140:7 141:15 144:23 145:10,15 147:2 148:13 149:3 150:10 152:1,3,6,20 156:24 157:8, 9 169:18 176:11 178:9, 19,21,25 179:20 180:15 190:1 192:9 193:5,8 195:21 196:23 197:2,25 200:4,12 201:16 202:6	completely 142:15

components 143:21 202:9 204:6 205:13, 17 206:14	195:14,18 201:6	143:3 151:8 158:4	160:5 161:10 178:3,4 185:23 194:8 196:14 197:1, 18 201:21 203:1,19 204:25 209:22,23 211:23,24 212:4
compromise 143:25	196:10	controls 172:3 175:23	
compromises 146:5	160:25	converted 170:19	
concept 142:21 179:10	201:9 202:10 203:21 205:1	Cooper 136:19 139:15	
concepts 177:1	constructed 202:13 205:6	cooperative 170:8	counsel 136:16,24 137:1 146:3, 25 147:3,9, 18,25 148:3 149:4 179:23 184:11 191:20 209:7
concern 176:11 178:24	Construction 206:18	copies 157:3	Counsel's 147:5 180:22 209:13
concise 152:17	Consumers 149:5	correct 150:17 153:24,25 155:6,12,13 159:23,24 161:7 162:25 164:19 166:15 168:1 174:21 181:7 185:24 187:1,3 194:9 199:6 204:3,4 205:18	couple 172:19 205:14
concluded 214:3	consumption 181:16 183:4, 11,15	correcting 166:25 167:21	court 138:6 190:7
conclusion 201:13 202:15	contained 163:6 168:11	cost 146:9 162:2 185:19 196:24 197:3 208:17 209:15,18 210:16,17,21 211:1,2 213:5,16,19	covered 149:8
concur 204:8,24 206:5	contemplated 165:10 186:24 189:5	costs 149:18,20 150:3 158:2,4	covering 152:15
concur 197:15	contemplating 212:20		Cox 145:17
condense 190:21	contested 138:10 169:18 212:21		CPSH 163:14
confidential 138:17	context 176:9 201:18 210:21		created 141:12 202:15
confused 163:3	continuation 144:4		creates 142:18 184:13
conjunction 144:22	continue 140:24 157:23 161:17 170:10		creation 141:23 144:7,
connection 140:14 147:17,20	continued		
considered 190:24 191:4			

9	148:18	178:22 179:9,	depreciation
credits	163:22,23	13 201:16	159:21
200:20	164:7 171:6,	daytime	describe
crew	15,19 173:19	176:23	178:3
145:22	174:9,14,16,	dealt	design
criteria	19 175:15,20	146:12 202:15	139:19 141:19
146:15	176:12,16,25	Dean	147:7 149:11
critical	179:3 181:6,	136:19 139:15	162:2 165:10
144:9	12,13,17,19,	145:1	166:19 169:20
Cunigan	24 182:1,22	debt	170:14
145:18	184:3,14	147:24	173:18,22
current	201:7 203:20	decided	designed
136:15 142:18		144:23 201:12	143:9
156:5,6,8	D	decision	designs
168:5	d/b/a	207:18	183:3
customer	136:7	decline	desire
139:25	data	165:23	183:14 186:11
141:12,23	181:13,14,17,	declining	187:12
144:2,6	20,24 182:3,	170:2	desktop
146:10 148:18	17,21 183:4,	decrease	170:18
162:3,24	8,11	166:23	detailed
163:6,11,13,	date	default	177:23 178:8
17,23,24	141:5 149:23	142:6 173:4,	203:8
164:23 165:5,	161:18,21	19 175:16	determinant
11,13,15,16	165:9 175:10	defer	187:4
167:5,6,8	176:16 179:11	176:17	determinants
168:7,12,19	185:22,23	deferred	163:10
169:6,8,11,	213:1	159:21	determination
14,22 171:11	dates	definition	195:21 205:10
175:17 176:4	190:18,19	197:17	213:17
177:2 200:19	Dave	deleted	determinations
customer's	196:18	170:18	140:25 196:1
168:22 169:2,	David	demand	determine
9	137:5 149:7	149:13 176:23	187:13
customers	206:21 207:8	demonstrative	determined
136:9 141:3,	day	168:2,16	202:2,7,8
25 142:8,10,	146:9 213:2	depending	211:2
11,13,20,22,	214:4	186:16,18	determines
24 144:10,14,	days		
21 146:8			

169:18	187:23 190:11	dockets	echoes
determining	direct	141:8,11	145:25
197:1 213:12	177:24 185:18	146:13	EDIT
develop	directed	194:22,24	159:22
165:3	162:7	Doll	EDRA
developing	Director	139:19 198:25	137:9,11
178:11	139:13,16,20	199:7,9,15,16	151:4 180:2
devoted	disagreement	200:23 204:8,	192:9
144:8	198:11	24	EDRA's
dial	disagrees	dollar	151:6
138:1	198:9	143:5,13	educate
Diana	discount	165:12	176:11,15
136:19 139:13	169:1 172:22,	dollars	educated
difference	25	166:17 185:21	171:13
154:9,23	discounted	doubles	educating
155:11,12	170:15	161:1	146:8
differencing	discussing	download	education
173:7	171:4	181:15,20	142:24 178:5,
differential	discussions	due	18 179:9
142:19 146:10	179:4	156:6 171:8	educational
171:10,15,20	Disputes	213:1	143:1 176:13,
172:7,10,11	141:9 194:22	duly	15 178:20
173:11,12,15,	dissect	153:14 162:18	179:2,6,11,19
23	181:21	177:16 185:13	effect
differentiated	distribute	199:17 204:18	143:2 181:23
142:21 143:2	166:3	206:1 207:9	182:23
difficult	distributed	208:9 210:9	effective
196:8	152:18	<hr/>	161:18,21
difficulty	District	E	165:9
189:20	136:6 137:6,8	EA-2019-0010	effectively
digital	139:14 150:22	200:8 201:23	176:7
178:7	docket	203:22	effort
Dindarloo	141:6 149:21	earlier	211:12
187:18,19	150:7 158:13	150:10 153:21	eighth
188:1,7,16,25	195:2,10	160:3,8 173:5	142:14
189:1,20	196:10	179:11	Electric
190:6	201:23,24	easier	136:6,8 137:6
Dinderloo	202:14	166:2	139:15,21

