

In the Matter of Evergy Metro, Inc.

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Taped Transcription

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**PHIPPS REPORTING**

*Raising the Bar!*

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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

IN THE MATTER OF EVERGY METRO, INC  
D/B/A EVERGY MISSOURI METRO'S REQUEST FOR  
AUTHORITY TO IMPLEMENT A GENERAL RATE  
INCREASE FOR ELECTRIC SERVICE  
FILE NO. ER-2022-0129

IN THE MATTER OF EVERGY MISSOURI WEST, INC.  
D/B/A EVERGY MISSOURI WEST'S REQUEST FOR  
AUTHORITY TO IMPLEMENT A GENERAL RATE  
INCREASE FOR ELECTRIC SERVICE  
FILE NO. ER-2022-0130

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TRANSCRIPTION OF VIDEO FILE  
MISSOURI PUBLIC SERVICE COMMISSION HEARING  
HELD BEFORE HONORABLE JUDGE CHARLES HATCHER

VOLUME 8

SEPTEMBER 1, 2022

TRANSCRIBED BY: JULIE THOMPSON, CET

1 A P P E A R A N C E S

2 Charles Hatcher, Judge

3 COMMISSIONERS

4 Ryan Silvey

5 Maida Coleman

6 Scott Rupp

7 Jason Holsman

8 Glen Kolkmeier

9

10 COUNSEL

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12 Nicole Mers, PSC Staff

13 John Clizer, Office of Public Counsel

14 Tim Opitz, Midwest Energy Consumers Group

15 Alissa Greenwald, Renew Missouri

16 Marc Ellinger, Nucor Steel Sedalia, LLC

17 Stephanie Bell, Velvet Tech

18 Karl Zobrist, Evergy

19 Jackie Whipple, Evergy

20

21 WITNESSES

22 John Spanos, Evergy

23 Larry Kennedy, Evergy

24 Keith Majors, Staff

25 Cedric Cunigan, Staff

1 (continued)

2 Geoff Marke, Office of Public Counsel

3 John Robinett, Office of Public Counsel

4 Greg Meyer, Midwest Energy Consumers Group

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1 The following proceeding was transcribed from an audio file  
2 as follows:

3 \* \* \* \* \*

4 JUDGE HATCHER: Let's go ahead and start the  
5 hearing. Before I go on the record, I just want to make a  
6 quick announcement. Again, for all the counsel in the room  
7 -- and I'll make this, again, on the record -- we do not  
8 have a live or on-Webex court reporter today. We're still  
9 working on getting one for tomorrow, but that also does not  
10 look positive.

11 We will have a live court reporter, Ms. Bench,  
12 next week. We, the Commission, are making two recordings  
13 of today and tomorrow, and we will be then transcribing  
14 those. We are aware of some of the technical issues that  
15 we had with yesterday's opening statements and also with  
16 the -- is it the securitization case? I think so. So we  
17 have worked to correct those, and we'll, obviously, all be  
18 looking at the transcripts for today and tomorrow. There  
19 are provision in the Commission's rules for correcting the  
20 transcripts. But just to give everyone the heads up.

21 That said, I'm really sorry. I'm probably going  
22 to have to interrupt everybody today to remind everyone to  
23 talk slowly and into a microphone. So with that, let's go  
24 on the record.

25 Today is September 1, 2022, and the Commission

1 has set this time aside to continue the hearing and the  
2 Evergy Metro and Evergy West general rate cases. I will  
3 only read the case numbers, as this is a continuation of  
4 yesterday's hearing. And that is File Number ER-2022-0129  
5 and that is related to Evergy Metro Incorporated. And File  
6 Number ER-2022-0130. And that is related to Evergy  
7 Missouri West Incorporated.

8 For the record, Commissioner Coleman is on the  
9 WebEx, as is our Chairman Ryan Silvey. And that is Maida  
10 Coleman, M-a-i-d-a. And Silvey is S-i-l-v-e-y.

11 Let's get to the couple preliminary matters.  
12 I've already informed everyone in the room and on WebEx, we  
13 do not have a court reporter today. We will all be making  
14 a conscious effort to talk slowly and into the microphone  
15 as the court reporter will be transcribing this later.

16 Also, the presiding officer was notified of Mr.  
17 Cloutier's (phonetic) needed absence today, and that has  
18 been excused.

19 Let's go to introduction of parties. We already  
20 have everyone's address, so to make this a little easier  
21 for our future court reporter, let's just do companies  
22 and names today.

23 Let's go for Evergy Metro.

24 MR. STEINER: Judge, appearing for Evergy Metro  
25 and Evergy West, Roger Steiner, Jackie Whipple, Karl



1 Zobrist, Jim Fisher.

2 JUDGE HATCHER: Thank you, sir.

3 And for staff.

4 MS. MERS: Appearing on behalf of staff, Nicole  
5 Mers.

6 JUDGE HATCHER: Thank you.

7 And for OPC.

8 MR. CLIZER: John Clizer.

9 JUDGE HATCHER: Excused, but I'll call just in  
10 case, Charge Point.

11 And Google.

12 MECG.

13 MR. OPITZ: Tim Opitz for MECG.

14 JUDGE HATCHER: Excused but I'll call anyway,  
15 MIEC.

16 Renew Missouri.

17 MS. GREENWALD: Alissa Greenwald for Renew  
18 Missouri.

19 JUDGE HATCHER: Thank you.

20 And excused, I'll call anyway, Sierra Club.

21 And then our four parties that are interveners  
22 into the Evergy Missouri West case, and that is the file  
23 number that ends in 0130. Excused, but I'll call City of  
24 St. Joseph.

25 Dogwood Energy.

1 Nucor Steel.

2 MR. ELLINGER: Marc Ellinger for Nucor Steel.

3 JUDGE HATCHER: Velvet Tech Services.

4 MS. BELL: Stephanie Bell for Velvet Tech.

5 JUDGE HATCHER: Thank you all. That will take  
6 care of our introductions. And as I understand it --

7 COMMISSIONER HOLSMAN: Judge --

8 JUDGE HATCHER: Yes, Commissioner Holsman.

9 COMMISSIONER HOLSMAN: Just wanted to let you  
10 know that I've joined. Thank you.

11 JUDGE HATCHER: Thank you. I appreciate that,  
12 Commissioner Holsman. I do expect the other commissioners  
13 will be joining us later as well.

14 Let's go to our mini opening statements. And we  
15 will start off with Evergy.

16 EVERGY OPENING STATEMENT

17 MR. ZOBRIST: Good morning, Judge.

18 May it please the Commission. Karl, K-a-r-l,  
19 Zobrist, Z-o-b-r-i-s-t. I'll be giving the mini opening  
20 statement in regard to the Sibley issues. I believe it's  
21 section two of the Commission's order.

22 The three power plants at the Sibley Generating  
23 Station were built in the 1960s by Missouri Public Service  
24 Company, the predecessor of Evergy Missouri West. They  
25 were all coal fired units originally designed to burn high

1 sulfur midwestern coal. Unit 1, at 48 megawatts, was built  
2 in 1960 and was retired in 2017. Its retirement is not an  
3 issue in this case. Unit 2, at 51 megawatts, was built in  
4 1962 and began service in that year. Unit 3, at 364  
5 megawatts, was built in 1969 and began service in that  
6 year.

7           The issue today is whether the retirement of unit  
8 3 in 2018, along with the smaller unit 2 and the balance of  
9 the Sibley station was prudent. Given the many factors  
10 that were involved in that decision, the company believes  
11 that it was. Staff has not disagreed. Only public counsel  
12 has filed testimony alleging imprudence.

13           Your decision on this issue requires some  
14 understanding of what got us to this point, so a short  
15 history (audio cuts out). In the late 1980s and the early  
16 1990s, in response to increasing environmental regulation  
17 and the price of coal, the Sibley station and these units  
18 underwent substantial life extension measures and a coal  
19 conversion project that would permit them to burn low  
20 sulfur, low ash Wyoming Power River basin coal. These  
21 changes are well documented in the Commission's decisions  
22 in two major MO PUB proceedings. Case Number ER90-101,  
23 decided October 5, 1990. And Case Number EO-91-358,  
24 decided December 20, 1991.

25           As these plants moved into the 21st Century, it

1 became clear that they would face more challenges (audio  
2 cuts out) regarding nitrogen oxide, mercury, ozone, and  
3 other emissions. In addition, after FERC -- and that's F-  
4 E-R-C -- SVS Seminole Order 888 in 1996 and Order 2000  
5 access to the transmission grid was opened and wholesale  
6 electricity markets were formed. These allowed utilities  
7 to sell and buy power at market-based rates that would  
8 benefit the utilities as well as their customers. Evergy  
9 Missouri West and Every Missouri Metro belong to Southwest  
10 Power Pool and participate in its competitive markets as  
11 you have authorized them to do.

12 More significant was the recognition that carbon  
13 emissions, at long last, were having a negative effect on  
14 the environment and that something needed to be done.  
15 While studying these developments, the company made  
16 necessary environmental upgrades to Sibley in 2008 and  
17 2009, which caused its depreciable life on paper to extend  
18 to 2040. However, in the context of these national trends,  
19 the way that electric utilities in Missouri and across the  
20 country did business began to change dramatically. With  
21 the advent of renewable energy resources, primarily wind  
22 generation and solar generation, utilities began to retire  
23 their old coal plants in record numbers.

24 As Evergy's vice president of regulatory affairs,  
25 Darrin, D-a-r-r-i-n, Ives, I-v-e-s, describes in his

1 rebuttal testimony 10 years ago in 2012, the company's  
2 integrated resource plan showed the units 1 and 2 should be  
3 retired in 2017 as part of its preferred plan. The company  
4 was then known as KCP&L Greater Missouri Operations  
5 Company, which I'll refer to as GMO. In 2015, GMO publicly  
6 announced the Sibley 1 and 2 would stop burning coal by the  
7 end of 2019. Although, as I mentioned, operational issues  
8 would cause Sibley 1, except for its boiler, to close in  
9 2017.

10 So that brings us to the 2017 annual update of  
11 the company's integrated resource plan, or IRP. 2017 is  
12 the critical date for the Commission to focus on as it  
13 analyzes whether the decision to retire Sibley in November  
14 2018 was prudent.

15 On June 1, 2017, GMO filed its annual updated of  
16 the IRP with the Commission. It showed that Sibley 3, as  
17 well as unit 2, should be retired at least by 2019.  
18 Because all the modeled scenarios, including three levels  
19 of natural gas prices, three levels of load growth, and two  
20 levels of carbon pricing, showed that retiring Sibley would  
21 save customers approximately \$220 million on an expect  
22 value basis. Both Mr. Ives and Evergy's vice president of  
23 strategy and long-term planning, Kayla, K-a-y-l-a,  
24 Messamore, M-e-s-s-a-m-o-r-e, discuss this in their  
25 rebuttal testimony.

1           Given the clear results of the 2017 IRP annual  
2 update, as well as Sibley's performance in the SPP energy  
3 markets, the company announced in June 2017 that Sibley 3  
4 and 2 would be retired by December 31, 2018.

5           Now, in the fall of 2018, events occurred that  
6 governed this case. That was the company's plan to retire  
7 Sibley 3 at the end of 2018 until it was forced offline by  
8 a turbine vibration on September 5, 2018. The company made  
9 the required EFIS filings with the Commission on September  
10 6th and September 12 regarding this event. An  
11 investigation of the turbine vibration and the damage it  
12 caused concluded that it would cost \$2.21 million to repair  
13 unit 3. Because it was already scheduled to be retired by  
14 the end of the 2018, the company decided to retire unit 3  
15 and the rest of Sibley on November 13, 2018.

16           Now, at that time, as Chairman Silvey and  
17 Commissions Coleman and Rupp will recall, the Office of the  
18 Public Counsel and MCEG filed a petitioner for an  
19 accounting order at the end of December 2018. And they  
20 asked the Commission to find, first, that the retirement of  
21 Sibley was an extraordinary event under the accounting  
22 rules of the FERC Uniform System of Accounts that the  
23 Commission follows. And secondly, to issue an accounting  
24 authority order, an AAO, that established a (audio cuts  
25 out) to record A: the revenue collected in rates for the

1 return on Sibley Plant investments and B: it's non-fuel  
2 operations and maintenance costs and other costs. That was  
3 an accounting case; it was not a prudence case.

4 Pursuant to the Commission's decision in October  
5 2019 in that matter, the company established an AAO and  
6 accounted for the Sibley revenues and costs in a regulatory  
7 liability. And in this case, the company has advised that  
8 the regulatory liability now consists of two elements. \$39  
9 million in non-fuel O&M expenses -- Mr. Klote discusses  
10 this in his surrebuttal testimony. And \$49.5 million in  
11 revenues.

12 The company proposes that the \$39 million should  
13 be amortized and returned to customers over 4 years. These  
14 are what we call the O&M costs. This matches the four-year  
15 period over which the revenues were collected in the AAO  
16 accounts. However, it's Evergy's position that the \$49.5  
17 million in return on investment should not be subjected to  
18 the same refund as the deferred O&M costs given that the  
19 company met the criteria of the prudent standard when it  
20 retired Sibley in 2018.

21 Your decision in the AAO case has no bearing on  
22 whether the company's decision to retire Sibley was  
23 prudent. As the report and order in that case stated at  
24 pages 13 and 14, GMO chose to close the Sibley units and  
25 the prudence of that decision is not an issue in this case.

1 The question of prudence will be addressed in a future  
2 general rate case. That is this proceeding where the  
3 prudence of the Sibley retirement decision is to be  
4 decided.

5 The Commission's review of the facts must include  
6 not only the 2017 IRP annual update and its assessment that  
7 customers would save \$220 million on an expected value  
8 basis, but also the operational and economic performance of  
9 Sibley. As Ms. Messamore's rebuttal testimony stated,  
10 "Sibley was in no way profitable." There were months when  
11 Sibley's energy revenues did not even cover its fuel costs,  
12 and that is without regard to its O&M costs and its capital  
13 costs.

14 In 2018, when Sibley was retired, its energy  
15 revenues were \$26 million. Its fuel costs were \$23  
16 million, and its non-fuel O&M costs were \$29 million. That  
17 was a net loss of \$26 million. And that was also before  
18 any of its capital costs were considered. In November  
19 2017, when Evergy met with staff to discuss the company's  
20 capacity planning, Sibley had revenue margins of \$5 million  
21 year to date compared with O&M costs of \$28 million per  
22 year.

23 Sibley's margins over the three-year period of  
24 2015 through 2017 were only about \$4 million, but the  
25 company's forecasts showed that to keep the plant running,



1 it would take future capital investment over the next four  
2 years, 2018 to 2021, of \$54 million and O&M costs of \$111  
3 million. That's a total of \$165 million.

4           Given Sibley's unprofitability as an old coal  
5 plant, its operational record, the cost to repair the  
6 turbine at unit 3, and Evergy's commitment to renewable  
7 resources and a cleaner environment, the company's decision  
8 to retire Sibley in 2018 was prudent. It was also  
9 consistent with national (audio cuts out) across the United  
10 States had been and were continuing to retire coal plants.

11           Larry Kennedy, a utility asset and depreciation  
12 expert, with Concentric Energy Advisors, has provided  
13 testimony that confirms this. And particularly, he notes  
14 that simply because Sibley had a depreciable life extending  
15 to 2040 doesn't mean that the decision to retire was  
16 imprudent in light of other facts. The prudent standard is  
17 important in this case.

18           That is the test that the Commission has applied  
19 for many years to determine whether utilities' decisions  
20 were prudent, and it is a simple and straightforward test.  
21 It asks was the company's conduct reasonable at the time  
22 under all the circumstances, considering the company had to  
23 solve its problems prospectively rather than in hindsight.  
24 That's the test that the Commission established in the  
25 Union Electrical Callaway Nuclear Plant back in 1985. And

1 by not using hindsight and by not considering events that  
2 occurred after the retirement decision, the Commission does  
3 not place a utility in the impossible position of having to  
4 foresee the future and anticipate unusual and anomalous  
5 events.

6 For example, in deciding whether the company's  
7 decision to retire Sibley in November 2018 was prudent, the  
8 company does not consider what happened over two years  
9 later in February 2021 when Winter Storm Uri struck the  
10 Midwest. Similarly, we don't consider the effect of the  
11 Russian invasion of Ukraine on the price of natural gas or  
12 other fuels, and we don't consider the fact that (audio  
13 cuts out) are now discussing whether to pay through  
14 reliability must run contracts to keep old coal plants  
15 online. We don't consider those factors. As Concentric's  
16 John Reed testifies (audio cuts out), "The retirement of  
17 Sibley was consistent with Evergy Missouri West's resource  
18 planning and was prudent by any reasonable application of  
19 the prudence standard."

20 Let me now go to the cost recovery and  
21 depreciation issues. Because the retirement was prudent,  
22 the company is entitled to the recovery of the  
23 undepreciated plant balance associated with Sibley, as well  
24 as entitled to earn a return on that investment. Evergy  
25 Missouri West should also be allowed to recover and earn a

1 return on the prudent decommissioning and dismantling costs  
2 of the Sibley plant which served customers for almost 60  
3 years.

4           John Spanos, president of Gannett Fleming, and a  
5 nationally recognized depreciation expert has presented  
6 testimony on these issues, as had Mr. Kennedy. So the  
7 three points that I want to discuss in the context of these  
8 issues: first, net book value. There's some disagreement  
9 over the exact figures regarding the recovery of the net  
10 book value of the Sibley plant. Mr. Spanos recommends a  
11 net book value of \$145.6 million for Sibley based upon  
12 historical recovery patterns of the plant while it was in  
13 service. This figure was calculated as of June 30, 2018,  
14 based on the known life parameters of Sibley, not through  
15 mass plant accounting or all generating facilities as has  
16 been done in the past. Staff accepts this \$145.6 million  
17 net book value figure.

18           MECG and public counsel have argued for a higher  
19 net (audio cuts out) plant balance of \$300 million based on  
20 (audio cuts out) developed using this simple allocated  
21 reserve methodology historically used in the company's  
22 plant accounting system. Evergy had informed the parties  
23 for years, including in the 2018 rate case, that except for  
24 the relatively new (indiscernible) two unit, the company's  
25 accounting system did not maintain generation reserves on a

1 unit or location basis other than by a simple allocation  
2 process.

