

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
December 11, 2018
Jefferson City, Missouri
Volume 2

In The Matter Of The)	
Application of Spire)	File No. GU-2019-0011
Missouri Inc. For An)	
Accounting Authority Order)	
Concerning Its Commission)	
Assessment For the 2019)	
Fiscal Year)	

NANCY DIPPELL, Presiding
SENIOR REGULATORY LAW JUDGE

RYAN A. SILVEY, Chairman, via phone
MAIDA J. COLEMAN,
COMMISSIONERS

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1 (Exhibits 1 and 2 were marked for
2 identification.)

3 JUDGE DIPPELL: Okay. Let's go on the
4 record. This is Case Number GU-2019-0011 In The
5 Matter Of The Application Of Spire Missouri Inc.,
6 doing business as Spire, For An Accounting Authority
7 Order Concerning Its commission Assessment For The
8 2019 Fiscal Year.

9 My name is Nancy Dippell. I'm the
10 Regulatory Law Judge assigned to this hearing. And
11 we're going to begin this morning with entries of
12 appearance. For Spire Missouri.

13 MR. COOPER: Thank you, Judge. Dean
14 Cooper from Brydon, Swearngen and England, PC
15 appearing on behalf of Spire Missouri. And the court
16 reporter has the address.

17 JUDGE DIPPELL: Commission Staff?

18 MR. KEEVIL: Yes, Judge. Jeff Keevil
19 appearing on behalf of the Staff of the Missouri
20 Public Service Commission. And I've handed the court
21 reporter an entry of appearance form with address
22 information.

23 JUDGE DIPPELL: Office of the Public
24 Counsel?

25 MR. POSTON: Thank you. Marc Poston

1 appearing for the Office of the Public Counsel and the
2 public.

3 JUDGE DIPPELL: Midwest Energy Consumers
4 Group?

5 MR. WOODSMALL: David Woodsmall on behalf
6 of MECG.

7 JUDGE DIPPELL: All right. I have
8 Commissioner -- or Chairman Silvey on the telephone
9 with us today. And at this time, Mr. Chairman, can
10 you -- could you hear the entries okay?

11 CHAIRMAN SILVEY: Yes, Judge.

12 JUDGE DIPPELL: Okay. Thank you. All
13 right then. We will proceed with the order of
14 witnesses and opening statements that you all proposed
15 in your filings. So we're ready to go ahead and begin
16 with opening statements of Spire.

17 MR. COOPER: Thank you, Judge. Before I
18 start, I want to hand out a document. This is a copy
19 of the chart that's found on page 6 of Mr. Weitzel's
20 Direct Testimony.

21 JUDGE DIPPELL: Page 6 of Mr. Weitzel's
22 Direct, you said?

23 MR. COOPER: Yes, Judge. I guess because
24 it's a part of Mr. Weitzel's Direct and because it
25 will be offered as a part of his Direct, I don't see

1 any need to mark it at this time.

2 JUDGE DIPPELL: I agree. I think you're
3 fine.

4 MR. COOPER: Spire's current rates became
5 effective on April 19 of this year as a result of the
6 Commission's Amended Report and Order in Cases Numbers
7 GR-2017-0215 and 0216. The result of those cases was
8 a decrease in rates for Spire Missouri's customers.

9 The revenue requirements in those cases,
10 among other things, reflected Spire's fiscal year 2018
11 assessment; that is, the assessment received by Spire
12 in June of 2017. Two months after those new rates
13 went into effect in June of this year, the
14 Commission's 2019 fiscal year assessment letter was
15 sent.

16 2019 fiscal year assessment reflected an
17 increase of 1.66 million dollars above the 2018 fiscal
18 year amount that's reflected in Spire's revenue
19 requirement in that last rate case. This assessment
20 shortfalls in addition to the nearly one million
21 dollars of unrecoverable rate case expenses the
22 Company incurred as a result of the sharing of rate
23 case expenses related to those cases.

24 Spire seeks an Accounting Authority Order
25 authorizing it to defer as a regulatory asset the

1 increases above the Commission's fiscal year 2018
 2 assessment built into its rates until the Company's
 3 next general rate case. The Company also proposes to
 4 defer as a regulatory liability the amount by which
 5 any assessment falls short of the fiscal 2018
 6 assessment amount between now and the Company's next
 7 general rate case.

8 The Staff and OPC witnesses both approach
 9 this question as if the PSC assessment is no different
 10 than any other expense that a utility might incur.
 11 And I just don't think that that's the appropriate way
 12 to look at this. The Commission's own assessment
 13 is -- is just different. It's not a normal expense
 14 related to the actual business of providing services.

15 It is an expense related directly and
 16 exclusively to the regulatory structure established by
 17 statute. That is, but for the regulatory structure,
 18 there would be no -- no assessment. For that reason,
 19 it's just not the sort of expense that a utility
 20 should profit from or should suffer a loss from, as
 21 the Staff and OPC would suggest.

22 Now I think the history of this expense
 23 is -- is important. And the document that I handed
 24 you is -- is the chart that Mr. Weitzel prepared to
 25 lay out the combined assessment amounts for Legacy MGE

1 system and the Legacy Laclede system over the last ten
 2 years. You can see that the variances from year to
 3 year have been volatile on a percentage basis.
 4 There's 10 percent down, 12 percent up, 14 percent
 5 down, some years where it stayed relatively similar,
 6 and then 16 up, 14 down, 13 down, 11 up leading to the
 7 year that's in question here, which is a 51 percent
 8 increase or the 1.66 million dollar variance that I
 9 referred to before.

10 That last swing is a huge swing and it
 11 should, I think, make the Commission also think about
 12 a global consideration on this issue. And that is, is
 13 it appropriate for the Commission to consider removing
 14 its own assessment from a rate-making process where,
 15 as we can see now, potentially a utility could have a
 16 1.6 million dollar profit or loss resulting from a
 17 Commission assessment.

18 I think at least -- again, this is beyond
 19 this case, but something for the Commission to
 20 consider whether as a policy matter a tracker for all
 21 utilities for assessment -- the utility assessments
 22 would be appropriate to ensure that customers pay no
 23 more and no less than what the Commission assessment
 24 is.

25 Spire Missouri recognizes that the

1 Commission has commonly referred to unusual and
2 infrequent events in regard to the consideration of
3 AAOs. In this case, the significant increase in the
4 Commission's assessment was the result of events that
5 were unusual and infrequent in occurrence; that is,
6 the company litigated rate cases for two divisions.

7 This was the first rate case for each
8 division after a major acquisition. As the
9 Commission's well aware, there were many issues in
10 that case -- or those cases, plural, and it's a
11 Company that has not traditionally litigated rate
12 cases in the past.

13 The substantial fiscal year 2019 increase
14 is beyond the control of Spire Missouri and a
15 circumstance for which no provision is made in the
16 rate-making process. This unpredictable change, which
17 arises from a number of factors beyond the Company's
18 control, including such things as when other utilities
19 have filed rate cases such that the Staff is either
20 working exclusively on the Spire matter or a
21 combination of matters, how the Staff, OPC approach
22 the cases makes normal budgeting parameters extremely
23 difficult to -- to forecast.

24 The magnitude of the fiscal year 2019
25 assessment increase is an item of significant effect,

1 which is abnormal and significantly different from
2 such increases or decreases in the past. It's related
3 to the effects of events and transactions which have
4 occurred during the current period and which are of
5 unusual and infrequent occurrence and which would not
6 be reasonably expected to recur in the foreseeable
7 future.

8 The parties also make reference to
9 materiality, by which they mean whether the item is
10 more than approximately 5 percent of the Company's
11 income. The increase in Spire's assessment is not
12 more than approximately 5 percent of income computed
13 before extraordinary items. In fact, it's closer to
14 1 percent.

15 However, the Com-- Commission has stated
16 before that this relationship of the deferral to
17 income is not determinative as to any particular
18 outcome. In fact, as stated in Mr. Weitzel's
19 testimony, AAOs and trackers have been granted for
20 other items substantially below the 5 percent
21 threshold that's been referenced, primarily due to the
22 unpredictability in amount and the utility's inability
23 to control such expenses that fundamentally cause the
24 expense increase.

25 In conclusion, given the nature of the

1 expense at issue, the Commission's own assessment, the
2 size of the variance of that amount and the unusual
3 and infrequent occurrence of the events leading to
4 that variance, the -- the rate cases of this past
5 year, Commission should grant Spire an Accounting
6 Authority Order authorizing it to record on its books
7 a regulatory asset or liability which represents the
8 increases or decreases from its 2018 fiscal year
9 assessment beginning with the fiscal year 2019
10 Commission assessment and continuing through the Com--
11 the Company's next general rate case. Thank you.

12 JUDGE DIPPELL: Mr. Chairman, did you
13 have any questions for Mr. Cooper at this time?

14 CHAIRMAN SILVEY: I do not, thank you.

15 JUDGE DIPPELL: Commissioner Coleman?

16 COMMISSIONER COLEMAN: No, thank you.

17 JUDGE DIPPELL: Thank you, Mr. Cooper.

18 MR. COOPER: Thank you.

19 JUDGE DIPPELL: Staff?

20 MR. KEEVIL: That may be the best I can
21 do with that thing. May it please the Commission.
22 This case involves the request of Spire Missouri,
23 Inc., which I will refer to as Spire, for an
24 Accounting Authority Order or tracker to authorize
25 deferred accounting treatment for increases or

1 decreases in its PSC assessment as compared to fiscal
2 year 2018 PSC assessment.

3 The Commission has previously decided
4 that the use of trackers should be limited because
5 they violate the matching principle, tend to
6 unreasonably skew rate-making results and dull the
7 incentives the utility has to operate efficiently and
8 productively under the rate regulation approach
9 employed in Missouri.

10 Accordingly, the Commission has adopted
11 certain criteria for granting deferral accounting
12 authority, which has been approved by the Court. The
13 Commission's express criteria are, number one, that
14 the costs pertain to an event that is extraordinary,
15 unusual and unique and not recurring. And two, that
16 the costs associated with that event are material.

17 The yardstick generally used by the
18 Commission to measure materiality of a cost proposed
19 for deferral treatment is whether the cost in question
20 is at least 5 percent of the utility's net income.
21 And you've heard Mr. Cooper just a moment ago admit
22 that this cost in question in this case is not close
23 to 5 percent.

