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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

December 5, 2002
Jefferson City, Missouri
Volume 7

In the Matter of the Tariff filing)
of Laclede Gas Company to Implement)
an Experimental Low Income Assistance)Case No. GT-2003-0117
Program called Catch-Up/Keep-Up.)

VICKY RUTH, Presiding,
SENIOR REGULATORY LAW JUDGE.

SHEILA LUMPE,
CONNIE MURRAY,
STEVE GAW,
BRYAN FORBIS,
COMMISSIONERS.

REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE RUTH: Good afternoon. We are here for
3 a continuation in GT-2003-0117. Just a moment.

4 Off the record.

5 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

6 JUDGE RUTH: Sorry for that interruption. As
7 I was saying, we are here to continue the Laclede hearing.
8 When we left off yesterday, we were working on Commission
9 questions for Mr. Imhoff, and we'll see if there are any
10 additional questions.

11 Commissioner Gaw?

12 COMMISSIONER GAW: I don't believe so.

13 JUDGE RUTH: Commissioner Forbis?

14 COMMISSIONER FORBIS: Okay. A couple of quick
15 questions, I think, trying to remember from what I was
16 working on these notes the other day.

17 TOM IMHOFF testified as follows:

18 QUESTIONS BY COMMISSIONER FORBIS:

19 Q. Two things I just wanted to get your feedback
20 on, Mr. Imhoff, if you could.

21 A. Yes, sir.

22 Q. And let me see. I talked to Mr. Fallert the
23 other day about the AAO, and you have in your testimony on
24 page 134, the Accounting Authority Order would not cause any
25 detrimental effect on Laclede's cash flow because they would

1 all be written off, and his response was that wasn't
2 necessarily the case because not all arrearages are bad debt
3 that would be written off and so there still would be a
4 negative cash flow to the company.

5 Do you have any response, then, to that
6 comment? Were you here when he was talking about that or am
7 I kind of giving you something you weren't familiar with
8 before?

9 A. Well, I was in and out, so I . . .

10 Q. Okay.

11 A. I'm trying to recall exactly.

12 Q. Well, the idea that -- because on -- let's
13 see -- line 16 and 17, you say Laclede would not incur any
14 additional incremental costs because these accounts would be
15 written off anyway. And the response from the company, if I
16 am correct, was that not all arrearages are bad debt
17 forgiveness, so there still would be some cash flow problem.

18 And I was wondering if you thought -- if you
19 had any thoughts about that statement from the company,
20 given your testimony on 14?

21 A. My testimony is based off the fact that I
22 would look at it from the standpoint that the low-income
23 customers who would not meet their payments, those accounts
24 would be written off, which would not be a cash flow impact
25 on the company because they would have already been written

1 off.

2 Now, to the extent that there are some
3 customers that are making their payments, the cash flow
4 would be coming in to the company if they could maintain
5 their payments. Okay. There's no -- when it is written
6 off, there's no -- it's not a cash cost to the company,
7 because it's already been incurred.

8 Now, I haven't seen anything that would tell
9 me that there's -- what portion -- if there would be any
10 impact on the company's cash flow, I haven't seen anything.
11 So I really can't -- it's kind of hard for me to respond to
12 what Mr. Fallert stated, because I haven't seen any
13 information that would show the impact.

14 Q. You haven't seen any information that would
15 indicate that some of this -- this -- all the arrearages
16 are, in fact, written off or not written off or what
17 percentage of it might be and how much it could be?

18 A. Correct. Probably the more appropriate person
19 to actually -- that could actually give you a better feel
20 for what would be the exact amount if there is anything out
21 there would probably be Staff Witnesses Steve Rackers or
22 John Cassidy, one of those two, as far as trying to give you
23 an exact amount.

24 Q. Sure. But the notion that there might be some
25 bad debt not written off is possible perhaps?

1 A. It's possible, yes.

2 Q. Okay. Only other thought I had was back on
3 this -- let's see. I keep coming back to this notion that
4 there's been some concern voiced about using this -- using
5 the ACA/PGA process to handle part of this program, and that
6 there might be some risk, if you will, involved in using
7 that method to help distribute these funds back.

8 Do you have some thoughts about that? Is it a
9 risk to perhaps jeopardizing that arrangement in the future
10 if we do something like that today?

11 A. Well, I believe that Staff Witness Sommerer
12 could probably better address that question, but on the
13 advice of counsel, I believe that there's some legal
14 ramifications pertaining to that. I'm not an attorney, so I
15 really can't tell you, but I believe that there might be
16 some problems whenever you're mixing or when you're trying
17 to claim gas costs and try to put margin costs in on the gas
18 cost side. I think that's a problem. But, then again, I
19 believe that Staff Witness Sommerer addresses that.

20 COMMISSIONER FORBIS: Okay. All right. Thank
21 you. I can check with him. Thanks.

22 That's it for me.

23 JUDGE RUTH: We'll move to recross. DNR?

24 MR. MOLTENI: None, ma'am.

25 JUDGE RUTH: Public Counsel?

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1 MR. MICHEEL: Thank you.

2 RECROSS-EXAMINATION BY MR. MICHEEL:

3 Q. Commissioner Murray asked you yesterday what
4 the Staff's objections to the programs were.

5 Do you recall those questions?

6 A. Yes, sir.

7 Q. And I think you said that the program funding
8 was the Staff's main objection; is that correct?

9 A. Yes, sir.

10 Q. And is that both the mechanism and the
11 magnitude of funding?

12 A. Yes, sir.

13 MR. MICHEEL: Thank you.

14 JUDGE RUTH: Laclede?

15 MR. PENDERGAST: Thank you. Just a few.

16 RECROSS-EXAMINATION BY MR. PENDERGAST:

17 Q. Commissioner Forbis asked you a question about
18 this theme about doing something to help customers pay off
19 their arrearages and potential impact on bad debts
20 jeopardizing the PGA or having impact on the PGA.

21 Do you recall those questions?

22 A. As it relates to the impact on the PGA, yes.

23 Q. Okay. And I was just curious. Are you
24 familiar with a PGA rate design proceeding that was held
25 involving Laclede Gas Company back in 1995?

1 A. No, sir.

2 MR. PENDERGAST: May I approach the witness?

3 JUDGE RUTH: Yes.

4 Would you show the documents to counsel,

5 please?

6 MS. SHEMWELL: Do you have copies for us?

7 MR. PENDERGAST: It's a copy of the

8 Commission's Report and Order out of the Commission's bound

9 case decisions.

10 BY MR. PENDERGAST:

11 Q. And could you tell me, Mr. Imhoff, is that a

12 copy of a Commission decision pertaining to a proceeding

13 called in the matter of Laclede's PGA rate design?

14 A. Yes, sir.

15 MR. PENDERGAST: And I only have one copy of

16 this, and can I go back over and stand over his shoulder so

17 I know what to tell him to point at?

18 MS. SHEMWELL: Perhaps we can make some

19 copies.

20 MR. PENDERGAST: Maybe it would be a little

21 bit easier if we could make some copies.

22 I apologize.

23 JUDGE RUTH: We'll take a very brief, perhaps

24 three-minute break. I suggest everyone else hang around,

25 and we'll just wait here.

1 We're off the record during that brief break.
2 (A BREAK WAS TAKEN.)
3 JUDGE RUTH: We are back on the record after a
4 very brief break.
5 Mr. Pendergast, do you want to continue?
6 MR. PENDERGAST: Thank you very much. Once
7 again, I apologize and I thank the Staff for making the
8 copies.
9 BY MR. PENDERGAST:
10 Q. Mr. Imhoff, directing your attention to the
11 Order that says in the matter of Laclede Gas Company's PGA
12 rate design.
13 Do you see that?
14 A. Yes, sir.
15 Q. And that's in the case before the Commission
16 entitled Case GR-94-328; is that correct?
17 A. Yes, sir.
18 Q. And if I could direct your attention to
19 page 33, and in that first paragraph there, does that
20 basically relate the procedural history of the case and
21 indicate that the case was established to consider how
22 Laclede's fixed costs, non-commodity-related gas costs
23 should be allocated between its customers?
24 A. Do you mind if I read it?
25 Q. Sure, please.

1 A. It talks about the procedural history, yes.

2 Q. Okay. And does it discuss the fact that

3 this case was established to consider PGA rate design

4 and cost allocation methodology to be applied to LGCs'

5 non-commodity-related gas costs, and that's about eight or

6 nine lines down?

7 A. Yes, sir.

8 Q. Okay. And later on, they start talking about

9 the issues. At the bottom of that page they talk about the

10 allocation of fixed gas supply costs; is that correct?

11 A. Yes, sir.

12 Q. Okay. And assume for me, if you will -- and I

13 think this is borne out by the order, but I'll give you the

14 hypothetical -- that the issue here was whether or not more

15 of Laclede's fixed capacity costs -- and by capacity cost

16 we're talking about transportation costs, aren't we?

17 A. Yes, sir.

18 Q. And perhaps fixed cost, fixed gas supply

19 demand charges, can they also be fixed?

20 A. Yes.

21 Q. Okay. -- whether more of those costs should

22 be moved out of the summer period, collected in the summer

23 PGA rate into the winter period of the PGA rate, and that

24 the issue was whether the Commission should do that or not.

25 Okay?

1 Do you have that part of the assumption?

2 A. Yes.

3 Q. And let's assume that Laclede opposed doing
4 that on the grounds that that would load up additional costs
5 on customers at the time when their bills are already
6 highest. Okay?

7 A. Yes.

8 Q. Assume that. And that Staff took the position
9 that, nonetheless, that should be done and it should be done
10 in the context of the PGA rate design proceeding. Okay?

11 A. Okay.

12 Q. And then I'd like to direct your attention to
13 page 37 where the Commission discusses its decision, and
14 would you read that paragraph that is right above the line
15 that says the ESCO contract?

16 A. It is difficult to perceive any public benefit
17 resulting from this scenario.

18 Q. I'm sorry. I really wanted you to go ahead
19 and read the line before that.

20 A. Okay. You said read the line right before.

21 Q. You did exactly what I asked.

22 A. So I'm just responding to your question.

23 Q. Thank you.

24 A. Just a minute. Okay. Okay. LGC also has
25 made a convincing argument that imposition of the suggested

1 changes in rates would burden the less able ratepayers with
2 additional expense at a time of year when heating bills are
3 already at their highest, resulting in higher bad debt,
4 higher collection costs and less revenue for the company.

5 Q. And as you already read, it is difficult to
6 perceive any public benefit resulting from this scenario,
7 correct?

8 A. Yes.

9 Q. Just to tie it all together.

10 And the question I have here is, does this
11 seem to be a Commission determination that making the PGA
12 rate design changes that were proposed in here would have an
13 impact on the company's bad debts?

14 MS. SHEMWELL: Judge, to the extent that that
15 might call for a legal conclusion, I'm going to object.

16 And for the record I would note that
17 Mr. Sommerer, who is familiar with this case, this
18 particular case Mr. Pendergast is referring to, is available
19 and will be up as a witness.

20 And one more thing. I think it probably
21 should be marked as an exhibit as much as we have discussed
22 this.

23 JUDGE RUTH: I'm going to mark it for
24 identification purposes, and I think it will be -- is that
25 No. 16, 16 or 17?

1 MR. MICHEEL: 17.

2 JUDGE RUTH: 17. First of all, for
3 identification purposes it's marked as 17.

4 (EXHIBIT NO. 17 WAS MARKED FOR IDENTIFICATION
5 BY THE REPORTER.)

6 And do you want to respond to the objection,
7 Mr. Pendergast?

8 MR. PENDERGAST: Yes. I think that he's got
9 testimony in his direct -- well, he's got material in his
10 direct testimony that talks about the PGA not being an
11 appropriate vehicle for doing this, and I think he answered
12 Commissioner Forbis on a related question.

13 And what I'm trying to do is simply probe
14 whether the PGA has, in fact, been used in the past with
15 Staff's concurrence to consider issues that can have an
16 impact on an LDC's uncollectible expense?

17 MS. SHEMWELL: It seems to me it's unfair to
18 ask Mr. Imhoff to make a conclusion until he has read the
19 entire case, particularly when we have a witness who is
20 actually familiar with the case.

21 JUDGE RUTH: Can you explain to me why you
22 prefer to ask this witness as opposed to the next witness?

23 You didn't address that in your response to
24 Ms. Shemwell's objection.

25 MR. PENDERGAST: Well, first of all, I wasn't

1 aware -- I didn't know that Mr. Sommerer was actually
2 familiar with this case. I don't know if he testified in it
3 or not. I know Mr. Proctor did.

4 MS. SHEMWELL: He certainly is our PGA/ACA
5 expert.

6 JUDGE RUTH: It seems to me it would be more
7 appropriate to ask this line of questioning of Staff's other
8 witness. If you can clarify for me how I'm wrong on that,
9 here's your opportunity.

10 Otherwise, I'm going to ask you to defer these
11 questions for the appropriate Staff witness.

12 MR. PENDERGAST: If there's assurance that
13 that subsequent Staff witness will be in a better position
14 to go ahead and deal with this than Mr. Imhoff can, that
15 will be fine.

16 JUDGE RUTH: If a later Staff witness is
17 unable to answer these questions, I think it would be
18 appropriate, then, to recall Mr. Imhoff to answer those
19 questions.

20 MR. PENDERGAST: Okay. Well, I'll leave aside
21 this order, then, for now and just ask a few more generic
22 questions.

23 BY MR. PENDERGAST:

24 Q. Are you aware of anything that prevents the
25 Commission from making rate design changes in the PGA?

1 A. I'm not aware of anything that could -- that
2 would -- I believe that -- that the Commission could speak
3 for itself. You know, I can't state one way or the other as
4 far as what type of -- what type of an Order or opinion they
5 can render. I don't think I -- maybe I'm not understanding
6 your question.

7 Q. Well, is it your experience that the
8 Commission has considered changes to an LDC's PGA rate
9 design outside the context of a general rate case proceeding
10 in a separate non-rate-case proceeding?

11 A. If you're talking about the PGA clause itself,
12 I'm not sure I'm following.

13 Q. Or how costs are allocated to customers and
14 collected from customers under the PGA?

15 A. Under the PGA? I'm not aware of any.

16 Q. Okay. So at the time you wrote your testimony
17 and expressed these concerns, you weren't aware of whether
18 the Commission has -- whether or not the Commission in the
19 past has considered making changes to the manner in which
20 costs are flowed through and collected and allocated to
21 customers through the PGA in a non-rate-case proceeding?

22 A. I believe that I've deferred how that
23 affects the PGA/ACA process to Staff Witness David Sommerer,
24 so . . .

25 Q. Very good. And I was just asking whether you

1 were aware of anything.

2 A. Well --

3 Q. And the answer would be no?

4 A. As I stated, I had deferred that to Staff

5 Witness Sommerer.

6 Q. And I understand you've deferred it, but I'm

7 saying, in preparing your testimony, when you wrote your

8 testimony, you had no personal knowledge of whether the

9 Commission's done that in the past?

10 A. I had no personal knowledge whether or not the

11 Commission had done that in the past.

12 Q. Okay.

13 A. But as I stated before when we were talking

14 about that, I did defer to Staff Witness Sommerer.

15 Q. Okay. Very good. Fair enough. I appreciate

16 that.

17 You've indicated -- well, let me ask you this:

18 You were asked some questions about cash flow and,

19 essentially, you questioned whether there would be a cash

20 flow impact as a result of this program on Laclede; is that

21 correct?

22 A. What I stated in my testimony is there is no

23 detrimental effect on Laclede's cash flow as it relates to

24 the accounts that you would have written off.

25 Q. Okay. And so it's limited to that particular

1 instance?

2 A. That's basically what I state in my -- yes,
3 that's what I state in my testimony.

4 Q. Okay. And it's not your testimony that --
5 that if Laclede does get, say, \$6 million in funding for
6 this program, that every dollar of that \$6 million would
7 result in a reduction to bad debt, is it?