3           However, during the last depreciation study that  
4 was performed in Case Number ER2016-0156, that we'll refer  
5 to as the 2014 depreciation study, the approved  
6 depreciation rates were based on the lifespan approach and  
7 the remaining life methodology. Once the lifespan and the  
8 remaining life methods were approved by the Commission, the  
9 development of depreciation rates at the local and unit  
10 level were calculated based on these key parameters for  
11 establishing the appropriate accumulated depreciation by  
12 location and by plant. Therefore, the June 30, 2018,  
13 development of net book value for Sibley, and for other  
14 locations was calculated in the same manner with the  
15 appropriate life parameters known at that time.

16           Consequently, the depreciation rates by unit or  
17 location developed in 2018 by Mr. Spanos and his firm were  
18 a continuation of the methodology used in Case Number  
19 ER2016-0156, with the more accurate historical parameters  
20 by location. Mr. Spanos has reflected the appropriate unit  
21 and location reserves in his 2022 depreciation study in  
22 this case. And he will describe why his approach to  
23 develop unit and location reserves is appropriate. His  
24 study supports the \$145.6 million net book value for  
25 Sibley, meaning its net (audio cuts out) recovered plant

1 balance.

2 Point two, the staff offset. Staff proposes to  
3 offset the net book value of Sibley by two items. First,  
4 deferred depreciation expense, and second, the regulatory  
5 liabilities recorded for the non-fuel O&M expense -- that's  
6 the \$39 million. And Sibley rate-based returns recover  
7 their rates. Evergy agrees with staff's offset of the  
8 deferred depreciation expense, and Evergy agrees with staff  
9 that the \$39 million regulatory liability, or non-fuel O&M  
10 expense be amortized and returned to customers over four  
11 years.

12 However, Evergy disagrees with the offset of the  
13 \$49.5 million regulatory liability. Because the  
14 undepreciated book balances were prudently incurred as the  
15 decision to retire Sibley was prudent, given that it was no  
16 longer economic. And because the (audio cuts out) invested  
17 in Sibley were made on behalf of customers, Evergy Missouri  
18 West is entitled to earn a return on those prudently  
19 incurred investments.

20 So in summary, the \$145.6 million net book value  
21 as of June 30, 2018, which was determined by Mr. Spanos,  
22 reflects the most appropriate calculation of the net book  
23 value associated with the Sibley assets, which Evergy  
24 Missouri West should be able to recover, and on which it  
25 should be able to earn a return during the recovery period

1 of 20 years.

2 Point three, dismantlement costs. The company  
3 incurred approximately \$37 million to commission and  
4 dismantle the Sibley station, which has been completed.  
5 These costs have been recorded to the steam production  
6 reserve accounts pursuant to the FERC uniform system of  
7 accounting requirements and are (audio cuts out) included  
8 by the company and staff in rate base. The recovery of  
9 these costs from customers through their being included in  
10 rate base and through prospective depreciation rates is  
11 reasonable and necessary given that the Commission has  
12 historically approved and continues to approve depreciation  
13 rates that do not include recovery for terminal net salvage  
14 value.

15 Public counsel and MEEG would have the Commission  
16 provide no return to Evergy on these expended costs. That  
17 would be both unjust and unreasonable as these costs have  
18 not been provided for in depreciation rates and reflect the  
19 prudent and necessary costs of dismantling the Sibley  
20 station. The company urges the Commission to accept the  
21 figures of Mr. Spanos and his comprehensive depreciation  
22 study for Evergy Missouri West and to inquire of him  
23 regarding any questions that it may have.

24 Mr. Kennedy from Concentric, as well as Evergy's  
25 Darrin Ives and Kayla Messamore will be here and available

1 to answer questions that you may have.

2 Finally, a word about gaming. The evidence in  
3 this case shows that Evergy faced a variety of issues  
4 regarding Sibley and that it made its decisions based upon  
5 a review of the facts which existed at the time that these  
6 decisions were made. Those decisions relied upon the sound  
7 judgement of engineering, operational, financial, and  
8 regulatory professionals at the company. They also relied  
9 on highly qualified outside experts on depreciation, like  
10 Mr. Spanos.

11 A fair reading of all of the facts shows that far  
12 from pursuing a devious plan to game the system, the  
13 company made decisions that balanced the interests of  
14 Evergy's customers and Evergy's investors over the long  
15 term. Almost 60 years in the case of the Sibley Generating  
16 Station. Any suggestion to the contrary is rooted in pure  
17 polemics and is a distraction from the complicated issues  
18 that the Commission must decide in this case.

19 Thank you, Judge.

20 JUDGE HATCHER: Thank you.

21 Are there any Commission questions for  
22 Mr. Zobrist?

23 And I'd also like to state for the record, we are  
24 joined by Commissioner Kolkmeier, and that brings my total,  
25 if I am correct, to four of our commissioners thus far. We

1 have Chairman Ryan Silvey, Commissioner Maida Coleman,  
2 Commissioner Jason Holsman, and Commissioner Glen Kolkmeier  
3 on the line.

4 Thank you, Mr. Zobrist.

5 We'll move on --

6 COMMISSIONER RUPP: Hey, Judge. Commissioner  
7 Rupp here, as well. I don't have any questions.

8 JUDGE HATCHER: Thank you, Commissioner Rupp. I  
9 appreciate your letting us know.

10 Let's move on to staff's opening statement. And  
11 please remember, state your name first and speak slowly  
12 into the microphone. Thank you.

13 STAFF OPENING STATEMENT

14 MS. MERS: My name is Nicole Mers and I represent  
15 the staff. Good morning, may it please the Commission.  
16 Given the court reporter issues we're having, I'm going to  
17 keep this brief, but I am available for any questions that  
18 may come up. And Keith Majors and Cedric Cunigan will also  
19 be here on behalf of the staff to answer questions.

20 As you heard from Mr. Kevin Thompson yesterday,  
21 staff is a neutral party in Commission proceedings. Staff  
22 does not advocate for the company, nor does staff represent  
23 ratepayers. Staff does not develop positions with a  
24 specific outcome in mind, and it does not back into  
25 evidence to come to a particular result. Staff audits,



1 analyzes, and reviews information provided by the utility  
2 parties and staff witnesses use their expertise and  
3 training to apply techniques and procedures to arrive at a  
4 conclusion based on the evidence in the record.

5           Staff's position on Sibley highlights this.  
6 Staff occupies a Goldilocks spot between the Company, OPC,  
7 and MECG. Staff recommends a value of 145.6 million of  
8 unrecovered investment for Sibley. (Audio cuts out) should  
9 offset regulatory liabilities that were approved in the  
10 last rate case which was (audio cuts out) and the EC2019-  
11 0200 case that resulted in the AAO. Therefore, a value of  
12 39 million updated for (audio cuts out) adjustments and  
13 that was related to labor and non-labor operations and  
14 maintenance expense. And that should be used to offset the  
15 145 million unrecovered investment.

16           Staff also recommends that Evergy share in the  
17 risk of retiring Sibley early with customers by allowing  
18 return of but not return on Sibley. Sibley is no longer  
19 used and useful, and in this recommendation, staff is not  
20 penalizing Evergy by recommending no return, but we're  
21 simply recognizing the undeniable fact that Sibley is not  
22 providing any benefits to customers and that all new  
23 replacement generation costs would be borne by ratepayers.  
24 Therefore, a sharing of unrecovered Sibley investment is  
25 equitable.

1           This sharing can be accomplished in two ways.  
2   First, the Commission could offset the regulatory asset by  
3   49.5 million of rate of return that was deferred in the  
4   complaint case. Or the Commission could choose not to  
5   include the net book value of Sibley in rate base. If they  
6   choose this approach, the Commission should consider not  
7   including then the 49.5 million of return in that rate that  
8   was a regulatory liability set in the complaint case.

9           Finally, the last step for calculating the  
10   appropriate amount of Sibley investment to return in  
11   recovering rates would be including decommissioning costs  
12   of 37.5 million. These costs should be added to the net  
13   book value determined by the Commission and then also  
14   should be removed from rate base.

15           So when you put all of these steps together, this  
16   results in staff's recommendation of an amortization of the  
17   residual regulatory asset of 6.1 million and the costs of  
18   service over 5 years.

19           Now, you'll hear about the different values that  
20   parties are presenting in this case. This disagreement  
21   between staff and the other parties results from the  
22   differences in calculating the net book value of Sibley.  
23   All parties present different values for this amount. This  
24   is partly due to the difficulty in calculating net book  
25   value as there is no stated amount included (audio cuts

1 out) run from prior rate cases that gives the exact value  
2 for Sibley.

3 This was also an issue in the EC2019-0200 case  
4 where no definitive net book value was decided at the time.  
5 If the Commission approves the global partial stipulation,  
6 calculations such as this will be easier going forward as  
7 the company has agreed to record and track depreciation  
8 reserve for generating facilities on an individual unit and  
9 location basis going forward.

10 However, in this case, the Commission still has  
11 to determine the value based on what evidence the parties  
12 presented. Staff's \$145.6 million figure results from  
13 witnesses Keith Major's audit of expenses and rate base  
14 related to Sibley and Cedric Cunigan evaluation of the  
15 appropriate depreciation rates. Staff's ultimate  
16 recommendation of 6.1 million is the only one that  
17 recognizes Sibley is a plant that was built in 1960, so has  
18 been in service and depreciating since then. But that  
19 plant no longer provides any benefits for ratepayer. Both  
20 witnesses, as I mentioned earlier, will be taking the stand  
21 later to explain and can answer any questions.

22 In this case, Evergy is the only party requesting  
23 the return on the investment. Both MEEG, OPC, and staff  
24 oppose this request. A plant that is not used and useful  
25 should not earn a return. Doing so violates longstanding

1 Commission and general regulatory practice, as well as  
2 393.135.

3 Thank you, and I'm available for any questions  
4 you may have.

5 JUDGE HATCHER: Thank you, Ms. Mers.

6 Are there any Commissioner questions?

7 (No response)

8 Hearing none, we'll move on. Our next opening  
9 statement is MECG.

10 I think it was cross-exam that we changed the  
11 order, but I have not changed the order on opening  
12 statements.

13 MR. OPITZ: Fine with me. Thank you, Your Honor.

14 JUDGE HATCHER: Okay. Let's go ahead,  
15 Mr. Opitz. And slowly and into the microphone for our  
16 future court reporter.

17 MECG OPENING STATEMENT

18 MR. OPITZ: Thank you, Your Honor. Tim Opitz, O-  
19 p-i-t-z, on behalf of the Midwest Energy Consumers Group.  
20 I just want to say before I begin that I heard that the net  
21 book value was not included in the accounting schedules of  
22 the last case for Sibley, and I disagree with that. I  
23 think Greg Meyer's testimony shows where it was included,  
24 and I think that the Commissions staff's witness, Mr.  
25 Majors, has testified that that value was included in the

1 last rate case.

2 Next slide, please.

3 Next slide, please.

4 This is background on Sibley. Basically, it was  
5 retired. Formally, after the true update of Evergy's last  
6 rate case, but before rates became effective in that case.  
7 Essentially, that means rates from that case (audio cuts  
8 out) revenues, costs, and investments as of a true update  
9 of June 30, 2018. Since Sibley units 2 and 3 were formally  
10 retired after that date, Evergy's current rates include the  
11 costs, revenues, and investment associated with the Sibley  
12 units.

13 Next slide.

14 Because that retirement happened, MECG and OPC  
15 sought a complaint EC2019-0200. And they sought an AAO for  
16 the capital and operating costs that were included in  
17 Evergy's rates for the Sibley units based on the principle  
18 that a utility should not earn a return on a plant that is  
19 not used and useful or benefiting customers in any way.  
20 The Commission granted that AAO and in our view, was very  
21 clear about what the amount of that AAO should be.

22 Next slide, please.

23 This is an excerpt from that report and order.  
24 "KCP&L Greater Missouri Operations Company shall record as  
25 a regularly liability in Account 254 the revenue and the

1 return on the Sibley unit investments collected in rates  
2 for the non-fuel operations and maintenance costs, taxes,  
3 including accumulated deferred income taxes, and all other  
4 costs associated with Sibley units 1, 2, 3, and common  
5 plant."

6           MECG's witness, Meyer, his direct testimony,  
7 rebuttal, and surrebuttal reflect that our position is just  
8 that, consistent with that order. What he did was he  
9 referred to the staff's accountings schedules from the last  
10 rate case ER2018-0146 to find the undepreciated balance for  
11 the Sibley units because that was what was used to develop  
12 rates.

13           Next slide, please.

14           That value is approximately \$300 million. This  
15 is shown from that 2018 case to reflect both the staff's  
16 and the company's true-up accounting schedules that was  
17 used to set rates. When Greg Meyer updates that reserve  
18 from the time of that case up through the effective date of  
19 rate, expected effective date of rates in this case, that's  
20 where he gets his balance of \$254 million.

21           Next slide, please.

22           In its rebuttal testimony, the staff recognized  
23 that that was an appropriate value. Witness Major said, "I  
24 can conclude that the NBV of 300 million is the amount upon  
25 which the AAO return on deferrals should be calculated as

1 that amount was the basis of the rate of return and  
2 depreciation calculation."

3 I'm not sure if staff can calculate that as what  
4 is in rates, how their position of 145 unrecovered  
5 investment is consistent with that Commission's order.

6 Next slide, please.

7 The company's testimony, as counsel for the  
8 company pointed out, is offered by witness John Spanos.  
9 And he, in his surrebuttal testimony and direct testimony,  
10 clearly states that the Commission should approve the  
11 recovery related to Sibley presented in their depreciation  
12 study as of June 30, 2021.

13 A couple notes about that. That calculation was  
14 done after the fact when rates were set. It was done in  
15 response to -- it's my belief it was done in response to  
16 the complaint brought by OPC and MCEG. Commission, in that  
17 (audio cuts out), you did the right thing. You said that  
18 the plant was not being used for customers. You saw that  
19 it was retired after the rates were set. And you said  
20 create a regulatory liability for it based on what's in  
21 rates. MCEG's figures are based on what's in rates. The  
22 staff agreed. The company, on the other hand, says, "Rely  
23 on this new study, and not on what's in rates."

24 Next slide, please.

25 And the impact of adopting the company's

1 position, Commission, is that it permits the company to  
2 earn a return on plant that is not used and useful or  
3 benefitting customers in any way. MEC's position is that  
4 it's wrong. I think that there is a legal reason to  
5 believe that that would be a illegal order if the  
6 Commission were to permit the company to earn a return on  
7 that. I'm happy to address that further in briefing.

8 With that, I'm happy to answer any questions and  
9 would ask the Commission if anything is unclear, that Greg  
10 Meyer is available today to answer the specific accounting  
11 details or any questions about that.

12 JUDGE HATCHER: Excellent. Thank you,  
13 Mr. Opitz.

14 Are there any Commissioner questions for  
15 Mr. Opitz?

16 (No response)

17 Hearing none, we will move on in opening  
18 statements. And I may need to pause here and look around  
19 the room. Are there any other parties intending a mini  
20 opening statement regarding Sibley?

21 (No response)

22 Any others?

23 UNIDENTIFIED SPEAKER: No, Judge.

24 JUDGE HATCHER: All right. Let's go to the  
25 Office of the Public Counsel. And as I reminded everyone,



1 please speak slowly for our future court reporter and into  
2 the microphone. Thank you, sir. Please go ahead.

3 MR. CLIZER: I will endeavor to go much slower  
4 than yesterday. So may it please the Commission.

5 The fun part about going last is that, you know,  
6 you get to hear everybody else's openings. So this nice  
7 little script that I wrote up yesterday, I immediately have  
8 to go off script for just a moment. Because I want to  
9 address something before we really get into the meat of it.  
10 Which is we shouldn't be here on this issue. We should not  
11 be sitting in this courtroom today discussing this issue.  
12 Because Sibley should have been dealt with in the last  
13 Evergy rate case.

14 We, at the time, OPC, had strenuously argued that  
15 it be dealt with in the last rate case. And the only  
16 reason we're here is because Evergy, particularly the  
17 testimony of Mr. Darrin Ives, said, "It's not certain that  
18 we're going to shut down Sibley." So everything you heard  
19 from counsel from Evergy about how absolutely certain,  
20 planned out the company's retirement was, Evergy was  
21 telling you the exact opposite story in the last rate case.  
22 And if we had dealt with Evergy, Sibley, in the last rate  
23 case, if we had dealt with it when we should have, nothing  
24 that we discuss today would be relevant.

25 But you can't fix the past, so we move on. We're

1 here today and there are four effective options in front of  
2 you that have been proposed for Sibley. You have the  
3 company, staff, MEGG, and OPC. I'll start briefly with the  
4 company.

5           Evergny is asking to earn a return on the Sibley  
6 investment. This is contrary to Missouri law. This  
7 Commission, in the recent Empire Financing case, recognized  
8 that earning a return on a plant that is not used and  
9 useful is contrary to Missouri law. That is all I'm going  
10 to say on that matter for now. I will address the rest in  
11 briefing. The simple answer is that it doesn't matter  
12 whether it was prudent or not, the company should be  
13 earning a return on Sibley.

14           Moving on to the OPC's position. Apologies. We  
15 are the only party who is questioning the prudence of  
16 shutting down Sibley. I don't intend to belabor this point  
17 for very long. Sibley was the largest generation that  
18 Evergny West had. It made up almost 25 percent -- I believe  
19 more than 25 percent of the company's (audio cuts out).  
20 The company has not made any real plans to replace Sibley  
21 after shutting it down. Instead, they are just buying all  
22 their energy off the market. The result is that their  
23 customers are now at risk because of market fluctuations.  
24 It doesn't matter whether it's a war in the Ukraine, or a  
25 storm, the simple fact is, they have put their customers at

1 considerable risk of those fluctuations by not replacing  
2 the Sibley Generation. That is the essential facet for why  
3 we argue it was imprudent to shut down Sibley.