24 However, I would mention that the
25 materiality prong of the criteria is a secondary

1 consideration. Whether the event or transaction is
2 extraordinary is the primary consideration.

3 Now, applying the Commission's court
4 approved express criteria for authorizing AAO
5 deferrals and tracker mechanisms, Spire's request
6 falls far short of meeting the criteria. PSC
7 assessments have been billed to and paid by utilities
8 for years. Nothing about them is extraordinary; i.e.,
9 nothing about them is unusual, unique and
10 nonrecurring.

11 As for the materiality of the increase in
12 the assessment, as we heard Mr. Cooper state, even
13 Spire admits it does not meet the 5 percent standard.

14 So what do you do when, like Spire, you
15 don't meet the applicable standard? Well, you argue
16 for a different standard. And that's exactly what
17 Spire is doing. Sort of a regulatory Kobayashi Maru
18 for the Star Trek fans out there.

19 Spire is essentially arguing that the
20 one-year increase in its PSC assessment was so large
21 or material that it qualifies as extraordinary.
22 However, as I mentioned previously, an event or
23 transaction must be extraordinary first and material
24 second. Materiality does not make it extraordinary.
25 And as we've previously mentioned several times, the

1 increase in Spire's assessment does not even qualify
2 as material.

3 Spire's real complaint is with its
4 recently concluded rate case. If I'm not mistaken,
5 Spire's appealed several issues from those cases,
6 including the rate case expense sharing issue that it
7 addresses in its testimony in this case.

8 However, what Spire fails to acknowledge
9 is that it brought this increased assessment on itself
10 through its numerous case filings, including the two
11 major rate cases Mr. Cooper mentioned, as well as its
12 approach to processing those cases. Spire has no one
13 to blame but itself for the increased assessment.

14 And I might add that filing cases like
15 this one, which fall so blatantly short of meeting the
16 established standard, it takes up valuable Commission,
17 Staff and Public Counsel time, serves only to keep the
18 assessments higher.

19 In conclusion, Spire's request should be
20 denied in its entirety. Staff will be presenting the
21 testimony of Mr. Mark Oligschlaeger, CPA, manager of
22 the Commission Staff's Auditing Department who has
23 been a regulatory auditor for approximately 37 years
24 and has been involved directly or indirectly with many
25 of the AAO or tracker issues to come before the

1 Commission in past years. Are there any questions?

2 JUDGE DIPPELL: Mr. Chairman, did you
3 have any questions for Mr. Keevil?

4 CHAIRMAN SILVEY: No, Judge. Thank you.

5 JUDGE DIPPELL: Commissioner Coleman?

6 COMMISSIONER COLEMAN: No, thank you.

7 JUDGE DIPPELL: I just have one,
8 Mr. Keevil. Can you spell Kobayashi Maru?

9 MR. KEEVIL: I can. I can. I looked it
10 up. K-o-b-a-y-a-s-h-i, second word, M-a-r-u.
11 Kobayashi Maru.

12 JUDGE DIPPELL: I'm impressed.

13 MR. KEEVIL: All right. Do you remember
14 the Kobayashi Maru episode? Okay.

15 JUDGE DIPPELL: We'll talk about that off
16 the record. Or maybe not since it's now part of -- of
17 this case.

18 MR. KEEVIL: After -- after the decision.

19 JUDGE DIPPELL: Office of Public Counsel?
20 And Mr. Poston has a visual on the computer; is that
21 correct?

22 MR. POSTON: Yes.

23 JUDGE DIPPELL: Okay. Let me see if I
24 can make that happen.

25 MR. POSTON: Actually I'm not sure how to

1 make that happen. Do you know how do that?

2 MR. WOODSMALL: I think so. Let's see.
3 Now this is where I had problems. I think it might
4 be -- there you go.

5 MR. POSTON: Thank you.

6 MR. WOODSMALL: And you've got to use
7 this.

8 MR. POSTON: Got to use that one?

9 MR. WOODSMALL: Yeah.

10 MR. POSTON: Okay. Thanks.

11 May it please the Commission. Good
12 morning. My name's Marc Poston. I'm here on behalf
13 of the Office of Public Counsel and the public.

14 We concur with the position taken by the
15 Commission Staff and the comments of Mr. Keevil this
16 morning. We believe the Commission's rules and a
17 larger number of past Commission and court decisions
18 on AAOs support a denial of Spire's request. I don't
19 intend to cover those decisions here today. I'll save
20 that for my post-hearing briefs. But there are a few
21 issues that are important to set the stage for this
22 case and this hearing.

23 I'd like to first talk about how Spire's
24 assessment is determined. There's three main
25 components that determine the assessment. First, the

1 estimated fiscal year expenses of the Commission and
2 Public Counsel, and that generally stays fairly steady
3 from year to year.

4 The second component determines how much
5 time did the Commission and OPC spend on each industry
6 and allocates expenses to that industry accordingly.
7 If an industry has a high number of cases or lengthy
8 cases, its allocation will increase.

9 And the third component, each utility is
10 then assessed a portion of their industry allocation
11 based on each company's intrastate -- intrastate
12 revenues.

13 So I'd like to spend a few minutes
14 exploring these last two components and how they
15 impacted the fiscal year 2019 assessment for Spire.
16 The primary driver of Spire's increased assessment is
17 due to an increase in the gas industry allocation
18 caused by Spire's two rate cases, which it chose to
19 file in April of 2017.

20 These were the first joint rate case
21 filings for both companies. These cases were open
22 throughout the entire 12 months of fiscal year 2018.
23 And in that case, Spire brought many unique issues
24 that the Commission pointed out in its order. Two
25 rate cases processed at the same time is a heavy

1 demand for the resources of the Commission and the
2 Public Counsel.

3 Anyone familiar with how the Commission
4 calculates its assessment should know that rate cases
5 create an increase in resources devoted to the
6 industry issues that they're addressing. And contrary
7 to Spire's pre-filed testimony, the Company has
8 significant influence over the resources the
9 Commission and OPC must devote to a rate case.

10 One notable difference between Spire's
11 recent rate cases and other rate cases before the
12 Commission is the Commission's findings listed here
13 and on the next slide. The Commission found that the
14 Company had admitted that it purposefully takes more
15 aggressive positions and builds cushion into its
16 requests.

17 And the Commission also found that a
18 Company witness admitted that they padded their
19 revenue requirement beyond what they actually expect
20 to receive, which the Commission said clearly
21 benefited shareholders over ratepayers.

22 So what that means, if, for example, an
23 appropriate expense level of an item is say 10 million
24 dollars, but the Company proposes 15 million in hopes
25 of settling for at least 10 million, that position

1 automatically requires resources for us to counter.
 2 When had they been honest with their numbers, we may
 3 have avoided the need for additional testimony and
 4 argument and had no issue. This creates additional
 5 work for us and for you because it prolongs these
 6 cases. And it increases that industry's assessment
 7 allocation and that Company's ultimate assessment.

8 Here the Commission pointed out all the
 9 unique issues that the Company brought that did
 10 require extra work by the Commission, by its Staff and
 11 Public Counsel. And these were focus to insulate
 12 shareholders, tracking mechanisms, revenue
 13 stabilization mechanism, and they also pursued
 14 expenses that typically are allocated to shareholders
 15 and they tried to allocate those to ratepayers.

16 So the more issues the Company brings,
 17 the more we -- work we all must do. And that's not to
 18 say they don't have a right to bring new issues. They
 19 do. But they should recognize that it creates more
 20 work for us and more -- more work that may be
 21 reflected in their assessment. This is nothing new.
 22 It's how assessments are done. It's how they've been
 23 done as far as -- as long as I know. So Spire should
 24 have known that its two rate cases were going to
 25 increase the assessment in the following fiscal year.

1 And the rate cases don't have to be as
2 contentious as this last one. When Spire's facing a
3 rate increase, they've shown a much greater
4 willingness to settle a case early. These are the
5 last five rate cases for the Laclede and MGE companies
6 before this present -- or the most last Spire rate
7 case. And you can see that for the most part, these
8 are all rate increases and the parties settled these
9 is-- these cases within seven months.

10 And you look at the number of EFIS
11 documents that were filed; 147, 93 documents total in
12 the 2013 case, 190-- 89 documents in 2010, the high
13 number here is the 398 in the 2009 case. But most of
14 those issues settled seven months -- within seven
15 months.

16 One take-away from this list is when a
17 rate increase is at play, the other parties are
18 clearly willing to settle the case and allow the
19 increase to go into effect earlier rather than force
20 an 11-month process.

21 I wanted to show you how the prior
22 Laclede and MGE cases were handled to put the recent
23 Spire case into perspective. So during the
24 evidentiary hearing, that's when you saw three
25 stipulations filed, a lot of issues involved there,

1 but still 44 issues were presented to the Commission
2 for decision, 629 documents in EFIS. That exceeds all
3 but the -- I mean if you add it up, in the last five
4 rate cases, with the exception of the 2009 case, it
5 exceeds all of those documents filed in those four
6 cases.

7 Eleven months until the Report and Order.
8 And Report and Order, 150 pages. Judge Dippell, I
9 don't have to tell you about that order. You wrote
10 that order. I'm sure that it's very familiar to you.
11 And this case is on appeal, as Mr. Keevil said, and it
12 continues to consume resources of the Commission and
13 Public Counsel.

14 So this -- this graph shows the result of
15 Spire's rate case impact on the gas industry
16 allocation. The far right bar is the increase to the
17 gas industry allocation for fiscal year 2019 caused by
18 Spire's rate cases in fiscal year 2018.

19 So the last rate case increase occurred
20 in fiscal year 2015, which followed Laclede's rate
21 case process in fiscal year 2014, and that's also
22 shown on this chart. So there's a pattern here. They
23 have a rate case, it increases the gas allocation and
24 they pay more for assessment. So this is nothing out
25 of the ordinary. This is not extraordinary.

1 So this slide and the two previous slides
2 were meant to show how Spire impacted the gas
3 companies' allocation. And the next slides will show
4 how Spire's efforts to increase revenues also impacted
5 its fiscal year 2019 assessment, which determined its
6 share of the gas industry allo-- allocation.