8 A. That's not my testimony, no.

9 Q. Okay.

10 A. It's not a dollar for dollar.

11 MR. PENDERGAST: Okay. Thank you, Mr. Imhoff.

12 I have no further questions.

13 Thank you very much.

14 THE WITNESS: Thank you.

15 JUDGE RUTH: Okay. Redirect?

16 REDIRECT EXAMINATION BY MS. SHEMWELL:

17 Q. Thank you, Mr. Imhoff.

18 A. Yes.

19 Q. Mr. Pendergast asked you yesterday why Janet
20 Hirschgen did not testify. Do you remember that?

21 A. Yes, I do.

22 Q. Can you state why certain Staff members
23 testified in this case and others may not have?

24 A. Well, it's because the Staff's concerns is not
25 pertaining to the program elements itself, although we do

1 have some -- although we do have some concerns, we support
2 the program on an experimental basis. Staff's concern --
3 primary concern has always been with the proposed level and
4 funding method, and so that's basically it.

5 Q. Yesterday you were questioned extensively by
6 Mr. Pendergast concerning comparisons with MGE's
7 experimental low-income rate, which I'll refer to as ELIR,
8 E-L-I-R.

9 Do you remember that?

10 A. Yes.

11 Q. Okay. And he crossed you on quite a few
12 detailed comparisons.

13 Do you recall that?

14 A. Yes.

15 Q. You said you did not have personal knowledge
16 of those details; is that correct?

17 A. Yes.

18 Q. Are you indicating that you don't have
19 personal knowledge regarding your testimony on these topics?

20 A. I'm sorry?

21 Q. Were you indicating that you don't have
22 personal knowledge regarding the topics about which you
23 testified in your testimony?

24 A. No. Basically, what I was stating that
25 I did not have personal knowledge of the comparison that

1 Mr. Pendergast was making of MGE's ELIR and Laclede's
2 Catch-Up/Keep-Up proposal. It was a comparison.

3 Q. Thank you.

4 We had a long discussion of the ELIR, and in
5 your testimony you refer to it, I think, in fairly positive
6 terms.

7 Is it your opinion that the ELIR is a superior
8 plan?

9 A. Probably, but we don't know for sure at this
10 particular time. That is why we are recommending that
11 Laclede's program be done on an experimental basis and about
12 the same size and scope as MGE, so we can make the
13 comparison between the two.

14 Q. Mr. Pendergast, in making these comparisons,
15 he asked you about the fact that with MGE's ELIR program,
16 the unused funds are returned to MAAC, which I believe is
17 a -- what we refer to as a cap agency or an agency that
18 provides assistance, instead of the general body of
19 ratepayers.

20 Do you recall that?

21 A. Yes.

22 Q. And you indicated that you thought it was
23 appropriate for the funds to go back to the general body of
24 ratepayers; is that correct?

25 A. Yes.

1 Q. Can you explain why you think that?

2 A. Well, comparing Laclede's program with MGE's
3 program, regarding the individual components as selectively
4 described by Laclede does not paint the full picture. So
5 there are significant differences between the Laclede
6 program and MGE's program.

7 One, MGE's is much narrower in scope. It is
8 experimental. It was -- it was also designed by a
9 nationally recognized expert, and it was implemented based
10 on extensive research and analysis from the other parties
11 who participated in that. And it was implemented as part of
12 a rate case where all relevant factors were taken into
13 consideration.

14 Q. And in referring to the nationally recognized
15 expert, you're not questioning Mr. Moten's -- Mr. Moten's
16 experience and concern with helping low income, are you?

17 A. No, not at all.

18 Q. You just mentioned about -- indicated earlier
19 that Staff is concerned with funding and the way that the
20 program is being proposed to be funded is not what Staff
21 considers to be reasonable.

22 Could you talk a little bit more about that,
23 please?

24 A. Well, the funding has been the major stumbling
25 block since July when Laclede first filed this particular

1 case. We have had several discussions with the company
2 trying to work things out. Unfortunately, that never
3 happened. So -- but the funding, we believe, is flawed on
4 its basis, its level and the mechanism.

5 Q. Would you -- what do you mean by basis?

6 A. The base -- okay. The basis as Staff Witness
7 Henry Warren can state, Laclede's Catch-Up/Keep-Up program
8 is not carefully planned or designed. It may -- it may not
9 work because the underlying assumption is faulty, and it's
10 possible that it may -- it's possible that it was designed
11 to help Laclede's cash flow.

12 Q. Would you describe your concern with the
13 funding mechanism, the level of funding?

14 A. Okay.

15 Q. I'm sorry. With the level of funding.

16 A. Okay. Regarding the level of funding, there's
17 been nothing that's been provided to the Staff. The only
18 thing that we've heard was when Mr. Moten testified on
19 Monday that the level of programming -- or of the program
20 itself was basically based off of -- of the amount of
21 incentive that the company had received through their
22 expired GSIP, that the \$6 million was based off of that.

23 And the Staff cannot support the funding based
24 off of that when it's not based off of cost.

25 Q. Would your opinion about the funding mechanism

1 and level change if this were -- Staff considered this a
2 GSIP or even an incentive plan?

3 A. Well, Staff does not consider this a GSIP. As
4 it relates to the mechanism itself, Staff Witness Dave
5 Sommerer states that -- that allowing non-gas costs to go to
6 the PGA process is not a reasonable thing to do.

7 Q. Let me follow up. Commissioner Forbis asked
8 you about the concerns -- and I think that we have stated in
9 our testimony. If I recall, you stated that the concern is
10 mixing gas and non-gas costs, and Commissioner Murray was
11 asking about that yesterday.

12 Do you know if the Commission has allowed
13 non-gas costs to be included in the PGA?

14 MR. PENDERGAST: I think I'm going to object.
15 Excuse me.

16 I think I'm going to object at this point.
17 I'm going to object, No. 1, because I think it goes past and
18 beyond the cross-examination, and No. 2, it seems like she's
19 trying to probe Mr. Imhoff in the same way I was, and I was
20 told that I had to wait for Mr. Sommerer. So I . . .

21 MS. SHEMWELL: Well, I'm not asking about a
22 specific case, and I'm responding to Commissioner Murray's
23 questions yesterday about, could these be considered to be
24 gas costs and could we include non-gas costs in.

25 So I don't think it's beyond the scope of her

1 questions.

2 MR. PENDERGAST: Well, I was trying to probe
3 the very same kind of thing, what gets handled through the
4 PGA, what can the Commission do in the PGA with respect to
5 making various changes that may affect what Staff likes to
6 call non-gas costs. And I was told that I couldn't pursue
7 that, that I had to talk to Mr. Sommerer about it.

8 JUDGE RUTH: You may respond, but you'll need
9 to explain to me why he's not right.

10 MS. SHEMWELL: Well, because he was pretty
11 much specifically referring to a case that Mr. Imhoff said
12 he was not familiar with, and he was trying to introduce
13 evidence about this case.

14 I'm asking specifically not about this
15 case at all, and just a very general question in response to
16 Commissioner Murray's questions to Mr. Imhoff.

17 JUDGE RUTH: I see a difference. It's slight.
18 I'm going to give you a little bit of leeway, but don't go
19 too far.

20 MS. SHEMWELL: That was actually my last
21 question.

22 BY MS. SHEMWELL:

23 Q. Are you aware that the Commission has allowed
24 the mixing of gas and non-gas costs in the PGA?

25 A. I'm not aware.

1 Q. In its cross-examination, and also
2 Commissioner Murray was asking questions about the fact that
3 the increase seems to be minor in nature, and we agreed it
4 was approximately \$1 a month.
5 Do you recall that cross --
6 A. Yes, I do.
7 Q. -- and questions from Commissioner Murray?
8 Would you agree with the assessment concerning
9 customer impacts?
10 A. No.
11 Q. Why not?
12 A. Well, you could look at this as looking at
13 this as an additional dollar increase in the customer
14 charge. I mean, approximately. I know it's not quite a
15 dollar, as was pointed out to me yesterday by
16 Mr. Pendergast, but that's -- it would be essentially on the
17 average approximately \$1 increase in the customer charge.
18 Q. Monthly?
19 A. Monthly.
20 Q. Is that the way that MGE's program is funded,
21 do you know?
22 A. Yes. Yes, it is.
23 Q. Commissioner Murray asked you if putting
24 expiration date in the tariff -- and I think it's March
25 2006 -- satisfied Staff's concerns about the program being

1 experimental.

2 Do you recall that?

3 A. Yes.

4 Q. Does putting in a termination date in the

5 tariff satisfy Staff's concerns that this is now an

6 experimental program?

7 A. No.

8 Q. Would you say why not, please?

9 A. Well, because an experimental low-income

10 program should be limited in scope and it should be designed

11 to actually test its hypothesis, and it's not designed to

12 replace income for the LDC.

13 Q. Mr. Pendergast referred you to

14 Mr. Henderson's, Wes Henderson's testimony in the Ameren

15 case yesterday.

16 Do you remember that?

17 A. Yes.

18 Q. And do you think that we can compare the level

19 of funding in that case to the level of funding in the

20 catch-up?

21 Do you think that's a reasonable comparison?

22 A. No.

23 Q. Would you say why not?

24 A. Well, several reasons. One, it was done in

25 the context of the complaint/rate case.

1 No. 2, AmerenUE -- AmerenUE's customers almost
2 doubles that of Laclede's, and the customer impact is quite
3 different. The AmerenUE program is funded entirely by the
4 shareholders; whereas, Laclede's will be funded entirely by
5 the ratepayers.

6 Also, AmerenUE's customers did receive a rate
7 decrease in that case as well.

8 Q. When you said the customers almost double,
9 were you indicating that Ameren has almost twice as many
10 customers as Laclede does?

11 A. I'm sorry. Yes.

12 MS. SHEMWELL: That's all I have. Thank you,
13 Mr. Imhoff.

14 Thank you, Judge.

15 JUDGE RUTH: Mr. Imhoff, you may step down.
16 You are not excused at this time.

17 Now, I want to recall DNR Witness Wyse. We
18 had started Mr. Wyse. We had stopped when we were ready for
19 questions from the Bench. I'd like to proceed from there.

20 Is he available?

21 MR. MOLTENI: Yes, ma'am.

22 JUDGE RUTH: Mr. Wyse, I'll remind you, you
23 are still under oath, and you may be seated.

24 We had completed the direct, rebuttal and
25 cross. So now I'll ask if there are any questions from the

1 Bench for Mr. Wyse?

2 Please proceed.

3 RON WYSE testified as follows:

4 QUESTIONS BY COMMISSIONER GAW:

5 Q. Thank you, sir, for being here.

6 I asked somebody the other day if they had
7 heard of a program, I think it's in -- perhaps in New
8 Hampshire called "pay as you save."

9 Have you ever heard of that program?

10 A. I'm not aware -- aware of that program, no.

11 Q. Have you seen any programs on weatherization
12 where there's some sort of a program to allow when certain
13 energy savings are invested, energy savings things are
14 invested in, that then there is a collection back on the
15 utility bill from that point forward, and it's measured out
16 in a way that -- so that there's really not a significant
17 difference in the bill, because of the savings contemplated
18 from putting that in?

19 A. I'm not aware of New Hampshire. I know that
20 Ohio, I think, has something similar to that. We -- in our
21 testimony that we filed, we talked about a Pennsylvania
22 program that --

23 Q. I saw that. You might go ahead, though, if
24 you want.

25 A. Well, that because of the weatherization they

1 were able to really reduce their arrearages because of the
2 savings.

3 Q. It strikes me that -- that in some of the
4 older homes that if you don't do something about the
5 insulation problems and efficiency problems inside of the
6 home, that you're just creating this unending cycle of high
7 heating bills and difficulty in payment.

8 Do you have any -- is there any specific data
9 that you have in regard to the percentages of savings that
10 result in these homes on average, the older homes, as far as
11 investment to -- to benefit?

12 A. Yes, we do. And that was part of what we
13 filed as part of our testimony. One is the -- right here in
14 Missouri the MGE that was presented to the Commission, I
15 believe it was a '98 study that was presented to the
16 Commission in October of '99, but there that showed a
17 cost/benefit ratio of -- for every dollar invested, a return
18 in savings of \$1.61, I believe is what's in my testimony.

19 As far as percentage of savings, space heating
20 savings, I think the MGE study talked -- or found, like, a
21 28 percent -- over a 28 percent savings in space heating.
22 There's other studies, one by Oakridge National Laboratory
23 for the Department of Energy. That study showed, like, a
24 third of savings on natural gas heated homes. So there's
25 some significant savings there.

1 And then certainly, you know, the cost of --
2 of the fuel, the gas makes a difference, you know, when
3 we've seen gas go from \$2 all the way up to \$10, where your
4 savings certainly increase to when you -- you're talking
5 about a higher cost of gas.

6 COMMISSIONER GAW: I think that's all I have,
7 Judge. Thanks.

8 Thank you, sir.

9 THE WITNESS: Thank you, Commissioner.

10 JUDGE RUTH: Okay. Public Counsel, will there
11 be -- I'm sorry.

12 I had Mr. Micheel down for the cross first,
13 recross; is that correct?

14 MR. MICHEEL: That's correct. I have no
15 questions of Mr. Wyse on recross.

16 JUDGE RUTH: Okay. And Staff?

17 MS. SHEMWELL: No questions, thank you.

18 JUDGE RUTH: Laclede?

19 MR. ZUCKER: No questions.

20 JUDGE RUTH: Now redirect?

21 MR. MOLTENI: Didn't mean to jump the gun on
22 you.

23 JUDGE RUTH: You knew what everyone was going
24 to say?

25 MR. MOLTENI: I had too much coffee at lunch.

1 I just have a few questions on redirect.
2 REDIRECT EXAMINATION BY MR. MOLTENI:
3 Q. Mr. Wyse, you recall being cross-examined by
4 Mr. Zucker from Laclede?
5 A. Yes.
6 Q. And Mr. Zucker asked you about DNR supporting
7 cash assistance for low-income customers and low-income
8 weatherization.
9 Do you remember that?
10 A. Yes, he did.
11 Q. And you said that DNR did support that, didn't
12 you?
13 A. Yes.
14 Q. But DNR understands that there's more to
15 Catch-Up/Keep-Up than simply providing cash assistance to
16 low-income customers and weatherization; is that right?
17 A. That's true.
18 Q. And I just want to be clear that while DNR
19 doesn't oppose cash assistance to low-income customers and
20 while DNR actively supports low-income weatherization
21 programs, DNR is not endorsing Catch-Up/Keep-Up in that
22 proceeding; is that correct?
23 A. That's correct.
24 MR. MOLTENI: I have no further questions.
25 JUDGE RUTH: Okay. Mr. Wyse, you may step

1 down, and you are excused.

2 THE WITNESS: Thank you.

3 JUDGE RUTH: Staff, would you please call your
4 next witness?

5 MS. SHEMWELL: Staff calls Henry Warren.

6 JUDGE RUTH: Off the record.

7 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

8 JUDGE RUTH: We're back on the record.

9 (Witness sworn.)

10 JUDGE RUTH: Staff, you may proceed.

11 HENRY WARREN testified as follows:

12 DIRECT EXAMINATION BY MR. SCHWARZ:

13 Q. Would you state your name for the record,
14 please.

15 A. Henry Warren.

16 Q. And by whom are you employed?

17 A. The Missouri Public Service Commission.

18 Q. And what is your position with the Commission?

19 A. I'm a regulatory economist.

20 Q. And are you the same Henry Warren who caused
21 to be prefiled in this case some direct testimony?

22 A. Yes.

23 Q. Do you have any corrections to make to that
24 testimony?

25 A. No, I have no corrections.

1 Q. If I asked you the same questions today as
2 were propounded in your prefiled testimony, would your
3 answers be substantially the same?