207:15 electricity 183:16 electrification 141:22 electronically 181:20 elevator 164:11 elicit 209:1 email 142:3 157:1 198:16 Emery 139:17 184:25 185:6,11,12 194:11,14,18 206:23 207:24 eminently 191:10 Empire 136:6 137:5,8 139:14 144:20 145:25 146:4, 15,16 148:10 150:22 156:25 161:17 171:5, 11 172:1,8 176:14,17,21 177:4 179:3,4 181:5 183:25 184:1,4 206:21 207:19 Empire's 139:16,24,25 141:21 142:9 144:4 154:16 170:25 171:15	174:9,24 175:19 184:4, 14 208:15 employee 144:8 EMS 138:21 139:2 146:20 153:20 154:2 156:7 193:10 end 158:20 161:20 174:20 175:21 201:15,17 202:3 ending 160:13 endorse 175:1 energy 139:20 146:9 149:5,14 168:14 170:4 172:23 197:17 ensure 186:11 201:7, 11 203:18 enter 136:17 137:19 entirety 199:24 entities 178:25 entries 139:10 envision 195:21 equity 147:23	ER-2019-0374 156:25 158:22 207:19 ER-2021-0312 136:10 error 141:25 essentially 143:13 established 141:15 establishes 142:6 establishment 141:21 Estimated 190:17 everybody's 192:22 evidence 139:6 157:12 168:3 evidentiary 174:24 exact 187:7 examined 153:14 162:18 177:16 185:13 199:17 204:18 206:1 207:9 208:9 210:9 examples 169:8 Excellent 145:8 exception 160:25 175:19	excess 159:21 exclude 143:21 excused 192:13,18 execute 177:25 exhaustive 197:20 exhibit 139:1,4,5 157:8,9,11 158:23 159:1 exist 165:14 existing 167:10 173:14 expand 210:14 213:23 expect 166:21 167:7 171:14 173:2 expectation 169:25 170:7 expense 156:19 expenses 156:2,9,15 161:3 209:23 experience 163:22,24 167:9 experienced 163:17 expert 174:25
---	--	---	--

expertise 182:5	farm 148:20,22	137:15 157:14	12 162:4,25
explain 156:3 164:25 171:3 184:8 185:19 201:2 204:23	farms 146:14	financed 211:23	163:5 195:8 200:10,17 201:19
explicitly 196:22	feasible 174:19	find 145:22 193:18 211:16	frame 179:7
exposure 148:19	February 136:13	finding 211:24	free 168:1
extensive 161:1 211:11	feed 164:11	fine 192:16	friendly 144:6
extent 196:19	feedback 188:15	finish 190:19	front 173:1
extreme 165:13	feel 168:1	finished 190:18	fuel 148:24 161:3 209:22
<hr/> F <hr/>	felt 206:15	firm 137:19	function 181:25
FAC 161:4 201:11	FERC 207:15	flat 170:3	funding 144:7,10
facing 210:22	figures 143:5,14	flow 161:4	Funds 206:18
fact 150:18 181:24 184:12	file 136:5,7,9	flowing 149:25	future 151:10 199:4 208:18
factors 186:19 190:24 191:4 198:1	filed 139:22 141:2, 14 148:9 149:7,10,21, 22 150:2 152:2,22 158:23 178:20 200:4,8 203:7	focus 144:14 176:20	<hr/> G <hr/>
fair 143:24	filing 141:17 142:25 143:4 148:11 179:19	focused 149:17	gains 158:8,9
fairly 173:23 189:24	final 174:14,15 205:10	follow 166:2 183:13	general 164:7 166:22 203:4,11 210:22
fall 172:11,12	finally	follow-up 203:14	generally 171:5 176:24 177:22 184:2, 13
familiar 176:25		forget 168:13	genuinely 211:12
		forward 148:10,20 151:8,10,12 153:2	
		Fourth 138:21 143:6,	

Geoff 180:22 187:18 188:9 190:23, 25	201:10	handled 137:18	high 142:19 167:7 171:10,20 172:11
geographic 142:14	Graves 194:5	handy 211:18	highlight 146:5
Gibson 151:2 192:13, 18	great 167:14 172:18 173:17 180:25	happen 142:16 180:14	hold 189:19 198:15
give 142:21 153:9 162:13 170:6 177:12 183:14 185:9 188:4, 12 197:8 199:13 202:13,16 204:14 205:22 207:4 208:4 210:5 211:18	Green 180:19,20 181:11,18 182:16	happy 145:20 146:22 150:8,11 152:7	Honor 137:4,13 145:11 149:6 151:19,25 177:8 180:6,9 181:8 196:16 197:23
giving 151:9	Greg 139:18 145:1 150:12 177:6, 15 180:21 181:1	hard 144:15	hopeful 170:9
global 140:8 143:7 158:22	gross 161:2	head 193:24 198:12	hourly 182:5,7,14
good 136:2 137:4, 13 138:15 139:12 146:2, 5 149:6 150:24 151:25 210:15	ground 152:15	headed 150:7	hours 173:25 174:1
Governor 136:14	Group 149:5	heads 209:5	huge 176:12
GP 163:23	guess 140:19 171:13 177:22 202:3	Healy 137:11	hundred 165:12
grain 164:11	guidance 176:18	hear 139:2 145:12 157:6 162:22 177:20,22 188:5 189:12 190:7 194:18 198:10 211:9	hypothetical 164:23 169:17
granularity	<hr/> H <hr/>	hearing 139:3 145:24 157:10 189:8, 21 192:14 213:24	<hr/> I <hr/>
	hand 153:6 162:11 177:10 185:6 188:1,9 199:11 204:11 205:20 207:2 208:1	heating 164:9	idea 149:18 202:11
	handful 174:16,17 175:20	held 136:13 163:15	identified 177:24
		helped 140:17	identify 138:5 154:3 159:7,9,15,25 161:8
			iii