7 So the first point to make here is that
8 Spire's revenues far exceed all other gas companies in
9 Missouri and, therefore, Spire is responsible for
10 paying the bulk of the gas allocation. They had
11 1.1 billion revenues in 2017. The next highest was
12 Ameren at a mere fraction of that at 119 million.

13 But when we talk about why Spire's
14 assessment increased between fiscal year 2018 and
15 fiscal year 2019, it's important to look at the 2016
16 to 2017 revenues used to calculate those assessments.
17 Spire's revenues increased by over 76 million dollars
18 between 2016 and 2017. By comparison, most of the gas
19 utilities had decreasing revenues, with Ameren dro--
20 dropping by 2 million dollars.

21 We attribute most of this to Spire's use
22 of the ISRS mechanism to increase revenues between
23 rate cases by tens of millions of dollars annually.
24 Other utilities don't use the ISRS.

25 So when we talk about why Spire's

1 assessment went up, it's based on the gas allocation
2 caused by the rate case and it's based on their
3 revenues. And you look at their revenues here and
4 they have gone up.

5 Spire's assessment is not extraordinary,
6 it's not unusual and abnormal. Assessments are an
7 annual expense that expectedly fluctuates due to the
8 utility's activity and revenues. They're not an
9 infrequent occurrence, they're annual and they
10 increase following the gas rate cases.

11 They're not of significant effect. As
12 you hear [sic] talked about here, they're only
13 1 percent of their net income and a much smaller
14 percentage of their billion dollar annual revenues.
15 The assessment is paid annually by every public
16 utility. It's an ordinary expense necessary to
17 operate as a regulated monopoly.

18 And Spire's assessment will amount -- or
19 amount will recur as Spire files joint rate cases of
20 the east and west units into the future and continues
21 to increase its revenues.

22 The assessment Spire pays is equally
23 beneficial to Spire as it is to the public that pays
24 for the assessment through rates. If not for the
25 Commission, Spire wouldn't enjoy the benefits of being

1 a monopoly provider of a necessary service. This
 2 Commission and the expenses it incurs makes Spire
 3 possible. So rather than looking at the assessment as
 4 a government mandate, it's actually an expense that
 5 allows Spire to exist and bring in 1 billion in
 6 revenues free from competition.

7 And you're probably wondering why I have
 8 a picture of Ameren's Bagnell Dam. I chose this for
 9 the floodgates to make one last point. Approval of
 10 Spire's requested AAO will most certainly open the
 11 floodgates for Spire and all other utilities to
 12 request AAOs for every minor expense that increases by
 13 50 percent.

14 And if the amount in question is
 15 significant for a company the size of Spire and worthy
 16 of deferral, an argument could be made that much
 17 smaller gas utilities, that an expense of much smaller
 18 value is equally as significant to them. You could
 19 see AAOs for expenses that go up by amounts in the
 20 tens of thousands.

21 OPC's witness is Ms. Keri Roth. She's
 22 here today to test-- to testify. She's an accountant
 23 with the Public Counsel and has pre-filed Rebuttal
 24 Testimony. We urge you to deny Spire's application.
 25 Thank you.

1 JUDGE DIPPELL: Mr. Chairman, do you have
2 any questions for Mr. Poston?

3 CHAIRMAN SILVEY: No. No, Judge. Thank
4 you.

5 JUDGE DIPPELL: Commissioner Coleman?

6 COMMISSIONER COLEMAN: No, thank you.

7 JUDGE DIPPELL: I just have a couple of
8 things Mr. Poston. So in your presentation, you use
9 some numbers of documents from prior cases and so
10 forth. Are those numbers in your witness's testimony
11 at all?

12 MR. POSTON: Are you referring to the
13 prior rate cases?

14 JUDGE DIPPELL: Yes.

15 MR. POSTON: Those -- no, those are all
16 from the Commission orders.

17 JUDGE DIPPELL: Okay. And then the same
18 question with regard to the numbers in the graphs and
19 pie charts regarding revenues?

20 MR. POSTON: Some of those are in Mi s--
21 Ms. Roth has the -- I think the 2017 assessments
22 broken down. She did not have the 2016 that creates
23 that 76 million dollar chart. That's -- that was
24 pulled from the 2016 assessment I guess orders. And I
25 would ask you to take notice off those. Those are all

1 part of the Commission's records.

2 JUDGE DIPPELL: Okay. Let me begin then
3 by -- I want to go ahead and mark your presentation as
4 a demonstrative exhibit just so that the transcript is
5 clear when we are looking at it. If you could provide
6 me with copies of that, I'll go ahead and mark it just
7 for identification purposes as Exhibit 201.

8 MR. POSTON: Okay.

9 MR. KEEVIL: Do you have an extra one,
10 Marc?

11 JUDGE DIPPELL: And then would there be
12 any objection to the Commission taking notice of its
13 records in EFIS? Not with regard to the content of
14 those records, but with regard to like numbers of
15 documents for cases in EFIS or the timeline of cases.
16 Would there be any objection to that?

17 MR. COOPER: No objection from Spire.

18 JUDGE DIPPELL: Okay. Then the
19 Commission -- just on the record I'll make note that
20 the Commission will take -- is -- is able to take
21 notice of its official filing system.

22 MR. POSTON: Okay.

23 JUDGE DIPPELL: Which we refer to as
24 EFIS, Electronic Filing and Information System. Okay.

25 MR. POSTON: Is that all? Okay.

1 JUDGE DIPPELL: I think that's all.

2 Thank you. Thank you.

3 (Exhibit 201 was marked for
4 identification.)

5 JUDGE DIPPELL: And Mr. Woodsmall I
6 believe has a presentation as well so he's changing
7 out that.

8 MR. POSTON: Before he does that, it was
9 just pointed out to me by Staff that on my slide six
10 where I've got the cases listed, they said the first
11 two I have listed are flipped, whereas the -- I guess
12 the 2014 case was MGE and the 2013 case was Laclède.
13 So I just wanted to make that correction.

14 JUDGE DIPPELL: Okay. Thank you. Okay.
15 Mr. Woodsmall, you're ready?

16 MR. WOODSMALL: Good morning. Thank you.
17 David Woodsmall on behalf of the Midwest Energy
18 Consumers Group.

19 Today I want to address four things.
20 First, I want to provide some legal background behind
21 the Commission's use of the extraordinary standard for
22 consideration of requests for deferral accounting.
23 Importantly, since they both involve deferral
24 accounting, the Commission has applied this same
25 standard to both AAO requests as well as tracker

1 requests.

2 Second, I want to discuss the rate-making
3 process in Missouri so that you can see that the
4 extraordinary standard is not only legal, but it makes
5 good rate-making sense.

6 Third, I want to apply the extraordinary
7 standard to the evidence in this case.

8 And fourth, like the others, I want to
9 talk about the materiality of the request.

10 So where did the extraordinary standard
11 come from? If you go back to 1979, the Commission was
12 utilizing a fuel adjustment clause without any
13 statutory authority. Then in 1979, the Supreme Court
14 had the opportunity to address the legality of the
15 fuel adjustment clause.

16 There, the Supreme Court held that the
17 Commission lacked statutory authority for the fuel
18 adjustment clause. But importantly to today's case,
19 the Court also held that despite the lack of statutory
20 authority, the use of the fuel adjustment clause was
21 prohibited because it constituted unlawful retroactive
22 rate-making.

23 This is the important part. What the
24 Com-- what the Supreme Court said about retroactive
25 rate-making. It said, The utilities take the risk

1 that rates filed by them will be inadequate or
2 excessive each time they seek a rate approval. To
3 mer-- to permit them to collect additional monies
4 simply because they had past expenses not covered is
5 retroactive rate-making. Past expenses cannot be used
6 to set future rates to recover for past losses due to
7 imperfect matching of rates with expenses.

8 Basically the Supreme Court in 1979 said
9 you file a rate case, you live with what comes out of
10 it. And if the rates turn out to be inadequate, you
11 file another rate case. If you try to defer costs,
12 that's retroactive rate-making. Very simple, very
13 easy.

14 So what changed? In 1991, the Commission
15 saw how -- how harsh this was in regards to certain
16 costs. And then a 1991 case where they were
17 considering the rebuild of the Sibley generating
18 station, the Commission noted that the Sibley costs
19 were not already included in rates. So they weren't
20 ordinary costs at that point in time.

21 Further, the Commission found that the
22 rebuild of a generating station is an extraordinary
23 event and the costs could be deferred for future
24 recovery. And here's what the Commission said, The
25 deferrals in Case Number E0-91-358 do not constitute

1 retroactive rate-making since they involve items which
2 have been found to be extraordinary and, therefore,
3 outside the current period match of revenues and
4 expenses. Costs associated with extraordinary events
5 such as losses, cancellations, or service threatening
6 timing difference have been authorized by the
7 Commission.

8 So 1979, no retroactive rate-making.
9 1991, we see the first glimpse of deferral accounting.
10 And that is for extraordinary costs.

11 But that was just the Commission saying
12 it. Not surprisingly, someone challenged that.
13 Public Counsel took that decision to the Court of
14 Appeals saying this is retroactive rate-making. If
15 they need to recover these costs, they need to file a
16 rate case.

17 But the Court of Appeals didn't agree.
18 And in that appellate decision, the Court upheld the
19 Commission's limited exception to the prohibition
20 against retroactive rate-making. This exception is
21 for unusual, nonrecurring, extraordinary events.

22 Here's what the Court said -- and this is
23 very important because it gives you guidance for this
24 case. The Court said, Because rates are set to
25 recover continuing operating expenses plus a

1 reasonable return on investment, only an extraordinary
2 event should be permitted to adjust the balance to
3 permit costs to be deferred for consideration in a
4 later period. Only an extraordinary event can cause a
5 deferral.

6 Needless to say, the utilities would love
7 to see this use of deferral accounting available for
8 costs other than extraordinary costs, and we saw that.
9 In a recent KCP&L case that most of the Commission was
10 around for, KCP&L asked for widespread deferral
11 accounting for many ordinary costs; for transmission
12 costs, property taxes, and cyber security costs.

13 Despite this broad-bush -- broad-brush
14 request, the Commission applied the extraordinary
15 standard and held, The evidence presented in this
16 case, showed that KCP&L's transmission costs, while
17 having increased in recent years, are normal, ordinary
18 and recurring operation costs. These recurring costs
19 are not abnormal or significantly different
20 from the ordinary and typical activities of the
21 Company, so they are not extraordinary.