4 A. Yes, they would.

5 Q. Are your answers true and correct to the best
6 of your information and belief?

7 A. Yes, they are.

8 MR. SCHWARZ: I would -- I would now offer
9 Mr. Warren's direct testimony into the record.

10 JUDGE RUTH: Okay. Exhibit No. 8 has been
11 offered, Mr. Warren's direct testimony. Are there any
12 objections to it being received?

13 (No response.)

14 JUDGE RUTH: Seeing no objections, Exhibit 8
15 is received.

16 (EXHIBIT NO. 8 WAS RECEIVED INTO EVIDENCE.)

17 JUDGE RUTH: Have you given the court reporter
18 a copy?

19 MR. SCHWARZ: Yes.

20 JUDGE RUTH: Thank you. You may proceed.

21 BY MR. SCHWARZ:

22 Q. Mr. Warren, both Mr. Moten and Mr. Cline in
23 their direct testimony referred to Missouri Gas Energy or
24 MGE's ELIR program.

25 Are you familiar with their testimony on that

1 subject?

2 A. Yes.

3 Q. And what is the ELIR?

4 A. It's the acronym for experimental low-income
5 rate. That was an experimental low-income program
6 implemented for the Joplin service area of Missouri Gas
7 Energy in their rate case in 2001.

8 Q. Could you explain to the Commission the
9 differences in how the parties -- or the circumstances under
10 which the parties arrived at the design of the ELIR and how
11 Laclede's Catch-Up/Keep-Up program has been developed?

12 A. Well, the ELIR was the result of -- one of the
13 results of nego-- negotiation in a general rate case that
14 led to a Stipulation & Agreement among the parties, and it
15 was part of that comprehensive case.

16 And I might reiterate that in any Stipulation
17 & Agreement presented to the Commission, it's always stated
18 that no part of that Stipulation & Agreement can -- should
19 be separately analyzed, that it's a cohesive document and a
20 cohesive agreement, and one part of the agreement is
21 cohesively tied to the total. So -- the total Stipulation &
22 Agreement in the rate case.

23 The Laclede program has been filed as a
24 separate tariff and is not part of any other rate case or
25 analysis. That's one of the primary differences.

1 Would you like me to go into some more
2 specific differences?

3 Q. Absolutely, if you would.

4 A. All right. In the Missouri Gas Energy case,
5 the ELIR was first proposed by Mr. Roger Colton, who was
6 retained by the Office of the Public Counsel. Roger Colton
7 is a nationally recognized expert on low-income programs for
8 utilities, natural gas and electric utilities. He has
9 testified in scores of rate cases around the country, and he
10 provide extensive documentation on similar programs in
11 similar states, presenting documentation on the structure of
12 the income and arrearages of the low-income customers in the
13 MGE service area.

14 And there -- had extensive testimony, as well
15 as schedules in his testimony, both direct and surrebuttal,
16 detailing the stratification and the potential impact, based
17 on results in other jurisdictions, of a program of this
18 type.

19 Q. And what about Laclede's Catch-Up/Keep-Up?

20 A. There was no corresponding data or analysis
21 tables or stratification of Laclede's customers, their
22 arrearages, the low-income population in Laclede's service
23 territory that I found, either that was submitted directly
24 or was provided in response to Data Requests by Staff.

25 Q. What about the scopes of the program as far as

1 number of customers and cost?

2 A. Well, ELIR was designed to be a -- a limited
3 experiment. The -- it was designed to include a thousand
4 low-income customers over a period of two years, and they
5 would be receiving subsidies according to their -- the
6 percent of their income compared to the poverty level. And
7 so the total expenditure on the program that was allowed for
8 in rates, I believe, was \$400,000.

9 Q. And the Catch-Up/Keep-Up program?

10 A. The funding that I saw in the Catch-Up/Keep-Up
11 program was for \$6 million, and was apparently open-ended as
12 far as the number of participants. Could include, I guess,
13 whatever would meet the criteria that were established,
14 which is not what would normally be characterized as an
15 experimental program.

16 Q. Do you have Mr. Moten's testimony with you?

17 A. Yes, I do.

18 Q. And he attached to his testimony the tariff
19 sheets that Laclede filed on September 23rd to initiate this
20 proceeding.

21 Do you have those attachments?

22 A. Yes, I have that attachment.

23 Q. And you've reviewed those tariffs?

24 A. Yes, I've reviewed them.

25 Q. What program elements or terms in this tariff

1 would indicate to you whether this program was designed as
2 an experiment or not designed as an experiment?

3 A. Well, I think the primary -- some of the --
4 some of the primary elements of an experiment are what we
5 would call experimental design that would attempt to
6 characterize the customers who are going to participate in
7 the program, what their status is to begin with, and what --
8 how the program will affect them, and what their status is
9 at the -- at the end of the program.

10 And I would out-- outline the various types of
11 data that would be needed to perform an analysis of that
12 type.

13 Q. I call your attention to sheet 28-j attached
14 there, and specifically paragraph F, sub 5, and ask you to
15 comment on that provision in light of experimental design.

16 A. Well, this seemed to be the -- the only
17 provision in the tariff that referred to actual data
18 collection and possible measurement of talking about the
19 impact of the program and the objectives of the program.
20 And it is fairly limited and -- and its provisions of
21 information to be collected, and has no firm provision for
22 that information to be collected and analyzed.

23 Q. So that as far as constituting an experiment,
24 would this be a -- would you suggest that this is a good
25 program design or a poor program design or is it, in fact,

1 really an experiment at all?

2 A. As it stands, it would -- I don't find the
3 necessary provisions that would be required to fully measure
4 the impact of this program on the targeted participants.

5 Q. Thank you.

6 Is there any reflection in the tariffs that --
7 and the program design, such as it is, that Laclede had
8 conducted an analysis and data-gathering program as
9 Mr. Colton had in designing the MGE program?

10 A. I did not see any analysis of that type.

11 Q. Was any provided to you at that time through
12 Data Requests?

13 A. No, it was not.

14 Q. In your opinion, is the ELIR a better
15 experimental design than the Catch-Up/Keep-Up?

16 A. In my opinion, yes, it is.

17 Q. Mr. Moten specifically refers to Mr. Colton's
18 MGE testimony, does he not?

19 A. Yes.

20 Q. Do you recall, is that in -- was that
21 testimony available to him at the time that Laclede proposed
22 the Catch-Up/Keep-Up program?

23 A. It would certainly have been approximately a
24 year before Laclede submitted their testimony on this case.

25 Q. Would it have been possible, in your opinion,

1 to have considered the Catch-Up/Keep-Up proposal in
2 Laclede's rate case?

3 A. Well, in my opinion, it would -- it would
4 have been one example I would give of the evolvement of
5 issues in the rate case, would be the rate design that was
6 ultimately implemented in the rate case, adopted in the
7 Stipulation & Agreement and ordered by the Commission.

8 This -- although the tes-- the original rate
9 design and tariff sheets were filed in January, this rate
10 design was not proposed until -- until July, and it was --
11 it was a radical departure from the originally proposed
12 rate design, and Staff worked very diligently to -- to
13 implement -- to evaluate and implement this rate design in
14 the rate case.

15 Q. And so it's your opinion that a low-income
16 program would have been a task that could also have been
17 addressed in the rate case setting?

18 A. Yes, that would be my opinion. It could have
19 been addressed in the rate case.

20 Q. Do you know if Staff proposed to discuss the
21 low-income program in the rate case?

22 A. I have heard -- heard testimony to that
23 effect, yes.

24 Q. What elements did Mr. Colton recommend in the
25 MGE rate case based on his analysis of MGE's customers?

1 A. Well, he recommended several things. I think
2 the -- possibly one of the main ones was a stratification of
3 the experimental low-income rate, in that people in the
4 lower poverty level, zero to 50 percent of poverty level,
5 would receive a larger subsidy at a larger rate than the
6 people in the 50 to 100 percent level.

7 Q. Did he also propose a substantial extension of
8 repayment of arrearages?

9 A. Yes, that would be another provision that he
10 proposed, that the arrearages, I think, be -- they would be
11 spread out over, I think, anywhere from maybe one year to
12 30 months, I believe.

13 Q. So it's safe to say that Mr. Colton recognized
14 that there was both a problem with customers burdened with
15 arrearages, as well as customers burdened with their bill
16 for current service?

17 A. Yes, he addressed both of those in his direct
18 testimony.

19 Q. And does Laclede's Catch-Up/Keep-Up address
20 both of those elements?

21 A. It appears to address the need for -- for, you
22 know, ongoing subsidy, only in terms of a levelized payment
23 plan.

24 Q. Does the MGE ELIR or Laclede's
25 Catch-Up/Keep-Up require the -- which requires the

1 respective LDC to actually gather and maintain and report
2 information?

3 A. The experimental low-income rate tariff has
4 provisions for specific data -- data collection and
5 analysis, primarily contained on the last page of the tariff
6 under the heading other conditions. And it mentions MGE
7 will gather participant data on usage, arrears, payments and
8 other relevant factors, which will be combined with the data
9 and provided to the -- with data provided by the agency,
10 being a social service agency, to enable evaluation of the
11 program.

12 Q. So there's no equivocation with respect to
13 MGE's obligation to gather and report data?

14 A. That's correct.

15 Q. Are you familiar with the Laclede
16 weatherization program that was implemented as a result of
17 Case GR-92-165?

18 A. I'm familiar with it. I was involved in the
19 implementation of that, yes.

20 Q. And in the development and implementation of
21 that program, was evaluating the effect of program
22 arrearages part of the objective of the program?

23 A. Yes. That was in the -- in the discussion of
24 the implementation of the program. I know that it
25 specifically -- Public Counsel was interested in evaluating

1 that -- that aspect of the program.

2 Q. Are you familiar with the final report on the
3 results of the weatherization program that was filed with
4 the Commission in April of 1997?

5 A. Yes, I am.

6 Q. Does it contain any analysis of the effect of
7 the weatherization program on arrearages?

8 A. No, it does not.

9 Q. On cross-examination, Mr. Moten said that one
10 result of the program evaluation was that benefit/cost ratio
11 of .77 or 77 cents for dollars spent on the program, and he
12 referred to page A.1.1 of the first appendix.

13 Did you find that ratio calculated on that
14 page?

15 A. No, I did not.

16 Q. What did you find?

17 A. Well, Laclede in its analysis didn't calculate
18 benefit/cost ratios, they calculated the -- what they call
19 the years to pay back. And this specifically referred to,
20 given the amount of gas and electricity that would be saved
21 by the cap after weatherization, how many years it would
22 take to return the original -- to return the original
23 investment in the weatherization.

24 Q. What was the cost per therm of gas used in the
25 calculation of that result?

1 A. Let me refer to that just a moment.

2 In the final analysis at the bottom of the

3 page, it was approximately 56 cents per therm.

4 Q. And what's the approximate cost of gas as a

5 result of Laclede's most recent PGA tariffs?

6 A. I found that to be approximately 65 cents.

7 Q. And to your knowledge, has Laclede had any

8 margin rate increases since the time the report was filed?

9 A. Yes, they have.

10 Q. And how would these increased rates affect the

11 benefit/cost ratio of weatherization?

12 A. Well, they would increase the benefit, because

13 the calculations of the dollars for therm gas on the gas

14 that was saved with the weatherization would increase.

15 Q. Might it also be true that the cost of

16 weatherization would increase?

17 A. It might have increased as well, or the --

18 possibly due to better technology, it might -- some measures

19 might not be as expensive as they were.

20 Q. After the conclusion of that program and

21 before the Commission's Report and Order in GR-2001-629, did

22 Laclede fund weatherization programs?

23 A. No, they did not.

24 Q. In development of a low-income program and

25 analyzing its results, do you consider a benefit/cost ratio

1 significant?

2 A. Yes. It's a good indicator of the performance
3 of the program.

4 Q. Have -- based on what you've seen in this
5 case, both the evidence and the data requests, do you see
6 that Laclede has performed any type of preliminary
7 benefit/cost analysis or assessment?

8 A. I did not see that in information filed or in
9 response to Data Requests, no.

10 MR. SCHWARZ: I think that's all the questions
11 I have for Mr. Warren.

12 JUDGE RUTH: Mr. Molteni, do you have any
13 cross?

14 MR. MOLTENI: No, ma'am.

15 JUDGE RUTH: Public Counsel?

16 MR. MICHEEL: No, your Honor.

17 JUDGE RUTH: Laclede?

18 MR. ZUCKER: Yes, ma'am.

19 CROSS-EXAMINATION BY MR. ZUCKER:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. My name is Rick Zucker. I'm an attorney for
23 Laclede Gas Company.

24 Your first question today is referred to you
25 by Mr. Tom Imhoff of Jefferson City. You may remember it

1 from yesterday. In the MGE rate case, was any adjustment
2 made to uncollectible expense to allow for the effects of
3 the experimental low-income rate?

4 A. I'm not aware of -- of that, but I was not
5 specifically involved in that aspect of the rate case.

6 Q. Okay. So you're not aware of any?

7 A. No, I'm not. I would probably refer that to
8 our Staff witnesses in accounting.

9 Q. Are any of those testifying in this case
10 today?

11 A. Yes. Well, I'm not sure that they are, if
12 the -- if the accountants -- different accountants
13 participate in different cases, and I'm not sure the ones
14 testifying today would have been directly involved in that
15 case.

16 Q. Well, let's run with your answer of you're not
17 aware of any, and if the answer is no, if the MGE
18 experimental low-income rate program is unsuccessful and bad
19 debts actually increase, MGE would bear the cost of those
20 increases, would they not?

21 A. Well, the -- I'm trying to sort this out,
22 because this -- this applies to a thousand customers in
23 Joplin. If those particular customers' bad debts would --
24 would increase, the overall effect would be -- have to be
25 taken into account with the rest of the performance of the

1 MGE customers not in the program.

2 So the effect of -- the effect of -- on those
3 thousand people on their -- I'm sorry -- thousand customers
4 on their overall program would have to be balanced with the
5 behavior that the other -- or the effect of the rest of the
6 customers.

7 Q. Okay. Well, let's hold all else equal,
8 though, and just look at those thousand customers.

9 If their bad debt expenses actually increase,
10 wouldn't MGE bear the cost of those increases?

11 A. I think that would be a likely conclusion,
12 yes.

13 Q. And if the program was successful and the bad
14 debts associated with those thousand customers actually
15 decreased during the experiment, then MGE would receive the
16 benefit of the decreased bad debts; isn't that correct?

17 A. For those thousand, for the customers in the
18 program, that's correct.

19 Q. Either way, the MGE customers who are paying
20 the surcharge are funding the experiment; isn't that right?

21 A. Yes, the MGE customers are paying the
22 surcharge for the experiment.

23 Q. So in the end, doesn't the MGE experiment come
24 out exactly like the Laclede experiment in Catch-Up/Keep-Up?

25 A. The -- the primary difference would be the

1 magnitude of the program, and that's why the program at MGE
2 was limited in its scope.

3 Q. Okay. And let's talk about that briefly.

4 In the MGE program, you talked about
5 Mr. Colton as a nationally recognized expert on low-income
6 programs, correct?

7 A. Yes.

8 Q. You said that both in your direct and your
9 rebuttal here today?

10 A. Yes.

11 Q. And is it not true that Mr. Colton proposed in
12 the MGE case a program at the level of \$4.4 million?

13 A. I believe that was his proposal.

14 Q. And did he not also say that ideally it would
15 include an arrearage forgiveness component?

16 A. Yes, I believe he recommended that.

17 Q. Let me talk briefly about the Laclede
18 weatherization program you referred to, the .76 to 1.

19 A. Yes.

20 Q. I believe you stated that that actual number
21 is not in Laclede's report?

22 A. I said it's not on -- it's not on the page
23 that was referred to. I didn't find it.

24 Q. That's right. And that number was calculated,
25 I believe, using the Oakridge National Laboratory numbers.

1 Do you know how many years the Oakridge
2 National Laboratory uses for their return on weatherization
3 investments?
4 A. I don't have that immediately available, no.
5 Q. If I told you 20 years, would that sound
6 correct to you?
7 A. I don't have immediate knowledge of that.
8 Q. And the discount rate, do you know what
9 discount rate Oakridge National Laboratory uses in analyzing
10 their weatherization programs?
11 A. No, I don't have that immediately available.
12 Q. If I told you 4.7 percent, would that sound
13 right to you?
14 A. I'll accept your specification.
15 Q. And using the 20 years and the 4.7 percent,
16 that's how Laclede calculated the .76 to 1. Would you
17 accept that?
18 A. I will accept your explanation of their
19 calculation.
20 Q. Fair enough. The Laclede weatherization
21 program that came out of Case No. GR-2001-629, wasn't that
22 program approved prior to entering into accounts in
23 connection with that program?
24 A. Yes, it was.
25 Q. Wasn't the AmerenUE weatherization program

1 also approved prior to AmerenUE entering into the contract?