164:21	144:19	156:1,5,6,8	185:19 186:2,
IM	in-service	159:21 160:3,	7,12,14,17,25
200:19	146:14	11 161:2,11	187:5,8
impact	incentive	incorporate	188:20,21
142:6 146:10	174:3	173:13	189:6,7,15,25
181:25 183:4,	incidental	incorrect	190:1,2,15
17 207:17	163:12	204:2	191:8
impacted	include	increase	informational
178:4	156:23 157:15	140:11,21	178:2
impacts	163:14 169:22	141:22 143:8,	Infrastructure
146:9,11	193:10	9,10,19,20	183:21
148:4 154:11	included	144:18 147:22	initial
183:15	141:2 148:25	149:13 168:14	143:13 177:24
implement	154:19,22	169:6 191:24	213:1
141:21 165:7	156:4,11	208:15,16	initially
181:5	159:11,12,13	increased	153:4
implementation	160:24 176:20	166:14,20,22	inserts
147:11 178:22	179:1 193:13,	168:24	178:1
181:12 191:23	16,25 196:20	increases	installed
202:4 203:5	197:19 198:3	144:15	142:10
implemented	200:18 203:1,	Increasing	intended
162:4 163:1	2,9 204:25	136:8	169:19
176:23	206:10,11	incredibly	intent
implementing	includes	175:13	179:8
169:5	139:14 155:4,	increment	interest
implied	20 198:10	182:6	198:2 206:9
196:21,23	including	increments	210:23 211:25
197:17	141:9,20	182:17	interject
imply	144:5 147:23	indicating	172:16
179:8	148:1 149:23	168:4	interrupt
important	194:23 200:19	individual	145:6
147:10 148:2	inclusion	165:4,5	interval
167:24 176:9	157:24 160:18	186:17	182:2,15
impression	inclusive	individually	introduce
179:5	156:16	159:22	142:20 169:13
improvement	income	information	introduced
187:10 190:17	144:4,7,8	138:17 142:12	138:18 168:21
improvements	147:11	176:21	investment
	155:15,21	181:15,16	

184:1 196:5 209:21 investments 144:18 146:17,18 involved 178:11 involving 155:15 isolated 174:18 175:14,22 issue 139:24 140:1 143:7 144:22 147:7 149:10, 12 150:10 151:2 152:6, 23 153:18 154:15 155:14 157:14,19,22 162:1 164:1 166:5,6 169:18 180:18,19,20 181:18 183:20,23 184:8,11,15, 19 191:22,25 192:20,22 193:4,7 194:7 195:4,5 198:23 199:1, 7 200:1,11,17 202:25 203:2 206:20 207:22 209:16 212:21,25 issue-by-issue 143:16	issues 141:7,11,19 143:4 144:2 146:2 147:6 148:12 149:8, 16,23 150:3, 4,9,14 152:4, 7,22,24 153:1,19 154:12 157:23 162:2 178:13 183:24 184:17 192:21 194:21 195:1 203:3 210:21 item 164:20 items 147:25 149:1 154:3,5,7 158:10 159:22 160:17 161:5 164:15,21 166:9 170:20 186:20 191:9 203:9 204:4 209:23 <hr/> J <hr/> January 154:2 157:16, 22 Jarrett 137:10,18,20 150:24 151:16 152:10,12 180:3,11 192:11,12,17 Jefferson 136:14	John 136:11 join 191:20 joining 137:22,24 joint 144:10 Joun 145:16 208:8 judge 136:2,20,23 137:2,7,10, 12,15,18,20 139:7 140:12, 15 142:1 145:3,9,13 146:23,25 147:13 149:4 150:15,21,25 151:15,17,23 152:9,12,13 153:6,12,17 157:13 158:25 162:1,10,16, 21 167:15,18, 21,24 172:15, 17 174:6,7,8 177:4,9,19 178:15 179:13,17,22, 25 180:2,4,7, 10,12 183:18 184:10,18,24 185:4,16 187:17,21 188:8,15 189:4,10,19, 23 190:6,13, 23 191:3,11, 16,17,19	192:1,5,12, 15,17,18 193:3 194:3, 17 196:17,25 197:7,8,11, 15,21 198:4, 7,16,18,20 199:6,9,15,20 200:1 201:1,4 204:9,11,21 205:19 206:4, 17,25 207:7, 12,21 208:7, 12 209:8,17, 24 210:2,12, 18 211:4,17, 21 212:4,6,8, 14,16,22 213:9,15,21 214:1,2 June 157:16 158:21 160:15,19 161:21 JW-1 185:17 188:23 <hr/> K <hr/> key 142:24 kick 140:18 Kim 145:16,17 157:2 KIMBERLY 204:17 kind 174:19 175:3,
--	--	---	---

16 179:6 202:13,16	largest 149:11	list 152:22 153:1 157:23 159:19 160:24 161:1 179:23 183:24 192:21 197:20 203:8	lot 152:14,15 169:16 209:4
kw 172:22	law 137:11,19 210:25		loud 171:25 189:24 209:5
kwh 165:11,16 166:15 167:5, 8 168:24,25 169:14 170:6 173:14	leave 203:13	listed 159:17 163:11 184:20 188:22 190:9 205:15	low 144:4,7,8 146:10 147:11 171:15 172:7, 10
kwhs 164:23 165:22 169:22	legal 139:13 196:9, 15,19	lists 197:18	lower 146:19 168:9 182:15
<hr/> L <hr/>	legislation 144:16	literally 175:20	Luebbert 145:17
lack 181:19	LENA 205:25	litigated 209:16	<hr/> M <hr/>
laid 193:19	letter 168:11 170:22	live 149:9 150:4 179:12	made 139:6 141:5 146:1 157:9, 12 168:14 179:2 182:3 199:2 201:12 205:3 207:18
landing 178:2	letting 212:25	load 148:1	main 154:23
Lange 145:17 162:8, 10,15,17 172:20 178:24 179:16,21 180:20	level 201:11	location 175:22	maintain 144:12
language 170:17,18,21 172:5 197:24 198:13 203:3, 12,17	liability 141:4 149:25 154:7,18 155:5 160:6 195:7,8,22 196:9 202:14	log 181:14	maintaining 203:20
languagey 170:20	Liberty 136:7,18 139:10,13 179:25 197:13 199:3	long 174:19 175:21 202:24 213:3	maintains 142:17
large 146:10 149:13	Liberty's 144:9	long-term 206:9	maintenance 156:13,16
larger 165:17 167:6 174:2	limited 142:6,18 148:19 171:22	longer 146:11 148:4 184:15 209:19	make 137:25 138:8 139:11 144:5 145:10,22
	lines 144:12 169:22 170:2 173:24	loss 148:1	
		lost 205:17	