4 We also point out that, yes, it was retired 22  
5 years early, and that the company had sunk hundreds of  
6 millions of dollars into extending its life, and we figure  
7 those are other good reasons why it is imprudence.

8 Like I said, I don't want to belabor this point  
9 too awfully much. However I do want to briefly address one  
10 thing (audio cuts out). The correct interpretation of  
11 whether or not something of hindsight is to ask this: what  
12 did the company know at the point in time when the decision  
13 was made? OPC has vehemently expressed our position on  
14 Sibley and the danger of shutting down Sibley early at  
15 every available opportunity. We explained it to the  
16 Commission and to the company when the retirement was first  
17 announced. We explained it in the last rate case when  
18 there was the threat that it would be retired. And we have  
19 continued to explain it moving forward.

20 The Commission may disagree with our analysis  
21 that it was imprudence. But to suggest that this is  
22 hindsight is to create a truly impossible standard for the  
23 OPC to master. We have explained our concerns at every  
24 available opportunity before, during, and after the  
25 decision was made. That's all I want to say on hindsight.

1           Let's move on. Let's assume that the Commission  
2 determines that it was prudent to shut down Sibley. Fine.  
3 That really leaves two competing options, staff and MECG.  
4 Both parties are asking the Commission to amortize the  
5 remaining net book value of the Sibley investment.

6           There are a number of key differences that need  
7 to be considered, as you've already heard. And the most  
8 important one, in my opinion, is the starting point. What  
9 is the net book value? MECG -- and the OPC supports this -  
10 - wants to start where the Commission left off in the last  
11 rate case. Even though the rate case was black boxed, the  
12 company's work papers and staff's filed true-up accounting  
13 schedules identically stated that the net book value was  
14 \$300 million. That is what the company said, that is what  
15 staff said. That is what the rates were based off of.  
16 That is what customers ended up paying on. That is the  
17 correct starting point. It is what the Commission ordered  
18 in the complaint case. So why the confusion?

19           Well, during the complaint case, as you've  
20 already heard, Evergy presented testimony that tried to  
21 shift the accumulative depreciation reserves among its  
22 steam generating facilities. As a side note, the reason  
23 that Evergy is able to do this is because it has been  
24 booking its plants on an individual basis but allowing its  
25 depreciation reserves to accumulate in a shared pool.

1 (Audio cuts out) component in the stipulation presented by  
2 the parties that's meant to address this moving forward, so  
3 we can stop this problem in the future. Which is another  
4 reason why the Commission should approve that stipulation.  
5 But as I said, you can't fix the past.

6 So Evergy hired a depreciation expert to perform  
7 a theoretical reserve calculation to move depreciation  
8 reserve that had previously been applied to other  
9 generating facilities Sibley. That cut the next plant  
10 balance of Sibley down to 145 million, roughly. I want to  
11 stress this. The Commission never approved that  
12 calculation during the complaint case. The Commission made  
13 no determination what the correct net book value of Sibley  
14 was at that time. Yet, staff has decided to accept the  
15 company's numbers, regardless. And that is where the big  
16 difference between the parties exists. On the one hand,  
17 you have MECG and OPC who say to use what staff and the  
18 company agreed to in the last rate case when rates were  
19 set. And on the other hand, you have staff and the company  
20 who want to use an unapproved theoretical calculation from  
21 the complaint case.

22 So what's the problem with using that theoretical  
23 calculation? Well, the answer comes from the fact that the  
24 company can't just add depreciation reserve. The  
25 depreciation reserve has to come from somewhere. So when

1 you move depreciation reserve to Sibley, you take it away  
2 from the other generating plants. Why is that a problem?  
3 By decreasing the reserve for the other plants, you  
4 increase their net book value, which is what the company  
5 earns a return on. That means that you are driving up the  
6 company's return. This is the real key here.

7           Evergy knows it can't earn a return on the Sibley  
8 investment under law, so it's trying to shift depreciation  
9 to allow the return it would have earned on Sibley, based  
10 on the (audio cuts out) the last rate case, to earn it on  
11 other plants. It's a magic trick. A show game. Instead  
12 of earning \$150 million on Sibley, the company will earn  
13 \$150 million worth of return on other plants. Sorry, they  
14 will earn a return on the \$150 million, not they will earn  
15 \$150 million. I needed to be clear there. Apologies.

16           This is also, by the way, why staff's position is  
17 not a true Goldilocks position. Staff has implicitly  
18 allowed the company to increase its net plant reserve for  
19 the remaining steam generating assets by the roughly \$150  
20 million of shifted depreciation. That's what the fight is  
21 all about.

22           So by now, I hope you can see why it's necessary  
23 to use the net book value of Sibley from the last rate case  
24 to calculate the unrecovered asset that needs to be  
25 recovered, as well as the return on component that should

1 be used to offset it.

2 The last thing I (audio cuts out) the Commission  
3 is simply this. What should the Commission do if it thinks  
4 securitization is the best course of action for Sibley? I  
5 want to make sure this is very clear. I'm not saying they  
6 should securitize it. Not saying securitization is a good  
7 idea. However, this Commission has, in my opinion,  
8 expressed interest in securitization. And I want to make  
9 it very clear, if that's the path the Commission thinks the  
10 company should go down, what exactly would need to happen.

11 If this commission thought that the company  
12 should pursue securitization, you need to go with the  
13 position offered by MECG. And the simple reason for that  
14 is if you use the 145, roughly, number that the company and  
15 staff support, the asset that you will have at the end of  
16 the day once you take off the O&M account and depreciation  
17 expense won't be large enough to securitize. Again, I'm  
18 not saying they should securitize. I'm not saying it's a  
19 good idea. I'm telling you, if that's what the Commission  
20 believes the best course of action is, you should take that  
21 into consideration.

22 And on that point, I want to say two important  
23 things. First, if the Commission were to agree with Mr.  
24 Meyer's position and allow Sibley to go into rates as an  
25 amortization, only for the company to then seek

1 securitization, the OPC would be forced to bring a  
2 complaint case, just like in the last case, to address the  
3 fact that they would be effectively double recovering for  
4 Sibley.

5           Similarly, if the Commission were to go with  
6 MECG's position and the company were to seek securitization  
7 as a result, then the OPC would contest any transaction or  
8 legal fees that would come as a result of that  
9 securitization because the company has fought this case all  
10 the way up to this point and would have wasted immense  
11 administrative resources if it then sought securitization  
12 after the fact.

13           The OPC will offer two witnesses. The first will  
14 be Dr. Geoff Marke who will be able to discuss the concerns  
15 related to the prudence of the retirement of Sibley. If  
16 the Commission has any problems at all, I strongly  
17 encourage you to address them to Dr. Mark.

18           Second, the OPC will present Mr. John Robinett,  
19 our depreciation expert who will explain more of the  
20 problems that I just described regarding the theoretical  
21 reserve reallocation.

22           With that, I will ask if there are any questions.

23           JUDGE HATCHER: Thank you, Ms. Clizer.

24           Are there any commissioner questions?

25           (No response)



1           Hearing none, thank you, sir.

2           We'll go ahead and get started with (audio cuts  
3 out) with testimony. The first witness I have is Mr.  
4 Spanos.

5           MS. WHIPPLE: Thank you, Judge. Yes. Jackie  
6 Whipple on behalf of the company, W-h-i-p-p-l-e. And we  
7 call Mr. Spanos, S-p-a-n-o-s.

8           JUDGE HATCHER: Thank you. I'll go ahead and  
9 swear you in, sir. If you would please raise your right  
10 hand.

11           (John Spanos sworn)

12           JUDGE HATCHER: Thank you. Please have a seat.  
13 And Ms. Whipple, go ahead.

14           MS. WHIPPLE: Please state your name for the  
15 record.

16           MR. SPANOS: John J. Spanos, S, P as in Paul, a-  
17 n-o-s.

18           MS. WHIPPLE: By whom are you employed?

19           MR. SPANOS: I'm employed by Gannett Fleming  
20 Valuation and Rate Consultants LLC.

21           MS. WHIPPLE: And what is your position there?

22           MR. SPANOS: I am president.

23           MS. WHIPPLE: Did you prepare direct rebuttal and  
24 surrebuttal testimony on behalf of Evergy Metro and Evergy  
25 West which has been marked as Exhibit 71, 72, 73 in the

1 Metro rate case, and the direct testimony has been marked  
2 as Exhibit 125 in the Evergy West rate case?

3 MR. SPANOS: I have prepared those.

4 MS. WHIPPLE: Do you have any corrections to your  
5 direct, rebuttal, or surrebuttal testimony?

6 MR. SPANOS: I do not.

7 MS. WHIPPLE: If I were to ask you those  
8 questions, would your answers be set forth as in Exhibits  
9 71, 72, 73, and Exhibit 125?

10 MR. SPANOS: Yes.

11 MS. WHIPPLE: Are those answers true and correct  
12 to the best of your knowledge and belief?

13 MR. SPANOS: Yes, they are.

14 MS. WHIPPLE: Judge, I would now move to admit  
15 Exhibits 71, 72, and 73 in Case Number ER-2022-0129, as  
16 well as Exhibit 125 in Case Number ER-2022-0130.

17 JUDGE HATCHER: Thank you. And I will call it  
18 all in one question. Are there any objections to the  
19 admission of the stated testimony by Mr. Spanos? And that  
20 would be Exhibit 71 direct, Exhibit 72 rebuttal, Exhibit 73  
21 surrebuttal. Those are all in file number ending 0129.  
22 And Exhibit 125 in file number ending in 0130. Again, my  
23 question is, are there any objections?

24 (No response)

25 Hearing none, they're so admitted.

1 (Exhibits 71, 72, 73, and 125 admitted)

2 MS. WHIPPLE: Thank you, Judge. Tender the  
3 witness for cross.

4 JUDGE HATCHER: Thank you. My handy dandy new  
5 cross-examination list. Thank you, sir.

6 Charge Point. Any questions from Charge Point?

7 (No response)

8 Any questions from Google?

9 (No response)

10 Any questions from Nucor?

11 (No response)

12 Any questions from Velvet Tech?

13 MS. BELL: No, Your Honor.

14 JUDGE HATCHER: Any questions from St. Joseph?

15 (No response)

16 Any questions from Dogwood?

17 (No response)

18 Any questions from Sierra Club?

19 (No response)

20 Any questions from Renew Missouri?

21 MS. GREENWALD: No, Your Honor.

22 JUDGE HATCHER: Any questions from staff?

23 (No response)

24 Any questions from MIEC?

25 (No response)

1 Any questions from MECG?

2 MR. OPITZ: No thank you, Your Honor.

3 JUDGE HATCHER: Mr. Clizer, Office of Public  
4 Counsel.

5 (No response)

6 Thank you.

7 Mr. Spanos, the bench does have a couple  
8 questions. Before I get to those, I'll ask if there are  
9 any commissioner questions for witness Spanos. And if you  
10 are on the phone, it is star 6 to unmute.

11 (No response)

12 Hearing no questions, I'll go ahead. I do have a  
13 couple. How many depreciation studies have you performed  
14 for Everygy West?

15 MR. SPANOS: I conducted a study in 2010 for the  
16 predecessor companies at the time. Then I conducted  
17 another study through 2014 which was in 2016. And then  
18 I've conducted these studies in 2021 that would have  
19 reflected all full comprehensive depreciation studies.

20 JUDGE HATCHER: And I just want to make sure I  
21 caught that. You did perform the two depreciation studies  
22 prior to the last rate case. That would be in ER2016-0156  
23 and ER-2010-0356.

24 MR. SPANOS: Yes, I did. And I think it's  
25 important to note, which is creating quite a bit of

1 confusion here, is during those times, we transitioned from  
2 the whole life method to the remaining life method and life  
3 spanning of generating facilities. And when you do those  
4 components, that is when you focus on what the net book  
5 value is of assets. And prior to those times in Missouri,  
6 those components, whole life and no life spanning, was the  
7 practice. So you'd never maintained the accumulated  
8 depreciation at the location level or in the detail that is  
9 calculated for the approved rates that have been in place  
10 for the last two rate cases.

11 JUDGE HATCHER: Did Evergy obtain Commission  
12 authority to change that from whole life?

13 MR. SPANOS: Both of those components were part  
14 of those rate cases and approved as part of those rate  
15 cases. And in those cases, we have presented location  
16 specific amounts that were part of the development of the  
17 rate at the account level. So those are some of the key  
18 components that are part of the studies and how that's been  
19 developed and the rates that were approved during those  
20 time periods.

21 JUDGE HATCHER: One of those studies is what said  
22 Sibley had an extra 40 years of life; is that correct?

23 MR. SPANOS: It was not an extra 40 years of  
24 life. It was -- at the time when you were conducting  
25 studies in the '14 case, we had incorporated some

1 additional investment that was required to be done in order  
2 for coal facilities to meet the environmental regulations.  
3 So we extended the life, which is consistent with what the  
4 practices were, to 2040 at that time. That was a standard  
5 practice.

6           But what we have seen happen due to regulations,  
7 particularly environmental regulations in recent years, is  
8 many coal facilities are needing to be retired much sooner  
9 in time. And is what's been the reflection comparable to  
10 Sibley. Many of those assets are only lasting 45 to 50  
11 years, overall, regardless of the assets they have in  
12 place. And that's consistent when in the case of Sibley,  
13 they made is 50 to 60 years. So they even exceeded -- all  
14 of those units exceeded the general lifespans of coal  
15 facilities that we've seen in recent years.

16           JUDGE HATCHER: I'm looking for a list of the  
17 causes. In my mind -- and correct me here -- in my mind,  
18 how this is playing out is Sibley needed to make some  
19 upgrades to burn the low sulfur and low ash. Those  
20 upgrades caused the extension of the depreciable life.  
21 Perhaps due to the upgrades being new, so maybe it was  
22 looking more at the depreciable life of the upgrades  
23 themselves. Not an accountant, very obviously.

24           But my question is A: we switched from whole  
25 life. That had an effect. But I'm not hearing that that

1 was the whole effect. (Audio cuts out) public pressure, I  
2 think in the last few years, certainly. But is there a  
3 second one in between in the last 20 years -- or the last,  
4 I'm sorry, 8 years or so where there's another factor? You  
5 had mentioned the cost of coal, and I think switching  
6 locations to get the coal from Wyoming.

7 MR. SPANOS: There are considerable amount of  
8 costs that are required to operate a coal facility. And  
9 when you have those costs and with the environmental  
10 regulations, in order to operate the assets, there is a  
11 cost benefit analysis that's necessary to assess whether  
12 even after the investment has been incurred, in order for  
13 it to meet a life expectancy, there still becomes costs as  
14 to whether that's still a viable solution to generate.

15 And you have renewables in place now that are  
16 helping drive the recovery patterns for utilization of  
17 generation for ratepayers. So when you incorporate all of  
18 those (audio cuts out) there are decisions that are needed  
19 to be made as to what is the most appropriate recovery  
20 pattern for each generating facility. And those things  
21 have changed the cost that would be required to keep Sibley  
22 moving up through NVA efficient were factors that came into  
23 play.

24 JUDGE HATCHER: Do you know if your testimony  
25 from the complaint case, the AAO complaint case which was,

1 for the record, EC-2019-0200 -- let me get back to my  
2 question. Was your testimony from that case included in  
3 this case? Attached as an addendum or something onto your  
4 current testimony?

5 MR. SPANOS: It was not included in my testimony  
6 that I'm aware of. I did incorporate the same  
7 methodologies and how we develop the net book value of each  
8 of those units based on the information that was conducted  
9 in that case and how I conducted my study this time. As  
10 well as how the study was performed the rates approved back  
11 in the 2016 case.

12 So all of those things are consistent. I think  
13 it was a little bit misconstrued in some of the opening  
14 discussions in that the development process was not just a  
15 random theoretical calculation. It has been built up for  
16 many years as to how you do the process with these  
17 methodologies. So although the testimony isn't  
18 specifically in line with -- or attached to my exhibits in  
19 this case, it's all in line with the same discussion and  
20 methodologies.

21 JUDGE HATCHER: Thank you. That is all the  
22 questions I have.

23 Let us return. That takes us to  
24 recross-examination. We'll go in the same order. I'll go  
25 through some of the interveners that we've noted have been



1 excused more quickly.

2 Charge Point, any questions on recross?

3 (No response)

4 Google.

5 (No response)

6 Nucor.

7 (No response)

8 Velvet Tech.

9 MS. BELL: No, Your Honor.

10 JUDGE HATCHER: St. Joseph.

11 (No response)

12 Dogwood.

13 (No response)

14 Sierra Club.

15 (No response)

16 Renew Missouri.

17 MS. GREENWALD: No, Your Honor.

18 JUDGE HATCHER: Staff.

19 (No response)

20 MIEC, Missouri Industrial Energy Consumers --

21 that's MIEC.

22 (No response)

23 And MIEC Midwest Energy Consumers Group.

24 MR. OPITZ: No thank you, Your Honor.

25 JUDGE HATCHER: Thanks.

1 Mr. Clizer, thank you.

2 You are excused, Mr. Spanos.

3 Not yet. I even made a cheat sheet for myself,  
4 so I wouldn't forget. The court reporter will have fun  
5 transcribing that.

6 Redirect?

7 MS. WHIPPLE: Thank you. Yes.

8 Mr. Spanos, in response to questions from the  
9 bench, you stated that some comments in opening statements  
10 misconstrued your testimony or your depreciation studies.  
11 Would you please elaborate on that?

12 MR. CLIZER: I object. It's outside the scope of  
13 your question. His comment is not directly responsive to  
14 the question that you posed.

15 MR. OPITZ: Your Honor, MECG would join OPC's  
16 objection. You know, this isn't a case where the witness  
17 was cut off. He was voluntarily offering this. He already  
18 testified what he was going to testify about that.

19 JUDGE HATCHER: I apologize, Ms. Whipple. We  
20 have been limiting our redirect to just questions raised  
21 from the bench.

22 MS. WHIPPLE: Understood.

23 Mr. Spanos, in response to questions from the  
24 bench, you did discuss past depreciation studies that you  
25 have conducted on behalf of the company which were used to

1 develop rates; is that correct?