2 A. Yes, it was.

3 Q. How about the MGE experimental low-income
4 rate, was that approved by the Commission before any
5 contracts were entered into?

6 A. Yes, it was.

7 Q. You also mentioned that there was less data
8 provided by Laclede than was analyzed before the MGE
9 experimental low-income rate was approved.

10 Do you remember that?

11 A. Yes. I remember that was what appeared to me,
12 yes.

13 Q. In your testimony in that case, though, didn't
14 you say that even though all these cost estimates were made,
15 the accuracy of these estimates -- and I'm quoting now --
16 the accuracy of these cost estimates and appropriateness of
17 these assumptions could better be determined in an
18 experimental program?

19 A. That sounds right.

20 Q. You testified that the MGE low-income rates
21 program was part and parcel -- a cohesive part, I think you
22 called it, of a rate case negotiated agreement?

23 A. That's my -- I would say that's my
24 characterization of language that is normally included in
25 stipulations and agreements.

1 Q. Isn't it also true that AmerenUE's \$5 million
2 program was also part of a negotiated rate case agreement?

3 A. Yes. Specifically a complaint case, but
4 that's a Stipulation & Agreement, yes.

5 Q. You talked briefly about the level of data
6 that would be provided by Laclede in their Catch-Up/Keep-Up
7 program versus what MGE will provide in their experimental
8 low-income rate.

9 Do you recall that?

10 A. Yes.

11 Q. Have you seen Exhibit 13 that has that
12 additional data?

13 Do you happen to have that?

14 A. Yes, I have that.

15 Q. And instead of 5 pieces of information there,
16 there is now 16; is that correct?

17 A. Yes. I see that part of the tariff.

18 Q. And, in fact, the only piece of those 16 that
19 is conditioned on information being available is No. 5, only
20 one of the 16 points; is that correct?

21 A. Yes, that appears to be correct.

22 MR. ZUCKER: Thank you very much. I have no
23 further questions at this time.

24 JUDGE RUTH: Commissioner Gaw, do you have any
25 questions?

1 QUESTIONS BY COMMISSIONER GAW:

2 Q. Sir, your concerns about the lack of
3 measurements in this program, can you -- can you recommend
4 measurements that would fix the concerns that you have?

5 A. Yes, I think I address some of those in my --
6 in my direct testimony. Where -- where I -- yes, in general
7 there would be more careful measurement of the number of
8 low-income customers and their -- what their arrearages are
9 at the beginning of the program and the -- how many people
10 would actually participate in the program.

11 So I think there would be -- and I think that
12 is -- that some of these have been addressed in the -- in
13 the Exhibit 13.

14 Q. What things have not been addressed that
15 you're still concerned about?

16 A. I think that's the -- I would say my -- my --
17 my concerns would be in terms of a better characterization
18 of the experiment. And I guess the other thing would be
19 the -- an experiment of this magnitude, it would need to be
20 tracked more closely. Now, I think that the -- I'm trying
21 to compare specifically what they had in their exhibit
22 compared to my testimony.

23 And I think probably in -- information on
24 the -- on the income of the -- the participants would
25 be better Laclede's service area. And if -- and I think

1 some of the information would be available through their
2 participation in things such as the low-income -- such as --
3 I'm sorry -- such as LIHEAP or specific income information
4 is available.

5 Q. So you want the -- you want those in addition
6 to what is spelled out? You think there needs to be a
7 better characterization of the experiment first, and that
8 there should be better tracking or better monitoring --

9 A. Yes.

10 Q. -- second.

11 And third, the -- more information on the
12 income of the participants. Did I get that?

13 A. Yes.

14 Q. Now, and I assume -- are you saying that you
15 would like that to be done if the program is implemented on
16 a going-forward basis or before the program is actually
17 implemented?

18 A. Well, I think as -- there would be an attempt
19 to measure these in the general -- in the population of
20 low-income customers, and specifically to make sure the
21 participants in the program are a good representation of the
22 low-income customers in the program.

23 I think that's one thing that we would -- we
24 would want to measure, to be sure that when -- you would
25 measure the participants against the total population, and

1 there would be -- and you would do it on -- you would do
2 some initial analysis, and then you would do it on a
3 going-forward basis.

4 Q. Okay. And what are you going to do with that
5 information after -- after you get done with this?

6 A. Well, I think the -- one of the main things
7 you want to measure in an economic experiment is the -- is
8 that a decrease in -- is that a decrease in their arrearages
9 through the catch up -- the provisions of Catch-Up/Keep-Up
10 is a -- the same -- is equivalent to an increase in the
11 income of a household.

12 And the question would be, how does the
13 household behave relative to its -- specifically with its
14 behavior as a utility customer of Laclede, and also as a
15 household in general, with this increase in income.

16 Q. Okay. When you get these measurements, what
17 is it that -- that's going to determine -- would give you an
18 opinion that the experiment was successful, that the program
19 was successful?

20 A. Oh. Yes. I think that if the -- if the
21 arrearages were lowered for this customer, if their payment
22 behavior was better in terms of paying their bill completely
23 and regularly, that that would be a measure of the success
24 of the program, in terms of its effect on or its benefit to
25 Laclede, the Laclede company, and other -- and other Laclede

1 ratepayers.

2 Q. Anything else?

3 A. That would be the -- yeah, I think that would
4 be the primary characteristics.

5 Q. What I'm wanting to find out here is what the
6 goals are of this -- of these kinds of programs. And I'm
7 hearing you say you want to see if there's a decrease in the
8 amount of the arrearages and that there's some improvement
9 in payment patterns on the part of those who qualify for the
10 program?

11 A. Yes.

12 Q. And I guess what I'm looking for is, how do we
13 measure that against not having the program and who is --
14 who is measuring the impact of the program on those who are
15 paying for it but not benefitting from it?

16 A. Well, that would -- that was one thing I was
17 trying to characterize, is that a program of this type
18 should ultimately benefit all ratepayers because all
19 ratepayers are paying for it.

20 And the -- the improvement of the behaviors of
21 the participants in the program as customers -- and when I
22 say improvement in behavior, it would be less arrearages, it
23 would mean fewer notices having to be -- past-due notices
24 having to be sent out, fewer shutoffs occurring, all of
25 which end up being expenses that the customers -- total

1 customer base has to bear, as well as has been mentioned the
2 -- once arrearages continue for a certain period of time,
3 they -- they become bad debts.

4 And that's another thing that has been
5 discussed in a general rate case, is expense to the total --
6 total customer base.

7 Q. I mean, if your only goal here was to try to
8 decrease arrearages and also perhaps keep cutoffs from
9 occurring, you just transfer all of the payments over to the
10 rest of the ratepayers and let them pay for all of that, in
11 a worst-case or best-case scenario, depending on how you
12 look at it, and then you wouldn't have that pattern. But
13 you're not measuring the impact on the rest of the
14 ratepayers.

15 So I guess what I'm looking for is, what's the
16 measurement of these programs on how you compare the impact
17 on the ratepayers who are not benefiting as compared to not
18 having the program at all? Is there some sort of objective
19 measurement there that's available when you look at these
20 kinds of programs?

21 Is there even a subjective way of analyzing
22 that?

23 A. Well, I can -- I think, as was stated earlier,
24 that a benefits/cost ratio is one way -- is one of the
25 primary ways that the value of an experiment like this can

1 be measured.

2 Q. Is there -- do you -- can you have that -- do
3 you have a formula or a mechanism for making that
4 calculation available to you now that you can say, this is
5 what we're going to use to measure whether this program is
6 successful?

7 Is there something that's in any of this
8 testimony that would tell us, this is what we're going to
9 use to determine whether or not this program is successful?

10 A. Well, I don't think in my -- I specifically
11 stated that in my testimony I filed, and -- but the -- some
12 of the things that I've discussed would be the components of
13 that. I know we discussed the cost of the program, in terms
14 of how many -- how many participants there were and what the
15 levels of arrearages that were paid and, you know, what
16 additional costs the company incurred in implementing this
17 program.

18 So that would be a general characterization of
19 the costs of the program, and a general characterization of
20 the benefits would be to attempt to measure some of the
21 details I've discussed of customer performance, in terms of
22 them staying current with their bills, fewer notices being
23 sent out, fewer cutoffs occurring. And ultimately if
24 arrearages are reduced, that's a general characterization of
25 the economic benefits of a program of this type.

1 And hopefully the -- for a successful program,
2 that ratio, the ratio of benefits would be -- at least
3 would -- the benefit/cost ratio would at least be one,
4 indicating the benefits are the same as the costs. And if
5 it's greater than one, it would indicate that there are more
6 benefits than costs.

7 COMMISSIONER GAW: I believe that's all.
8 Thank you.

9 JUDGE RUTH: Okay. Although I hate to
10 interrupt questions from the Bench, we've been at it for
11 over our 90-minute preference, so we will take a break, for
12 10 minutes.

13 Come back at 10 after 3 and we'll continue
14 with questions from the Bench.

15 We're off the record. Thank you.

16 (A BREAK WAS TAKEN.)

17 JUDGE RUTH: We are back on the record after a
18 break. During the break, Mr. Molteni from the Attorney
19 General's Office, representing DNR, had approached the Bench
20 and asked if he could be excused for the remainder of the
21 hearing. I had previously indicated that it was the
22 Commission's preference that all parties remain.

23 However, on break several of the Commissioners
24 discussed this and thought it would be appropriate to allow
25 Mr. Molteni to leave. So he has been excused. Just wanted

1 to note that for the record.

2 And as another housekeeping item, I'd like to
3 remind all parties and participants to please turn off your
4 cellphones or to silent mode, and that it's preferable that
5 there be no eating in the hearing room.

6 MR. PENDERGAST: Your Honor, I've got copies
7 of that Order that we were talking about. Would you like me
8 to bring those up now?

9 JUDGE RUTH: Yes, please. Some of us have
10 those. I have one, and I believe Commissioner Gaw does, but
11 if I could have some for the other Commissioners, that would
12 be great. And I don't know if you gave them to the court
13 reporter. This is what was marked Exhibit 17 for
14 identification purposes only, correct?

15 MR. PENDERGAST: Correct.

16 JUDGE RUTH: Commissioner Murray needs one and
17 the Chairman, and I believe -- oh, he does? I have one.

18 Are there any other housekeeping matters?

19 (No response.)

20 JUDGE RUTH: Then we are back to questions
21 from the Bench. Commissioner Murray, would you like to go
22 ahead?

23 QUESTIONS BY COMMISSIONER MURRAY:

24 Q. Good afternoon.

25 A. Good afternoon.

1 Q. I think I may only have one question for you,
2 and that is on page 7 of your testimony, you say that --
3 line 6, it might be more -- or it might be appropriate to
4 ramp up the program so that the feasibility of program
5 elements could be tested before being fully implemented.

6 Could you please explain what you mean by
7 that?

8 A. I think I was making the statement in the
9 context of the overall potential impact of the program and
10 the size of the program that is now. And as we've been
11 discussing, the MGE program in relationship to this was a --
12 on those limited in its -- in the number of participants and
13 in the funding that was required for the program.

14 And I think that was -- I think ramp, when I
15 say "ramp up", I think that the program could start off at a
16 at a lower level. It's been my experience with -- with
17 several of the programs, including the -- I guess I should
18 say specifically weatherization programs, and even initially
19 the MGE experimental low-income rate, that participation in
20 the program was not at the level that was anticipated and
21 that it took a while for the program to -- to actually get
22 going, to reach the level that was projected in the program.

23 And consequently a program of smaller scale
24 might have a better possibility of success or probably a --
25 if it didn't succeed, a more limited impact than a -- more

1 limited, I should say, than if the program didn't work, the
2 impact in -- the negative impact it would have would be
3 less.

4 Q. Okay. Are you suggesting that we start with
5 only a certain number of customers or only a certain level
6 of funding, or what level are you suggesting that it start
7 at?

8 A. I hadn't contemplated a specific number. I
9 think one reason that it's a little bit difficult to
10 determine is, as has been given in testimony exactly
11 identifying how many of the customers are in the category of
12 having arrearages of certain amounts is low-income customers
13 hasn't been well determined.

14 Q. And are you saying that that could be
15 determined and that once you determine that certain number
16 of customers had arrearages of a certain amount, that you
17 would suggest beginning a program at that level to cover
18 those customers and those only?

19 A. That would be one -- that would be one way to
20 start a program, yes.

21 Q. And how would you go about determining the
22 number of customers that had arrearages at a specific level?

23 A. Well, I think that the -- the actual number of
24 customers could be determined by Laclede, and possibly some
25 demographics could be used to speculate on whether or not

1 they're low income and --

2 Q. Hasn't that been -- has there not been some
3 speculation as to the number that would fit the low-income
4 categories?

5 A. I think there -- I think there's been some
6 speculation on that, I believe. I don't recall the specific
7 numbers.

8 Q. What level of income would you recommend?

9 A. Well, I think the -- it could be analyzed.
10 Probably an analysis somewhat similar to what Roger Colton
11 did for Missouri Gas Energy, where he looked at the
12 arrearages by -- he did some stratification of low-income
13 arrearages. And I think the -- the proposal of -- I think
14 the original proposal of 125 percent of poverty level would
15 be a -- a good starting point.

16 Q. Refresh my memory as to --

17 A. I'm sorry. I believe 175 percent of poverty
18 level was their original proposal.

19 Q. MGE's proposal?

20 A. I'm sorry. No. That was Laclede's proposal.
21 MGE's proposal addresses customers at the 100 percent and
22 below poverty level.

23 Q. And refresh my memory who Roger Colton is.

24 A. He is -- I characterized him as a -- I think
25 he is both an economist and an attorney who consults -- has

1 consulted with a number of utilities on designing low-income
2 programs for those utilities.

3 In his testimony he included an attachment of,
4 I would say, dozens of rate cases that he's participated in
5 around the country.

6 Q. And how are his expenses usually covered, do
7 you know? Like in the MGE case, for example, were they
8 included in the cost to the other ratepayers or do you know
9 how his consulting fees were covered?

10 A. Well, he was retained by the Office of the
11 Public Counsel.

12 Q. Okay. So it was paid by the Office of the
13 Public Counsel?

14 A. That's my understanding.

15 Q. His participation?

16 A. Yes.

17 Q. And do you know how long his analysis took to
18 come up with the MGE program?

19 A. No, I was not involved in his initial
20 testimony preparation.

21 COMMISSIONER MURRAY: I think that's all my
22 questions for you. Thank you.

23 JUDGE RUTH: Okay. We'll move on to recross.
24 Public Counsel?

25 MR. COFFMAN: No recross. Thank you.

1 JUDGE RUTH: And Laclede?
2 MR. ZUCKER: No recross.
3 JUDGE RUTH: Redirect, Staff?
4 REDIRECT EXAMINATION BY MR. SCHWARZ:
5 Q. Do you have Mr. Colton's MGE direct
6 testimony --
7 A. Yes, I do.
8 Q. -- available to you?
9 Would you please page to -- excuse me.
10 Would you please turn to page 30 and read the
11 Q and A between lines 6 and 13, please.
12 A. The question, What is the second needed
13 adjustment to the cost to be reallocated to customers taking
14 service under the standard residential tariff?
15 Answer: The second adjustment that needs to
16 be made to the cost to be reallocated to the customers
17 taking service under the standard residential tariffs
18 involves a bad debt offset. This bad debt offset is
19 appropriate, because some portion of the ongoing bills for
20 the current consumption would, in the absence of the new
21 rate tariff, already be included in the current rates as a
22 bad debt in any event.
23 Are those the --
24 Q. That's sufficient, yes.
25 And with respect to Mr. Zucker's question

1 about MGE's customers paying the cost of the program,
2 Mr. Colton had recommended that they also be compensated
3 during that time the program was in effect by an offset to
4 the company's revenue requirement?