150:23 151:18 152:10 176:8 178:12,25 191:5 198:1 200:12 makes 151:4 making 138:25 157:8 184:14 195:21 Manager 139:19 manner 152:7 175:2 Mantle 198:25 205:19,24,25 206:19 March 181:7 Mark 145:17 210:8 Marke 180:22 187:18,24 188:9,14 190:23,25 191:11,13 192:7 194:5 Market 200:2 material 179:12,19 201:3 materials 143:1 178:11, 20 179:2,6 math 168:15	mathematic 166:18 mathematically 166:20 matter 136:6 174:14 175:19 matters 141:19 194:13 Mcmellen 145:16 153:3, 11,13 156:22 158:15 192:23,25 Mcmellen's 157:9 means 171:11 meant 201:18 MECG 137:3,5 146:4 180:5 194:6 mechanism 196:12 200:2 203:6,9 media 178:5 meet 186:5,11 187:12 meetings 144:12 meets 151:12 Member 150:22 Members	137:8 memory 138:23 171:21 mentioned 150:10 160:3 168:8 184:6 merger 151:5 Mers 136:22 145:11,14 146:24 162:6 187:19 191:16 197:23 198:6, 14,19 211:16, 19,22 212:5, 6,7 met 146:14 meter 171:8 174:17 175:12,15,18 metering 174:18 183:21 meters 184:5 method 213:11 Meyer 150:12 194:6 microphone 189:14,21 Midwest 149:5 mike 140:12 mill 164:11	million 143:10,19 146:19 147:19 155:12 156:10,18,19 184:1 193:14, 17 mind 139:7 153:1 165:14 180:23 209:8 minimize 144:15 minor 151:4 167:15 minus 156:1 165:12 minute 170:19 213:24 minutes 182:7 miscellaneous 200:21 misreading 200:14 missing 145:19 Missouri 136:9,15 137:12,14 142:10,13 151:24 152:1 178:10 180:8 misspeak 167:1 misspoken 168:1 misstated 174:21
--	---	--	--

modification 205:5	163:25 183:20 184:18 195:2 207:21	netted 196:4	NPPM 148:17 149:2
modifications 144:5 205:3	MPPM 200:9,12 201:9,13,15, 17 202:10,13, 25 203:5,6,21 205:1,2,6,9	netting 197:16	number 149:8,22 168:13,25 173:6 176:6, 22 194:4 208:19,25 209:2,9,10,11 211:11 213:16
Monday 140:1 149:10	MPV 213:6,12,19	neutral 166:20 173:16	numbers 141:15 157:3 173:1 192:20
money 206:11	multitude 146:2	news 210:15	numeral 164:21 166:14
month 164:23 165:12 167:8 169:14 183:17	Murray 206:21 207:1, 6,8,24	Nicole 136:22 145:14	numerical 175:14
monthly 183:6	mute 188:17	non-objecting 152:5	Numerous 141:19
months 172:11,12	muted 137:24 188:6	non-objections 140:6	<hr/> O <hr/>
Mooney 206:22	<hr/> N <hr/>	non-signing 140:5	
morning 136:2 137:4, 13 139:12 149:6 150:24 151:1 152:1	named 185:18	non-time 142:18 164:16 166:10 171:17,18	
motley 145:21	Nathan 136:25 147:2 197:7 209:6	Non-unanimous 191:21 201:22 203:7	object 178:19
move 141:8 155:14 162:1 166:5 180:18 192:8, 10,19 194:22 195:9 198:23 200:1,15 206:17	necessarily 166:16	normal 170:4,14 186:8,9	objecting 150:16,20
moved 158:2 213:1	needed 186:7 187:12, 13	note 145:3 151:19 152:13 165:16 176:17	objection 138:25 179:18,24 180:1,3,9,11
movement 165:17	needing 186:5	noted 142:1,3 146:18 159:22 195:17	objections 140:3 180:5
moving 151:8 157:19	net 155:20 156:1 184:4 196:12, 20 212:4	notes 174:4	objects 157:8
		notice 148:9 150:2	obtained 147:19
			obtaining 142:25
			occurs