2 MR. SPANOS: Yes, we did. As we discussed, in  
3 the last few cases which were based on remaining life and  
4 the lifespan for generation, we did create net book values  
5 and the rates for each of those particular locations were  
6 developed, which showed what the net book value was. In  
7 the case of Sibley, it was clear that the net book value  
8 was considerably less than what was presented by others in  
9 their opening statement. And that is proof that you have a  
10 50-to-60-year asset that has -- at the time, had 400 plus  
11 million investment and to come up with a net book value  
12 that would have only recovered 25 percent of that when it's  
13 expected to live 60 years is why the presentation of it  
14 just being a theoretical calculation of it was not  
15 accurate. And that was why I said that that was  
16 inconsistent. And the rates that were developed from those  
17 studies and what were approved going forward in methodology  
18 support that fact that the net book value was much less for  
19 Sibley than what was stated.

20 MS. WHIPPLE: Do any of these past depreciation  
21 studies show that the net book value of Sibley is \$300  
22 million?

23 MR. SPANOS: Not the depreciation studies. It's  
24 clear in each of them that the net book value back in the  
25 study done in 2014 was much less than 300 million. And

1 obviously, as you move forward, the same types of  
2 calculations are shown in the work that had been done that  
3 shows that that value is much less and why we came up with  
4 the 145 because it appropriately recovers the (audio cuts)  
5 related to (audio cuts out) service from each year from  
6 1960 all the way forward to the time of retirement.

7 MS. WHIPPLE: Do you recall discussing with the  
8 judge your 2014 depreciation study which was in the 2016  
9 rate case ER2016-0156?

10 MR. SPANOS: I do remember having that discussion  
11 and explaining the methodologies that were used there which  
12 are consistent with what's used here.

13 MS. WHIPPLE: I've handed out your rebuttal  
14 testimony from the 2016 rate case; is that correct?

15 MR. SPANOS: Yes.

16 MS. WHIPPLE: And is it correct that this is just  
17 your rebuttal testimony because we're saving some trees  
18 here and we didn't print out all of the hundreds of pages  
19 of schedules that would have been attached to that?

20 MR. SPANOS: It is correct this is only the  
21 rebuttal testimony. It's not the actual depreciation study  
22 exhibits which were filed at that time.

23 MS. WHIPPLE: Does this rebuttal testimony  
24 reflect the methodology that was utilized for the 2014  
25 depreciation study in any way?

1 MR. SPANOS: It describes the fact that you have  
2 -- the life span approach and remaining life methodology  
3 were determined, and in doing that you calculate the  
4 individual by account rates and then the composite rate by  
5 account which is the overall rate that is being utilized.  
6 So it does have the development of the account rate based  
7 on all the individual rates of each generating location.

8 MS. WHIPPLE: Can you please turn to page 3 of  
9 your rebuttal testimony?

10 MR. CLIZER: Your Honor, I'm going to object.  
11 This document is hearsay at this point because it is --  
12 well, it was prepared in our prior case and it has not been  
13 subject to cross-examination. And because it's attempting  
14 to be brought in through direct -- or redirect, it will not  
15 be subject to cross-examination. He is attempting to  
16 effectively offer new testimony from a prior case without  
17 any cross. I would also point out that that last case was  
18 settled, so this was never offered to the Commission in  
19 that case either.

20 JUDGE HATCHER: Thank you, Mr. Clizer.

21 MS. WHIPPLE: Judge, I think this is fairly in  
22 response to bench questions.

23 JUDGE HATCHER: What was your question? You  
24 started with turn to page 3 and then --

25 MS. WHIPPLE: Yes. Turn to page 3 and I'm trying

1 to show that there's Q and A that starts at the bottom of  
2 page 3 and into page 4 that describes how the whole life  
3 methodology shifted. And then of course this was as of  
4 2016 and the 2016 rate case. This was part of the  
5 discussion that you had with Mr. Spanos.

6 JUDGE HATCHER: Yes, it is. I'm going to allow  
7 the question. And also, I would like to prepare the  
8 parties in advance. The Commission is interested in  
9 getting Mr. Spanos' direct testimony from the complaint  
10 case. I don't know how that is going to proceed quite yet.  
11 I just want to put that thought in everyone's heads. Maybe  
12 we can come up with a solution over the break. I don't  
13 know.

14 MR. CLIZER: To the extent that the Commission is  
15 going to allow in testimony from a prior case that hasn't  
16 been subject to cross, or the testimony from the complaint  
17 case which I imagine was subject to cross, for this case  
18 would it be possible to retain Mr. Spanos in the event that  
19 other parties had cross directly related to either of those  
20 documents. That would seem (audio cuts out) as a due  
21 process.

22 JUDGE HATCHER: That certainly seems reasonable,  
23 Mr. Spanos. I do not know your travel schedule though and  
24 I do not want to impose that. I could offer a WebEx. That  
25 does seem appropriate though if we're going to introduce, I

1 think the two previous testimonies, mine and yours. I'm  
2 seeing nods of assent. Let's go ahead with Ms. Whipple's  
3 question.

4 MS. WHIPPLE: Can you -- I'm orienting you now to  
5 the page 3 and 4 portion of your testimony. Can you point  
6 out to us where you described this methodology that you  
7 were discussing with Judge Hatcher?

8 MR. SPANOS: Well, the discussion in the rates  
9 and how things are moved forward are at the bottom of page  
10 3 where we talk about how a depreciation study is done and  
11 how it's consistent with the rates that were approved based  
12 on the staff report as well as my depreciation study. And  
13 then as we move onto page 4, we talk about the concept of  
14 including -- that in '05 we did not include the life span  
15 approach and we utilized whole life.

16 Now we've moved on to remaining life. And the  
17 purpose of remaining life is to make sure you ensure full  
18 recovery of your investment, no more, no less, and you  
19 monitor that on a unit basis and that's how things are  
20 developed. So this is the process and discussion that is  
21 part of the question and answer on page 3 and 4.

22 MS. WHIPPLE: So the calculations of depreciation  
23 reserves by unit and location developed in 2018, and in  
24 your depreciation study in this case, were a continuation  
25 of the methodologies utilized in ER2016-0156; is that

1 correct?

2 MR. SPANOS: That is correct. Because that's  
3 when the life span and remaining life components were built  
4 in. And as you can see in those calculations and the basis  
5 for the rates that were approved, utilized a calculation by  
6 unit process. It also then moved it forward into the 2018  
7 work and then in this 2021 case, which is consistent with  
8 that process.

9 The only difference during that time is from the  
10 '14 case to the '18 case, for work that was done in the  
11 accounting order, you had to revisit the actual  
12 calculations on that unit basis to understand the whole  
13 life method and the lack of a life span approach that was  
14 not in place up until those times. So you had to revisit  
15 that and assign the appropriate reserve recoveries for each  
16 of those based on how long they have lived at that point in  
17 time.

18 So that's my point. In understanding the fact  
19 that you had a 50-to-60-year asset that's now lived 50 or  
20 60 years, you should have recovery that is pretty close to  
21 the original cost. And that's why these calculations have  
22 shown that for the last 8 years.

23 MS. WHIPPLE: Judge, at this time I would like to  
24 admit what would be Exhibit 88 in the Metro rate case.  
25 Case number ending in -0129. And what would be Exhibit 130



1 in the West rate case ending case number -01380.

2 JUDGE HATCHER: Say that again. I'm not  
3 following. Are we introducing this twice?

4 MS. WHIPPLE: Yes. Mr. Spanos' rebuttal  
5 testimony from the 2016 rate case which would be Exhibit 88  
6 in the Metro case and Exhibit 130 in the West case.

7 JUDGE HATCHER: Okay. To restate that for  
8 everyone, the one exhibit rebuttal testimony which we have  
9 been discussion with Mr. Spanos will serve as two exhibit  
10 numbers. Exhibit 88 in File 0129, and Exhibit 130 in File  
11 0130, coincidentally. Are there any objections to the  
12 admission of the rebuttal testimony?

13 MR. CLIZER: Yes. So I will, once again, renew  
14 my objection. Although, I am fairly certain how the  
15 Commission is going to rule on it. Just to reiterate for  
16 the record, I believe this is hearsay that we have not, as  
17 OPC, had an opportunity to cross-examine, and therefore, it  
18 would be inappropriate to include it.

19 I would also point out that I don't see the  
20 reason for including the Metro portion, even if it's the  
21 same document, because the Sibley issue is exclusive to  
22 West and is also the only version that's been presented.  
23 So as far as including it as two exhibits, I don't see why  
24 that's necessary and would ask for just the West if the  
25 Commission overrules the hearsay objection.

1 MS. WHIPPLE: As far as having it just in the  
2 West case as Exhibit 130, that's fine.

3 JUDGE HATCHER: Let's do that.

4 Are there any other objections?

5 MR. OPITZ: Your Honor, I guess I'm not  
6 necessarily going to object, but I would ask that I'd be  
7 permitted to ask Mr. Spanos a question or two about that  
8 document before he leaves the stand today.

9 JUDGE HATCHER: Yes. This is a point of interest  
10 to the Commission. So yes. More questions would be  
11 appropriate. Let me think through that for a second.  
12 Because I want -- OPC had asked for a little time, I think  
13 was the essence of their question to then come back, and I  
14 am granting that.

15 MR. OPITZ: I just have one question.

16 JUDGE HATCHER: Go ahead and we'll see where  
17 we're at afterwards.

18 MR. FISCHER: Judge, this is Jim Fischer. Mr.  
19 Spanos is available tomorrow and if counsel would like to  
20 look at that overnight and do some cross, he could do that  
21 while he's here. Or whatever.

22 MR. SPANOS: It would be more effective if it  
23 could be done today. I know that's asking a lot of people,  
24 but I do have a flight tomorrow morning. I can try to  
25 change it but that was my concern.

1 MR. CLIZER: Not to add to this, I just need a  
2 little bit of time. I'm not saying that I for certain have  
3 questions. I would offer that MEC, since they have a  
4 question now, be allowed to ask it, and that  
5 Mr. Spanos potentially be brought up at the end of  
6 witnesses today and hopefully some time we'll break for  
7 lunch and that will give me a chance to read it.

8 JUDGE HATCHER: I'm going to go with that  
9 solution.

10 Mr. Opitz, go ahead with your question and I will  
11 try and figure out who gets to ask after that.

12 MR. OPITZ: Thank you.

13 (Exhibit 130 admitted)

14 Mr. Spanos, were rates that you calculated in  
15 this Exhibit 130, in that case adopted for rate making  
16 purposes?

17 MR. SPANOS: The methodologies and concepts were  
18 approved. There was --

19 MR. OPITZ: Mr. Spanos, that wasn't my question.  
20 My question was: were the rates you calculated in that  
21 case adopted for rate making purposes.

22 MR. SPANOS: And the reason why I answered the  
23 question in that fashion is because that was the transition  
24 time period. So staff's position and my position were the  
25 same, but they had to revise the rates from that study to

1 deal with terminal net salvage. That was the difference  
2 between those. The concepts were the same and that was the  
3 point that I was trying to make.

4 MR. OPITZ: Mr. Spanos, the rates you calculated  
5 in that case, in this testimony, were not adopted for rate  
6 making, correct?

7 MR. SPANOS: Not every single account (audio cuts  
8 out).

9 MR. OPITZ: The rates in this testimony were not  
10 adopted for rate making, correct?

11 MS. WHIPPLE: Judge, asked and answered at this  
12 point multiple times.

13 MR. OPITZ: I'll let it go, Judge. Thank you.

14 JUDGE HATCHER: Okay.

15 Okay. I would ask Ms. Whipple a question.  
16 Counsel, I don't want to get into strategy. Is there a  
17 plan to offer Mr. Spanos' direct from 0200 by Evergy, or  
18 should I be prepared to look into how to offer that as a  
19 Commission exhibit?

20 MS. WHIPPLE: Just one moment, please.

21 MR. ZOBRIST: Judge, this is Karl Zobrist. We  
22 don't have an objection to that. We could make it a late  
23 filed exhibit. My understanding is in this case much of  
24 the record, including discovery from the MECG, OPC, AAO  
25 petition was included in this case. So we have no

1 objection.

2 JUDGE HATCHER: Okay. The purpose the Commission  
3 seeks the information is tracing back the calculations.  
4 We'll get to that exhibit a little later. Thank you for  
5 the heads up.

6 We have seemingly revisited  
7 cross-examination. Let's go ahead and we will go back  
8 through the routine and hit all of the available parties  
9 for cross-examination.

10 No? Okay. Mr. Clizer.

11 MR. CLIZER: Theoretically, I think you would  
12 only need to do all the recross after MECG. Unless another  
13 party requests it.

14 JUDGE HATCHER: I'd just as soon open it up.  
15 Does anyone have a question for Mr. Spanos?

16 MS. MERS: Staff does not have any now, but just  
17 to join in with Mr. Clizer's thought that we would -- after  
18 reading both the direct, it sounds like, in the 200 case  
19 and this new exhibit, just potentially may have something,  
20 so I don't want to foreclose anything.

21 JUDGE HATCHER: I will make sure that the  
22 questioning of Mr. Spanos later today is open to all  
23 parties.

24 Any other questions for Mr. Spanos?

25 (No response)

1 Ms. Whipple, redirect, again?

2 MS. WHIPPLE: I would reserve of course for after  
3 the second cross session. But at this time, no further  
4 questions.

5 JUDGE HATCHER: Okay. I'm going to go ahead and  
6 excuse Mr. Spanos for this morning. Before you step down,  
7 sir, I would like to point out it is a couple minutes after  
8 10. Let's take a break until 10:15. Then we will come  
9 back. On my list, the next two are going to be Everygy  
10 witnesses Kennedy and Ives.

11 We're off the record.

12 (Recess taken)

13 JUDGE HATCHER: Let's go back on the record.

14 I have on my schedule eight more witnesses to get  
15 through today.

16 For Everygy, go ahead.

17 UNIDENTIFIED SPEAKER: Judge, can I interrupt for  
18 a moment? You mentioned that the Commission was interested  
19 in seeing Mr. Spanos' direct testimony in the complaint  
20 case, and we're fine with that. He does not have direct.  
21 He has rebuttal testimony in that case.

22 JUDGE HATCHER: And I just looked at my note and  
23 I misread your testimony. So yes. His testimony from 0200  
24 is what the Commission is interested in.

25 UNIDENTIFIED SPEAKER: Testimony. Okay. I think

1 it's rebuttal, so we'll double check that.

2 JUDGE HATCHER: We will have time to circle back  
3 around.

4 Everyy, go ahead and call your next witness.

5 UNIDENTIFIED SPEAKER: Thank you, Judge. Everyy  
6 calls Larry Kennedy to the stand.

7 JUDGE HATCHER: Mr. Kennedy, I'll remind you as I  
8 have all of our witnesses, for the benefit of our future  
9 court reporter, please talk into the microphone and speak  
10 slowly.

11 Please raise your right hand.

12 (Larry Kennedy sworn)

13 JUDGE HATCHER: Thank you, sir. Please have a  
14 seat.

15 Your witness.

16 UNIDENTIFIED SPEAKER: Thank you, Judge.

17 Please state your name and state it slowly.

18 MR. KENNEDY: Larry Edwin Kennedy. That's K-e-  
19 n-n-e-d-y.

20 UNIDENTIFIED SPEAKER: And by whom are you  
21 employed?

22 MR. KENNEDY: Concentric Energy Advisors.

23 UNIDENTIFIED SPEAKER: And what is your position  
24 there?

25 MR. KENNEDY: I am a senior vice president.

1 UNIDENTIFIED SPEAKER: Mr. Kennedy, did you  
2 prepare in this case direct testimony which has been marked  
3 Exhibit 114 and rebuttal testimony which has been marked  
4 Exhibit 129?

5 MR. KENNEDY: I did.

6 UNIDENTIFIED SPEAKER: Do you have any  
7 corrections to those exhibits?

8 MR. KENNEDY: I do not.

9 UNIDENTIFIED SPEAKER: And if I were to ask you  
10 the questions contained in Exhibit 114 and Exhibit 129,  
11 would your answers be as set forth in those exhibits?

12 MR. KENNEDY: They would.

13 UNIDENTIFIED SPEAKER: And what your testimony  
14 given under oath?

15 MR. KENNEDY: It was.

16 UNIDENTIFIED SPEAKER: Judge, I move the  
17 admission of Exhibit 114, Mr. Kennedy's direct testimony.  
18 And Exhibit 129, Mr. Kennedy's rebuttal testimony.

19 JUDGE HATCHER: Thank you. And I'll ask in one  
20 combined question, are there any objections to the  
21 admission of Exhibit 114 or 129?

22 (No response)

23 Hearing none, they are so admitted. Go ahead.

24 (Exhibits 114 and 129 admitted)

25 UNIDENTIFIED SPEAKER: Thank you, Judge. And I



1 tender Mr. Kennedy for cross-examination.

2 JUDGE HATCHER: Thank you. Let's get our order  
3 of cross. Again, I will go through some of the excused  
4 parties, just to inquire if they are here.

5 Charge Point.

6 (No response)

7 Google.

8 (No response)

9 Nucor.

10 MR. ELLINGER: No questions, Your Honor.

11 JUDGE HATCHER: Velvet Tech.

12 MS. BELL: No questions, Your Honor.

13 JUDGE HATCHER: City of St. Joseph.

14 (No response)

15 Dogwood.

16 (No response)

17 Sierra Club.

18 (No response)

19 Renew Missouri.

20 MS. GREENWALD: No questions, Your Honor.

21 JUDGE HATCHER: And staff.

22 MS. MERS: Briefly, Your Honor.

23 Mr. Kennedy --

24 JUDGE HATCHER: This is Nicole Mers.

25 MS. MERS: I apologize.

1 JUDGE HATCHER: No, no. I forgot this morning,  
2 too. My apologies. Go ahead.

3 MS. MERS: Mr. Kennedy, in your direct testimony  
4 on page 18, you reference a NARUC depreciation manual to  
5 support your contention that return of and on is proper.  
6 Do you recall that testimony?