5 A. That's -- yes. That's what he's stating here.

6 Q. You remember that Mr. Zucker asked you a
7 question about MGE bearing the risk if the program were
8 unsuccessful and uncollectibles increased? Do you recall
9 that?

10 A. Yes, I recall that.

11 Q. And isn't it correct that in the context of
12 hammering out the ELIR program in a general rate case, that
13 given the other elements of the settlement, that was a risk
14 that MGE freely undertook?

15 A. That's my understanding, yes.

16 Q. How much were MGE's customers asked to pay to
17 establish the ELIR?

18 A. My understanding is it's 8 cents per month.

19 Q. Okay. And how much did Laclede's customers --
20 how much have they been asked to pay?

21 A. I've heard testimony that it's approximately
22 \$1 per customer per month.

23 Q. Has Laclede explained anywhere either in its
24 testimony or responses to Data Requests why it adopted only
25 the arrearage forgiveness or arrearage stretchout element

1 from the ELIR program and not the other program elements?

2 A. I have not seen anything to fully explain
3 that.

4 Q. Do an LDC's ratepayers and the Commission get
5 more benefit from the knowledge that's gleaned from a
6 well-designed program as opposed to a program with lesser or
7 inferior program design elements?

8 A. Yes, I believe that the design of these
9 programs is important, in terms of the information that the
10 Commission can gather from the programs and the cost of the
11 program that the ratepayers have to bear.

12 Q. And isn't it a fundamental element or a
13 fundamental goal of any experiment to gain more information,
14 better information, hopefully, as a step to additional
15 activity?

16 A. That's my understanding of the purpose of
17 these programs, yes.

18 MR. SCHWARZ: I think that's all I have.

19 JUDGE RUTH: Okay. Mr. Warren, you may step
20 down.

21 MR. SCHWARZ: May I ask that Mr. Warren be
22 excused, and I will -- he's scheduled to depart on a trip
23 tomorrow evening and doesn't plan to return until next --
24 Wednesday or Thursday, sir?

25 THE WITNESS: Thursday.

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1 JUDGE RUTH: He may be excused. I don't
2 anticipate that the Commissioners would have any additional
3 questions for him. If the Commissioners have some questions
4 that they need answered, we'll do our best at that time.

5 MR. SCHWARZ: I just wanted to alert you to
6 that.

7 JUDGE RUTH: He'll be gone?

8 MR. SCHWARZ: He's not going to be physically
9 present.

10 JUDGE RUTH: Are you going to be in the
11 building for the rest of the day or not?

12 THE WITNESS: Yes, ma'am, I am.

13 JUDGE RUTH: I'd appreciate it if you could
14 remain in the building the rest of the day, and I will send
15 that warning to the Commissioners in case they have any
16 last-minute thoughts.

17 Thank you. You may step down.

18 Staff, are you ready to call your next
19 witness?

20 MR. PENDERGAST: Could we have, like, about --

21 JUDGE RUTH: I can't hear you. I'm sorry.

22 MR. PENDERGAST: We were trying to see if
23 there was a way of maybe waving cross on a few witnesses.
24 Is it your anticipation that the Commission's going to have
25 questions in any event for Mr. Sommerer and Mr. Cassidy?

1 JUDGE RUTH: For Mr. Sommerer, yes.
2 MR. PENDERGAST: Okay. Why don't we just go
3 ahead?
4 (OFF THE RECORD.)
5 (Witness sworn.)
6 JUDGE RUTH: Please be seated.
7 DAVID SOMMERER testified as follows:
8 DIRECT EXAMINATION BY MR. SCHWARZ:
9 Q. Would you state your name for the record,
10 please.
11 A. David Sommerer.
12 Q. By whom are you employed?
13 A. I'm employed by the Missouri Public Service
14 Commission.
15 Q. And are you the -- in what position?
16 A. I'm the manager of the procurement analysis
17 department.
18 Q. And are you the same David Sommerer who has
19 filed or prefiled direct testimony in this case?
20 A. Yes.
21 Q. Do you have any corrections to that testimony?
22 A. No.
23 Q. If I asked you the same questions today, this
24 afternoon, as in your prefiled testimony, would your answers
25 be substantially the same?

1 A. Yes.

2 Q. And are those answers true and correct to the
3 best of your information and belief?

4 A. Yes.

5 MR. SCHWARZ: I would offer Mr. Sommerer's
6 direct testimony at this time, both the HC and NP versions.

7 JUDGE RUTH: Okay. Mr. Sommerer's HC direct
8 testimony has been marked Exhibit 9 and his NP direct
9 testimony has been marked Exhibit 10.

10 Are there any objections to these documents
11 being received into the record?

12 MR. PENDERGAST: No, your Honor.

13 MR. COFFMAN: No objection.

14 JUDGE RUTH: Okay. Exhibits 9 and 10 are
15 received. Thank you.

16 You may proceed, Staff, with rebuttal.

17 (EXHIBIT NOS. 9 AND 10 WERE RECEIVED INTO
18 EVIDENCE.)

19 BY MR. SCHWARZ:

20 Q. Do you agree with Mr. Cline's statement on
21 page 6, line 6 and 7 of his direct testimony, that greater
22 discounts also benefit all other customers because they
23 receive the remaining 70 percent of the discounts?

24 A. No, I do not. The other customers, including
25 low-income customers, currently receive 100 percent of

1 pipeline discounts. Reducing that level to anything less
2 than 100 percent would be a reduction in the overall level.
3 In fact, Laclede is already achieving discount for fiscal
4 year 2002, according to the company's own calculation, that
5 would guarantee a \$6 million funding level. Over an
6 approximately seven-year time frame, Laclede has achieved --

7 Q. Sir, is any of this going to be HC?

8 A. Yes.

9 JUDGE RUTH: Okay. Just a moment. I need the
10 attorneys to help me clear the courtroom, if we're going to
11 go in-camera.

12 And hold on.

13 MR. SCHWARZ: He prepared a nice exhibit.

14 MR. PENDERGAST: Tim, would you just like to
15 make an exhibit?

16 MR. SCHWARZ: If I could find it.

17 MR. PENDERGAST: I'm sorry. I've got it right
18 here.

19 MR. SCHWARZ: I know, but I had copies for the
20 reporter and the Commission, and he gave them to me and I
21 gave them to the parties earlier.

22 JUDGE RUTH: Are we going to be needing a
23 break, then, for copies to be made, just a short one?

24 I'm asking.

25 MR. SCHWARZ: Let me see if I can get it

1 identified first, and then we can.

2 BY MR. SCHWARZ:

3 Q. Did you prepare an exhibit showing the history
4 of Laclede's discounts?

5 A. Yes.

6 Q. And in your opinion, that's a highly
7 confidential exhibit?

8 A. That's correct.

9 Q. All right. I will come back to that in a
10 minute.

11 Did the Commission's task force on gas prices
12 support the concept of baselines for pipeline discounts?

13 A. Yes, it did.

14 Q. Do you believe that the study conducted by
15 Laclede Gas Company from its Case No. GT-99-303 already
16 referenced in this case is adequate?

17 A. No, I do not. I believe there was some
18 discussion between Commissioner Murray and Company Witness
19 Cline on that particular study. That study was based upon
20 data from April of 1999. That study is almost four years
21 old. Numerous contracts would have changed since then, and
22 based upon a review of that study, it became apparent to me
23 that Laclede has at least one pipeline that was not part of
24 that study.

25 (EXHIBIT NO. 18HC WAS MARKED FOR

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1 IDENTIFICATION BY THE REPORTER.)

2 BY MR. SCHWARZ:

3 Q. Mr. Sommerer, I show you what has been marked
4 as Exhibit 18 for identification. Did you compile this
5 document?

6 A. Yes, I did.

7 Q. And does it show the level of discounts
8 obtained by Laclede for the years '95-'96 through '01-'02?

9 JUDGE RUTH: Can I interrupt you?

10 MR. SCHWARZ: Sure.

11 JUDGE RUTH: I'm sorry. I think we need to go
12 off the record for just a moment.

13 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

14 JUDGE RUTH: Okay. Let me clarify for the
15 record. We are not HC. I apologize for that.

16 MR. SCHWARZ: We're not in-camera.

17 JUDGE RUTH: I'm sorry. We are not in-camera.

18 I apologize for that interruption, but you may
19 proceed.

20 BY MR. SCHWARZ:

21 Q. And does the exhibit also reflect Laclede's
22 share under various GSIP programs and the customers' share
23 of discount levels for the years indicated?

24 A. That's correct, with the clarification that
25 for 2001-2002 there wasn't a GSIP in place, and so that's an

1 estimate or an actual number of the funding cap.

2 Q. And it's true that in '95-'96 Laclede did not
3 have a GSIP; is that correct?

4 A. That is also correct.

5 MR. SCHWARZ: I would offer Exhibit 18HC.

6 JUDGE RUTH: Are there any objections to
7 Exhibit 18HC being received into the record?

8 MR. PENDERGAST: No objection.

9 JUDGE RUTH: No objection?

10 MR. COFFMAN: No objection.

11 JUDGE RUTH: Okay. Then 18HC is received.
12 (EXHIBIT NO. 18HC WAS RECEIVED INTO EVIDENCE.)

13 MR. SCHWARZ: Thank you.

14 BY MR. SCHWARZ:

15 Q. On page 7 of his testimony, Mr. Cline states,
16 there is no reason that an incentive plan should be based on
17 the premise that rewards are only appropriate where some
18 historical level of performance has been exceeded.

19 Would you please comment on that observation?

20 A. The Staff believes that baselines are
21 absolutely appropriate. I think you found that concept in
22 the task force report. It's been a matter of Staff's
23 position for a number of years that that element should
24 be looked at.

25 And I would also comment that it doesn't

1 appear under the company's tariffs as they presented them
2 for Catch-Up/Keep-Up that they have considered a baseline.

3 Q. On page 8, Mr. Cline asserts that the sharing
4 percentages proposed by the company for the program
5 certainly fall within a reasonable range.

6 What are your observations on that comment?

7 A. Certainly a level such as Mr. Cline has
8 described, anywhere from 10 to 60 percent, has been used in
9 prior GSIPs, but I would comment that when you start looking
10 at percentages like 30 percent or 50 percent, it takes such
11 a large share out of any potential savings that the absolute
12 level of savings is reduced that can be applied to reducing
13 the gas customers' bills.

14 MR. SCHWARZ: Thank you. I have nothing
15 further.

16 JUDGE RUTH: Public Counsel?

17 MR. COFFMAN: No questions, thank you.

18 JUDGE RUTH: And Laclede?

19 MR. PENDERGAST: Thank you, your Honor.

20 CROSS-EXAMINATION BY MR. PENDERGAST:

21 Q. Good afternoon, Mr. Sommerer.

22 A. Good afternoon, Mr. Pendergast.

23 Q. I'd like to turn to your Exhibit 18, and I
24 will also try to go ahead and do this without getting
25 specific about the numbers.

1 But you have discount level there at the top
2 as your first column that runs across the page?

3 A. That's correct.

4 Q. Then you have net benefit to customers; is
5 that correct?

6 A. That is correct.

7 Q. And you deduct the entire 6 million from the
8 discounted level for '01-'02; is that correct?

9 A. That is correct.

10 Q. Let me ask you this, Mr. Sommerer: Do you not
11 consider Laclede's low-income customers to be its customers?

12 A. I absolutely think that the low-income
13 customers are Laclede's customers.

14 Q. Okay. And so to the extent that those
15 low-income customers receive, as a result of this funding,
16 help with their arrearages, are you not classifying that as
17 a benefit to those customers?

18 A. I'm not testifying to that aspect in this
19 particular schedule. What I've attempted to do in this
20 schedule is isolate the effect of any Laclede share of
21 discounts or any increase in gas cost in the PGA, in the
22 context of the PGA, from this funding level that Laclede has
23 suggested.

24 Q. Okay. Well, let's assume for me that the
25 Commission decides that they want to define that benefit to

1 customers to include net benefits to all customers,
2 including low-income customers, and that they choose to go
3 ahead and characterize the payment down of their arrearages,
4 the grants that would be provided under the weatherization
5 program to low-income customers, as well as the
6 administrative services that would be provided to help them
7 with education and counseling and that type of thing as a
8 benefit.

9 If that were the case, would we need to go
10 ahead and revise your schedule here to add that 6 million
11 back?

12 A. In order to make this schedule as accurate as
13 possible in terms of the effect on the PGA accounts, I
14 believe that the schedule should stay as it is. We could
15 argue about whether the net benefit to the customer needs to
16 be clarified to, say, the PGA effect on the customer.

17 I would certainly be willing to -- to modify
18 that, because that's the intent.

19 Q. Okay. So you'd be willing to modify it to
20 show that and you -- in your view, this represents the PGA
21 effect and not necessarily the entire effect on all
22 customers?

23 A. That is correct.

24 Q. Fair enough. You talked about baselines and
25 the task force having recommended that baselines be used

1 with pipeline discounts, is that correct or --

2 A. That's right.

3 Q. -- do you recall that?

4 Do you happen to have Exhibit 16?

5 A. Is Exhibit 16 the task force report?

6 Q. I believe it is.

7 A. Yes.

8 Q. And when you mention that, were you referring

9 to one of the parameters, recommended parameters for

10 incentive design?

11 A. That's correct.

12 Q. Okay. And were you referring to the one that

13 says, baselines should be considered for components of the

14 incentive plan where inherent levels of performance exist?

15 A. Yes.

16 Q. Okay. Is considered, in your view, the same

17 as adopted?

18 A. Not necessarily.

19 Q. Or always used?

20 A. Not necessarily.

21 Q. Would considered suggest that it's something

22 that should be entertained, thought about and perhaps either

23 used or not used?

24 A. Absolutely.

25 Q. And it says that among the factors relevant to

1 establishing a particular baseline, if you do choose one, is
2 desired public energy policies.

3 Do you know what that means?

4 A. I've read that particular term, and to me it's
5 too general really to define exactly what was meant by it.
6 I've looked for additional clarification. I'm assuming that
7 there's some overall consideration that may affect the level
8 of the baseline and that should be considered, but I don't
9 have the specific example of what was meant by that phrase.

10 Q. Okay. Fair enough. Some questions were
11 referred to you, I believe by Mr. Colton, regarding the PGA
12 rate design proceeding involving Laclede back in 1995.

13 Do you recall that?

14 A. Yes, I do.

15 Q. Are you familiar with that proceeding?

16 A. Yes, I am.

17 Q. Okay. Can you tell me, was that basically a
18 proceeding where, outside the context of a rate case, we had
19 a separate case in order to determine how the company's
20 fixed costs, capacity costs should be allocated?

21 A. It clearly was outside the context of a rate
22 case, but to be totally clear about it, there was a link to
23 a rate case in GR-92-165. The parties agreed that this was
24 an issue that needed to be looked at, and I believe it was
25 followed up in an ACA docket. Subsequent to that it was

1 followed up in a separate PGA rate design docket.

2 Q. Okay. In a separate PGA rate design docket.

3 And was the issue there whether or not

4 capacity reservation costs -- and by the way, those are the

5 same costs we're talking about when we talk about pipeline

6 transportation and storage costs, right?

7 A. For the most part, that's correct.

8 Q. Okay. For the most part.

9 -- how they should go ahead and be allocated

10 between the company's summer season and winter season?