166:2	OPC's	18,20	172:23
October	192:1	opt-out	pages
171:6 175:10	open	146:9 171:17	178:2
181:6,22	144:12 186:25	172:10,25	paid
offer	opening	173:5,19	203:19
172:8	138:8 139:8,	178:23	paragraph
offering	11 145:10	opted	155:20,25
173:15	150:23	171:17 174:16	157:20,21,25
Office	151:18,21,23	175:6,12,16	161:16 166:9
136:14,23	152:11 163:19	176:5,7	175:23
137:1 146:3	174:11,24	opting	183:21,22
147:3,4	openings	171:8	184:7 185:25
179:23	138:9	option	186:1 188:19
Offices	operating	142:17	198:24 201:14
137:11	155:20 156:1	options	207:13
offset	operation	143:2	208:13,14
196:5	156:12,16	order	paragraphs
offsets	Operations	138:1 139:9	162:5 163:2
198:2 212:2	139:21	152:16 159:11	172:2
Oligschlaeger	opinion	165:6 168:17	part
145:17 194:5	158:12 196:25	173:14 202:19	139:1,6 148:5
210:1,2,7,8	197:4,12,13,	203:4 212:25	149:1 157:12
213:8,10,18	14 204:5	ordered	165:8 182:25
on-the-record	opinions	160:23	184:11,15
136:4,12	144:1	original	190:8 208:23
138:3 153:9	Opitz	203:4 205:9	partial
162:13 177:12	137:13,14	outcome	139:22 140:3
185:9 188:4,	151:25 180:9	168:16	144:24
12 199:13	opportunities	outlined	participants
204:14 205:22	173:3	201:21 203:6,	171:23
207:4 208:4	opportunity	21	participate
210:5	142:22 157:5	Ozark	171:13 174:3
online	172:8	137:16,17,19	participating
183:8	oppose	152:10 180:10	151:1
OPC	151:20	<hr/>	participation
160:17 170:8	opt-in	P	170:25
178:9 187:9,	170:25 171:9	<hr/>	particularity
18 190:16	172:9,12,21,	p.m.	193:19
206:21	24,25 173:3,	169:23,24	

parties 136:17 138:7, 18 140:4,5 143:3,22 144:2,17 146:4 147:4 152:18,23 155:17 160:23 170:9 178:12, 17,19 179:18 183:22 184:9 186:5,7,11 187:13 195:20 197:5,13 198:8,10,16 203:11 206:15 207:13 208:18 209:1 211:6 212:10,25	11,12 170:5,6 173:25 174:1 177:1 182:25 183:1	phone 137:22,25 151:1 173:21 197:24	143:16 145:4 146:6 150:17 166:4,24 167:15,23 175:11 178:8 182:19 185:3 186:15,23 209:9 211:14
parties' 143:25 203:14	pen 211:18	phones 136:3	portal 181:15 182:20 183:12
party 152:5 157:5, 6,7 178:10 179:23 186:17 198:9 213:13	pending 148:8 212:10	phonetic 163:15	portfolio 142:20
patience 212:7	people 175:6 180:24	physical 175:14	portion 142:1 143:12 170:14 198:4 212:1
Pause 174:4	percent 142:9 143:11 149:12 168:14,22 169:10,12 171:15,16 175:4,5 190:20	physically 175:22 176:6	portions 170:23
pay 144:19 183:17	percentage 172:1 174:9 175:2 190:19	piece 203:22	position 141:10 144:8 147:5 192:1 197:22 203:17 209:13
PAYGO 200:20	perfect 168:20 169:7	pilot 144:5	positive 182:15
paying 171:6 201:8	perform 165:4,5 178:6	PISA 146:17	possibly 194:6
peak 166:23 168:20,22 169:1,3,9,10,	period 160:12 166:22 182:3 202:3	place 155:22 171:12 183:3,14 193:18	posted 193:6,9
	periodically 140:18	placing 149:12	potential 207:23
	person 164:1	plan 148:20 151:9 208:18	potentially 209:16 213:13
	personnel 179:4	planning 148:2	power 149:13 154:4 209:22
	perspective 141:7 151:6 191:22	plans 176:13,15 177:23 178:9, 11,20 181:5	PPA 202:11
	PFM 163:22 164:11	plant 154:4 159:16, 20	
		point 136:16 138:24	

Praxair 163:14	preset 211:1	procedural 212:14,17,18	protocol 181:11
predetermined 213:11	President 139:20	procedure 164:16	provide 158:19 160:16 164:22 178:5 181:6,18 182:16,25 187:9 190:16
prefer 185:5	presiding 136:11	proceed 178:8	provided 136:8 151:2 165:2 167:3 168:1 176:19 187:9,12 190:15 191:9 201:10 202:12
preference 185:4	pressure 198:16	proceeding 212:13	providing 186:25 190:2
prefiled 140:2	pretty 161:1 165:13	proceedings 136:1 214:3	public 136:23 137:1 146:3,25 147:3,4,9,18, 25 148:3 149:4 179:23 180:22 184:11 191:20 209:7, 13 211:25
prejudice 199:4,23	prevent 146:10	process 146:8 166:18	published 165:8
prepare 152:19 178:1	previous 158:22 159:10 161:17 172:13 205:16 206:12,14 207:19	produce 164:15	purchased 209:22
prepared 154:2 165:23 167:4,11 176:15 177:23 186:10	previously 181:2 189:2 191:1 193:1 194:15 200:24 202:2 205:15 206:12	program 141:22 144:5, 10 147:12	purely 168:15
prepares 186:9	Price 200:2	programs 144:7,8	purpose 157:24 163:9 205:6
presence 178:6	prices 183:12	Projected 190:19	purposes 143:23 148:2 154:22 186:10 199:3 208:14
present 137:2,16 138:4 145:5 167:12 183:10	pricing 183:2	projects 147:21 148:22 149:1 185:22 187:10 190:17,18	
presentation 136:4,12 138:3 153:10 162:14 170:1 177:13 185:10 188:5,13 199:14 204:15 205:23 207:5 208:5 210:6	printed 157:3	properly 152:19	
preserved 165:23 168:12 201:9	prior 176:4,19 178:22 179:9 200:4	proposal 141:5 163:16	
	problem 147:17	propose 213:14	
		proposed 141:3 160:17 166:1 170:16 172:7 200:6	
		Protection 200:2	