7 MR. KENNEDY: I do.

8 MS. MERS: Do you recall what year that manual  
9 was written?

10 MR. KENNEDY: 1960 something.

11 MS. MERS: Okay. And do you recall, on the  
12 following pages in your direct, referencing a text by James  
13 Bonbright to support the contention that Commission's  
14 widely support return of and on (audio cuts out).

15 MR. KENNEDY: That publication -- the initial  
16 publication, I believe, was written in 1961.

17 MS. MERS: Okay. And then you also discuss in  
18 your direct two public utility commission decisions on  
19 retirement. I believe that's on page 34. Do you recall  
20 that?

21 MR. KENNEDY: I do.

22 MS. MERS: In the Alabama decision that you  
23 reference, isn't it true that the regulatory assets were  
24 established prior to the retirement of the plants?

25 MR. KENNEDY: I do believe that is the case.

1 MS. MERS: And you also discuss a Colorado  
2 decision. And do you recall when that case was decided?

3 MR. KENNEDY: I think the decision was in 2009.

4 MS. MERS: Thank you very much. I have nothing  
5 further.

6 JUDGE HATCHER: Thank you, Ms. Mers.

7 MIEC.

8 (No response)

9 Mr. Opitz for MECG.

10 MR. OPITZ: No thank you, Judge.

11 JUDGE HATCHER: And Mr. Clizer for OPC.

12 MR. CLIZER: No questions. Thank you, Your  
13 Honor.

14 JUDGE HATCHER: Thank you. The bench has no  
15 questions. That would take us to redirect.

16 UNIDENTIFIED SPEAKER: Just briefly, Judge.

17 Mr. Kennedy, Ms. Mers on behalf of staff asked  
18 you about the decisions and the treatises that you cited  
19 with regarding return on and return of issues. Do you  
20 recall that, sir?

21 MR. KENNEDY: I do.

22 UNIDENTIFIED SPEAKER: Okay. And since the  
23 1960s, what has been the recent trend in these kinds of  
24 cases where return on and return of have been discussed and  
25 decided by public utility commissions in the United States?

1 MR. KENNEDY: So since the 1960s, it's -- there  
2 was a period of time when there was a variety of decisions.  
3 Most, I would say, have allowed the return of investment,  
4 and most, if not -- or many, if not most, have allowed the  
5 return of investment in one form or another. Either  
6 through being included in a rate base (audio cuts out) or  
7 the regulatory assets they were allowed to have a return on  
8 (audio cuts out) associated with them.

9 Through the early 2000s, I would I say we saw  
10 many mixed decisions. And I would suggest that from  
11 approximately the mid 20-teens, 2014, '15, through now,  
12 we've seen a predominance of decisions that allow both a  
13 return of and on the retirements of assets. And again,  
14 that return may be in the form of the net book value going  
15 back into rate base, or it may be the net book value going  
16 into repertory assets of some form and having a return on  
17 it of that investment through the repertory asset  
18 (inaudible).

19 UNIDENTIFIED SPEAKER: For a period of years.

20 MR. KENNEDY: For a period of years.

21 Particularly when it goes in through the repertory asset  
22 there's usually a time period associated with the recovery  
23 and amortization of the reg. asset.

24 UNIDENTIFIED SPEAKER: Thank you, Judge. That's  
25 all I have.

1 JUDGE HATCHER: Thank you, Mr. Kennedy. You are  
2 excused.

3 MR. KENNEDY: Thank you.

4 JUDGE HATCHER: Mr. Ives. Welcome back. I'll  
5 remind you as I tried to, please speak slowly for our  
6 future court reporter and into the microphone.

7 Please raise your right hand, sir.

8 (Darrin Ives sworn)

9 JUDGE HATCHER: Thank you. Please have a seat.  
10 Your witness.

11 MR. STEINER: Please state your name for the  
12 witness.

13 MR. IVES: My name is Darrin Ives, I-v-e-s.

14 MR. STEINER: Mr. Ives, where do you work and  
15 what is your position there?

16 MR. IVES: I work for Evergy, and I am the vice  
17 president of regulatory affairs.

18 MR. STEINER: Mr. Ives, did you cause to be filed  
19 in this case -- and when I say this case, the Evergy Metro  
20 case 0129 -- direct testimony that has been marked as  
21 Exhibit 39, rebuttal testimony, the confidential version  
22 which has been marked as Exhibit 40, public version of your  
23 rebuttal testimony which has been marked as Exhibit 41,  
24 surrebuttal testimony which has been marked as Exhibit 42,  
25 and in the Evergy Missouri West direct testimony that has

1 been marked as Exhibit 113? Did you cause those to be  
2 filed?

3 MR. IVES: I did.

4 MR. STEINER: Do you have any corrections to  
5 those testimonies?

6 MR. IVES: None that I'm aware.

7 MR. STEINER: Are the answers contained in those  
8 testimonies that I listed true and correct to the best of  
9 your knowledge, and understanding, and belief?

10 MR. IVES: Yes, they are.

11 MR. STEINER: Your Honor, I'd like to move for  
12 admission of Ives' direct, rebuttal, and surrebuttal  
13 testimony in the Missouri Metro case and the Ives direct  
14 testimony in Missouri West case.

15 JUDGE HATCHER: Thank you.

16 And speaking was Roger Steiner, counsel for  
17 Everygy.

18 Counsel, you have heard the question. I am going  
19 to combine them as I usually do. Are there any objections  
20 to the admission of the aforementioned exhibits? I'll  
21 repeat the numbers. 39, 41, 42, or 113. Any objections?

22 MR. IVES: Judge, I'm sorry. Can I ask a  
23 question?

24 JUDGE HATCHER: Yeah.

25 MR. IVES: I believe Mr. Steiner just referred to

1 my rebuttal and sir rebuttal as applicable to Metro. Both  
2 of them cover both companies, both 0129 and 0130.

3 MR. STEINER: Thank you, Mr. Ives. That was my  
4 mistake. Yes. Those testimonies do cover both cases.

5 JUDGE HATCHER: Understood. We will have the  
6 record reflect that the testimony offered in 0129 in fact  
7 does address 0130, as well.

8 Any objections?

9 UNIDENTIFIED SPEAKER: Not an objection. I just  
10 want a clarification. If I remember correctly from your  
11 order, there were two sets of exhibit numbers from Metro  
12 and West. So are they two different exhibits? I'm just  
13 trying to figure out how that works. Sorry.

14 JUDGE HATCHER: With a lot of the filings -- I'm  
15 sorry if I cut you off. With a lot of the filings, we have  
16 had double numbers indicating that they're being filed in  
17 both cases. Let me back up. The Commission wants to keep  
18 the two rate cases separate for whatever happens after the  
19 Commission's decision, for the ease of keeping the record  
20 together. For our purposes, I'm not too worried about  
21 identifying the number because it's going to be in our  
22 briefs and our order that all of us in the room are writing  
23 as to how we refer to that exhibit.

24 UNIDENTIFIED SPEAKER: Okay. Because you gave 0  
25 through 100 for like EMM and 100 through --

1 JUDGE HATCHER: Oh, I see.

2 UNIDENTIFIED SPEAKER: We actually filed two  
3 testimonies in direct, one for Metro, one for West. But  
4 then the rebuttal and surrebuttal, we filed one testimony,  
5 but it applies to both cases.

6 UNIDENTIFIED SPEAKER: So it would be like (audio  
7 cuts out) a number for West and a separate evidentiary  
8 number being offered for Metro. The exhibit would have two  
9 different exhibit numbers on it, based on the Commission's  
10 order.

11 UNIDENTIFIED SPEAKER: We don't have it set up  
12 that way. We just have the -- we have separate when we  
13 filed two separate testimonies. But when we file one  
14 testimony, we just use the Metro numbering system.

15 JUDGE HATCHER: I understand the confusion. To  
16 me it seems more theoretical than practical, and therefore,  
17 I'm going to let it go. I also made some mistakes in that  
18 order, not specifying that confidential testimony would  
19 have the same number as the public but just with the C  
20 designation. So the presiding officer certainly takes some  
21 responsibility for that. Noted and will be fixed in the  
22 future, sir. Thank you.

23 Let me get back to my question. Any objections  
24 to the admission of the various testimonies of Mr. Ives  
25 that may or may not apply to both cases?



1 (No response)

2 Hearing none, they're so admitted.

3 Thank you, sir.

4 (Exhibits 39, 41, 42, and 113 admitted)

5 JUDGE HATCHER: Everyg.

6 MR. STEINER: Thank you, Your Honor. I tender  
7 this witness for cross-examination.

8 JUDGE HATCHER: Thank you and we will go again  
9 quickly through those excused.

10 Charge Point.

11 (No response)

12 Google.

13 (No response)

14 Nucor.

15 MR. ELLINGER: No questions, Judge.

16 JUDGE HATCHER: Velvet Tech.

17 MS. BELL: No questions, Your Honor.

18 JUDGE HATCHER: City of St. Joseph.

19 (No response)

20 Dogwood.

21 (No response)

22 Sierra Club.

23 (No response)

24 Renew Missouri.

25 MS. GREENWALD: No questions, Your Honor.

1 JUDGE HATCHER: Staff counsel.

2 MS. MERS: No questions, Your Honor.

3 JUDGE HATCHER: MIEC.

4 (No response)

5 MECG. Mr. Opitz.

6 MR. OPITZ: No thank you, Your Honor.

7 JUDGE HATCHER: Office of Public Counsel, OPC.

8 MR. CLIZER: No thank you, Your Honor.

9 JUDGE HATCHER: The bench does have a few  
10 questions. Before I get to mine, I'd like to ask if any of  
11 the commissioners have any questions for Mr. Ives? Again,  
12 it is star 6 to unmute.

13 CHAIRMAN SILVEY: No questions, Judge.

14 JUDGE HATCHER: Thank you, Chairman.

15 And for the record, all five of our commissioners  
16 are on the WebEx.

17 Mr. Ives, OPC's opening statement caught my  
18 attention a little bit, and I would like to follow up with  
19 an opportunity. Why didn't Evergy replace Sibley?

20 MR. IVES: Why didn't we replace it? Well, it  
21 caught my attention too, for another reason. But in  
22 regards to your question, why didn't we replace Sibley?  
23 There's a lot of factors that go into integrated resource  
24 planning. Certainly, Ms. Messamore will be here next week  
25 and she's our expert in that area, so she'll be able to

1 elaborate.

2           But when we look at the analysis, a couple things  
3 we know, right. We're probably not replacing it with a  
4 nuclear facility. We're probably not replacing it with a -  
5 - in today's environment, with a coal facility. Natural  
6 gas is difficult on a lot of fronts. Some because of the  
7 volatility in natural gas pricing, but mostly in our  
8 service territory because of the availability, natural gas  
9 on a firm basis and the availability to get it to  
10 facilities.

11           So at this time, we have utilized our  
12 participation in SPP. And what we did do at the time that  
13 we retired Sibley is we did an RFP to enter into a capacity  
14 agreement to make sure that West could sufficiently meet  
15 its capacity obligations on a standalone utility basis to  
16 SPP. We ended up entering that agreement with Evergy Metro  
17 after conclusion and evaluation of the RFP. But we did put  
18 a five-year term capacity arrangement in effect to take  
19 care of that. And then the energy is, at this stage, being  
20 procured in the SPP market at the day ahead or real time  
21 price under the market.

22           JUDGE HATCHER: And again, this is Judge Hatcher.  
23           I may be misremembering. Did Evergy Missouri  
24 Metro have excess capacity? Or I might have that  
25 backwards. Missouri West.

1           MR. IVES: Metro has historically had some  
2 capacity in excess of the SPP requirements. That's why  
3 they were able to bid into the RFP for West. West was  
4 short at the time, which is why they needed to go out and  
5 fill a capacity contract.

6           JUDGE HATCHER: In my mind, the question that is  
7 raised is maybe more of a philosophical one because after  
8 hearing OPC's opening statement, my first thought was if  
9 you're not producing electricity, this may be a new entity  
10 in Missouri. One that is just distributing. But it sounds  
11 like this was one of many generation plants. And I haven't  
12 heard you comment on future plans, and I don't want to ask  
13 about those (audio cuts out).

14          MR. IVES: If this would help, I would tell you  
15 that we have filed integrated resource plans. We do on a  
16 tri-annual basis, and we do annual updates. And those are  
17 overseen and prepared by Ms. Messamore. So if the judge or  
18 the Commission has questions on future plans, she'd be  
19 available to address those next week.

20          JUDGE HATCHER: Thank you. I appreciate that.  
21 Kind of the second area that really caught my ear was the  
22 description of Evergy discovering that Sibley had some  
23 mechanical issues, I guess, and needed the \$2 million  
24 upgrade. And what looks like a beneficial -- or depending  
25 on your point of view, a terrible coincidence, that as the

1 rate case is going on and decided, Evergy then later makes  
2 the decision to go ahead and close Sibley permanently.

3 I do understand the background, and for the  
4 record, my understanding is that conversation had been  
5 going on and notice to the Commission had already occurred  
6 in years prior. But that timing, I think the question is  
7 is that a coincidence or purposeful? So I would like to  
8 hear from Evergy kind of what your view of that difference.  
9 And I understand there's going to be a lot of levels  
10 between the person at Sibley, boots on the ground, and  
11 getting the message up the flagpole. So if you could give  
12 me your thoughts on that.

13 MR. IVES: Yeah. So I really appreciate that  
14 question because there's some pretty interesting testimony  
15 in this docket from both myself and other parties on this  
16 topic, and it's worth clarifying.

17 There's a lot of questions on that timing. The  
18 first question on that timing was before we ever filed a  
19 case, as you alluded to, there were a number of  
20 communications about the expected planned retirement of the  
21 Sibley units. And it was out there that we expected them  
22 to be retired at the end of 2018.

23 We filed a case. Based upon the primary driver  
24 of that case, had nothing to do with Sibley. It was about  
25 bringing in our customer billing system that we had

1 upgraded that was a short-lived IT system that it's  
2 important to time cases to boost the in service with  
3 something like that because they recover over fairly short  
4 windows. So to the extent you don't time that well, you  
5 cannot recover as a company significant amounts of an IT  
6 system like that.

7           So with that said, we knew that the likely true-  
8 up in that case to put that computer system in was going to  
9 be June 30 of 2018, which was before our expected  
10 retirement of Sibley. The historical treatment in the  
11 state of Missouri has been to have a hard cut off at true-  
12 up for the determination of rate based and costs.

13           My position in that case which is articulated in  
14 a lot of testimony was Sibley, if they (audio cuts out)  
15 retired at the end of December would be past the time of  
16 effective data rates and six months past the time of the  
17 true-up in that case and was not ripe to be addressed in  
18 that rate case. I filed a lot of testimony on that. The  
19 parties disagreed. So we had some discussion, but  
20 ultimately, there was a settlement agreement that moved  
21 forward with that treatment and the revenue requirement not  
22 addressing Sibley at that time.

23           Then we had the unit trip and the turbine damage.  
24 Happened on September 5th, in the midst of the case. Not  
25 uncommon to have some forced outages at units. This one

1 happened to be at Sibley unit 3 which was near the term of  
2 its expected retirement. We did the work that would have  
3 been expected to be done. We made an initial assessment.  
4 We (audio cuts out) the turbine and see what potential  
5 damage happened what would be (audio cuts out). And as you  
6 mentioned, we ultimately determined that it was going to be  
7 about \$2.2 million and a period of time to invest and do  
8 that work.

9 We should just address the email that is part of  
10 this discussion while we're at it. Dr. Mark talks about an  
11 email that was circulated by the vice president of  
12 generation on the 2nd of October. In that email he said,  
13 "We've made our assessment of the options to proceed, and  
14 we intend to move forward and work towards retirement of  
15 Sibley 3 and make contacts."

16 What happened from there which is not in  
17 Dr. Mark's testimony, but it was in the complaint case is  
18 there was a communication back from our chief operating  
19 officer in response to that email on the 3rd that says,  
20 "(Audio cuts out) and recommendation," but essentially  
21 said, "You don't have the final say on this decision. You  
22 need to bring that in front of the broader officer team and  
23 executives, and ultimately, we will probably have to inform  
24 and discuss with our board of directors before we make a  
25 final retirement decision."

1           And then there's further email strings that  
2 ultimately take us to the final decision after all those  
3 steps were taken to retire Sibley. And that decision was  
4 made on November 13th. So still within the time frame that  
5 the Commission was working through its order. Maybe had  
6 issued its order by that point because rates went effective  
7 on December 6th. But before rates took effect.

8           It doesn't change the fact that the retirement,  
9 for whatever purpose, happened after the true-up period in  
10 that case. And I think the last thing I would say is it's  
11 fair to look at the opposite side. Had we been planning to  
12 put an investment in place, at December 31st, the  
13 Commission and the parties would have said, "That's past  
14 the true-up period and you don't get to put an investment  
15 in in these rates." Had we closed that investment early,  
16 in September, or October, or November, the parties would  
17 have continued to say that "You don't get to put that  
18 investment and rates in this case because the true-up was  
19 June."

20           That's how we handled the retirement from  
21 Everygy's perspective. It was not a game. It was following  
22 what we knew the historical treatment had been for true-ups  
23 in rate cases and what the treatment would have been if the  
24 inverse had been true, and we had been putting an  
25 investment in and not taking one out. That was our



1 thought. That was what the testimony that I gave (audio  
2 cuts out). The testimony that I gave in the complaint case  
3 articulated it.

4 JUDGE HATCHER: I'm going to rephrase and ask, if  
5 I'm rephrasing correctly, based on Evergy's experience with  
6 a hard true-up date, the expense of building new generation  
7 would be borne solely by the shareholders until the new  
8 plant is A, used and useful, and B, Evergy files their next  
9 rate case. So -- let's stop there. Is that a good  
10 summary?

11 MR. IVES: Yes, generally. I mean, a couple  
12 things that could be said. Probably fair to say we could  
13 file for an accounting authority order. The one thing that  
14 is true to your statement is we would not have been allowed  
15 to include it in a rate case that had a true-up of June 30,  
16 2018, based on any historical experience I've had with  
17 these parties or the Commission.