11 A. That was one of the issues, yes.

12 Q. Okay. And that issue involved whether

13 or not there should be an increase in the winter/summer

14 differential; is that correct?

15 A. That's correct.

16 Q. And isn't it true that Staff and AmerenUE and

17 the industrials, although they had slightly different

18 proposals, they were proposing essentially to more costs

19 from the summer period into the winter period for recovery;

20 is that correct?

21 A. That's my understanding, yes.

22 Q. And Laclede and, I believe at the time, Office

23 of the Public Counsel took the position that that was not an

24 appropriate rate design change to make; is that correct?

25 A. I'm not so sure about Public Counsel's

1 position, but that's my recollection of Laclede's position,
2 yes.

3 Q. I think we were arm in arm on that, but -- but
4 the record will speak for itself.

5 But I'd like to refer you to page 37, if I
6 could, and could you read the concluding paragraph there
7 before you get to the ESCO contract issue?

8 A. Would you like me to read that in the record
9 or just read it to myself?

10 Q. Read it into the record, please.

11 A. LGC also has made a convincing argument that
12 imposition of the suggested changes in rates would burden
13 the less able ratepayers with additional expense at a time
14 of year when heating bills are already at their highest,
15 resulting in higher bad debt, higher collection cost and
16 less revenue for the company. It is difficult to perceive
17 any public benefit resulting from this scenario.

18 Q. Now, is that an indication to you that, at
19 least from the Commission's perspective, this rate design
20 change that was being contemplated in a separate non-rate
21 case proceeding could have an impact on the company's
22 uncollectibles expense and other costs?

23 A. That appears to have been part of the
24 Commission's concern, yes.

25 Q. And do you know at that time whether Staff had

1 any concerns or problems about pursuing a separate
2 proceeding outside of a rate case, because if the Commission
3 made a rate design change, it would have an impact on the
4 company's uncollectible expense?

5 A. Well, my recollection of why this case was set
6 up was because all the parties in a rate case, a general
7 rate case, agreed that it was perhaps appropriate, certainly
8 agreeable and acceptable to take a look at this particular
9 issue.

10 I was the witness on the ESCO contract issue
11 back in GR-92-165. I had testimony on that issue, and that
12 particular case neared settlement, but there was one last
13 thing that held up the entire rate case, and that was this
14 particular question about how those ESCO costs should be
15 allocated.

16 And because all of the other parties were very
17 near agreement on revenue requirement and every other issue
18 that I can remember and this one issue would hold up the
19 entire rate case, it was agreed that the issue would be
20 deferred to some subsequent proceeding.

21 Q. And that was a non-rate-case proceeding; is
22 that correct?

23 A. That is correct.

24 Q. Okay. And, once again, I'll repeat my
25 question.

1 Were you aware at that time of Staff's
2 suggesting that those rate design changes could not be
3 contemplated by the Commission or that the Commission could
4 not implement them because they might have an impact on
5 uncollectible costs or disconnection costs or collection
6 activities?

7 A. I vaguely recall that there was some concern
8 about addressing these issues outside of a general rate
9 case, but since they were gas-related, they didn't involve
10 any non-gas-cost-related issues in Staff's opinion, that we
11 would be willing to go ahead and deal with the issue, again
12 based upon the agreement of all the parties in the general
13 rate case from GR-92-165.

14 Q. So it would be your testimony, even though the
15 Commission found here that implementation of the proposal
16 could have an impact on uncollectible expense, that does not
17 mean that this rate design change involved a non-gas costs.
18 Would that be your testimony?

19 A. That is my testimony.

20 MR. PENDERGAST: I have no further questions.

21 Thank you.

22 JUDGE RUTH: And questions from the Bench,
23 Commissioner Murray?

24 COMMISSIONER MURRAY: Thank you.

25 QUESTIONS BY COMMISSIONER MURRAY:

1 Q. Good afternoon, Mr. Sommerer.

2 A. Good afternoon, Commissioner.

3 Q. You're -- the basic thrust of your testimony

4 is that you disagree with the funding mechanism because it

5 is inappropriate to use the PGA/ACA process as the proposal

6 does; is that accurate?

7 A. That's one of the points -- that's really one

8 of two points that I was trying to make with my testimony,

9 that the PGA mechanism was an inappropriate funding

10 mechanism that shouldn't be used to fund what Staff believes

11 is a non-gas cost, and also to the extent this is

12 characterized as a gas supply incentive mechanism that does

13 have some problems.

14 Q. Okay. I was just reviewing a file that I had

15 on the PGA/ACA process earlier this afternoon, and in doing

16 so I came across the case, and in that I've been in and out

17 of the hearing, this hearing, I'm not sure whether this case

18 has been referenced for this particular hearing or not, but

19 it's the Midwest Gas Users Association versus the Public

20 Service Commission that was heard by the Missouri Court of

21 Appeals in 1998.

22 Does that case ring a bell with you at all?

23 A. Yes.

24 Q. Has that been referenced here in this hearing,

25 to your knowledge?

1 A. I do not believe it has.

2 Q. As I read it, I -- it appears to me that it's
3 very on point. Now, if I'm wrong, would you show me how
4 it's distinguishable?

5 And I'm going to go to the portion of the
6 Court of Appeals opinion that deals with the validity of
7 experimental gas cost incentive mechanism, and I'm going to
8 read just a little bit of that to you and ask you if you'd
9 make some comments.

10 Relators also argue that, even if the basic
11 PGA/ACA mechanism is permitted under Missouri law, MGE's
12 experimental gas cost incentive mechanism approved by the
13 PSC below violates Missouri law. As explained above, under
14 the incentive mechanism the PSC determines the benchmark
15 price that it anticipates gas will cost over the following
16 year. It recognizes that the actual price may vary somewhat
17 from the benchmark. It, therefore, sets a benchmark price
18 for gas at a level which is 2 percent below what the PSC
19 believes is likely to be the actual cost of gas.

20 At the end of the year, when the actual gas
21 costs for the prior year are determined, the PSC and
22 the company review the actual cost of gas for the year.
23 If the actual gas costs determined to have met the benchmark
24 or are up to 4 percent higher than the benchmark, that is,
25 2 percent higher than the actual anticipated price, since

1 the benchmark is set at 2 percent below the actual
2 anticipated price, the PSC will allow this amount of actual
3 cost adjustment by the utility.

4 And then it goes on to talk about if the
5 actual -- a little bit later in the Order, if the actual gas
6 costs were between the benchmark level and 94 percent of
7 that level, then 50 percent of savings are passed on to the
8 ratepayers. If actual gas costs are less than 94 percent of
9 the benchmark level, then 100 percent of the savings will be
10 passed on to the ratepayers.

11 And a little bit further, the court says, As
12 noted earlier, this incentive clause is, in part, intended
13 to give the companies an incentive to buy gas as cheaply as
14 possible. They know that they will not be able to pass on
15 all of any costs over those anticipated by the PSC.

16 And then the court further says, The principal
17 objection to the incentive mechanism is that it allows the
18 companies to -- profit or loss to increase or decrease if it
19 turns out that the company's actual costs do not exactly
20 match the benchmark cost.

21 And I'm skipping again down these to this
22 language where the court says, The use of a PGA or incentive
23 PGA mechanism is not invalid simply because it also suffers
24 from some lack of perfection. The PGA process is, in fact,
25 far less likely to result in excess profits or losses than

1 is a traditional rate case.

2 And further down the court says, The incentive
3 mechanism is simply a specific application of the principles
4 applied in any ACA proceeding. Moreover, any variations in
5 fuel cost which affect profit or loss, like other cost
6 variations caused by regulatory lag, can and will be taken
7 into account in the next rate proceeding.

8 And I realize that there was a benchmark, but
9 there was also the allowance of an adjustment based on
10 something other than actual costs incurred.

11 And how does that case and its use of the
12 PGA/ACA process differ from what is being proposed here?

13 A. Well, I think it really goes to the fact that
14 the court did -- again, I'm not an attorney, so I don't mean
15 to interpret this decision from Staff's legal analysis of
16 that decision.

17 But just from my experience in dealing with
18 incentive plans and being aware of how the MGE incentive
19 plan worked, and it's my opinion that the court did not
20 believe that incentive plans were unlawful, and it tried to
21 state its conclusions by simply saying there were benchmarks
22 that were available and that the PGA process was still going
23 to have some sort of a reconciliation and that there was
24 some imprecision in that process which might be less than
25 some imprecision that might be available in a rate case.

1 So what I read from that, just in a
2 layperson's analysis of what you read to me, is that as long
3 as you have a properly structured incentive plan with
4 benchmarks, they are lawful and they can be included in a
5 purchased gas adjustment clause.

6 Q. But I thought it was Staff's position that the
7 PGA/ACA process could not be used to flow through anything
8 other than actual costs of gas, actually incurred costs of
9 gas.

10 Isn't that Staff's position?

11 A. I would say as long as you're dealing with
12 prudently incurred costs. I'd have to make that
13 distinction; they have to be prudent costs. Just because
14 they're incurred doesn't mean they should flow through the
15 final rates. And in addition to that, there have been
16 incentive mechanisms as part of the purchased gas adjustment
17 clause, but the underlying foundation there was that there
18 were going to be benefits over and above what traditional
19 regulation would have achieved.

20 So that you were not adding on additional cost
21 over and above the actuals, but that somehow you could make
22 a very strong point that the costs that were ultimately
23 achieved by the utility were less than what they otherwise
24 would have been, absent the incentive plan.

25 Q. But if the company achieves discounts to the

1 transportation and storage costs of gas and consequently
2 does not incur costs up to the level from which the
3 discounts were achieved, are you saying that you would not
4 object to the company being able to flow the difference
5 between the discount amount and the full amount through the
6 PGA/ACA process, so long as the full amount that I'm -- what
7 I'm calling the full amount, would be based upon a benchmark
8 versus being based upon the maximum allowable rate set by
9 FERC?

10 A. We would certainly say that the actual gas
11 cost in that instance would be the discounted rate, and that
12 should be the starting point for the PGA process. And if
13 you're going to make an incentive out of it, which the Staff
14 is not recommending for this particular case, but if you
15 were to look at the design of it, we would certainly propose
16 that there should be a baseline, some level of historical
17 performance that reflects the fact that there are certain
18 efficiencies and gains that have been made under a
19 traditional regulation.

20 Q. Okay. So your objection to the use of the
21 PGA/ACA process, I just want to -- I just want to try to get
22 an understanding of this.

23 Your objection is not based upon the fact that
24 something other than the prudently incurred costs of gas are
25 included, actual costs of gas; is that right?

1 A. I'd have to clarify that by saying in this
2 particular case, we view the \$6 million as really being a
3 non-gas cost. It's related to bad debts. Bad debts aren't
4 collected through the PGA mechanism. They never have been.
5 I wouldn't suggest doing that.

6 So that's part of Staff's position here is,
7 we're dealing with something that has not traditionally been
8 defined as a cost of gas and, in fact, is not a cost of gas.

9 Q. Purely because it is -- I'm just trying to get
10 in my mind the distinction you're making. The distinction
11 here is that it is being used to reduce bad debt?

12 A. That \$6 million level, given the way that
13 tariffs are currently structured, would be considered really
14 a net of the gas cost.

15 In other words, from an accounting standpoint,
16 you'd have to go back in and look at the company's total gas
17 cost. We assume that's \$300 million for Laclede for a year.
18 In order to make this funding mechanism work through the
19 PGA, you'd have to take that \$300 million that's booked from
20 actual invoices that are paid to the pipeline companies and
21 add \$6 million to the cost of gas.

22 So the question is, is that \$6 million a
23 non-gas cost, is it a gas cost? To me it's more related to
24 the Catch-Up/Keep-Up program and attempting to address that
25 program design. It's not really a gas cost.

1 Q. Let's assume you set a benchmark and the
2 company were to get the gas for a percentage under that
3 benchmark, and assume that the company were allowed to keep
4 that as an incentive, that difference. Technically, that's
5 also -- well, that would also -- that difference, then,
6 would also be -- still be charged to all the ratepayers,
7 would it not?

8 A. I would agree with you, except with, again,
9 the clarification that there's an assumption there that the
10 gas costs are less than what they otherwise would have been.

11 Q. Where is the assumption?

12 A. The assumption to me is just the fact that the
13 purchased gas adjustment clause is based upon actual gas
14 costs. That's how the reconciliation was made. If you have
15 an incentive plan, to me it's proper theory to assume that
16 before you're going to increase the cost through an
17 incentive mechanism, the actual gas cost, you have to make
18 the assumption that gas costs are being saved somehow
19 through the operation of the incentive plan.

20 Q. Okay. And you're saying the only way you can
21 make that assumption is to set a benchmark below what's
22 already been achievable in the past?

23 A. Staff has suggested that if you are going to
24 look at pipeline discounts, you need to take a look at a
25 typical level that's achieved in the past as part of the

1 basis behind setting that benchmark.

2 Q. And is that how you get your -- how you --
3 then can reason that it is appropriate to charge the
4 customers more than what the company actually had to and
5 flow it through the PGA/ACA process?

6 A. In my opinion, that was the underlying
7 foundation behind setting these gas PGA incentives up, was
8 that there is an understanding that there will be some
9 adjustment made at the end of the process which would be the
10 company's portion of the savings. And in order to have some
11 percentage shared with the company, you're going to have to
12 increase gas costs through the ACA process.

13 That's mechanically how that adjustment was
14 made, but the argument behind -- or the logic, the rationale
15 behind that was you indeed had savings, savings over and
16 above the alternative or savings over and above or
17 reasonable benchmark.

18 Q. I'm still not sure I understand the leap in
19 logic to get to calling it actually incurred costs of gas,
20 but I think I understand what it is you're saying.

21 COMMISSIONER MURRAY: I think that's all.
22 Thank you.

23 THE WITNESS: You're welcome.

24 JUDGE RUTH: Commissioner Lumpe?

25 QUESTIONS BY COMMISSIONER LUMPE:

1 Q. Mr. Sommerer, do you consider this to be an
2 incentive plan?

3 A. Certainly not a properly structured incentive
4 plan, and I'm not even sure that Laclede has characterized
5 it like that.

6 Q. As an incentive plan. Okay. And it appears
7 to me that when I was questioning Ms. Meisenheimer, her
8 concerns were the funding mechanism, and as I gather it,
9 that is partially what your concern is also; am I correct?

10 A. That's right.

11 Q. And if I look on page 4, around line 8, what I
12 gather that you're saying is that burdening the PGA with
13 non-gas costs sets a bad precedent and possible questionable
14 legality, and I'm assuming you discussed that with legal
15 staff to make that statement there; is that correct?

16 A. That's correct.

17 Q. All right. And what it does, in effect, if I
18 understand you correctly, is that it takes bad debt and
19 moves it somehow into the PGA, which -- it moves something
20 that is normally in the non-gas costs into the gas cost
21 entity and that is what you consider to be not appropriate;
22 is that right?

23 A. That's correct.

24 Q. Okay. And the other issue that you had had to
25 do with the -- why it's only the firm customers, why it's

1 not the transportation customers also, is that -- would you
2 sort of explain that to me, what your concern is there?

3 A. Yes. The way the purchased gas adjustment is
4 structured in terms of allocating firm capacity reservation
5 charges, there is a sharing of that burden, those costs
6 between at least two types of customers or two classes, two
7 separate classes, the firm sales customers and the firm
8 transportation customers. Those allocation percentages
9 are set out in the tariff, and it's really a matter of
10 long-standing tariff guidance on that issue.

11 So the way I understand how those costs are
12 allocated, the firm transportation customers do bear some
13 portion of the reservation charges. That means that -- in
14 turn, means that if they're paying the discounted
15 transportation charges, both the firm sales customers are
16 paying a portion of the discounted pipeline transportation
17 charges and the firm transportation customers are paying for
18 some portion of the discounted firm pipeline transportation
19 charges.