<p>pursuant 140:9,20</p> <p>put 159:13 160:5 178:8 198:11</p> <hr/> <p style="text-align:center">Q</p> <hr/> <p>quantification 149:24 157:25 158:19 160:17</p> <p>question 139:24 153:21 154:15,25 159:4 161:25 162:22 163:4, 8 167:17 168:8 175:25 176:2,4 177:20,22 178:16,17 183:24 187:24 188:18,21,24 190:12,14,22 191:15 192:6, 23 194:3,18 195:1,13 196:8,11,14 198:21,24 199:24 200:15,16 202:24 203:14 212:15,17,18 213:4</p> <p>questioning 172:19</p> <p>questions 136:5,12 138:4,11,12, 13 145:2,6, 19,21 146:21,</p>	<p>22 149:3 150:11,13 151:13 152:8, 16,17,18,20, 21 153:16 155:18 158:16 161:15 162:9, 20 164:2 166:1 174:5 177:18 181:3 184:25 185:15 187:20 189:3 191:2,7,12 192:9,13 193:2 194:12, 16 199:19 200:5,25 203:24 204:20 206:3,24 207:11 208:11 210:11 211:5, 6,8,10,11,13</p> <p>quick 174:4</p> <p>quote 211:20</p> <p>quoting 161:15</p> <hr/> <p style="text-align:center">R</p> <hr/> <p>radio 178:7</p> <p>raise 153:6 162:10 177:10 185:6 188:1,9 199:11 204:11 205:19 207:2 208:1</p>	<p>raised 148:12</p> <p>raising 148:11</p> <p>ranges 165:18</p> <p>rate 139:19 140:1 141:13,16,19 142:7,18,19 143:2,17 144:1,15,17 147:7,20,23 148:12 149:11,13,25 152:24 153:19,22 154:1,3,8,12, 16,17 155:3, 6,8 156:14,25 158:22 159:10,13,16, 20 160:2,3,6 161:11,17 162:2 165:7, 21,24 166:19 167:3 168:9, 10 169:6,19 172:9 173:5, 18,19,20 175:17 191:24 193:4,7,12 206:10 207:19,22 210:22,23</p> <p>ratemaking 148:14</p> <p>rates 136:8 139:16 140:10,20,23 141:24</p>	<p>142:20,21,23 143:9 147:11 158:11 161:18,21 164:16,18 165:3 166:11, 14,20,21,22 167:20 168:17 170:17 171:1, 4,5,9,16,17, 18,20 172:6, 21,24,25 173:8,14 178:4,22 181:6,22,23 184:2,13 191:23 202:21 208:15</p> <p>reaching 156:10</p> <p>read 142:3 197:17, 24 211:20</p> <p>reading 170:20,21 171:21 210:24</p> <p>reads 203:1,2</p> <p>real 174:4</p> <p>realm 167:7 194:25 196:1</p> <p>realtime 142:11</p> <p>reap 148:23</p> <p>reason 138:18 192:15 212:24</p>
--	---	--	---

reasonable 144:25 147:6 151:12 152:4 182:18 191:10 211:25	213:3,25	201:20	187:10 190:17
reasons 186:4	recorded 157:16	reflected 140:22 141:16 156:2 158:21 161:23 162:3 174:12	remain 141:9 194:22
REC 200:19	recovery 141:2,13 173:13 211:24	refresh 171:21	remainder 149:14
recall 163:21	reduce 197:2,3	regard 154:15 157:14 175:9 179:17 191:9,12 192:9 206:6 211:6	remaining 144:22 163:13 175:5 209:21
receive 175:12	reduction 147:19 165:21	region 139:14 144:9	remember 160:22 171:21 197:21 198:12 213:1
received 139:5 157:4, 6,11 158:8,9 159:2 174:12 203:20	refer 166:10	regular 148:14 169:3	remind 137:21
receiving 158:11 174:17 201:8	reference 152:23 163:4 192:22 199:1	regulatory 139:16 141:4 149:24,25 193:6,9 195:6,7,22	reminded 191:13
Recipients 137:6	referenced 138:21,23 153:21 163:18	relate 149:16 195:5	removal 154:17 156:19
recollection 174:1	references 186:1 188:20	related 140:22 154:3, 6 156:3,12 183:23 194:7, 8,12 195:1 202:25	removed 154:21 156:14 195:10
recommended 143:20 155:16	referencing 152:24 173:8	relevance 210:22	Renew 137:12,14,15 151:24 152:1 178:10 180:8
reconcile 153:22 201:25	referred 167:16,17 188:22	reliability 146:18 184:19	repeat 162:23 175:3 177:21 196:14 204:22
record 136:3,17 138:15 139:1, 3,6 140:2 145:4 150:16 152:14 157:10,12 167:25 190:1 211:20 212:13,17,18	referring 174:23 186:3		repetitive 161:13
	refers 189:15		replace 155:9
	refine 203:23		replacement 202:11
	refined 201:23		report 159:11 165:6 168:17 203:4
	refines 203:18		
	reflect 140:10,21 156:18 178:4		

reported 186:12,19	requiring 203:5	200:11,17	202:10 203:10
reporter 138:6 190:7	reset 140:25 158:3 161:19	responses 157:7	208:15
reporting 146:16,17 184:20 187:14	residential 141:23,24 142:7,9 163:14 165:24 166:3 168:6 171:19 173:12	rest 192:13	revenues 161:3,4 200:20,21 201:21 203:2, 19 204:25 205:14
reports 144:12	resolution 140:8 144:3, 25 146:2 147:6 148:6 150:8 152:4 184:16	results 167:10 169:2	review 165:17 174:4
represent 154:16 185:21	resolutions 143:16	retired 137:8 150:22 184:5	reviewing 178:12
representation 202:17,18 203:19	resolve 139:23	retirees 151:2,8,18,20 180:4,6	rider 168:21 170:5, 11,12
represented 201:8	resolved 141:20 143:5, 7 149:15 184:8 191:25 192:2,4 199:1	retirement 141:4 149:23 154:6,7,17,18 155:5 158:11 160:4,6 193:13,16	ring 213:6
represents 185:20	request 136:6 187:2, 15 199:4,21	return 141:3 143:17 147:23 159:16,20 183:25 184:3 207:22 209:21	RLJ 136:11
requests 141:1 186:5,7	required 178:20	returned 200:19	rolled 142:13
requirement 139:25 141:19 143:8,12,18, 20,21,24 144:1,4 146:19 147:22 184:17 191:24 195:15,18 202:11 203:10 208:15 210:25	resolves 149:12	revenue 139:24 141:18 143:8,12,18, 20,21,24 144:1,3 146:19 147:22 149:9 150:9 166:19 173:13,15 184:16 191:24 195:15,18 200:9,10,18, 19,21,22	Roman 164:21 166:14
requirements 144:11 146:16,17 203:12	resolving 152:6 203:3		room 136:13 145:24
	respect 163:11 175:16 206:7		roughly 179:15
	respective 194:24		round 162:9
	respond 142:23		rule 190:2
	response 176:3 196:19		run 138:21 139:3 146:20 153:20 154:2 156:7 193:10
			Rupp 172:15,16,18