22 KCP&L wasn't happy. They wanted deferral
23 accounting for other costs. And they took the
24 Commission's decision to the appellate court, but they
25 failed. The Court said, KCP&L's arguments regarding

1 the Uni form System of Accounts and its alleged right
2 to use a tracking accounting deferral mechanism
3 completely ignore that the PSC's decision that only
4 extraordinary expenses should be allowed such
5 treatment.

6 So let's go back. 1979, no deferral
7 accounting. 1991, we see the extraordinary cost
8 exception. 1991, we see the Court agree with that.
9 2014, we see the Commission reject the application of
10 deferral accounting to ordinary costs. And in 2015,
11 the Court agreed with the Commission that only
12 extraordinary costs are subject to deferral
13 accounting.

14 Aside from challenges in court, the
15 utilities have also attempted to loosen the
16 extraordinary standard and implement widespread
17 deferral accounting through legislative changes. In
18 the 2017 extraordinary session, the utilities proposed
19 Senate Bill 6, which would have provided absolute
20 authority to utilize deferral accounting without the
21 requirement of an extraordinary event. Again, in
22 2018, the utilities propose House Bill 2058, which
23 would have done the same thing.

24 Both times the proposed legislation
25 failed. Therefore, much to their chagrin, we are

1 still stuck with the extraordinary standard.

2 So let's look at the extraordinary
3 standard. We've talked about the legality of it.
4 Let's talk about the logic of it. And I will argue
5 that the logic of the extraordinary standard makes
6 perfect rate-making sense.

7 You see, rate-making looks at ordinary
8 costs. All ordinary costs are considered; payroll,
9 pencils, computers, maintenance, depreciation, cost of
10 debt, cost of equity, depreciation and other
11 administrative costs. Clearly included in the
12 rate-making concept are regulatory assessment and
13 other taxes.

14 Extraordinary costs are excluded. Costs
15 like floods, ice storms, tornados, things like that
16 are excluded and not collected through the normal
17 rate-making process. So if we don't include the cost
18 of floods, tornados and ice storms in rates, then
19 how -- do the utilities just eat these costs? No.

20 At least as far back as 1991, the
21 Commission began to allow deferral and recovery of
22 such costs under the extraordinary standard. So while
23 rates include all ordinary costs, they also may
24 include some consideration of deferred extraordinary
25 costs. This is completely consistent with -- with the

1 Court mandate from the Western District Court of
2 Appeals.

3 This method of rate-making is also
4 reflected in the Uniform System of Account. There,
5 General Instruction 7 states that, Net income should
6 include all ordinary costs. Extraordinary costs
7 defined as those of "unusual nature and infrequent
8 occurrence" are treated as -- as extraordinary items
9 not included in net income.

10 So given the legality and logic of the
11 extraordinary standard, let's apply it to Spire's
12 request to defer an increase in PSC regulatory
13 assessment. First, you see a quote from
14 Mr. Oligschlaeger, Staff's witness on this:
15 Commission assessment expense is very much a routine
16 and ongoing nature and is not associated with the type
17 of rare and unanticipated events, (for example,
18 natural disasters) for which AAOs are commonly used.
19 Commission assessment amounts have been billed to and
20 paid by utilities for many years on a set schedule.
21 This process is obviously "usual, ordinary, typical
22 and recurring" from the perspective of Missouri
23 utilities.

24 The FERC Uniform System of Accounts
25 provides no support for Spire Missouri's attempt to

1 label its Commission assessment expenses as
2 extraordinary in nature.

3 OPC's Witness Roth agrees. The PSC OPC
4 assessment is a recurring annual assessment paid by
5 regulated utilities. Section 386.370 Revised Statutes
6 of Missouri has provided for the Commission to collect
7 annual assessment since July 1st, 1947 and there is no
8 indication that this will cease in the foreseeable
9 future. So there is little basis that Spire's request
10 satisfies the Court-imposed extraordinary standard.

11 Now, let's talk about the implications of
12 Spire's request, the practical side. As I mentioned,
13 rate-making dictates that all ordinary costs,
14 including the regulatory assessment, be included in
15 rates. Therefore, Spire is already recovering some
16 level of regulatory assessment, as well as other
17 costs.

18 Through this request, however, Spire
19 wishes to address one cost in a vacuum. Not
20 surprisingly, that one cost is one that is increased.
21 Noticeably however, Spire has not considered other
22 costs that may have decreased. Spire wants you to
23 look at one single cost, allow it for deferral for
24 future -- in a future case, but they don't want you to
25 look at anything else that may be offsetting it; costs

1 such as debt costs.

2 Cost of debt has come down. You know,
3 are they saving money for that? But they don't want
4 you to look at that. They only want you to look at
5 the regulatory assessment in a vacuum. The number of
6 employees and their payroll costs, have those come
7 down? We don't know. But surely there are costs out
8 there that would offset this. But they don't want you
9 to look at it.

10 That is why ordinary costs in totality
11 are done in a rate case where we can look at all of
12 them. All relevant factors. They don't want you to
13 do that. Instead, Spire wishes to ignore all
14 offsetting cost decreases and simply receive recovery
15 for a single cost that has increased.

16 For a hundred years, the Commission has
17 required utilities to file a rate case if there are
18 ordinary costs that are not providing a reasonable
19 return. Spire's request in this case, much as
20 Mr. Poston pointed out, makes a mockery of the entire
21 rate-making process and would open the floodgates for
22 many of these requests from utilities any time a
23 single cost goes up.

24 Finally, I wanted to address one other
25 issue that the others have talked about. In these

1 type of cases the Commission has considered whether
 2 the dollars in question are material. As a starting
 3 point, the Commission has typically used a threshold
 4 of 5 percent of debt income. In this way, some things
 5 that might otherwise meet the extraordinary standard
 6 would not be allowed deferral accounting.

7 And think of an example. I put this in
 8 my position statement. What if we have a relatively
 9 confined ice storm that takes out a single power line
 10 or just a couple power lines? You know, it's
 11 extraordinary, it's an ice storm. But the materiality
 12 to a company of Ameren or KCP&L would be minute. Do
 13 you really want AAO requests for such minute type of
 14 situations?

15 So the Commission has applied a
 16 materiality standard of 5 percent. Let's apply that
 17 standard. In his testimony, Staff Witness
 18 Oligschlaeger states the following, Mr. Weitzel admits
 19 at page 8 and 9 of his Direct Testimony that the
 20 increase in Spire Missouri's fiscal year 2019
 21 Commission assessment does not meet this materiality
 22 standard.

23 OPC's Witness Roth provides even greater
 24 detail, In response to OPC's Data Request Number 1101,
 25 Spire responded that the Company is using total income

1 for 12 months ending June 2018 of 141.8 million to
2 calculate whether Spire's request for an AAO meets the
3 5 percent of income threshold.

4 5 percent would be approximately
5 7.1 million. Spire's annual assessment is only 4.9
6 million and the increase is 1.44 million. The
7 increase is only 1 percent of net income, so it falls
8 well short of the 5 percent threshold. I have nothing
9 further. If you have any questions?

10 JUDGE DIPPELL: Mr. Chairman, do you have
11 any questions for Mr. Woodsmall?

12 CHAIRMAN SILVEY: Not at this time.
13 Thank you, Judge.

14 JUDGE DIPPELL: Commissioner Coleman?

15 COMMISSIONER COLEMAN: No, thank you.

16 JUDGE DIPPELL: I just would also like to
17 mark just for demonstrative purposes your
18 presentation, Mr. Woodsmall. Do you have -- happen to
19 have copies of that with you?

20 MR. WOODSMALL: I've given them out to
21 everybody.

22 JUDGE DIPPELL: Okay. Would you give
23 them to me?

24 MR. WOODSMALL: Yeah. I gave you a whole
25 pile.

1 JUDGE DIPPELL: Oh, I'm sorry.

2 MR. WOODSMALL: You're welcome.

3 JUDGE DIPPELL: I missed that. Okay. I
4 will mark that for identification purposes as
5 Exhibit 301.

6 MR. WOODSMALL: Thank you.

7 MR. KEEVIL: Did you have a 300?

8 MR. WOODSMALL: No, I didn't.

9 JUDGE DIPPELL: Oh, I'm sorry. You're
10 right, Mr. Keevil. Make that 300. I'll mark that as
11 Exhibit 300.

12 All right. I think then that that
13 concludes opening statements. Is -- does anyone need
14 a break before we begin witnesses or shall we just go
15 ahead?

16 All right. Seeing none, we'll go ahead
17 then and begin with our witnesses.

18 MR. COOPER: Judge, Spi re would call
19 Mr. Scott Weitzel to the stand.

20 (Exhibit 300 was marked for
21 identification.)

22 (Witness sworn.)

23 JUDGE DIPPELL: Thank you.

24 SCOTT A. WEITZEL, being first duly sworn, testified as
25 follows:

1 DIRECT EXAMINATION BY MR. COOPER:

2 Q. Would you please state your -- your name?

3 A. Scott Weitzel, W-e-i-t-z-e-l.

4 Q. By whom are you employed and in what
5 capacity?

6 A. Spire Missouri, Inc. I am a director of
7 Regulatory Affairs.

8 Q. Have you caused to be prepared for
9 purposes of this proceeding certain Direct and
10 Surrebuttal Testimony in question and answer form?

11 A. Yes.

12 Q. Is it your understanding that that
13 testimony has been marked as Exhibits 1 and 2 for
14 identification?

15 A. Yes.

16 Q. Do you have any changes that you would
17 like to make to that testimony at this time?

18 A. No.

19 Q. If I were to ask you the questions which
20 are contained in Exhibits 1 and 2 today, would your
21 answers be the same?

22 A. Yes.

23 Q. Are those true and correct to the best of
24 your information, knowledge and belief?

25 A. Correct.

1 MR. COOPER: Your Honor, I would offer
2 Exhibits 1 and 2 into evidence and tender the witness
3 for cross-examination.

4 JUDGE DIPPELL: Thank you. Would there
5 be any objection to Exhibits Number 1, the Direct
6 Testimony of Scott A. Weitzel, and 2, the Surrebuttal
7 Testimony of Scott A. Weitzel?

8 Seeing none, then I will admit those into
9 the record.

10 (Exhibits 1 and 2 were received into
11 evidence.)