18 JUDGE HATCHER: Can you expand on how Evergy took  
19 its ratepayers into consideration in that calculation of  
20 ending generation and replacing it, at least temporarily,  
21 with purchased power?

22 MR. IVES: Yeah. I mean, I think we took the  
23 ratepayers into consideration as we would when we have  
24 regulatory lag timing differences on the other side of the  
25 equation. That there are only so many things that are

1 allowed to be done within the true-up of a case,  
2 historically, in this jurisdiction. I should say the same  
3 holds true for the other jurisdiction I worked in in  
4 Kansas. I'm not just saying Missouri, I'm saying it  
5 because we're here. We have a historical construct in  
6 Kansas, as well.

7           And that there are avenues for parties, should we  
8 come out of a rate case, and we ultimately have positive  
9 regulatory lag, which is what the Sibley situation could  
10 have occurred in. Where there's a process in front of this  
11 Commission to file a complaint and (audio cuts out)  
12 earnings. Just like parties would say if don't get an  
13 investment in by the true-up, there's a process for us to  
14 do that. Which often is said, "You control the timing of  
15 your rate cases, Evergy. You can file a case and bring it  
16 in."

17           JUDGE HATCHER: And that's your responsibility to  
18 the shareholders.

19           MR. IVES: I have a responsibility to  
20 shareholders and ratepayers, no doubt about that. But I  
21 also have a responsibility to follow the process  
22 consistently that's laid out in front of me in the state of  
23 Missouri.

24           JUDGE HATCHER: Thank you. That's all the  
25 questions that I have. That will take us to

1 recross-examination and let's go to our handy list. Again,  
2 I'll go fast over the parties that have been excused just  
3 in case they have walked into the room.

4 Charge Point.

5 (No response)

6 Google.

7 (No response)

8 Nucor.

9 MR. ELLINGER: No questions, Judge.

10 JUDGE HATCHER: Velvet Tech.

11 MS. BELL: No questions, Your Honor.

12 JUDGE HATCHER: City of St. Joseph.

13 (No response)

14 Dogwood.

15 (No response)

16 Sierra Club.

17 (No response)

18 Renew Missouri.

19 MS. GREENWALD: No questions, Your Honor.

20 JUDGE HATCHER: Staff counsel.

21 (No response)

22 MIEC.

23 (No response).

24 Next is Mr. Opitz with MECG.

25 MR. OPITZ: No thank you, Judge.

1 JUDGE HATCHER: And Mr. Clizer, OPC.

2 MR. CLIZER: Yes, Your Honor.

3 JUDGE HATCHER: Go ahead.

4 MR. CLIZER: Good afternoon, Mr. Ives. Oh,  
5 morning still. Pardon me. Good morning, Mr. Ives.

6 MR. IVES: Good morning. It feels like  
7 afternoon.

8 MR. CLIZER: It does. I want to make sure that  
9 the record is very clear to start with. The Sibley  
10 Generating Facility had stopped functioning by the end of  
11 October.

12 MR. IVES: Well, technically, the Sibley unit did  
13 not generate electricity after it tripped on the 5th of  
14 September. But as I mentioned, we made the official  
15 determination the 13th of November to retire it after  
16 speaking with management and the board.

17 MR. CLIZER: So we would agree that the plant had  
18 ceased generating electricity long before the decision to  
19 formally retire it had occurred.

20 MR. IVES: When we had the forced outage, it was  
21 not able to generate any longer.

22 MR. CLIZER: And now, I know you mentioned this,  
23 but you would agree with me that Evergy has the ability to  
24 determine when it comes in for a rate case.

25 MR. IVES: We do.

1 MR. CLIZER: And you also have the ability to  
2 determine or request what the true-up period of a rate case  
3 should be, correct?

4 MR. IVES: Within a pretty limited bound based on  
5 the schedule, right. I mean, we all as parties, once a  
6 case is a filed, know roughly what that time frame is for  
7 true-up. It may move within a month of each other once a  
8 case is filed.

9 MR. CLIZER: But if Everyg knew that it was going  
10 to have a significant investment coming in shortly after  
11 what it expected to be the end of a rate case, it could, in  
12 theory, ask for an isolated adjustment to address that,  
13 could it not?

14 MR. IVES: I've tried that before; I've never  
15 been successful.

16 MR. CLIZER: And you mentioned a process by which  
17 the company could, or other parties could address the issue  
18 related similar to Sibley, right?

19 MR. IVES: Can you restate that? I missed that.

20 MR. CLIZER: Certainly. You mentioned a process  
21 by which other parties could address a situation similar to  
22 Sibley regarding filing a complaint case. Do you recall  
23 that?

24 MR. IVES: I do recall that.

25 MR. CLIZER: And that's what happened in this

1 case, correct?

2 MR. IVES: It is from an AAO standpoint. I think  
3 the appropriate form would have been an over earnings  
4 complaint, but that was not the Commission's decision.

5 MR. CLIZER: No further questions. Thank you.

6 JUDGE HATCHER: And redirect, Everygy.

7 MR. STEINER: Thank you, Judge. Just briefly.

8 Mr. Ives, you recall discussing an RFP for excess  
9 capacity that Metro issued? Or excuse me, that West  
10 issued.

11 MR. IVES: Yeah, thanks. West issued that and I  
12 think I mentioned to the judge that, ultimately, Metro  
13 ended up being the supplied.

14 MR. STEINER: And why were they chosen? Do you  
15 recall?

16 MR. IVES: They were the best price opportunity  
17 for West. Primarily because they have a kind of integrated  
18 transmission service that other suppliers for capacity  
19 wouldn't have.

20 MR. STEINER: And I think there was some -- there  
21 was discussion with the judge about West's other  
22 generation. West has other generation besides Sibley,  
23 correct?

24 MR. IVES: It does. It does. We have an  
25 ownership interest in Jeffrey units. We have some natural

1 gas units. We have ownership units in the Iatan Station  
2 that not only Metro, but some other parties have interest  
3 in, as well.

4 MR. STEINER: Do you recall a discussion with the  
5 judge where he said, "Where did you take the ratepayers  
6 into consideration?"

7 MR. IVES: I do recall that.

8 MR. STEINER: Does the IRP that the company  
9 conducted show that closing Sibley was a benefit for  
10 ratepayers?

11 MR. IVES: Absolutely. I think Ms. Messamore has  
12 that in testimony. But it was in the range of a couple  
13 hundred million dollars on a net present value revenue  
14 requirement basis to retire Sibley under our IRP scenarios.

15 MR. STEINER: You also were talking to  
16 Mr. Clizer about the forced outage. Do you recall that?

17 MR. IVES: I do.

18 Mr. STEINER: Can you tell us did the company  
19 evaluate repair of Sibley after that?

20 MR. IVES: We did. We evaluated repair. We  
21 evaluated early retirement. It's probably the last piece  
22 of information that I didn't put in my response to Judge  
23 Hatcher, but it's related to this, right. I mean, when you  
24 think about repair, one of the reasons you do that and you  
25 take that to the senior executive team, and ultimately,

1 discussion with the board, is because you want to make sure  
2 that you've considered anything that's going on in the  
3 broader SPP market or any concerns at other generating  
4 facilities that might make it the option that you should  
5 extend the life past that expected retirement date to have  
6 appropriate availability and reliability for customers.  
7 That was the reason why we would consider repair, and that  
8 ultimately, was determined not to be the path but it was a  
9 consideration.

10 MR. STEINER: So the bigger picture of spending  
11 money to repair the plant was evaluated before the decision  
12 was made to shut it down; is that correct?

13 MR. IVES: Yes. I mean, there was a month plus  
14 of considerations that were given to scenarios around  
15 Sibley before we coalesced on the earlier retirement.

16 MR. STEINER: And those scenarios being market  
17 conditions, upcoming other conditions in the market?

18 MR. IVES: Yeah. As I mentioned, it's what's  
19 going on in the board SPP market that could impact  
20 reliability. What's going on in the remainder of our  
21 fleet. Did we have any long term extended outages that  
22 would impact customer reliability that we could mitigate by  
23 spending the 2.21 million and operating Sibley possibly  
24 longer than the December 31st expected retirement date.

25 MR. STEINER: Okay. Thank you. You had a



1 discussion with the judge about emails that were mentioned  
2 in Mr. Mark's testimony, that when emails were discussing  
3 the Sibley plant. Do you recall that?

4 MR. IVES: I do. I was mentioning to Judge  
5 Hatcher that Dr. Mark referenced some October 2nd emails.  
6 I think he supplied the text in his testimony, actually,  
7 from those emails. But did not mention the follow up  
8 emails that occurred on the topic after October 2nd.

9 MR. STEINER: Your Honor, may I approach?

10 JUDGE HATCHER: Yes.

11 MR. STEINER: Judge, in the procedural order in  
12 this case, there is a provision on page 6 that data  
13 requests in the EC2019-0200 case could be treated as having  
14 been made in these cases. And so I'd like to use that  
15 provision to talk to Mr. Ives about a DR in that case which  
16 has the full set of emails that Mr. Ives was talking about.  
17 And I'd like to get this admitted into the record once he  
18 identifies it.

19 JUDGE HATCHER: Are there any objections?

20 UNIDENTIFIED SPEAKER: I have no objection to  
21 using the DR per the Commission's order if Mr. Ives lays  
22 the foundation. Yeah.

23 JUDGE HATCHER: Okay. Go ahead.

24 MR. STEINER: Mr. Ives, I've handed you a  
25 document. Do you agree that this is the email chain that

1 is referenced in your discussion with the judge regarding  
2 an October 2nd email and emails following that?

3 MR. IVES: Yeah. It's actually a pretty  
4 extensive string of emails that were evaluated around the  
5 turbine trip that starts back in September, where we start  
6 to get some preliminary analysis back from the operations  
7 team on what they've identified as they've started to  
8 unpack the cause of the forced outage in early September.

9 It goes through the October 2nd emails that Dr.  
10 Mark refers to in his testimony. And then progresses  
11 forward from there in terms of the response to that email  
12 that was provided on October 3rd by Mr. Kevin Bryant, B-r-  
13 y-a-nt. Mr. Bryant was Mr. Anstaett's direct supervisor  
14 and is our chief operating officer, and was at the time, as  
15 well. And then has some further emails on the topic that  
16 take us through to the November 13th official decision to  
17 retire Sibley after senior officer communications and board  
18 discussions.

19 So that's what it is. I am on virtually all of  
20 these emails in here, so certainly was aware of the  
21 progression, the string that this email represents, as well  
22 as all other in person or verbal discussions that happened  
23 with this team during this window of evaluating the Sibley  
24 forced outage.

25 MR. STEINER: Your Honor, this is a company

1 response to an OPC DR in the complaint case. I believe Mr.  
2 Ives has identified the materials and I would ask for its  
3 admission as Exhibit 130. Sorry, 131.

4 JUDGE HATCHER: I'll go with 130 because I think  
5 Ms. Whipple's earlier offering was only 88.

6 MR. STEINER: I think she offered 130 and took  
7 away 88. So I would make this 88. Excuse me. Yes. I  
8 would make this 131.

9 JUDGE HATCHER: You are correct.

10 Okay. You have heard the offer by  
11 Mr. Steiner. Exhibit 131 which is the KCPL GMO response to  
12 the data request 1039.

13 MR. STEINER: Correct.

14 JUDGE HATCHER: Are there any objections to the  
15 admission of that exhibit?

16 (No response)

17 Hearing none, so admitted.

18 (Exhibit 131 admitted)

19 MR. STEINER: That's all I have, Your Honor.

20 Thank you.

21 JUDGE HATCHER: Thank you.

22 Mr. Ives, you are excused.

23 MR. IVES: Thank you.

24 JUDGE HATCHER: Just a quick note. It is  
25 11 o'clock. I do intend to break a little bit before noon,

1 5 or 10 minutes, give or take. And we have six witnesses  
2 by my scorecard remaining.

3 Everyy, call your next witness.

4 MR. ZOBRIST: Everyy calls John Reed to the  
5 stand.

6 JUDGE HATCHER: And that was Mr. Zobrist.

7 Mr. Reed is proceeding to the stand and Judge  
8 Hatcher will swear him in.

9 Please raise your right hand, sir.

10 (John Reed sworn)

11 JUDGE HATCHER: Thank you. Please have a seat.  
12 Everyy, your witness.

13 MR. ZOBRIST: Thank you, Judge.

14 Please state your name

15 MR. REED: My name is John J. Reed.

16 MR. ZOBRIST: And where are you employed, sir?

17 MR. REED: I am employed at Concentric Energy  
18 Advisors Inc.

19 MR. ZOBRIST: And what is your position there?

20 MR. REED: I'm the chairman and chief executive  
21 officer of the company.

22 MR. ZOBRIST: Mr. Reed, have you prepared in this  
23 case surrebuttal testimony that has been marked as Exhibit  
24 124?

25 MR. REED: Yes, I have.

1 MR. ZOBRIST: Do you have any corrections or  
2 changes to that testimony?

3 MR. REED: No, I do not.

4 MR. ZOBRIST: And if I were to ask you those  
5 questions, would your answers be as set forth in Exhibit  
6 124?

7 MR. REED: Yes, they would.

8 MR. ZOBRIST: And were your responses given under  
9 oath?

10 MR. REED: That is correct, they were.

11 MR. ZOBRIST: Judge, at this time, I offer  
12 Exhibit 124 into evidence.

13 JUDGE HATCHER: Counsel, you have heard the  
14 motion by Mr. Zobrist. Are there any objections to the  
15 admission of Exhibit 124?

16 (No response)

17 Hearing none, it is so admitted. Go ahead.

18 (Exhibit 124 admitted)

19 MR. ZOBRIST: Thank you, Judge. I tender Mr.  
20 Reed for cross-examination.

21 JUDGE HATCHER: Thank you. And again, we'll read  
22 through the excused parties quickly.

23 Charge Point.

24 (No response)

25 Google.

1 (No response)  
2 Nucor.  
3 MR. ELLINGER: No questions, Judge.  
4 JUDGE HATCHER: Velvet Tech.  
5 MS. BELL: No, Your Honor.  
6 JUDGE HATCHER: City of St. Joseph.  
7 (No response)  
8 Dogwood.  
9 (No response)  
10 Sierra Club.  
11 (No response)  
12 Renew Missouri.  
13 MS. GREENWALD: No questions, Your Honor.  
14 JUDGE HATCHER: Staff counsel.  
15 MS. MERS: No thank you, Your Honor.  
16 JUDGE HATCHER: MIEC.  
17 (No response)  
18 And next, Mr. Opitz with MECG.  
19 MR. OPITZ: No questions, Judge.  
20 JUDGE HATCHER: And Mr. Clizer with OPC.  
21 MR. CLIZER: No questions, Your Honor.  
22 JUDGE HATCHER: Thank you. That brings us to  
23 commissioner questions. Are there any commissioner  
24 questions for Mr. Reed?  
25 (No response)

1           Hearing none, the bench also has no questions.

2   And I believe that takes us to redirect.

3           MR. ZOBRIST: I'd love to ask some redirect  
4   questions, Judge but I don't think I'm going to be able to  
5   do that without a lot of objections.

6           JUDGE HATCHER: Thank you. I will overrule  
7   myself and we'll move on.

8           Thank you, Mr. Reed.

9           Thank you. I appreciate the help,  
10   Mr. Zobrist.

11           Let's move to staff's witnesses.

12           MR. STEINER: Your Honor, could I interrupt?  
13   This Roger Steiner.

14           JUDGE HATCHER: Yes.

15           MR. STEINER: The parties and the Commission were  
16   gracious enough to waive the cross of Mr. Klote and would  
17   like to get his testimony admitted into the record. Could  
18   I do that now?

19           JUDGE HATCHER: Yes, please.

20           MR. STEINER: I believe it's Klote direct Exhibit  
21   44, Klote rebuttal 44, surrebuttal and true-up direct 46,  
22   true-up rebuttal 47, and --

23           JUDGE HATCHER: 115.

24           MR. STEINER: -- 115 in the West case.

25           JUDGE HATCHER: Which is 0130 for our future

1 court reporter.

2 MR. STEINER: Right.

3 JUDGE HATCHER: Okay. As I normally, we will  
4 combine these. Does anyone have any objections to the  
5 admission of the five different Klote testimonies? This is  
6 Exhibits 44, 45, 46, 47. Those are in case ending 0129.  
7 And Exhibit 115 in case ending 0130. My question was: any  
8 objections?

9 (No response)

10 Hearing none, they are also admitted.

11 (Exhibits 44, 45, 46, 47, and 115 admitted)

12 JUDGE HATCHER: Go ahead.

13 MR. STEINER: That's all I had, Your Honor.  
14 Thank you.

15 JUDGE HATCHER: Oh, yes. We're just admitting  
16 the exhibits. Thank you. Let me take a second and make  
17 sure I've got the numbers written down.

18 Okay. Our next witness is from staff. Please go  
19 ahead.

20 MS. MERS: Staff calls Keith Majors to the stand.

21 JUDGE HATCHER: Thank you, Mr. Majors. If you  
22 would raise your right hand.

23 (Keith Majors sworn)

24 JUDGE HATCHER: Thank you. Please have a seat.  
25 Staff, your witness.



1 MS. MERS: Could you please state and spell your  
2 name for the record.

3 MR. MAJORS: Keith Majors, K-e-i-t-h, Majors, M-  
4 a-j-o-r-s.

5 MS. MERS: And who are you employed by and in  
6 what capacity?

7 MR. MAJORS: The Missouri Public Service  
8 Commission. I'm a utility regulatory auditor in the  
9 auditing department.

10 MS. MERS: And did you prepare or cause to be  
11 prepared in these cases direct testimony which has been  
12 marked as Exhibit 218?