173:4,17 174:2 <hr/> s <hr/> SAEID 189:1 Sarah 145:16 162:8, 17 savings 173:3 scale 166:2 schedule 154:1,5 155:3,22 156:12 165:25 166:1 185:17 186:8 187:9 188:23 190:3, 16,20 193:13 scheduled 212:19 schedules 149:11 154:2, 20 155:3,22 156:11 160:1 161:9 scrap 161:5 scroll 198:6 sector 142:15 sectors 142:14 securitization 141:6,8,11	144:16 146:12 148:7,8,13,15 149:21 150:2, 5,7 158:2,13 161:23 194:9, 22,24 195:2, 10,23 196:2, 10,12,13 197:16 198:1 209:12 210:16,20,25 211:3 213:9, 10 securitize 150:1 securitized 149:19 196:6, 22,24 197:1,3 211:22,23 212:3 securitizing 141:13 Senior 139:19 sense 175:14 176:8 sentence 201:15 Seoung 145:16 208:8 separate 141:18 169:22 171:10 separately 159:15 193:19 September 160:13 SERP 137:6 151:17,	20 180:4,6 served 164:8 service 136:8,9 162:2 164:5,12 176:23 Services 139:13 set 195:14,17 196:21,24 202:21 203:8, 12 210:23 settlement 143:15,23 147:21 149:9 157:22 184:16 208:21 SH 164:9 shaking 209:5 shareholder 144:6 shareholders 144:11 sheet 158:6 shift 176:12 shifts 165:7 short 164:24 shorter 190:21 show	168:15 169:19 183:3 showing 168:7,10,12 shows 157:2 side 167:6 169:2 signatory 150:19 152:2 signed 140:4 significant 144:2 146:6 silence 136:3 silenced 137:22 silly 170:21 SILVEY 214:1 similar 158:21 167:2 170:1 173:8, 18 187:11 188:21 201:10 Similarly 203:1 sir 195:16 210:1 situation 174:20 size 165:18 skip 198:21
--	--	--	--

skipped 172:2	178:6 182:21 185:22 186:23 203:6 205:3,4	186:16 187:2, 4,9 189:5 190:16 193:10 212:1	139:11 145:10 150:23 151:18,22,24 152:11 160:3, 11 161:11 163:19 174:11,24
small 141:24 142:7 164:9 176:6	specifically 197:18,19 206:12	Staff's 139:2 141:16, 17 143:19 146:6,20 155:5 156:2 157:24 158:1 197:22 209:24	statements 138:8 139:8 155:15
smaller 182:6	specification 147:22	stakeholder 144:12	states 155:25 183:23 200:9,10,18 201:15 207:13 208:14
social 178:5	specificity 201:11	stakeholders 144:20	status 187:10 190:16
sold 161:5	spelling 163:15	stand 202:17	statute 196:12 197:16,19 198:5
solemnly 153:8 162:12 177:11 185:8 188:3,11 199:12 204:13 205:21 207:3 208:3 210:4	spent 185:21	starting 136:18 139:8 141:15 153:18,22 154:16 155:8, 20 156:1 166:24 172:10,12 185:2	stemming 140:10,21
sort 181:11 201:10	spirit 203:21	start 139:8 168:9 190:17,18,19	STENOGRAPHER 148:21 189:8, 17 190:4
sounds 171:24	split 149:14	standard 151:12	step 166:18 168:5
speak 138:5 147:13 173:21 189:11 203:16 210:18	spoke 173:5	state 164:15	stepping 182:4
speakers 147:15	spot 198:11	stated 140:5 149:20 196:22 206:12	steps 153:22 171:7
speaking 137:23 138:6 176:24 196:17	Spouses 137:9 150:23	statement	stipulated 143:18,24 144:17
speaks 138:14	SPP 161:3 200:10, 19,22		stipulation 138:16,22 141:14,20 142:1,6,17
special 144:7 199:4, 21	staff 136:20,22 138:24 145:9, 15,23,25 146:3,22 147:20 153:21 156:22 158:19 159:7,9,25 160:16 161:8 162:7 170:8 172:7 174:13 178:9 179:21		
specific 143:16 152:17 175:2 176:18			

143:4,6,7,13, 14 146:1 148:6 149:15 150:19 151:3, 4 152:2,25 158:22 162:4 163:1,5 170:20,21 176:19 183:22 184:7,9,12,19 191:21 192:10,19 195:8 198:25 199:2 200:4, 5,8,10,17,21 201:3,19,22, 24 203:3,7 205:2 206:13	struggling 163:21 study 148:1 subissues 194:7 subject 171:9 submit 138:24 160:23 submitted 201:16 202:5 211:5 subparagraph 142:2 subpart 184:10,14,15 substantive 151:6 subtracted 156:10 succinctly 199:25 suggestion 142:25 suitd 155:18 174:21 Sum 185:18 summer 167:7 170:3 179:7 supplants 143:13 support 180:1 supports 142:25	surrebuttal 138:21 139:2 141:17 143:20 146:20 153:20 154:1,19 155:2,22 156:11 160:1 161:9 193:10 survive 200:6 swap 162:8 swear 138:15 153:5, 8 162:12 177:11 185:5, 8 187:22,23, 24 188:3,11 191:13 199:10,12 204:9,13 205:21 207:1, 3 208:3 210:2,4 sworn 153:7,14 162:11,18 177:10,16 181:2 185:1, 7,13 188:2,10 189:2 191:1 192:7 193:1 194:15 199:11,17 200:24 204:12,18 205:20 206:1, 25 207:2,9 208:2,9 210:9 system 144:19 182:5,	22 207:15 systems 175:18 <hr/> T <hr/> tail 168:7 takes 169:4 182:23 taking 143:2 149:20 talk 138:20 talked 160:8 197:5 talking 180:25 202:1 target 179:5 targeted 165:17 targeting 179:11 tariff 165:3,8,18 170:16,19 211:23,24 tariffs 136:7 141:21 tax 154:11,22 156:5,6 159:22 161:2 200:20 taxes 154:11 156:2, 4,8 160:9
---	---	---	--