12 JUDGE DIPPELL: You can go ahead with
13 cross-examination by MCG.

14 MR. WOODSMALL: Thank you.
15 CROSS-EXAMINATION BY MR. WOODSMALL:

16 Q. Good morning, sir.

17 A. Morning.

18 Q. Just some general rate-making questions.
19 Would you agree that, in general, regulatory
20 assessment is an ordinary expense?

21 A. Yes.

22 Q. Okay. And just to be fair, it is your
23 belief that the increase here is extraordinary?

24 A. The events that led to the increase are
25 extraordinary.

1 Q. Okay. And in ot-- and rates include
2 ordinary expenses; is that true?

3 A. Yes.

4 Q. Okay. So rates would include some amount
5 of regulatory assessment; is that true?

6 A. Yes.

7 Q. Cost of debt, cost of equity,
8 depreciation, maintenance, those type of things; is
9 that fair?

10 A. Correct.

11 Q. An-- but your request here only looks to
12 defer the increase in the regulatory assessment; is
13 that correct?

14 A. Yes.

15 Q. Do you know if there are offsetting costs
16 that have declined?

17 A. With all the scope of our expenses and
18 revenue, I -- I do not know.

19 Q. You haven't looked at that?

20 A. I have not looked at that.

21 Q. Would you find it possible that certain
22 costs have decreased?

23 A. It could be possible.

24 Q. Okay. Would it be possible, for
25 instance, if costs of debt went down, that that

1 **reduction in cost could offset what the increase is in**
2 **the regulatory assessment?**

3 A. When you're looking at utility and all
4 expenses and revenue, you know, all those scenarios
5 could be possible.

6 **Q. Okay. And you haven't filed a general**
7 **rate case to consider all those other relevant**
8 **factors, have you?**

9 A. You are correct.

10 **Q. Okay. No further questions. Thank you.**

11 JUDGE DIPPELL: Thank you. Anything from
12 Public Counsel?

13 MR. POSTON: No questions.

14 JUDGE DIPPELL: Staff?

15 MR. KEEVIL: No questions.

16 JUDGE DIPPELL: Are there any questions
17 from the Bench? Mr. Chairman?

18 CHAIRMAN SILVEY: No, Judge.

19 JUDGE DIPPELL: Commissioner Coleman?

20 COMMISSIONER COLEMAN: No, Judge.

21 JUDGE DIPPELL: None from me. Is there
22 any redirect?

23 MR. COOPER: Just a couple, Your Honor.

24 REDIRECT EXAMINATION BY MR. COOPER:

25 **Q. Mr. Woodsmall had asked you I think**

1 **whether there were some costs that -- that may have**
2 **decreased. Do you remember that?**

3 A. I do.

4 **Q. Is it also possible that some costs have**
5 **increased?**

6 A. Yes.

7 MR. COOPER: That's all the questions I
8 have at this time, Your Honor.

9 JUDGE DIPPELL: Thank you. I believe
10 that concludes your testimony, Mr. Weitzel. You may
11 step down. Thank you.

12 THE WITNESS: Thank you.

13 JUDGE DIPPELL: I believe that is the end
14 of Spire's witnesses and we can move on to the Staff
15 witness.

16 MR. KEEVIL: Judge, Staff would call Mark
17 Oligschlaeger to the stand.

18 JUDGE DIPPELL: Thank you.

19 (Witness sworn.)

20 MARK L. OLIGSCHLAEGER, being first duly sworn,
21 testified as follows:

22 DIRECT EXAMINATION BY MR. KEEVIL:

23 **Q. Sir, would you state your name for -- and**
24 **spell your last name for the record, please?**

25 A. Yes. My name is Mark L. Oligschlaeger.

1 My last name is spelled O-l-i-g-s-c-h-l-a-e-g-e-r.

2 **Q. By whom are you employed and in what**
3 **capacity?**

4 A. I'm employed as -- by the Missouri Public
5 Service Commission as the manager of the Auditing
6 Department.

7 **Q. Have you caused to be prepared and filed**
8 **in this case Rebuttal Testimony, which has been**
9 **premarked as Exhibit Number 100?**

10 A. I did.

11 **Q. Was that -- first of all, do you have any**
12 **changes or corrections you need to make to that**
13 **testimony?**

14 A. I do not.

15 **Q. Are the statements and answers contained**
16 **therein true and correct to the best of your knowledge**
17 **and belief?**

18 A. They are.

19 **Q. If I were to ask you the questions**
20 **contained in that testimony, would your answers be the**
21 **same today?**

22 A. They would.

23 MR. KEEVIL: Judge, I would offer Exhibit
24 Number 100.

25 JUDGE DIPPELL: Would there be any

1 objection to Exhibit Number 100, the Rebuttal
2 Testimony of Mr. Mark Oligschlaeger?

3 I am not seeing any objection; therefore,
4 I will admit that into the record.

5 (Exhibit 100 was received into evidence.)

6 MR. KEEVIL: Thank you, Judge. I'll
7 tender the witness for cross then.

8 JUDGE DIPPELL: Would there be any
9 cross-examination by MECG?

10 MR. WOODSMALL: Yes, briefly, Your Honor.
11 CROSS-EXAMINATION BY MR. WOODSMALL:

12 **Q. Were you here when I just asked some**
13 **questions of Mr. Weitzel on behalf of Spire?**

14 A. Yes.

15 **Q. And -- and going through the rate-making**
16 **process, would you agree that rates are generally**
17 **based upon ordinary costs?**

18 A. Yes.

19 **Q. Okay. And regulatory assessment is an**
20 **ordinary cost that would be included in rates?**

21 A. Yes.

22 **Q. Okay. And there are other factors that**
23 **would be included as ordinary costs that are in rates;**
24 **maintenance, depreciation, cost of equity, cost of**
25 **debt, administrative and general costs, are all those**

1 **included in rates?**

2 A. Yes.

3 **Q. And do you know whether there are**
4 **offsetting cost decreases that may be occurring that**
5 **would offset the amount of the regulatory assessment**
6 **increase?**

7 A. For Spire Missouri do I know of specific?
8 No, I have not examined their recent financial
9 performance. I think I stated in my testimony it
10 probably would be best to wait for at least a year of
11 new -- new rates before really assessing where -- the
12 overall direction of where their earnings are going.

13 **Q. But there could be such offsetting cost**
14 **decreases or revenue increases in Spire's operations?**

15 A. Certainly, yes.

16 **Q. Okay. And do you know has -- as part of**
17 **its case here, has Spire presented any evidence on any**
18 **of those?**

19 A. No.

20 **Q. Okay. So we're only looking at**
21 **regulatory assessment in a vacuum; is that correct?**

22 A. I would agree.

23 **Q. Okay. And it's possible that -- possible**
24 **that Spire is over-earning currently?**

25 A. It's possible.

1 **Q. Okay. Do you get involved in monitoring**
2 **legislation at the Capitol -- proposed legislation?**

3 A. I -- I have in some instances, yes.

4 **Q. Okay. Do you know in 2017 -- and I have**
5 **the bill if you want to see it, but I'll just ask you**
6 **first. Do you know in 2017 House Bill -- or Senate**
7 **Bill 6, whether there was a proposal to authorize**
8 **tracking mechanisms?**

9 A. I have a general recollection in past
10 legislation sessions there were bills that, among many
11 other things, would -- attempted to liberalize the
12 criteria for -- for trackers.

13 **Q. Okay.**

14 A. I don't necessarily remember that bill
15 specifically.

16 **Q. Okay. But in general, you remember such**
17 **bills over the last couple years?**

18 A. Yes.

19 **Q. Do you know if any of those bills have**
20 **passed the General Assembly?**

21 A. Not to my knowledge.

22 **Q. Okay. No further questions. Thank you.**

23 JUDGE DIPPELL: Is there anything from
24 Public Counsel?

25 MR. POSTON: No questions. Thank you.

1 JUDGE DIPPELL: Spi re?

2 MR. COOPER: Yes, Your Honor.

3 CROSS-EXAMINATION BY MR. COOPER:

4 Q. Let's start with a couple of things that
5 Mr. Woodsmall asked you. I think Mr. Woodsmall asked
6 you and you agreed that there's no evidence in this
7 case of costs other than just the utility assessment;
8 is that correct?

9 A. In terms of a comparison between the
10 level of those costs in rates and what is actually
11 being incurred by Spire, I believe that's true.

12 Q. Would you agree that that's common in an
13 AAO application case, that the subject of the AAO
14 application is the subject discussed by -- by the
15 Commission?

16 A. Well, the applicant typically will focus
17 on a single cost. Other parties may raise issues with
18 other costs, so.

19 Q. Would you agree that ultimately if a
20 deferral is granted, there's an opportunity in a
21 future rate case to examine some of those other costs
22 in relation to the deferred amount?

23 A. Yes.

24 Q. I believe Mr. Woodsmall asked if it was
25 possible that the Company was over-earning and you --

1 **you agreed that it was possible. Correct?**

2 A. Yes.

3 **Q. Would you also agree that it's possible**
4 **they are under-earning?**

5 A. That is possible.

6 **Q. Let's talk for a moment about sort of**
7 **the -- the far-out example that people use in regard**
8 **to -- to AAOs quite often are -- is acts of God.**
9 **Tornado I think was even mentioned -- has been**
10 **mentioned a couple times this morning. Is -- you're**
11 **familiar with having heard that -- that example in the**
12 **past. Correct?**

13 A. Yes.

14 **Q. When you have a -- an act of God, a**
15 **tornado, for example, and an AAO is granted, would you**
16 **agree that the types of costs that are ultimately**
17 **deferred are labor, such as overtime costs, contract**
18 **labor, depreciation taxes for investment in plant,**
19 **perhaps return on investment in plant? Are those the**
20 **sort of things that actually get deferred in that**
21 **example?**

22 A. Normally what is deferred for natural
23 disasters or acts of God are repair and restoration
24 costs, which are primarily expense in nature and yeah,
25 do involve things like overtime and some of the other

1 items you mentioned. It -- it's possible that capital
2 costs might be included in such a deferral. Usually
3 they are not.

4 Q. Okay. And the -- the types of costs or
5 expenses that you identified, they're ongoing costs
6 for a utility. Correct? Whether there's a tornado or
7 there isn't a tornado.