13 MR. MAJORS: Yes.

14 MS. MERS: Rebuttal testimony which has been  
15 marked as Exhibit 254 in public and confidential versions?

16 MR. MAJORS: Yes.

17 MS. MERS: And then surrebuttal and true-up  
18 direct testimony that has been marked as Exhibit 269?

19 MR. MAJORS: Yes.

20 MS. MERS: Do you have any corrections or changes  
21 to that testimony?

22 MR. MAJORS: No.

23 MS. MERS: And if I asked you those same  
24 questions today, would your answers be the same?

25 MR. MAJORS: Yes.

1 MS. MERS: And is that information true and  
2 correct to the best of your knowledge and belief?

3 MR. MAJORS: Yes.

4 MS. MERS: At this time, I would go ahead and  
5 offer those exhibits.

6 JUDGE HATCHER: You have heard the motion by Ms.  
7 Mers. Are there any objections? And again, we will take  
8 these up a combined question. Any objection to the  
9 admission of Mr. Majors' testimony 218, Exhibit 245, and  
10 Exhibit 269?

11 (No response)

12 Hearing none, so admitted.

13 (Exhibits 218, 254, and 269 admitted)

14 MS. MERS: I would tender the witness for cross  
15 then.

16 JUDGE HATCHER: Thank you. And again, we will go  
17 through some of our excused parties rather quickly.

18 Charge Point.

19 (No response)

20 Google.

21 (No response)

22 Nucor.

23 MR. ELLINGER: No questions, Judge.

24 JUDGE HATCHER: City of St. Joseph.

25 (No response)

1 Dogwood.

2 (No response)

3 Sierra Club.

4 (No response)

5 Renew Missouri.

6 MS. GREENWALD: No questions, Your Honor.

7 JUDGE HATCHER: Velvet Tech.

8 Thank you.

9 Evergy.

10 MS. WHIPPLE: Yes, please. Thank you.

11 JUDGE HATCHER: Go ahead.

12 And this is Ms. Whipple, W-h-i-p-p-l-e.

13 Go ahead. I'm sorry.

14 MS. WHIPPLE: Thank you.

15 JUDGE HATCHER: For our future court reporter.

16 MS. WHIPPLE: Mr. Majors, there has been  
17 discussion and testimony in this case of staff's true-up  
18 accounting schedules from the company's 2018 rate case.  
19 Correct?

20 MR. MAJORS: Yes.

21 MS. WHIPPLE: And in this proceeding, MECG  
22 witness Greg Meyer relies on those accounting schedules to  
23 argue that the Sibley net book value should be 300 million.  
24 Is that your understanding?

25 MR. MAJORS: Yes.

1 MS. WHIPPLE: In the 2018 rate case, did you  
2 serve true-up discovery?

3 MR. MAJORS: I believe so. I was not involved in  
4 most, if not all, of the discovery in the entire 2018 and  
5 2016 rate cases.

6 MS. WHIPPLE: Permission to approach, please,  
7 Judge?

8 JUDGE HATCHER: Granted.

9 MS. WHIPPLE: Mr. Majors, did you serve data  
10 request 27T to Every 2018 rate case Case Number  
11 ER-2018-0146?

12 MR. MAJORS: Yes.

13 MS. WHIPPLE: And did this true-up request seek  
14 all updates through the true-up period June 30, 2018?

15 MR. MAJORS: Yes.

16 MS. WHIPPLE: Is this the response that you  
17 received from the company?

18 MR. MAJORS: In part, yes. This is the -- well,  
19 it's not really the face sheet, but the Word document  
20 description with the text of the data request that's  
21 provided along with the actual information in Excel format.

22 MS. WHIPPLE: This is the written response, but  
23 you, of course, have noted that there were Excel  
24 attachments to this response?

25 MR. MAJORS: Yes.

1 MS. WHIPPLE: And I have not provided those for  
2 saving the trees purposes, but I have circulated the  
3 written response. Is that correct?

4 MR. MAJORS: Yes.

5 MS. WHIPPLE: Could you please read the written  
6 response?

7 MR. CLIZER: Your Honor, I might have an  
8 objection. Can you give me one moment thought?

9 JUDGE HATCHER: Yes.

10 That was Mr. Clizer.

11 Take a moment.

12 MR. CLIZER: I'll go ahead and lodge the  
13 complaint, again, that this is hearsay. The statements  
14 being made are being made by Evergy's witness, not by this  
15 witness. Therefore, they are out of court statements being  
16 offered to prove the truth of whatever is being said.

17 JUDGE HATCHER: Can you distinguish this request  
18 to admit a data request from the data request just a few  
19 minutes ago that you said was offered in accordance with  
20 the earlier Commission order?

21 MR. CLIZER: Actually, I'm sure which case was  
22 cited in the Commission's order, to be honest. That was a  
23 different case. Are you shaking your head because this  
24 case is that one, or --

25 JUDGE HATCHER: Yes. It is a different case.

1 Let me check the order.

2 MR. CLIZER: Frankly, Your Honor, the other  
3 document would have been hearsay, too. I didn't object to  
4 it A, because I chose not to and B, because Dr. Mark did  
5 reference it, so I felt like the Rule of Complete Evidence  
6 would probably have allowed it in anyways.

7 JUDGE HATCHER: Okay. This is Judge Hatcher, and  
8 I am reading from page 6 of the procedural schedule order.  
9 Order paragraph 6, sub H. "Data requests and responses  
10 thereto made by any party in file numbers" -- I will only  
11 read the last four digits -- "0200" -- the list continues,  
12 but I do not see 0146.

13 Okay. So that brings us back to Public Counsel,  
14 Mr. Clizer, has raised an objection that a prior data  
15 request response is hearsay. Can you -- go ahead.

16 MS. WHIPPLE: We disagree with that, Judge. But  
17 in any event. We aren't offering this for the truth of the  
18 matter asserted. We are offering it to establish that  
19 staff asked for and did receive this response to a data  
20 request.

21 MR. CLIZER: If that's the only use for it, then  
22 I agree it's not hearsay.

23 JUDGE HATCHER: I heard Mr. Clizer say he  
24 withdrew his objection.

25 MR. CLIZER: Assuming that that is in fact the

1 only purpose for which it's being offered.

2 JUDGE HATCHER: Go ahead, Ms. Whipple.

3 MS. WHIPPLE: Thank you.

4 Mr. Majors, could you please read the response  
5 that you received to this data request?

6 MR. MAJORS: I'm going to assume you want me to  
7 start at the bottom of the page -- front page?

8 MS. WHIPPLE: Yes, please. Where it says  
9 "Response."

10 MR. MAJORS: One and two and (for KCPL Greater  
11 Missouri Operations please see the attached spreadsheet  
12 below). Plan reserve data provided as of June 30, 2018.  
13 Production plant depreciation reserve is not maintained by  
14 individual generating unit except for Iatan unit 2.  
15 Depreciation reserve reported in DR data request 0027T has  
16 been allocated to each generating unit, except for Iatan  
17 unit 2. Response prepared by Larry Mulligan."

18 MS. WHIPPLE: Thank you. And then you noted  
19 earlier that it also states that there are two attachments.  
20 Of course, Mr. Mulligan's verification and plant and  
21 reserve data June 2018, which was an Excel file, correct?

22 MR. MAJORS: Yes.

23 MS. WHIPPLE: And do you recall receiving those  
24 along with this? Although I have not duplicated them in  
25 paper form here today?

1 MR. MAJORS: Yes.

2 MS. WHIPPLE: Thank you.

3 Judge, at this time I would like to offer this as  
4 Exhibit 132 in the West rate case.

5 JUDGE HATCHER: You've heard the motion by Ms.  
6 Whipple. Are there any objections to the admission of  
7 Exhibit 132 which is data request and response 0027T from  
8 case number ending 0146?

9 MR. CLIZER: For the record, as long as it's only  
10 being offered to establish the fact that the staff asked  
11 for and received its updated depreciation information -- I  
12 don't know exactly what the word I want is -- but I have no  
13 objection. Otherwise, I object on the basis that it's  
14 hearsay.

15 JUDGE HATCHER: Hearing no objections, Exhibit  
16 132 is allowed for the purpose of showing that staff asked  
17 for and received said documents that are mentioned in the  
18 data request.

19 (Exhibit 132 admitted)

20 MS. WHIPPLE: Mr. Majors, is it true that  
21 discovery in the 2018 rate case necessarily occurred before  
22 the Commission issued its report and order in that case?

23 MR. MAJORS: Yes.

24 MS. WHIPPLE: And was a petition for an  
25 accounting order filed by OPC and MECG after the



1 Commission's order in the 2018 rate case?

2 MR. MAJORS: That's my recollection. I can't  
3 tell you the exact date, but it was after the Commission  
4 order.

5 MS. WHIPPLE: Would you agree that sitting here  
6 today, you don't have a reason to dispute the veracity of  
7 this data request response?

8 MR. MAJORS: No. I don't have a -- I don't  
9 request the data request response.

10 MS. WHIPPLE: Are you aware that a  
11 non-unanimous stipulation was filed in this proceeding on  
12 August 30, 2022?

13 MR. MAJORS: Yes.

14 MS. WHIPPLE: And there was a public version  
15 filed as well as a confidential version, correct?

16 MR. MAJORS: I'm going to assume that's correct.  
17 I don't know that there was confidential information in it,  
18 but I know it was filed.

19 MS. WHIPPLE: Okay. Permission to approach,  
20 please, Judge?

21 JUDGE HATCHER: Go ahead.

22 MS. WHIPPLE: Mr. Majors, is this the public  
23 version of the stipulation and agreement filed in this  
24 proceeding on August 30, 2022?

25 MR. MAJORS: Yes. It would appear to be. Yes.

1 MS. WHIPPLE: And I will just note for the record  
2 that I did not include all of the voluminous schedules that  
3 were attached to this document, but they are, of course, a  
4 part of the record in this case.

5 Can you please turn to page 10.

6 MR. MAJORS: Yes, I'm there.

7 MS. WHIPPLE: Do you see paragraph 11 which is  
8 entitled, "Depreciation Rates"? It has three subparts A,  
9 B, and C.

10 MR. MAJORS: Yes.

11 MS. WHIPPLE: Could you please read subparagraph  
12 11C.

13 MR. MAJORS: "The company will record and track  
14 depreciation reserve for generating facilities on an  
15 individual unit/location basis."

16 MS. WHIPPLE: Is it your understanding that the  
17 company's fixed asset system, it's plant accounting system,  
18 had not historically been tracking depreciation reserve on  
19 an individual unit and location basis?

20 MR. MAJORS: My understanding from both the prior  
21 data request responses in the current and prior cases, that  
22 would be true for generating station plant, not necessarily  
23 distribution and transmission.

24 MS. WHIPPLE: And is that why parties put this  
25 language in the stipulation, so that the company could

1 start to track by the unit and location level?

2 MR. MAJORS: You know, I really can't comment on  
3 why the parties put this information in there for their  
4 various reasons. I don't know that I could comment on  
5 that.

6 UNIDENTIFIED SPEAKER: Yeah. I'm going to say  
7 this is coming dangerously close to discussing settlement.  
8 Not objectionable to what she's asking, but just keep that  
9 in mind.

10 MS. WHIPPLE: I was just asking for the witness'  
11 understanding as to why this language exists in the  
12 stipulation and agreement.

13 JUDGE HATCHER: I think he's answered that he  
14 doesn't know.

15 MS. WHIPPLE: Okay. Thank you.

16 Mr. Majors, since staff agrees that Sibley's net  
17 book value is the 145.6 million figure, you would also  
18 agree that the value of the AAO liability that should have  
19 been deferred based on the Commission's 2019 order in the  
20 AAO case is \$49 million. Is that correct?

21 MR. MAJORS: You'd have to tell me if you're  
22 referring to the portion of the AAO that's the expenses or  
23 the rate of return.

24 MS. WHIPPLE: The value of the return collected  
25 on rates.

1           MR. MAJORS: I think in -- what's currently in --  
2 well, what was presented in staff's true-up, and in  
3 testimony, in direct, was the 49 million that you  
4 referenced. I think that -- I know that there's been some  
5 presentation on some comments I made (audio cuts out). I  
6 think it would be logical if whatever net book value that  
7 the Commission determines, either the 300 or the 145 or  
8 somewhere in between, that if the Commission were to  
9 include the rate of return deferral, then it should be  
10 based on whatever net book value is calculated.

11           So in answer to your question, staff supports  
12 inclusion of the 145 and the amounts in direct testimony  
13 are calculated -- the 49 million is calculated based on the  
14 145 net book value.

15           MS. WHIPPLE: Do you agree that the amounts of  
16 operational and maintenance expenses -- O&M -- deferred,  
17 pursuant to the report and order in the Sibley AAO case  
18 total approximately 39 million?

19           MR. MAJORS: Yes. That was an update from  
20 staff's direct recommendation based on a response to data  
21 requests, the company's work papers, and information  
22 provided by the company. There were some adjustments made  
23 on filings and an order from a separate fuel clause  
24 adjustment case that reduced those numbers to what you  
25 said, the current 39 approximately million dollars.

1 MS. WHIPPLE: Thank you. No further questions at  
2 this time.

3 JUDGE HATCHER: Thank you, Ms. Whipple.  
4 Let's go to MIEC, which has been excused.  
5 And Mr. Opitz, MECG.

6 MR. OPITZ: Thank you, Your Honor.  
7 Good morning, Mr. Majors.

8 MR. MAJORS: Good morning.

9 MR. OPITZ: Let's talk about your calculation of  
10 the regulatory liability. You calculate the return that  
11 was built. When you are calculating that you calculated  
12 the return that was built into rates off of the company's  
13 unrecovered investment, correct?

14 MR. MAJORS: (Audio cuts out) the value of 145,  
15 that's what's in the calculation right now.

16 MR. OPITZ: That's in your calculation. And you  
17 included approximately \$39 million for O&M, correct?

18 MR. MAJORS: As adjusted, yes.

19 MR. OPITZ: And MECG also recognized that \$39  
20 million, approximately.

21 MR. MAJORS: I take your word for it. I don't  
22 know if it was -- it originally was 41. I think there were  
23 some adjustments. But I don't know if they dispute those  
24 adjustments. But if you're saying you support the 39, I  
25 wouldn't doubt that.

1 MR. OPITZ: And you understand that Mr. Meyer  
2 calculated the return on a higher unrecovered investment,  
3 correct?

4 MR. MAJORS: Yes.

5 MR. OPITZ: And if the Commission adopted Mr.  
6 Meyer's unrecovered investment value, your calculation of  
7 the unrecovered investment would be exactly the same as  
8 his?

9 MR. MAJORS: Could you repeat that one more time?

10 MR. OPITZ: Sure. If the Commission adopted Mr.  
11 Meyer's unrecovered investment figures, your calculation of  
12 the unrecovered investment would be exactly the same as  
13 his, the return portion.

14 MR. MAJORS: Oh, yes. I think maybe to interpret  
15 your question, if the Commission allows a return -- a  
16 return of the return on from the last case, whatever the  
17 net book value is, that's what the return should be  
18 calculated upon. Whether it's 145 or the 300. I think Mr.  
19 Meyer calculated on the 300. So that's -- it should  
20 follow. It wouldn't make any sense to use a net book value  
21 of 300 and calculate the return on from the last case on  
22 145. It should be consistent.

23 MR. OPITZ: If that were the case, your  
24 calculation would be equal to Mr. Meyer's calculation,  
25 correct?

1 MR. MAJORS: Without seeing the math, yes.

2 MR. OPITZ: The same similar methodology and  
3 approach.

4 MR. MAJORS: Yes.

5 MR. OPITZ: Okay. And your position is that you  
6 want to offset the regulatory asset by the regulator  
7 liability; is that right?

8 MR. MAJORS: I think generally with staff's  
9 recommendation -- primary recommendation, is that those two  
10 would offset and you would have a relatively small amount  
11 that you would then amortize as an increase -- well, that  
12 was staff's direct position -- but you would have a  
13 relatively small regulatory asset that you would amortize  
14 over five years. I think if you changed either the --  
15 whether you include or exclude the rate of return deferral,  
16 whether you increase the net book value, I think some  
17 change is warranted to reduce the sheer impact of those  
18 amounts.

19 MR. OPITZ: So I guess the main difference here  
20 between staff and your calculations and Mr. Meyer's  
21 calculation is you use about 100 million for net book  
22 value, and we use 245 million.

23 MR. MAJORS: Yes. Net of the depreciation  
24 offset, which I don't think any party has disputed. Yes.  
25 I would agree with that.

1 MR. OPITZ: Okay. So there's a lot of  
2 similarities in the way we would approach this. It's just  
3 determining that net book value and a lot of things flow  
4 from there in the different parties' positions.

5 MR. MAJORS: Yes. Neither one of us include that  
6 in rate base, the unamortized net book value. So that's  
7 another commonality between our two prepositions.

8 MR. OPITZ: So now let's turn to the regulatory  
9 asset. Are you the staff individual who reviewed the  
10 calculation of that \$100 million and approved it?

11 MR. MAJORS: Are you referring to the -- sorry.  
12 The 145 less the depreciation, but I think the calculation  
13 would be the 145. Is that what you're referring to?

14 MR. OPITZ: Yes.

15 MR. MAJORS: Okay. I did review the  
16 calculations, the data requests, Mr. Spanos' work papers in  
17 both the complaint case and the current rate case. I  
18 reviewed them from an accounting and auditing perspective  
19 to see if those -- I were able to glean a meaning of the  
20 145. I think for a more granular discussion of  
21 depreciation methods, methodology, those would be better  
22 asked of Mr. Cunigan, our depreciation expert.

23 MR. OPITZ: I'm not sure if this should be  
24 directed to Mr. Cunigan or yourself, so I'll ask you and if  
25 you can't answer, just let me know.



1                   So is it your understanding that the unrecovered  
2 investment in Sibley, in Mr. Spanos' testimony from the EC-  
3 2019-0020 case was based off of a theoretical reserve  
4 calculation?

5                   MR. MAJORS: Yes. I've read his testimony and I  
6 can at least say that it's based off of theoretical  
7 reserve.

8                   MR. OPITZ: Are you familiar with a theoretical  
9 reserve calculation?

10                  MR. MAJORS: From a very high-level standpoint.  
11 Yes.

12                  MR. OPITZ: Can you please -- can you explain  
13 what a theoretical reserve calculation is?

14                  MR. MAJORS: It would be taking the additions  
15 throughout the lifespan and using current depreciation  
16 rates as if they were in existence for the existence of the  
17 plan. I can't give you much more detail than that. I  
18 think that would be more of Mr. Cunigan (audio cuts out)  
19 response.