TEB 163:23	208:9 210:9	139:18 173:21	184:24 211:7,
technical 161:14 174:13,18 181:12	testify 208:2	177:6,8,9,14, 15 178:15	13,15 212:12, 23
technology 176:7	testimony 140:2 149:8, 11,16,17,22	180:22 181:1, 9 183:18	told 212:24
telling 186:24	151:2 153:9	Tim 137:13 139:21 145:1	tools 181:19
tells 165:7	162:13	time 136:15	top 138:23 193:24 198:12
ten 201:12 202:15	177:12,24	138:11,14	total 155:3 170:6
ten-year 202:3	185:9,18	141:1,17,23, 24 142:3,5,7, 16,19,21	TOU 172:6,9 173:19 176:7 178:3
tended 170:7	186:10 188:4, 12 190:9,10, 12,13 199:13	143:2 145:5	touch 210:18
term 181:19	204:14 205:22	146:7,9	tracker 158:4 198:23 199:5,22
terms 148:6,13 149:1 165:18 201:18	207:4 208:4	147:11 155:17	tracking 140:24
territory 176:23	testing 174:15	164:18 166:11	traditional 141:13
Terry 137:10	thing 138:19 158:18 165:14 182:9	167:20 168:10	tranche 174:15
test 158:20 160:14 161:20	things 147:9,18	169:16	transition 197:18
testified 153:14 162:18 177:16 181:2 185:13 189:2 191:1 193:1 194:15 199:17 200:24 204:18 206:1 207:9	thought 146:1 173:6 203:23	170:11,17,25 171:1 172:21 173:3 175:4, 10,23 177:1 178:22 179:7 181:5,22 182:21 183:3 184:2,6,13 189:6,24 191:22 206:10 209:9 211:9, 12 212:9,12	transmission 198:23 199:5, 21
	thoughts 172:20	time-variant 165:21	transportation 141:22
	threw 168:13	timing 179:1 182:9	treat 138:8 148:14
	throw 158:16	today 136:13 138:13 139:16 142:8 145:15 152:15 181:17,24	treated 140:7 196:5
	tied 183:12		
	Tillman		

<p>true 167:8</p> <p>truth 153:10 162:14 177:13 185:10 188:5,13 199:14 204:15 205:23 207:5 208:5 210:6</p> <p>turned 147:15</p> <p>type 173:3</p> <p>types 172:6</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimately 169:17 201:12 213:16</p> <p>unable 176:6</p> <p>unanimous 140:7</p> <p>unclear 173:10</p> <p>understand 138:10 142:22 174:23 175:25 176:2 189:18 190:5 194:6</p> <p>understanding 158:7,14 172:20,22 174:12 175:8, 13,18 186:6 187:6 202:23 203:11,15</p>	<p>Uniform 207:15</p> <p>unmute 137:25</p> <p>unnecessary 186:15</p> <p>unrelated 171:2</p> <p>upcoming 209:11</p> <p>update 202:13</p> <p>Uri 140:22 141:7 143:22 146:11 148:3,9 149:17 150:6, 13 194:8,12, 21 209:22</p> <p>usage 142:12 167:7 168:21,22 169:4,9,11,12 170:4,15 177:1 181:24 183:1</p> <p>usage's 169:7</p> <p>utilities 177:2 207:16</p> <p>utility 211:22,23</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>valuable 186:22</p> <p>variant 141:24 142:3</p>	<p>164:16,18 166:10,11 167:20 168:10 170:17 171:1, 17,18 181:5, 22</p> <p>variation 165:12,15 169:13</p> <p>version 172:5</p> <p>Vice 139:20</p> <p>video 178:2</p> <p>view 146:6 157:5 181:15 183:5 209:20</p> <p>viewed 201:4,5</p> <p>viewing 148:14</p> <p>views 147:9</p> <p>virtually 174:13</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>walk 153:22</p> <p>walks 165:24</p> <p>wanted 180:14,15 186:12 192:11 213:22</p> <p>wanting</p>	<p>184:25 186:17</p> <p>Webex 137:23,24 139:18 145:5, 24 150:12 177:7 187:20 198:10</p> <p>website 178:2,3</p> <p>week 182:10</p> <p>weighted 208:17 209:14,18 210:16 211:1 213:5,15,19</p> <p>Westfall 184:21,23</p> <p>Westfall's 185:18 190:3</p> <p>Williams 136:25 140:14,16,17 147:1,2,16 148:22 167:15,19,22, 23 179:24 191:19 192:3 197:7,10 209:6,13,19 210:14</p> <p>Wilson 139:21</p> <p>wind 144:18 146:14 147:21 148:20,22 149:1 202:10 203:10</p>
---	--	--	--

winter 165:21 167:8 168:6 169:14	157:2,6,9 159:12,23 160:12,21,22 193:20,21	
withdrawn 184:11 192:4 194:8 199:4, 22	world 163:20	
witnesses 149:2 155:17 180:19 194:4 206:22 207:23	writing 211:5	
Won 145:16 207:25 208:1,6,8	<hr/> y <hr/>	
Woodsmall 137:4,5,7 149:6,7 150:15,18 151:17,19 163:19 180:5 196:16,18 197:4	year 158:20 160:14 161:20 171:14 201:15,17 202:5	
Woodsmall's 197:12	yearly 202:6	
work 143:3 146:5 164:22 170:25 172:4 179:14 182:24	years 144:20 201:12 202:16	
workable 179:10	yesterday 142:4	
worked 144:14		
working 144:16 161:2 170:8		
workpaper 161:6 193:23		
workpapers		