8 A. Well, yes, a utility will incur labor and
9 overtime presumably regardless of whether a natural
10 disaster hits or not, some level.

11 Q. Right. In a rate case, is it -- is it
12 accurate to state that the Commission relies upon
13 known and measurable data to set customer rates?

14 A. That has been the general policy.

15 Q. Now, in your -- your testimony, and I can
16 give you the cites if you want me to, but -- but see
17 if you recognize these statements. I believe you
18 state in one place that Staff does not view Commission
19 assessment expense to be inor-- inordinately difficult
20 to forecast. Do you remember that?

21 A. Yes, I do.

22 Q. And that you also state that Spire should
23 have reasonably expected a significant increase in its
24 Commission assessment in fiscal year 2019. Something
25 else you remember from your testimony?

1 A. Yes.

2 Q. Does that mean that you believe the 2019
3 assessment was known and measurable for purposes of
4 setting rates at the time of Spire's last rate case?

5 A. No, I do not mean that.

6 Q. Is there any way that -- that increase
7 could have been factored into Spire's last rate cases
8 in terms of the setting of rates?

9 A. Not under the known and measurable
10 standard.

11 Q. And I take it from your answer then that
12 the Staff made no attempt to estimate what that
13 assessment would have been, based upon its known time
14 records as of the end of the true-up period in those
15 Spire rate cases; is that correct?

16 A. We did not.

17 Q. Now, the nature of the assessment itself
18 is described by the statute, 386.370, to be an
19 estimate. Would you agree with that?

20 A. Well, I have it here. Let me look real
21 fast.

22 Q. Sure.

23 A. The heading of the applicable part of the
24 statute does include the words "estimate of expenses."

25 Q. And I guess you've -- you've got the

1 statute in front of you. Correct?

2 A. I do.

3 Q. And if you look in subsection 1 there,
4 that's repeated in terms of an estimate of the
5 expenses to be incurred by the Commission during the
6 fiscal year, and also the Commission is estimating the
7 amount of such expenses attributable to each of the
8 groups of public utilities. Correct?

9 A. Correct.

10 Q. Given that the -- the assessment is, as
11 you say, an estimate to begin with, is it possible to
12 estimate it for purposes of a rate case revenue
13 requirement such as the situation that was presented
14 with Spire's rate cases?

15 A. It -- it's possible I believe to estimate
16 just about any rate ba-- rate case component. That
17 does -- obviously we would not agree that -- in
18 general, that that's good policy.

19 Q. So -- so in the end, in spite of the fact
20 that -- that this number could have been predicted you
21 believe, there's really not any way that that
22 prediction could have been included in Spire's revenue
23 requirement. Correct?

24 A. Not under what I believe to be the
25 appropriate standards for inclusion of costs in rate

1 proceedi ngs.

2 Q. Now, I think in your testimony you talk
3 about I guess what you believe to be the cause of
4 this -- this 1.66 million dollar increase. And it's
5 been talked about in the opening statements of I think
6 your counsel and others this morning.

7 But from your testimony, you talk about
8 the increased gas case activity associated with
9 Spire's general rate cases for the Spire East and
10 Spire West divisions and that -- that those cases took
11 up a large amount of Staff and Commission time in the
12 latter half of 2017 and the first few months of 2018.
13 That's a fair paraphrase of -- of your testimony?

14 A. I believe so.

15 Q. And based upon that, I think you further
16 say Spire should have reasonably expected a
17 significant increase in its Commission assessment
18 amount in fiscal year 2019 on account of the level of
19 its major case activity before the Commission in the
20 immediately preceding months.

21 Now, by major case activity, you mean the
22 rate cases. Correct?

23 A. Right.

24 Q. Okay. And I think you further indicate
25 that if Spire does not file for a general rate case in

1 **fiscal year 2019, it should lead to a reasonable**
2 **expectation that Spire's assessment amount for 2020**
3 **may be significantly lower?**

4 A. I do say that.

5 Q. Okay. Still believe that?

6 A. Yes.

7 Q. Now, rate case expense was an issue in
8 **Spire's last rate cases. Correct?**

9 A. Yes.

10 Q. And among other things, the Commission
11 **found that rate case expense can benefit both utility**
12 **shareholders and -- and customers. You'd agree with**
13 **that?**

14 A. Yes.

15 Q. And as a part of its conclusions, it
16 **concluded that it's just and reasonable for the**
17 **shareholders and the ratepayers who both benefited**
18 **from the rate case to share in the rate case expense.**
19 **Correct?**

20 A. I believe that's accurate.

21 Q. And then ultimately the Commission
22 **determined that the shareholders, who they said**
23 **ultimately controlled 50 percent of the rate case**
24 **issues, should share 50 percent of the rate case**
25 **expense. You'd agree with that?**

1 A. Yes.

2 Q. Okay. With some exception? There were a
3 couple of exceptions. Correct?

4 A. Correct.

5 Q. What -- what percent of Staff's time on
6 those rate cases benefits customers?

7 A. Well, Staff's role is not to focus on the
8 interests of ratepayers in isolation to the interests
9 of the utilities and other stakeholders in the
10 Missouri economy. So I can't give you a percentage.
11 I'm not sure that it's reasonable to look at it that
12 way.

13 Q. Does -- would you agree that -- that if
14 Staff does its job right, perhaps it should maybe even
15 equally benefit shareholders and customers, its time,
16 its work in a rate case?

17 A. If we do our job right, our positions
18 strive to be fair to the interest of both utilities,
19 the shareholders and the customers.

20 Q. Ultimately something along the -- the
21 lines of that 50/50 that the Commission utilized in
22 the last rate cases?

23 A. Again, we try to balance the interest.
24 If you want to look at it as a -- kind of a 50/50
25 split, I'm not sure I would seriously argue with that.

1 **Q. If there is no deferral of that 1.66**
2 **million dollar increase in assessment that seems like**
3 **the parties are in agreement was primarily due to the**
4 **rate cases that Spire had before the Commission, if**
5 **there's no deferral of that amount, will there ever be**
6 **an opportunity to share in those rate case expenses**
7 **between shareholders and customers?**

8 MR. KEEVIL: Objection, he's talking
9 about assessments and rate case expenses as though
10 they were the same thing. And I think you need to
11 distinguish between what he's talking about here.

12 JUDGE DIPPELL: Can you clarify just a
13 little bit there?

14 MR. COOPER: I can. Yeah.

15 BY MR. COOPER:

16 **Q. So let's start with this, the 1 point --**
17 **would you agree with me the 1.66 million dollar**
18 **increase is primarily associated with Staff's work on**
19 **Spire's last rate cases?**

20 A. Primarily. And, of course, OPC played a
21 role in that as well.

22 **Q. And if there is no deferral of that**
23 **1.66 million dollar increase, would you agree that the**
24 **shareholders of Spire will essentially eat that**
25 **amount; that they will be responsible for that amount?**

1 A. In theory, that assumes all other factors
2 being equal .

3 **Q. And in that situation, there really will**
4 **be no sharing between shareholders and Spire's**
5 **customers of those -- those assessment costs**
6 **associated with the rate case. Correct?**

7 A. I guess I'm confused by the question
8 because there was no sharing envisioned in the
9 rate-making, to my knowledge, for the Commission
10 assessment, so.

11 **Q. But there is sharing associated with the**
12 **Company's rate case expenses. Right? There was in**
13 **the Commission's --**

14 A. Yes.

15 **Q. -- Amended Report and Order?**

16 A. Yes.

17 **Q. Okay. So and if we view these to be**
18 **other costs associated with the rate case -- or with**
19 **or without viewing them that way, they're just --**
20 **without a deferral, those costs will be borne by the**
21 **shareholders. Correct?**

22 A. Again, in theory, assuming all other
23 things are equal, which they will not be.

24 **Q. Now, if they are deferred -- and I think**
25 **we kind of talked about this in earlier questions**

1 maybe. If they were deferred, then the Commission
2 would have the opportunity in a future rate case to
3 examine some of those other things that you're
4 referring to. Correct?

5 A. They would have the opportunity to
6 examine both the Commission assessment expenses and
7 other expenses, yes.

8 Q. Now we -- we've danced around this a
9 little bit, but I guess to ask it a little bit more
10 directly, a step in the Commission assessment process,
11 as you understand it, is dependent upon the time
12 charged by -- at least as to Staff, the time charged
13 by Staff to particular utility matters. Correct?

14 A. That is a factor that enters into it,
15 yes.

16 Q. So you could be billing your time, for
17 example, to a Spire matter and then billing other time
18 to an Ameren matter or a Missouri American matter or
19 whatever it might be; is that correct?

20 A. That's how it works.

21 Q. Do you know what period of time the
22 Commission looks at in terms of those direct charges
23 when it does that assignment of costs to the
24 particular industries? Is it -- is it the same fiscal
25 year '18? Is it cal -- calendar year '18? Is it

1 **something else? Do you have an idea?**

2 A. Because of I guess time crunch problems
3 at the end, my understanding is typically the
4 Commission will look at cost data from June of one
5 year through the end of May the next year in order to
6 kind of set the parameters for the future -- the
7 coming assessment.

8 **Q. So a month removed from -- from the**
9 **fiscal year then?**

10 A. Yes.

11 **Q. Now, that's a different period than what**
12 **gets looked at for the revenues of -- of the utilities**
13 **for purposes of establishing each individual utility's**
14 **share of the industry amount. Correct? Isn't it the**
15 **calendar year revenues that are looked at for that**
16 **purpose?**

17 A. For the statement of revenues?

18 **Q. Yes.**

19 A. That's my understanding, yes.

20 MR. COOPER: That's all the questions I
21 have, Your Honor.

22 JUDGE DIPPELL: Thank you. Are there any
23 Commission questions for Mr. Oligschlaeger?

24 COMMISSIONER COLEMAN: No.

25 CHAIRMAN SILVEY: No, Judge.

1 JUDGE DIPPELL: All right then. Is there
2 any redirect?

3 MR. KEEVIL: Just briefly, Judge.

4 REDIRECT EXAMINATION BY MR. KEEVIL:

5 Q. Mr. Oligschlaeger, Mr. Cooper was asking
6 you questions about sharing based on the Commission's
7 decision to require sharing of rate case expense, but
8 I believe Mr. Cooper's questions were directed toward
9 the increase in the PSC assessment instead of rate
10 case expense. Was that your understanding?