20 One wonders why there's not some sort of an
21 allocation of the \$6 million, because the company's proposal
22 appears, based upon Catch-Up/Keep-Up tariffs, the proposal
23 appears to allocate the total \$6 million just to the firm
24 sales customers. To me, to the Staff, that seems
25 inconsistent.

1 Q. And is this concern basically because it's
2 using the PGA process? If it were not using the PGA
3 process, the discounts on gas, that -- would that concern be
4 alleviated? In other words, if you were not to move bad
5 debt into the PGA process, this is a concern because of that
6 kind of bypass or movement; is that correct?

7 A. I think that's a primary concern base of that.
8 If we were in a general rate case it would be an issue.
9 Those allocation issues could be looked at in the context of
10 the rate case.

11 COMMISSIONER LUMPE: Thank you. That's all I
12 have, Mr. Sommerer.

13 THE WITNESS: You're welcome.

14 JUDGE RUTH: Commissioner Gaw?

15 COMMISSIONER GAW: No, thanks.

16 JUDGE RUTH: Any other questions from the
17 Bench?

18 (No response.)

19 JUDGE RUTH: Okay. We'll move to recross.
20 Public Counsel?

21 RECROSS-EXAMINATION BY MR. COFFMAN:

22 Q. Good afternoon, Mr. Sommerer.

23 A. Good afternoon, Mr. Coffman.

24 Q. You were asked some questions about the
25 Midwest Gas Users court case, and you did say that you have

1 read that and understand that to some degree in a
2 non-attorney manner?

3 A. It has been some time since I've read that
4 decision, but yes, I have.

5 Q. Do you recall if the mechanisms that were the
6 subject of that case involved non-gas costs?

7 A. My recollection is that the subject matter of
8 that case involved gas cost.

9 Q. And you did state earlier, did you not, that
10 arrearages in your opinion are not gas costs? In fact, you
11 did state in your opinion they are non-gas costs?

12 A. That is correct.

13 Q. And I know it's not exactly the same thing,
14 but is it not true that uncollectible expense has been
15 traditionally considered a non-gas cost and treated in a
16 rate case?

17 A. That's also correct.

18 Q. Is -- and again, I understand you're not an
19 attorney and that your opinions are not necessarily legal
20 opinions, but based on your understanding, your expertise in
21 this area of gas procurement and ratemaking for gas costs,
22 do you understand the general rationale for the legality of
23 a PGA process that is somewhat of a single-issue procedure?

24 A. Yes, I do.

25 Q. And what's your opinion of that legal

1 rationale, if you can?

2 A. My understanding is that the purchased gas
3 adjustment clause is allowed and authorized because it deals
4 with a limited subset of cost. The costs are a material
5 portion of the gas company's cost of service. Those costs
6 involve FERC-regulated charges, as well as an extremely
7 large amount of deregulated gas costs.

8 So the theory is, is that you can define with
9 some degree of certainty the cost element that you're
10 looking at and fairly reconcile that to an actual cost
11 level.

12 Q. Do you have any understanding of the
13 distinction that Missouri courts and other Missouri
14 policymakers have made between the PGA process and a fuel
15 adjustment clause for electric companies?

16 A. I'm going off of memory here, but my
17 understanding is that it's based upon a couple of
18 distinctions.

19 First of all, an electric company in most
20 cases generates its own power, so you're dealing with a
21 material amount on the production side that's in the
22 company's control. It's in the company's rate base. It's
23 part of the cost of service considered in a general rate
24 case. It's usually not nearly the percentage of the cost of
25 service for an electric company as the gas cost would be for

1 a gas company.

2 Q. And isn't it generally assumed that natural
3 gas is the product that is ultimately consumed by the end
4 user, as opposed to fuel that may be used by an electric
5 company to generate electricity?

6 A. That's correct.

7 Q. And just, I guess, one more time to clarify
8 and get more back to what I think was the general focus of
9 Commissioner Murray's questions, is the Staff's objection to
10 the funding mechanism proposed in the Catch-Up/Keep-Up plan
11 addressed more to the gas versus non-gas nature of the
12 subject matter than perhaps the issue of whether it reflects
13 actual cost?

14 A. Certainly that is the major thrust of Staff's
15 concern, is that we aren't dealing with a gas cost here.

16 MR. COFFMAN: Thank you. That's all I have.
17 Thank you.

18 JUDGE RUTH: Laclede?

19 MR. PENDERGAST: Thank you.

20 RECROSS-EXAMINATION BY MR. PENDERGAST:

21 Q. Just a few questions, Mr. Sommerer.

22 I've had another extended discussion about gas
23 and non-gas costs, and do I recall correctly when we were
24 talking about PGA rate design proceeding that you indicated
25 that that proceeding only dealt with gas costs?

1 A. That's my understanding, yes.

2 Q. And you indicated that even though the

3 Commission recognized in its order that a change to that PGA

4 rate design could have an impact on uncollectible expense;

5 is that correct?

6 A. My reading of that order was that that was the

7 Commission concern, yes.

8 Q. And simply because it could have an impact on

9 uncollectible expense does not change your opinion that that

10 case was only about gas costs, does it?

11 A. That does not change my opinion. My belief is

12 that the issues addressed in that case, the rate design

13 issues dealt with gas cost issues.

14 Q. I'd like to ask you a few questions about what

15 discretion the Commission does have with regard to PGA rate

16 design matters.

17 We've had some discussion about the MGE plan.

18 Have you heard that discussion?

19 A. I have been here for parts of the discussion,

20 yes.

21 Q. Okay. And we were talking about earlier this

22 allocation of fixed cost among various customer classes that

23 was dealt with in the PGA rate design proceeding; is that

24 correct?

25 A. That's correct.

1 Q. And do you think this Commission has the
2 ability to determine how fixed capacity costs ought to be
3 allocated to customers?

4 A. I think in the appropriate forum, the
5 Commission does have that ability to consider the
6 appropriate allocation of gas costs.

7 Q. And would that include commodity costs as
8 well?

9 A. Yes.

10 Q. That would include gas supply demand charges?

11 A. Yes.

12 Q. And do you think the Commission has the
13 discretion, if it believes it's appropriate and there's
14 evidence to support it, to allocate, say, more capacity to
15 cost to some customers rather than others?

16 A. I believe it does have the discretion to look
17 at those issues, yes.

18 Q. Does it have the discretion to go ahead and
19 collect those costs on a fixed basis versus a volumetric
20 basis?

21 A. Yes.

22 Q. Okay. And if the Commission had another PGA
23 rate design proceeding in which it chose to go ahead and
24 collect a portion of those costs on a fixed basis rather
25 than a volumetric basis, could that potentially have an

1 impact on customers?

2 A. Certainly from a gas cost standpoint, if you
3 have a PGA rate proceeding and you look at those issues, it
4 would have some impact on the various customer classes.

5 Q. Could increase what some customers pay,
6 decrease what others pay?

7 A. Yes.

8 Q. But the Commission could make that
9 determination in a PGA rate design proceeding outside the
10 context of a rate case?

11 A. That is my belief, yes.

12 Q. Okay. And could the Commission go ahead and,
13 in your opinion, create subclasses of customers and
14 determine how much they want those subclasses of customers
15 to pay in gas reservation cost?

16 MR. SCHWARZ: I'll object that that calls for
17 a legal conclusion.

18 JUDGE RUTH: Response?

19 MR. PENDERGAST: I thought we had a fairly
20 wide latitude on Mr. Sommerer getting into issues that
21 surround how the PGA operate, and we've skirted up against
22 legal questions that, I believe, Mr. Coffman over here just
23 spent a quite a few moments taking him through the MGE
24 UA case, so I think it's a fair question.

25 MR. SCHWARZ: There are specific statutes that

1 deal with the Commission's power and authority to classify
2 customers.

3 MR. PENDERGAST: He's an expert, I believe, on
4 tariff issues and allocation of cost under the PGA, or at
5 least he's been classified as such. I think that's a fair
6 question for him to be asked and to answer.

7 JUDGE RUTH: I'm going to overrule the
8 objection, although if the witness feels he's not able to
9 answer that question, he can so answer.

10 THE WITNESS: And I believe you've entered
11 into an area that is more appropriately addressed by
12 counsel.

13 BY MR. PENDERGAST:

14 Q. Okay. Well, let me ask you this: In the MGE
15 case they took base rates. You're familiar with the low
16 income program there?

17 Within the statutory limitations, do they have
18 discretion?

19 A. This is based upon the ability to evaluate gas
20 costs?

21 Q. Yes.

22 A. I believe that's correct, yes.

23 Q. Okay. And in the MGE case, as I understand
24 it, what the Commission did was -- and I'm talking about low
25 income. Are you familiar generally with that MGE low-income

1 program?

2 A. Very generally, yes.

3 Q. Okay. And that was an 8 cent charge that was
4 collected on the customer charge and was used to fund the
5 low-income program in that case; is that right?

6 A. That's what I've understood, based upon
7 discussions in this particular proceeding.

8 Q. And that funding was in the form of credits to
9 the customer of \$40 or \$20, depending on income level?

10 A. That I don't know.

11 Q. Okay. Well, let's assume for a moment that it
12 was. And my question would be to you, is there any reason,
13 given what we've discussed about rate design, that the
14 Commission could not go ahead and decide it wants to have an
15 8 cent per charge in the PGA and then go ahead and have a
16 \$40 credit or \$20 credit on the customer's bill?

17 A. My understanding is, is that if you're going
18 to look at non-gas cost allocation -- and I'm assuming that
19 that's what you're referring to here.

20 Q. No, Mr. Sommerer. I'm just referring -- I'm
21 referring to the Commission saying, I'm going to increase
22 the PGA rate to everybody by 8 cents per month, and then I'm
23 going to go ahead and give 1,000 customers, just like in
24 MGE, a 40 cent credit on their cost of gas.

25 A. I think if that's something that's been the

1 subject of the tariffs, proper notice has been given, again,
2 consistent with counsel's advice under the Commission's
3 regulatory authority, that I could look at that type of an
4 issue in a case.

5 Q. Okay. And you mentioned baselines, and when
6 Laclede first had its incentive program approved, did the
7 pipeline discount component even have a baseline?

8 A. I believe the tariff provisions did contain
9 the recognition that Laclede had some discounts that were
10 under negotiation, perhaps were more historically based than
11 other discounts and, therefore, the sharing percentages were
12 adjusted.

13 I would view that as some consideration, based
14 upon that distinction of the baseline.

15 Q. Was it 10 and 20 percent, do you recall?

16 A. That's correct.

17 Q. Okay. And -- but it did not -- it did not
18 have a baseline other than the FERC maximum rate, if you
19 wanted to consider that to be your benchmark?

20 A. The FERC maximum rate as adjusted for any FERC
21 decisions to make those rates final.

22 Q. Okay. And when we had our capacity release
23 component in the GSIP, did that have a baseline?

24 A. When that was effective for the original GSIP,
25 I do not believe it had a baseline. It was more in line

1 with a sharing grid.

2 Q. Okay. And basically the company got to keep a
3 specific amount depending on how much it achieved; is that
4 correct?

5 A. That's correct.

6 Q. And for off-system sales revenue when that was
7 included, did that have the baseline?

8 A. No, it did not.

9 Q. Okay. And are there other utilities that had
10 incentive plans where, for those various kind of components,
11 there wasn't a baseline?

12 A. That has varied by utility company, and I
13 think some of the original plans were very similar to
14 Laclede's original in terms of baselines, some situations
15 you had benchmarks. For example, in the gas supply
16 incentive, you had a benchmark. And MGE's most recent GSIP,
17 which is now expired, you had very strong benchmarks, in my
18 opinion, for pipeline discounts.

19 Q. Okay. Well, let me ask you this: Do you have
20 any -- well, you're familiar with Laclede's current
21 incentive program, right, for gas procurement costs?

22 A. For the recent rate case?

23 Q. Yes.

24 A. Yes, I am.

25 Q. And getting back to Commissioner Murray's

1 questions, under that program, if Laclede through the use of
2 financial instruments manages to go ahead and achieve a
3 level of savings or gains as that program defines them, will
4 it be flowing through, in your view, its actual gas costs to
5 customers?

6 A. It will be flowing through the actual gas
7 costs as billed, again assuming they're prudent, plus any
8 sharing that Laclede is able to achieve as part of the tiers
9 that are in place.

10 Q. So it would be adjusted for that?

11 A. That's correct.

12 Q. And that's essentially the way the incentive
13 programs, at least Laclede's, has always operated, isn't it?

14 A. That's correct.

15 MR. PENDERGAST: Okay. Thank you. I have no
16 further questions.

17 Thank you, Mr. Sommerer.

18 THE WITNESS: You're welcome.

19 JUDGE RUTH: You may proceed.

20 REDIRECT EXAMINATION BY MR. SCHWARZ:

21 Q. Mr. Sommerer, do you have a copy of Exhibit 17
22 in front of you?

23 A. Yes.

24 Q. Would you look on the first page of that
25 Report and Order, and tell me what that case was

1 denominated?

2 A. That case was denominated as Case
3 No. GR-94-328.

4 Q. And what does the R, to your understanding,
5 indicate that the Commission considered that to be?

6 A. Based upon that designation, it appears that
7 they docketed that case as a rate case.

8 Q. So that the Commission, at least, considered
9 that it was -- at the time held out that it was, in fact,
10 considering the PGA rate design within a rate case; is that
11 correct?

12 A. Certainly based upon that designation, it
13 appears the Commission considered it more closely related to
14 a rate case.

15 Q. And does the Commission routinely set rates in
16 PGA/ACA cases?

17 A. Yes.

18 Q. In the context of setting rates, when the
19 Commission does rate design, whether it be in a general rate
20 case or in a rate case that's considered in the PGA/ACA
21 process, just when the Commission considers rate design,
22 does it consider the impact of the rate design on the
23 customers when deciding how to allocate the revenue
24 requirement burden?

25 A. That's my understanding, yes.

1 Q. Let's use as an example customer charges.
2 Do you know what Laclede's margin rate
3 customer charge is?
4 A. I believe it's \$12, based upon my
5 recollection.
6 Q. And do you know where that might rank Laclede
7 with respect to the other LDCs in terms of a customer
8 charge?
9 A. No, I do not.
10 Q. Do you recall if in the 1997 Ameren gas rate
11 case where the parties stipulated an increase in the
12 customer charge from about \$8 to about \$9, that the
13 Stipulation & Agreement drew concurring but questioning
14 opinions from several Commissioners?
15 A. I do recall that there was some concern about
16 the magnitude of the increase of the customer charge.
17 Q. So that in the context of a PGA rate design
18 rate case, would you find it unusual that the Commission
19 would be considered (sic) with such things as the impact of
20 a change in rate design on the customers?
21 A. No. I would think that would be part of what
22 the Commission would be looking at.
23 Q. Mr. Moten in his testimony noted a number of
24 MGE customer outreach or customer assistance programs has --
25 excuse me.

1 Has Laclede ever claimed the cost of any of
2 those programs as a cost to be recovered through the PGA
3 process?

4 A. You're referring to MGE programs?

5 Q. No. I'm sorry if I misspoke and said MGE. I
6 want to correct that.

7 Has Laclede ever sought to collect the cost of
8 its customer education or Energy Smart or Weather Wise
9 programs through the PGA?

10 A. No.

11 Q. If they did so, would your auditors reject
12 those costs?

13 A. Yes, they would.

14 Q. To your knowledge, has Laclede entertained or
15 discussed in the process of this case any provision other
16 than collection of or rather any baseline for the -- what
17 it's calling an incentive program?

18 A. My only knowledge about the discussion of the
19 benchmark or possible baseline would simply be that
20 Mr. Cline did not believe that was necessary.

21 Q. In setting PGA rates in the PGA/ACA process,
22 does the Commission consider all relevant factors in the
23 cost of gas?

24 A. Yes.

25 MR. SCHWARZ: I think that's all I have.

1 Thank you.

2 JUDGE RUTH: Okay. Mr. Sommerer, you may step
3 down.

4 This appears to be an appropriate place to
5 break for the day, but before we go off the record, I want
6 to discuss exactly when we will continue. The
7 Commissioners' calendar is available on Monday, December 9th
8 starting at 8:30.

9 Would the parties all be available then? We
10 had briefly discussed some possibilities but never decided
11 for sure.

12 MS. SHEMWELL: Judge, I think that we just had
13 one witness left. I'm sorry. We have two witnesses left.

14 Our St. Louis people have requested that if
15 the Commission were amenable, they would really appreciate
16 if we could start a little later than 8:30 to give them time
17 to come in, and had suggested 10 as a possibility, but . . .

18 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

19 JUDGE RUTH: We are back on the record. We
20 took a short break to discuss scheduling, and it seems we
21 may be able to finish today, but -- so we are going to
22 continue. If we can't finish today, we'll reschedule at
23 that point.

24 Staff, will you please call your next witness?

25 MR. SCHWARZ: I don't believe we're going to

1 need to call the witnesses. I think that we have some
2 rebuttal questions and answers that we had written out, and
3 my understanding is that we're going to simply stipulate
4 those into the record.

5 JUDGE RUTH: You're going to stipulate the
6 direct and the rebuttal?

7 MR. SCHWARZ: Yes.

8 MR. PENDERGAST: Yes.

9 JUDGE RUTH: That's fine, but I'll --

10 MR. SCHWARZ: I need -- I need to gather up
11 more copies again. I'm sorry.

12 JUDGE RUTH: Yes.

13 MR. SCHWARZ: We're having copies made. All
14 that we will do henceforward is mark the copies and have
15 them entered into the record by stipulation of the party.

16 JUDGE RUTH: Do you have one agreement that we
17 could -- or one that we could be giving the court reporter?

18 MR. PENDERGAST: I do have something to give
19 the court reporter.

20 JUDGE RUTH: I think we can continue, and as
21 you get your copies, you interrupt me and tell me.

22 MR. PENDERGAST: Okay. And the good news is,
23 I've got something, and the bad news is it's not related to
24 this testimony.

25 JUDGE RUTH: Let's officially go back on

1 record. We took a break while some copies were being made.
2 They're still being made.

3 Did you have something to add, Mr. Pendergast?

4 MR. PENDERGAST: Yes. Commissioner Lumpe, I
5 believe, had some questions about the LIHEAP funding, and we
6 had said we would present it separately. It wasn't
7 necessary for Mr. Moten, who wrote me a letter here, saying
8 what it was based on, and if you'd like to have that marked
9 as an exhibit or something, it's just a one-page letter.

10 JUDGE RUTH: Okay. This -- for
11 identification, at least, I need to mark it as Exhibit 19,
12 and what's -- Mr. Moten?

13 MR. PENDERGAST: Yes. It's a letter from
14 Mr. Moten to me.

15 JUDGE RUTH: And will you make copies?

16 MR. PENDERGAST: I've got copies.

17 JUDGE RUTH: Oh, you do have copies?
18 Go ahead and pass them out.

19 (EXHIBIT NO. 19 WAS MARKED FOR
20 IDENTIFICATION.)

21 Are there any objections to Exhibit 19 being
22 received into the record?

23 MR. MICHEEL: No objection from Public
24 Counsel, your Honor.

25 JUDGE RUTH: And Staff?

1 MR. SCHWARZ: No objections.

2 JUDGE RUTH: Okay. Exhibit 19, the letter

3 from Mr. Moten, has been received into the record.

4 (EXHIBIT NO. 19 WAS RECEIVED INTO EVIDENCE.)

5 JUDGE RUTH: Parties, can you tell me when

6 you're ready to proceed?

7 MR. SCHWARZ: The Staff has handed the court

8 reporter -- I guess it will be No. 20.

9 JUDGE RUTH: Yes.

10 (EXHIBIT NO. 20 WAS MARKED FOR

11 IDENTIFICATION.)

12 MR. SCHWARZ: What it would like marked

13 Exhibit No. 20. This will be rebuttal testimony of John

14 Cassidy, and I think the parties will stipulate this into

15 the record.

16 MR. PENDERGAST: The rebuttal testimony?

17 JUDGE RUTH: We haven't done rebuttal yet. I

18 mean, direct. We haven't offered direct.

19 MR. SCHWARZ: I understand. This is a

20 separate exhibit.

21 JUDGE RUTH: Yes. And I've marked it for

22 identification as Exhibit 20.

23 MR. PENDERGAST: And, your Honor, just so I

24 could clarify, and we are willing to stipulate this into the

25 record, but in discussions with the folks, the only

1 clarification was -- and correct me if I get this wrong --
2 but is that everybody would agree that Laclede did, in fact,
3 have \$11.3 million in bad debt writeoffs during the year
4 2002, and the \$6,037,500 that's in the answer is actually
5 Laclede's uncollectible reserve.

6 JUDGE RUTH: Okay.

7 MR. PENDERGAST: Okay.

8 JUDGE RUTH: Let's slow down. I want to mark
9 my copy.

10 Where's the 600? Oh, at the very bottom,
11 that's actually the amount in reserves?

12 MR. PENDERGAST: Or provision. Provision for
13 subsequent. That's the amount that's in the uncollectible
14 provision.

15 JUDGE RUTH: Okay. I propose that someone
16 mark the copy for the court reporter, that that is a
17 correction or an addition. I will mark the ones for the
18 Commissioners.

19 And, Staff, you may proceed when you're ready.

20 MR. SCHWARZ: Staff believes that the parties
21 will stipulate into the record without further ado the
22 direct testimony of both Mr. Cassidy and Mr. Rackers, and
23 Staff would so move those into the record.

24 JUDGE RUTH: Okay. I have marked Exhibit 11,
25 John Cassidy's direct, Exhibit 12, Steven Rackers' direct,

1 and Exhibit 20, Mr. Cassidy's rebuttal. These three
2 exhibits have been offered into the record.

3 Are there any objections, Laclede?

4 MR. PENDERGAST: No objections, your Honor.

5 JUDGE RUTH: Public Counsel?

6 MR. MICHEEL: None.

7 JUDGE RUTH: Exhibits 11, 12 and 20 are
8 received into the record.

9 (EXHIBIT NOS. 11, 12 AND 20 WERE RECEIVED INTO
10 EVIDENCE.)

11 MR. SCHWARZ: And if it please the Commission,
12 the notation after -- on Exhibit 20 after the figure
13 \$6,037,500 is, quote, provision for uncollectibles.

14 JUDGE RUTH: Okay. That clarification is
15 noted, and it's my understanding there are no objections to
16 that clarification being made, correct, Laclede?

17 MR. PENDERGAST: That's correct.

18 JUDGE RUTH: And Public Counsel?

19 MR. MICHEEL: You are correct.

20 JUDGE RUTH: Thank you. Now for my records, I
21 wanted to confirm that Exhibits 1 through 13 have been
22 received into the record, but that Exhibit 14, Public
23 Counsel's position comparison was not offered; is that
24 correct?

25 MR. MICHEEL: That's what my sheet shows.

1 MR. SWEARENGEN: That's right. I'd be happy
2 to offer it at this point.

3 JUDGE RUTH: No. I'm just going down -- I
4 wasn't asking for that. Clarifying. And then Exhibit 15
5 was also not received, Exhibit 16 was received, Exhibit 17
6 was marked for identification purposes only, also, and then
7 18, 19 and 20 were received into the record.

8 Are there any further housekeeping matters
9 before we do the briefing?

10 MR. SCHWARZ: I still have an Exhibit 21,
11 copies of which are being run, which will be Mr. Rackers'
12 rebuttal testimony.

13 JUDGE RUTH: Okay. We will address Rackers
14 rebuttal when you bring it in.

15 I want to direct everyone's attention, then,
16 to the procedural schedule. I want to go off the record
17 while I ask the court reporter a question, too.

18 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

19 JUDGE RUTH: Some of the transcript has been
20 filed so far; however, not all of it will be in until
21 Monday. With that in mind, we obviously need to amend the
22 briefing schedule.

23 The Commission's order adopting procedural
24 schedule had originally indicated that proposed Findings of
25 Facts and Conclusions of Law and Briefs would be due on

1 December 9th, which was three business days after the
2 transcript was filed.

3 The transcript should now all be in on Monday,
4 and my proposal would be that then the Briefs and Findings
5 of Fact and Conclusions of Law all be due three business
6 days after that, which would be Thursday. But if the
7 parties need additional time, this is the time to discuss
8 it.

9 The hearing's obviously longer than you'd
10 originally expected. It was supposed to last two days; it's
11 lasted almost four. So I will consider extending that
12 original timeline.

13 MS. SHEMWELL: I was certainly expecting to
14 have three business days probably and work the entire
15 weekend as well, so . . .

16 JUDGE RUTH: Well, see, the transcript is due
17 Monday, so you'd have three business days after that.

18 Oh, you wanted to work the weekend, too. I
19 get you. So you wanted five calendar days.

20 MS. SHEMWELL: That would be great.

21 JUDGE RUTH: Which would slow things down a
22 little bit. So you're saying you want the 16th -- until the
23 16th, the following.

24 MS. SHEMWELL: That would work out well for
25 me. OPC, Laclede?

1 JUDGE RUTH: And, you know, I do encourage the
2 parties to remember that the Findings of Facts and
3 Conclusions of Law, the Commissioners expect there to be
4 references to the evidence, to the transcripts, to the
5 prefiled, so there definitely is some work involved there,
6 and then of course your Briefs.

7 We had -- based on the parties'
8 recommendation, it is one round of Briefs, and so it's your
9 one shot.

10 MS. SHEMWELL: The 16th suits me pretty well.
11 Thank you.

12 JUDGE RUTH: I hear no objections to the 16th.

13 MR. MICHEEL: I think Mr. Coffman would
14 appreciate the 16th for his brief.

15 MR. PENDERGAST: As accommodation to the other
16 parties, we'd be willing to agree to the 16th.

17 JUDGE RUTH: Okay. The deadline, then, for
18 proposed Findings of Facts, Conclusions of Law and the
19 Briefs is moved to December 16th. The transcript should all
20 be in by December 9th. Some of it has already been filed.
21 You can get pieces of it.

22 MR. PENDERGAST: And could I ask a clarifying
23 question on that, your Honor?

24 Is that transcript being e-mailed or just sent
25 out regular to the parties or do you know? You may not know

1 that.

2 JUDGE RUTH: I'm not sure, but it's my
3 understanding that it is not e-mailed. If you want an ASCII
4 disk, you need to talk to the court reporter.

5 MR. PENDERGAST: Okay.

6 JUDGE RUTH: She doesn't e-mail me a copy. I
7 don't know.

8 MR. PENDERGAST: We'll talk to her.

9 JUDGE RUTH: You-all probably get something I
10 don't, an e-mail copy, and you may pay for that, too, which
11 is probably why I don't get it.

12 Okay. We've taken care of the procedural
13 schedule. Any other housekeeping?

14 (No response.)

15 JUDGE RUTH: No? Then we will move on to
16 Mr. Rackers' rebuttal.

17 MR. SCHWARZ: Rebuttal.

18 JUDGE RUTH: Exhibit 21, and are you passing
19 out copies now?

20 MR. SCHWARZ: Yes.

21 And I would ask that it be admitted into the
22 record by stipulation of the parties.

23 JUDGE RUTH: Are the parties in agreement?

24 (No response.)

25 JUDGE RUTH: I see a yes from Laclede and a

1 yes from Public Counsel. Then Exhibit 21, Mr. Rackers'
2 rebuttal, is received into the record.

3 (EXHIBIT NO. 21 WAS MARKED AND RECEIVED INTO
4 EVIDENCE.)

5 JUDGE RUTH: Let me check my notes, make sure
6 I don't have anything else.

7 MR. SWEARENGEN: Exhibit 14, your Honor. I
8 would move that that be admitted at this time.

9 JUDGE RUTH: This was the comparison.
10 Are there any objections to Exhibit 14 being
11 received into the record?

12 MR. SCHWARZ: No.

13 MR. MICHEEL: We would object. I don't think
14 that our witness agreed that that was an accurate
15 recognition of Public Counsel's position.

16 MR. SWEARENGEN: My response to that would be,
17 I thought the record was pretty clear the corrections that
18 she would make to that. So I think when you look at the
19 exhibit as you would any other exhibit, and read the
20 transcript and look at the testimony, that certainly it
21 would be very clear what the differences continue to be.

22 And that type of an objection wouldn't go to
23 the admissibility anyway. It would go to the weight of the
24 evidence. Thank you.

25 MS. SHEMWELL: I would -- I'm sorry. She was

1 very clear, she wanted the word "however" inserted before
2 the quote. To be a complete quote at the top she wanted the
3 word "however" put in.

4 JUDGE RUTH: Okay. I'm going to admit this
5 document in; however, I want some changes made, and if
6 Laclede objects you can tell me.

7 I want the title added to the top to be
8 Laclede's, apostrophe S, comparison of -- and then it says
9 Public Counsel position/Laclede position. So I want it to
10 say Laclede's comparison.

11 There was some confusion by some of the
12 Commissioners as to whose document this was, and that will
13 help make it clear.

14 And then on the quote at the top, I'm going to
15 insert the word "however." The witness did clearly testify
16 that her quote said, However, Public Counsel would not
17 oppose, and I think that makes it more accurate.

18 MR. SWEARENGEN: We agree to that.

19 JUDGE RUTH: Do you have any objection to my
20 change in the title?

21 MR. SWEARENGEN: Not at all. That's fine.

22 JUDGE RUTH: I'd -- like Public Counsel
23 mentioned, the witness had many comments to make about this
24 document. Those comments are on the record. Public
25 Counsel's objection to the document is on the record.

1 However, I am receiving into the record.

2 MR. SWEARENGEN: I think there was one other
3 correction, too, that was pointed out on the second item
4 where it should be paragraph 28-i?

5 MR. SCHWARZ: Instead of 28-1.

6 JUDGE RUTH: Where is that?

7 MR. SWEARENGEN: It's the second bullet point
8 under tariff, Exhibit 13, I think it says 28-1. That should
9 and 28-i.

10 I would correct that as well.

11 JUDGE RUTH: Then we also need to change over
12 on the right-hand column, second bullet, where it says 28-1,
13 it is changed to 28-little I.

14 MR. SWEARENGEN: That's fine. I appreciate
15 it. Thank you.

16 JUDGE RUTH: After the hearing, someone may
17 need to help the court reporter make these corrections to
18 her copy. I'll make them to mine and to the Commissioners.

19 (EXHIBIT NO. 14 WAS RECEIVED INTO EVIDENCE.)

20 JUDGE RUTH: Any other matters before --

21 MR. SWEARENGEN: I can designate it as a
22 corrected Exhibit 14 and provide it to the court reporter.
23 Be more than happy to do that. And before I do that, I'll
24 provide it to the other parties to make sure that we've done
25 what we said.

1 JUDGE RUTH: That would be good.
2 Anything further?
3 (No response.)
4 JUDGE RUTH: No? Then we are off the record.
5 Oh, sorry.
6 MR. PENDERGAST: Yes, your Honor. I had that
7 one rate case. We marked it just for identification
8 purposes, I think. It was a Commission order. So given the
9 fact it's a Commission order, the Commission can take
10 administrative notice of it. I don't think it needs to be
11 made in evidence.
12 JUDGE RUTH: You're talking about 17?
13 MR. PENDERGAST: Yes. So, I'm indifferent as
14 to whether it's admitted.
15 JUDGE RUTH: It was marked for identification
16 purposes. It was the concurring opinion of the Commission's
17 order, and I think that's sufficient.
18 MR. PENDERGAST: Okay. Fine. Great.
19 JUDGE RUTH: Anything else?
20 (No response.)
21 JUDGE RUTH: No. Then we are now off the
22 record.
23 WHEREUPON, the hearing of this case was
24 concluded.
25

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