11 A. In regards to sharing?

12 Q. Yes.

13 A. Some of the questions were, yes.

14 Q. Now, first of all, I believe you stated,
15 in response to Mr. Cooper, that it's your
16 understanding based on the Commission's order in that
17 case that the PSC assessment was -- the Commission
18 didn't really address the PSC assessment; is that
19 correct?

20 A. Well, no -- no party advocated sharing
21 to -- in my recollection and the Commission did not
22 have to address that in the order.

23 Q. Right. So in other words, Spire did not
24 advocate sharing at that time?

25 A. I don't believe they did.

1 Q. Okay. In fact, that issue was not even a
2 contested issue at the rate case; is that correct?

3 A. Yes.

4 Q. Okay. Now, Mr. Cooper's questions had to
5 do I think more specifically with the increase in the
6 assessment of the 1.66 that has been referred to. And
7 I believe you said that under accepted rate-making
8 practices, that would be -- all other factors being
9 equal and if there were no increases or decreases in
10 any of the other expenses, then the shareholders would
11 wind up paying that or eating that I think, to use
12 Mr. Cooper's term; is that correct?

13 A. That's correct.

14 Q. Okay. Now, as regards the roughly
15 3.24 million in assessment that was included in the
16 Company's rates in the rate case, who's paying that?

17 A. That is part of the customers' bills.

18 Q. Okay. So the customers are paying
19 3.24 million in rates based on the rate case and the
20 Company's scot free on that amount, all other things
21 being equal?

22 A. I don't believe they're at risk for that
23 amount, no.

24 Q. Okay. So do you think it would be fair
25 to compare the 3.24 million that the customers are

1 **paying through rates to the 1.66 that the shareholders**
2 **theoretically are -- are not being reimbursed for and**
3 **consider that to be a type of quote/unquote sharing,**
4 **to use Mr. Cooper's terminology?**

5 A. Perhaps. It would be unintended, I
6 believe, sharing. I would also say, you know, to --
7 you know, the Company's earnings are based on all
8 relevant factors. And it may well be, it is possible
9 that during this period and in future periods, they
10 may be earning at or above their authorized return on
11 equity even with this shortfall in this one item
12 compared to past rate-making allowances.

13 Q. But if you look at those amounts, I mean
14 you've got the shareholder -- excuse me, the
15 ratepayers are paying roughly twice what the
16 shareholders are responsible for under the rates that
17 are set in the last rate case. Correct?

18 A. Yes. Under the theoretical assumption
19 that the remainder would be assigned to shareholders.

20 Q. Yeah. Okay. He also asked you some
21 questions about the use of the word "estimate" in the
22 PSC assessment statute, 386.370. I guess this is very
23 basic stuff here, but how are -- in terms of setting
24 expenses for rate case purposes, how -- how is that
25 typically done? Do -- do you just go in and make a

1 **estimate of everything or -- how -- how do you process**
2 **that portion of the rate case?**

3 A. Is your question how does, for example,
4 Staff determine the amount of the Commission
5 assessment that should be included in any company's
6 rates?

7 Q. Yes.

8 A. Okay. It's actually quite simple. We
9 typically look at their -- the latest assessment that
10 is promulgated by the Commission in late June of each
11 year. And that -- that typ-- an annualized amount
12 based on that value is typically -- we recommend be
13 included in company rates.

14 Q. So it's based on test year -- annualized
15 test year expense?

16 A. Yes.

17 Q. Okay. And I think Mr. Cooper faulted
18 Staff for making no attempt to estimate the increase.
19 Would that violate the -- any rate-making principles
20 or procedures that Staff typically follows in putting
21 together its positions in a rate case?

22 A. Yeah. I believe a forecast of the
23 Commission assessment similar to a forecast of other
24 items would not meet the known and measurable standard
25 we -- we have typically used.

1 **Q. Related to that also, in terms of whether**
2 **Staff would have been able to estimate the increase in**
3 **the assessment, who on Staff -- not by name, but just**
4 **by department or unit or whatever, who is responsible**
5 **for preparing Commission assessments?**

6 A. To my knowledge, that work is done in
7 the -- I forget the exact name of the -- Budget and
8 Finance Department maybe.

9 **Q. Budget and Fiscal Service, I think.**

10 A. Thank you, yes. That one.

11 **Q. Now, in terms of the often-referred-to**
12 **Commission ex parte wall, which side of the Commission**
13 **ex parte wall is the Budget and Fiscal Services**
14 **Department on?**

15 A. My understanding is they would be on the
16 Commission side.

17 **Q. Okay. So they don't participate in the**
18 **Staff's preparation of rate cases?**

19 A. Not to my knowledge.

20 **Q. Okay. Part of the assessment is also**
21 **based on the Company's gross intrastate operating**
22 **revenues; is that correct?**

23 A. Part of it is allocated on that basis,
24 yes.

25 **Q. And would -- even assuming that Staff had**

1 some way of knowing what the expense increase for the
2 gas industry would have been during the relevant time
3 period, is there any way Staff would have known the
4 gross intrastate operating revenues for purposes of
5 making a PSC assessment at the time of the rate case?

6 A. I don't recall exactly when that filing
7 is due from utilities. I think it's early in each
8 calendar year. And I guess for purposes of the Spire
9 rate cases, I think the hearings wrapped up in
10 December -- true-up hearings I think in early January.
11 I don't think that would have been available.

12 Q. Thank you. That's all the questions I
13 have.

14 JUDGE DIPPELL: Thank you. I believe
15 then that concludes your testimony and you may step
16 down, Mr. Oligschlaeger.

17 And I think that concludes Staff's
18 witnesses, so we're ready for Office of Public
19 Counsel.

20 MR. POSTON: Thank you, Judge. Public
21 Counsel calls Keri Roth.

22 (Witness sworn.)

23 JUDGE DIPPELL: Thank you.

24 Go ahead when you're ready, Mr. Poston.

25 KERI ROTH, being first duly sworn, testified as

1 follows:

2 DIRECT EXAMINATION BY MR. POSTON:

3 **Q. Please state your name and spell it for**
4 **the court reporter.**

5 A. Keri Roth, K-e-r-i R-o-t-h.

6 **Q. By whom are you employed and in what**
7 **capacity?**

8 A. Missouri Office of the Public Counsel as
9 a public utility accountant three.

10 **Q. Are you the same Keri Roth who prepared**
11 **and caused to be filed Rebuttal Testimony in this**
12 **proceeding?**

13 A. I am.

14 **Q. Do you have any corrections to the --**
15 **your pre-filed testimony?**

16 A. A few.

17 **Q. Can you explain the reason for your**
18 **corrections before we actually get into the actual**
19 **corrections?**

20 A. Yes. Part of the corrections is going to
21 be removing some Q and As from my testimony. Reason
22 being is each year I request a copy of the assessment
23 ledgers as they're generated. And in 2018, I had
24 received one labeled PSC Assessment and one labeled
25 OPC Assessment.

1 And we came to the realization yesterday
2 that the OPC assessment was included in the PSC
3 document, but it wasn't labeled in it. So we was
4 stated some numbers incorrectly in testimony.

5 **Q. Okay. And let's go to that.**

6 MR. POSTON: And, Judge, I sent around to
7 the parties last night -- I let them know about this,
8 sent around, let them see the changes we were making.
9 And there's actually one additional edit that we
10 didn't catch -- yesterday I sent it around. So
11 actually we prepared testimony that's different than
12 what is pre-filed in EFIS, but just makes the
13 corrections she's going to walk through today. So --

14 JUDGE DIPPELL: Okay.

15 MR. POSTON: -- we can hand that out,
16 but.

17 BY MR. POSTON:

18 **Q. Can you please turn to your first**
19 **correction?**

20 A. We have a track changes document. So do
21 you want me to look at the clean document or the track
22 changes that you passed out to the parties yesterday?

23 **Q. I would look at the track changes**
24 **document. That includes all of the changes.**

25 A. Okay.

1 JUDGE DIPPELL: Let me ask one question,
2 Mr. Poston. So do you have -- have you prepared a
3 clean copy of Ms. Roth's testimony with the
4 corrections?

5 MR. POSTON: We do have that to hand out
6 as well. And I do actually have a track changes
7 version that I can hand you just to help you see what
8 she's changed from the pre-filed. And then what we
9 would intend to offer would be the clean version with
10 the track changes accepted.

11 JUDGE DIPPELL: Okay. That sounds good.
12 BY MR. POSTON:

13 Q. Okay. Please go ahead.

14 A. On page 3, lines 13 through 18 would be
15 removed. Continuing onto page 4, lines 1 through 5
16 would be removed. Page 7, line 12, the \$1,440,278.15
17 should be 1,666,778 dollars. On page 11, line 13,
18 that case number, I just missed a zero in the 2013.

19 And then moving down to the chart, in --
20 for 2018 the annual assessment should state 3,242,612
21 dollars. For the 2018 percent change, it should be
22 11.16 percent. The 2019 percent change in that chart
23 should be 51.25 percent. And then also on page 11
24 lines 17, 18 and 19, stopping at Mr. Weitzel period,
25 would be removed also. And then Schedule K and R-2

1 would be removed entirely. And I believe that's it.

2 Q. Okay. So with the exception of the
3 changes of the date -- or of the case number, the GM
4 case number, all of these changes are related to the
5 reason you just stated before --

6 A. Yes.

7 Q. -- about assuming that number included
8 OPC's assessment?

9 A. Yes.

10 Q. Okay. If I were to ask you the questions
11 in your testimony as corrected today on the stand,
12 would your answers be the same or substantially the
13 same?

14 A. Yes, they would.

15 MR. POSTON: Judge, I offer her corrected
16 testimony, which we would like to have marked as
17 Exhibit 200.

18 JUDGE DIPPELL: All right. And let me
19 just make sure it's clear

20 MR. POSTON: Okay.

21 JUDGE DIPPELL: All of the corrections
22 that she just went through are in that -- what we've
23 marked as Exhibit 200?

24 MR. POSTON: That's correct.

25 JUDGE DIPPELL: It's -- with the

1 exception of the -- or is the case number in there as
2 well?

3 MR. POSTON: That's in there as well.

4 JUDGE DIPPELL: Okay.

5 MR. POSTON: So there should be no other
6 changes in this document other than what's red-lined
7 that I handed you and what she just went through.

8 JUDGE DIPPELL: All right. Would there
9 be any objection to Exhibit Number 200, which is the
10 Rebuttal Testimony of Keri Roth now as corrected from
11 what was pre-filed? Is there any objection?

12 Seeing none then, I will admit Exhibit
13 200 into the record.

14 (Exhibit 200 was marked for
15 identification and received into evidence.)

16 MR. POSTON: I tender Ms. Ross -- or Roth
17 for cross-examination. Sorry.

18 JUDGE DIPPELL: All right then. Is there
19 cross-examination by MEGC?

20 MR. WOODSMALL: Yes, very briefly, Your
21 Honor.

22 CROSS-EXAMINATION BY MR. WOODSMALL:

23 Q. Good morning.

24 A. Good morning.

25 Q. You have your testimony -- the corrected

1 **testimony in front of you?**

2 A. I do.

3 **Q. Would you turn to page 7, please?**

4 JUDGE DIPPELL: Mr. Woodsmall, can you
5 turn your microphone just -- there you go

6 THE WITNESS: Okay. I'm there.

7 BY MR. WOODSMALL:

8 **Q. At page 7 at the end of line 11, you**
9 **changed from 1.44 to 1.66 million. Do you reg--**
10 **recall that?**

11 MR. COOPER: Which one are you working
12 off of, Mr. Woodsmall?

13 MR. POSTON: I gave him a corrected one.

14 BY MR. WOODSMALL:

15 **Q. Anyway, you changed the number for**
16 **purposes of -- you make a comparison there to the**
17 **Commission's 5 percent materiality threshold. Do you**
18 **recall that?**

19 A. Yes.

20 **Q. And even though that number has changed**
21 **nominally, would you agree that as compared to the**
22 **Commission's 5 percent materiality threshold, it still**
23 **doesn't rise to that level?**

24 A. Correct. It's still about 1 percent.

25 **Q. Okay. Thank you. No further questions.**

1 JUDGE DIPPELL: Is there
2 cross-examination by Staff?

3 MR. KEEVIL: No. No, Judge.

4 JUDGE DIPPELL: Spire?

5 MR. COOPER: Could you give us just a
6 minute, please?

7 JUDGE DIPPELL: Yes. Just when --

8 CROSS-EXAMINATION BY MR. COOPER:

9 Q. Ms. Roth, on that same page that
10 Mr. Woodsmall referred to, you have a question and
11 answer about, let's see, to be considered
12 extraordinary, an item should be considered more than
13 approximately 5 percent of income.

14 MR. KEEVIL: Excuse me, Judge. I'm --
15 Mr. Cooper, I apologize, but if we're going to stay on
16 that page, I don't see -- I think Mr. Woodsmall may
17 have -- did he -- you say page 7?

18 MR. POSTON: I think it's page 6. I
19 think it's -- with the new version, it's moved up to
20 page 6.

21 MR. WOODSMALL: Yeah. Just to clarify, I
22 had made the change to my working copy. When you take
23 out the questions that they talked about, it moved
24 everything forward. So when I was referring to
25 line 11, that has all been moved forward to the end of

1 page 6 up onto page 7, the actual number is on line
2 1 of page 7. So I'm sorry for the confusion.

3 JUDGE DIPPELL: All right. I'm sorry.
4 Can Mr. Cooper go forward now or --

5 MR. WOODSMALL: Yeah. I'm sorry.

6 MR. COOPER: Well, it actually is helpful
7 because now I've found where it is in the new
8 testimony.

9 JUDGE DIPPELL: All right.

10 MR. COOPER: So we're in better shape
11 than we were when we started that.

12 JUDGE DIPPELL: I think we're literally
13 all on the same page now.

14 MR. COOPER: Exactly.

15 BY MR. COOPER:

16 Q. So page 6 in the version of your
17 testimony that was admitted into evidence this
18 morning, about line 12, there's a question about the
19 5 percent of income test. Do you see that?

20 A. Yes.

21 Q. And I believe that -- that in discussing
22 that, you, as Mr. Woodsmall pointed out, indicate
23 eventually that -- that the 1.66 million is less than
24 5 percent. However, I think you also in your answer
25 there on page 6 point out that the consequence of that

1 is that Spire's required -- is required to acquire
2 Commission approval to defer those costs. Correct?

3 A. Yes. That's in my testimony.

4 Q. Because it's less than 5 percent.
5 Correct?

6 A. Correct.

7 Q. Okay. And -- and this application would
8 be such a request for a Commission approval. Correct?

9 A. Correct.

10 MR. COOPER: That's all the questions I
11 have, Your Honor.

12 JUDGE DIPPELL: Okay. Would there be any
13 Commissioner questions for Ms. Roth?

14 CHAIRMAN SILVEY: No, Judge.

15 COMMISSIONER COLEMAN: No, Judge.

16 JUDGE DIPPELL: All right. Is there any
17 redirect?

18 MR. POSTON: No questions. Thank you.

19 JUDGE DIPPELL: All right then, Ms. Roth.
20 I think that concludes your testimony.

21 THE WITNESS: Thank you

22 JUDGE DIPPELL: And you may step down.

23 And I believe that concludes all of the
24 witnesses. So I think -- everyone, make sure that if
25 you haven't already, that you've given your exhibits

1 to the court reporter so that she has a copy of each
2 one that was offered.

3 I had not previously ordered the
4 transcripts to be expedited, but we do have initial
5 brief filing due on December 28th. So I'm assuming
6 that the parties would like the transcript before
7 December 26th, which would be --

8 MR. KEEVIL: That would be good, Your
9 Honor.

10 JUDGE DIPPELL: All right. So I will ask
11 the court reporter to expedite this transcript
12 somewhat so that you have that in time to actually do
13 your briefs. And reply briefs we have previously
14 ordered to be due on January 11th.

15 Is there anything else that --

16 MR. POSTON: Yes, Judge. And I had
17 brought it up when I was up there earlier. I would
18 ask that the Commission take official notice of the
19 annual reports filed by Ameren Gas, Empire Gas,
20 Liberty Gas, Spire and Summit for 2016 and 2017 that
21 show -- where it shows the -- the operating revenues
22 since that is at issue in this case as it was part of
23 the assessment calculation.

24 JUDGE DIPPELL: Would there be any
25 objection to the Commission taking -- I think what

1 Mr. Poston is asking to take notice of those revenues
2 filed by the companies that were considered as part of
3 the percentage allocated per company for Commission
4 assessments. Is that -- am I stating that correct?

5 MR. POSTON: Right. Yeah. Those --
6 those revenues were used to determine the allocation
7 percentage, right.

8 JUDGE DIPPELL: Would -- would there be
9 an objection to that, Mr. Cooper?

10 MR. COOPER: I don't -- I don't think so.
11 I -- what was running through my mind is whether it's
12 really the annual reports or whether it's the --
13 what's the other document called? The statement of
14 revenue.

15 JUDGE DIPPELL: Would there be an issue
16 with the parties stipulating to those revenues?

17 MR. WOODSMALL: I don't have a problem
18 with it as long as we all know what they are. So if
19 he could circulate that so we're all working off of
20 the same document, that would be good.

21 JUDGE DIPPELL: That was part of
22 Mr. Poston's exhibit that we marked.

23 MR. POSTON: The -- you mean the -- the
24 handout, the PowerPoint?

25 JUDGE DIPPELL: Yes.

1 MR. POSTON: Yeah. I actually have
2 copies of the pages from the 2016, 2017 annual report
3 that just shows the revenue numbers, the public
4 versions of this. I would be happy to compile that
5 and file that as another exhibit.

6 JUDGE DIPPELL: Perhaps that's the
7 better -- better exhibit than -- would there be an
8 objection to Mr. Poston if we compile those revenues,
9 mark it as an exhibit and then I'll -- I'll give you a
10 couple days to file any objections?

11 MR. COOPER: I think that would be
12 better. I don't know that we'll necessarily have an
13 objection, but -- but it's pointed out to me that --
14 that for Spire even there's a difference between the
15 period of time that's being looked at in the annual
16 reports versus the statement of revenues. So I guess
17 we just want to make sure that the right numbers are
18 being looked at when we -- when we do this.

19 JUDGE DIPPELL: Right. And I -- again, I
20 think that we're talking about the numbers that the
21 Commission used in allocating the percentages of the
22 overall assessment for the fiscal year. So they
23 should -- they should just be one set of numbers.
24 They may be for a different time period than the
25 fiscal year, but it should just be those numbers that

1 were filed that the Commission used. So --

2 MR. COOPER: Well, and that's what I'm
3 saying. There's two documents that the Company files
4 required by I think statute, both of them. But --
5 but -- but they would reflect different revenues
6 because they would be different time periods being
7 looked at in those -- so as long as ultimately we get
8 to a result that is the numbers that were used for
9 purposes of the assessment, I think we're okay.

10 JUDGE DIPPELL: Okay. So what I'm going
11 to do then is mark a late-filed exhibit or exhibit to
12 be filed after this hearing. I'll mark that as
13 Exhibit 202 for -- and Mr. Poston will compile that
14 and submit it still today?

15 MR. POSTON: Yes.

16 JUDGE DIPPELL: Okay. He will file that
17 in EFIS today. And I will give the parties two days
18 to look at those numbers and give me any objections
19 that you might have. And then we'll get the
20 transcript in a -- later this week and then you all
21 can go about your briefing.

22 MR. COOPER: Judge, could I make one
23 suggestion or one --

24 JUDGE DIPPELL: Yes.

25 MR. COOPER: -- suggestion for an

1 amendment on that? If we were to give, say,
2 Mr. Poston until tomorrow to file that in EFIS, maybe
3 we could even circulate it and get on the same page
4 and take one of the steps out of this process.

5 JUDGE DIPPELL: That sounds fine. That
6 sounds fine. All right then. And with that, if --
7 when he files it, if you know you don't have any
8 objections, he can say so and -- and I will admit it
9 right away then.

10 All right. Is there anything further?
11 All right. Seeing nothing further, I believe that
12 concludes this hearing. We can go off the record.
13 Thank you.

14 (Exhibit 100 was marked for
15 identification.)

16 (Whereupon, the hearing was adjourned.)
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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Tracy T. Taylor

Tracy Thorpe Taylor, CCR



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