20                  MR. OPITZ: So you don't know the actual formula  
21 to do a theoretical reserve calculation?

22                  MR. MAJORS: No. I can't. No.

23                  MR. OPITZ: Mr. Majors, did you work on the last  
24 Everygy West -- I believe it was GMO at the time -- rate  
25 case?

1 MR. MAJORS: Yes.

2 MR. OPITZ: And are you familiar with accounting  
3 schedules and how they function in the context of setting  
4 rates?

5 MR. MAJORS: Yes.

6 MR. OPITZ: Your Honor, may I approach.

7 JUDGE HATCHER: Yes. Go ahead.

8 MR. OPITZ: Mr. Majors, would you agree that that  
9 is staff's true-up accounting schedules from the prior  
10 Everygy West rate case?

11 MR. MAJORS: Yes.

12 MR. OPITZ: And if I could turn your attention to  
13 the page for plant in service, which is schedule three,  
14 page 1 of 11.

15 MR. MAJORS: I'm there.

16 MR. OPITZ: Could you look at the column, it's on  
17 the far right, "MO Adjusted Jurisdiction."

18 MR. MAJORS: Yes.

19 MR. OPITZ: And if you go to lines 22, that says,  
20 "Total Sibley unit 1 steam." And the value for that is  
21 approximately \$40.7 million.

22 MR. MAJORS: Yes.

23 MR. OPITZ: And if you go to line 31, total  
24 Sibley unit 2 steam, the Missouri adjusted jurisdictional,  
25 the value there is approximately \$38.5 million.

1 MR. MAJORS: Yes.

2 MR. OPITZ: And if we go to line 40, which is  
3 total Sibley unit 3 steam, the Missouri adjusted  
4 jurisdictional amount is approximately \$302.4 million.

5 MR. MAJORS: Yes.

6 Mr. OPITZ: And if you could turn to the next  
7 page, look at line 49 which is total Sibley facility common  
8 steam, you would agree that the Missouri adjusted  
9 jurisdictional amount is 94.8 million.

10 MR. MAJORS: Yes.

11 MR. OPITZ: And I don't know if you have a  
12 calculator but subject to check, if I add those up, it  
13 would be 476.4 million.

14 MR. MAJORS: That's what I have.

15 MR. OPITZ: Okay. Now, if you could look to  
16 schedules six, page 1 of 11, which is the accumulated  
17 depreciation reserve schedules.

18 MR. MAJORS: Yes.

19 MR. OPITZ: If we look at the same Missouri  
20 jurisdictional amounts for the corresponding lines there of  
21 22, total Sibley unit 1 steam is approximately 23.8  
22 million.

23 MR. MAJORS: Yes.

24 MR. OPITZ: For line 31, total Sibley unit 2  
25 steam is approximately 21.7 million.

1 MR. MAJORS: Yes.

2 MR. OPITZ: Line 40, total Sibley unit 3 steam is  
3 approximately 96.2 million.

4 MR. MAJORS: Yes.

5 MR. OPITZ: I think we go to the next page now,  
6 line 49, total Sibley facility common steam, the amount  
7 there is 34.8 million.

8 MR. MAJORS: Yes.

9 MR. OPITZ: And subject to check, would you agree  
10 that adding those up equals 176.5 million?

11 MR. MAJORS: That's what I have.

12 MR. OPITZ: So if I were to subtract that 176.5  
13 from the original plant and service value of 476.4, that  
14 equals 299.9. Would you agree?

15 MR. MAJORS: Yes.

16 MR. OPITZ: So you agree with me that if you go  
17 back to the accounting schedule one, page 1, line 1, which  
18 is the net original cost rate base.

19 MR. MAJORS: Yes.

20 MR. OPITZ: And that is, I think, \$1.9 billion;  
21 is that right?

22 MR. MAJORS: Yes.

23 MR. OPITZ: That value includes that 299.9  
24 million of unrecovered investment as depicted in staff's  
25 accounting schedules. Correct?

1 MR. MAJORS: Yes.

2 MR. OPITZ: And those schedules were used to set  
3 rates and apply the rate of return to.

4 MR. MAJORS: Yes.

5 MR. OPITZ: Can you show me anywhere in these  
6 accounting schedules where the 145 value that the company  
7 and staff have used as in rates?

8 MR. MAJORS: No.

9 MR. OPITZ: Or any subsequent case, can you  
10 identify where that 145 would have been in rates?

11 MR. MAJORS: I think this is the subsequent case  
12 and no. I think it's on the company's schedules but that's  
13 only because they calculated it.

14 MR. OPITZ: That's all I have. Thank you.

15 JUDGE HATCHER: Thank you, Mr. Opitz.

16 Mr. Clizer.

17 MR. CLIZER: Before I begin, Your Honor, you had  
18 mentioned something about wanting to break. I'm just --  
19 I'm not sure I want to take 10 minutes. Is that -- up to  
20 you.

21 JUDGE HATCHER: You're not sure if you're going  
22 to --

23 MR. CLIZER: Take more than 10 minutes. I  
24 thought you said you wanted to break at like five until.  
25 You're going to have to be called back to the stand either

1 way.

2 JUDGE HATCHER: Let's go ahead and take our break  
3 now. Yes. And we will go back at 1 o'clock. That is our  
4 break for lunch. And when we return, it will be Mr. Majors  
5 on the stand with our final cross-examination by Office of  
6 Public Counsel.

7 Just to verify, Mr. Opitz, you did not offer that  
8 document, correct? We'll still be on this topic after  
9 lunch --

10 MR. OPITZ: Your Honor, you know, I would like  
11 to, but I have not provided a copy to all counsel.

12 JUDGE HATCHER: Yes. I noticed that.

13 MR. OPITZ: So I can provide it electronically,  
14 or I guess I can go print out. It is quite a large  
15 document. So -- it is filed in that prior case and was  
16 admitted into evidence in those cases. Could the  
17 Commission take administrative notice of that accounting  
18 schedule?

19 JUDGE HATCHER: We could but we'd prefer to have  
20 it as an exhibit.

21 Let's see if Mr. Clizer has a solution.

22 MR. CLIZER: I was going to offer, subject to  
23 check of course, but I believe that the entire document is  
24 actually attached as a schedule to Mr. Robinett's  
25 testimony. So it might be entered on that basis, but I

1 don't know if that would solve Mr. Opitz' concern.

2 JUDGE HATCHER: I'm going to take lunch and we  
3 will revisit this at 1 o'clock, and we should have answers  
4 then.

5 Okay. Let's go off the record. We are at recess  
6 for lunch. Everyone please come back at 1:00 p.m.

7 (Recess taken)

8 JUDGE HATCHER: The hour of recess having  
9 expired, let's go back on the record. A couple reminders,  
10 we do have all commissioners in attendance on the WebEx.  
11 Also, we are without a live court reporter for today's  
12 hearing. So just a gentle reminder to the presiding  
13 officer and all of the counsel and witnesses. Please speak  
14 slowly and into the microphone.

15 With that said, we left off with Mr. Majors  
16 testifying for staff and we were to our last  
17 cross-examination party, Mr. Clizer.

18 Mr. Majors, as you take a seat, you were sworn in  
19 earlier this morning, I just would like to remind you that  
20 that's still applicable.

21 Mr. Clizer, your witness.

22 MR. CLIZER: Thank you.

23 And good afternoon, Mr. Majors.

24 MR. MAJORS: Good afternoon.

25 MR. CLIZER: All right. I'm going to ask you a

1 series of questions. These are fairly simple, so not  
2 trying to be tricky. You're familiar with the Sibley  
3 Generating Facility units 1, 2, and 3?

4 MR. MAJORS: Yes.

5 MR. CLIZER: And it's accurate to say it's been  
6 fully retired at this point, correct?

7 MR. MAJORS: Yes.

8 MR. CLIZER: And in fact, Evergy has begun -- or  
9 at least begun the dismantlement of the (audio cuts out),  
10 correct?

11 MR. MAJORS: I believe it's complete, but they  
12 have begun it. Yes.

13 MR. CLIZER: That was going to be my next  
14 question. So it was accurate to say they have completed  
15 dismantlement?

16 MR. MAJORS: Yes.

17 MR. CLIZER: So it is accurate to say that the  
18 Sibley facility will no longer be used for generating  
19 electricity?

20 MR. MAJORS: As it stands today, yes.

21 MR. CLIZER: How familiar are you with  
22 depreciation issues?

23 MR. MAJORS: Somewhat familiar.

24 MR. CLIZER: I'm going to ask you these  
25 questions, but if you feel like I need to kick them to Mr.



1 Cunigan, just let me know. When a plant is first booked,  
2 you book the initial cost to plant and service, correct?

3 MR. MAJORS: Yes.

4 MR. CLIZER: And as depreciation reserve  
5 accumulates, it's booked to a separate account, correct?

6 MR. MAJORS: Yes.

7 MR. CLIZER: And the net book value of a plant is  
8 equal to the initial plant service less the accumulative  
9 depreciation, less any net (audio cuts out).

10 MR. MAJORS: Generally speaking, yes.

11 MR. CLIZER: And that net book value is what is  
12 then put into rate base, generally speaking?

13 MR. MAJORS: Along with the whole group of  
14 assets. Yes.

15 MR. CLIZER: And that's what the company is  
16 allowed to earn a return on, correct?

17 MR. MAJORS: Yes.

18 MR. CLIZER: And if I were to hold the initial  
19 costs in plant in service constant, and I were to hold net  
20 salvage constant, so I'm only modifying the accumulated  
21 reserve that has been collected, if I increase the amount  
22 of reserve, I decrease the net book value of the plant.  
23 Correct?

24 MR. MAJORS: Yes.

25 MR. CLIZER: And that would lower the amount that

1 the company would earn a return on?

2 MR. MAJORS: Yes.

3 MR. CLIZER: And conversely, if I decrease the  
4 accumulated depreciation reserve that has been collected, I  
5 would increase the netbook value.

6 MR. MAJORS: Yes.

7 MR. CLIZER: And thereby increase the amount the  
8 company would earn a return on.

9 MR. MAJORS: Yes.

10 MR. CLIZER: Are you familiar with the RTO  
11 markets?

12 MR. MAJORS: Generally, yes.

13 MR. CLIZER: Would you agree with me that a  
14 utility operating in a market will generally sell all of  
15 its available generation into the market and then purchase  
16 back the energy it needs to operate?

17 MR. MAJORS: Yes.

18 MR. CLIZER: And if utility has less generation  
19 to sell than it needs to purchase back -- well, never mind.

20 I apologize, Your Honor. I think I actually am  
21 going to come in under 10 minutes. I'm very sorry. I have  
22 no further questions. Thank you.

23 JUDGE HATCHER: Thank you, Mr. Clizer.

24 Now we turn to Commission questions. Are there  
25 any commissioner questions for Mr. Majors of staff? And

1 again, it is star 6 to unmute if you are on a phone.

2 (No response)

3 Okay. Hearing none, the bench does have a couple  
4 questions. When Mr. Clizer was talking about assigning the  
5 purchase price to an account and then also assigning the  
6 depreciation to an account or accumulated interest -- I'm  
7 getting no help.

8 When Mr. Clizer was asking about assigning those  
9 different costs for Sibley at the time it was purchased, or  
10 some imaginary, theoretical plant, your answer was that it  
11 got assigned to such and such account.

12 MR. MAJORS: Yes.

13 JUDGE HATCHER: That account is from the US --  
14 what's the abbreviation USAA --

15 UNIDENTIFIED SPEAKER: USOA.

16 JUDGE HATCHER: USOA. Thank you.

17 MR. MAJORS: Uniform System of Accounts.

18 JUDGE HATCHER: Thank you. For electric  
19 companies.

20 MR. MAJORS: Yes.

21 JUDGE HATCHER: Do you know when that was  
22 established?

23 MR. MAJORS: The Uniform System of Accounts?

24 JUDGE HATCHER: Yep.

25 MR. MAJORS: I would hazard to guess probably

1 sometime in the 1930s. That would be a guess. I don't  
2 know when it was established for use by the Commission for  
3 determining rates. Probably around the same time, but that  
4 would be a guess.

5 JUDGE HATCHER: What I'm driving at is the  
6 difference in time when Sibley was built was 60 some years  
7 ago, and so I'm trying to get to, would that have been in  
8 the same -- would that have followed the same course under  
9 the USOA? Or has that rule changed as I think Mr. Spanos  
10 had kind of mentioned that they changed from the life  
11 expectancy, I think. So I'm just wondering if there was a  
12 difference there.

13 MR. MAJORS: Okay. So to answer your question --

14 JUDGE HATCHER: Yeah. I'm sorry. That was a  
15 terrible question.

16 MR. MAJORS: No. I'll attempt to answer. So the  
17 plant instructions for the USOA would -- where you book the  
18 construction costs would be in accounts 310 through  
19 approximately 316. And so that's where you would book the  
20 plant as an asset account upon purchase or construction.  
21 And so as you go through time, you would accrue a reserve -  
22 - by account, not necessarily by unit, you would accrue  
23 depreciation expense along with the other items that go  
24 into there as net salvage, things like that. But as that  
25 expense accrues, that -- call it a contra account, would

1 grow larger.

2 I think what Mr. Spanos was referring to in  
3 change of depreciation method on lifespan or remaining life  
4 is -- I'm using examples here. Say if boilers account 312  
5 was four percent and then you would accrue to that account  
6 four percent depreciation reserve each year. So that's  
7 your return of that asset as the asset gets depleted by use  
8 or as time goes by, changes in the art, things like that  
9 that's the consumption of the useful life of the asset.

10 And so what I think Mr. Spanos is saying that the  
11 changes for the life or lifespan accounting would just be  
12 the change in that rule rate of four percent versus a three  
13 and a half percent, or versus a five and a half percent.  
14 That's what the -- not necessarily an accounting change but  
15 a change in the rate at which you accrue that depreciation  
16 expense that accumulates to reserve.

17 JUDGE HATCHER: Thank you, Mr. Majors. My next  
18 question is -- I want to talk about the 300 million versus  
19 145.6. Would you walk me through how staff -- let me set  
20 that back up.

21 I understand that staff was recommending the  
22 Commission use a \$300 million net book value in the  
23 complaint case, the 0200. And -- sorry, I'll stop there.

24 MR. MAJORS: You said staff recommended a 300 in  
25 the complaint case.

1 JUDGE HATCHER: I think it was the complaint  
2 case.

3 MR. MAJORS: Just to answer that question, either  
4 Mark Ogleshaler (phonetic) was a witness in that case. I  
5 don't recall that we supported the 300 net book value. I  
6 could be wrong about that but there were several net book  
7 values -- in fact, I've got the order. And in fact, I  
8 think the order references -- if you'll pardon me a moment.

9 I've got the order from that complaint case. And  
10 as I said in my testimony, the Commission did not determine  
11 what net book value to use. On page 9, paragraph 21, I'm  
12 reading here from the order, "The estimated net book value  
13 of each Sibley unit and the common assets at Sibley as of  
14 June 30, 2018, as calculated by GMO's witness, is 145.7  
15 million. Public counsel's witness estimated that net book  
16 value at 160 million. While MECG's witness estimated that  
17 value at 300 million."

18 While this order doesn't mention staff, I don't  
19 know that staff did not have an opinion. But I don't  
20 recall that staff had one and it wasn't in this paragraph  
21 in the order.

22 JUDGE HATCHER: Was there any movement from staff  
23 from supporting or using the \$300 million figure to the  
24 145?

25 MR. MAJORS: Okay. I can certainly comment on

1 that. Staff -- I reviewed the EC case in which the 145 was  
2 calculated. That was the value we used for the direct  
3 filing. We reviewed, as you do, testimony from other  
4 parties to get, you know, the specific issues on the  
5 differences of the issues. And so I did read  
6 Mr. Meyer's testimony on the 300 million. I went back to  
7 the last case and did see that 300 million was the  
8 calculated net book value based on taking the plant less  
9 the reserve, as appeared in staff's accounting schedules.

10 Staff -- I looked to see if there was any way --  
11 what's the right value? So it is the right value, more  
12 importantly. We talked internally and I guess that the  
13 staff came to the conclusion that there's no real way -- we  
14 didn't have really any good arguments against the 145 and  
15 we're being told by the company that 300 is based on the  
16 (audio cuts out) of the reserve, which was not recorded on  
17 a unit specific basis. So you've got that.

18 I also did -- not as a depreciation expert but as  
19 an auditing accounting expert, I went back to the 2004 rate  
20 case, which was the most recent -- or the oldest that was  
21 still available on EFIS and looked at staff's accounting  
22 schedules to see if I could rebuild and do an estimate of -  
23 - using those original plant values -- not original plant  
24 values but back to 2004. Those we could get. Could I take  
25 those from case to case and rebuild a estimated reserve

1 based on plant in service, the original reserve as of '04,  
2 and taking the plant and depreciation accruals from case to  
3 case to estimate what would the current reserve be just  
4 using the rates that were accrued from staff's accounting  
5 schedules.

6           And I came up with -- just high-level  
7 calculation, not getting into the things that Mr. Spanos  
8 would do -- my net book value that I calculated high level  
9 would be around \$234 million. That's using -- if I were to  
10 go case to case using the Commission ordered depreciation  
11 rates, and the plant in service on the accounting  
12 schedules, calculating the accruals between rate cases,  
13 that's the number I come up with.

14           And so to sum it up, I think I respect Mr.  
15 Spanos' expertise as an depreciation expert. I can't  
16 recalculate the 145 million that he arrives to. But on the  
17 other hand, I don't dispute the company saying that what  
18 was an allocated -- the reserve in the 2018 case was not  
19 assigned to that plant, it's an allocated reserve. I can't  
20 -- you know, I have that fact. So I think the 145 is  
21 probably the best estimate based on expert testimony that  
22 we can see.

23           JUDGE HATCHER: Just to make sure that I'm  
24 following. You're testifying that staff did not  
25 necessarily go from a 300 million to a 145 in their



1 position. The 300 million was brought up in the other  
2 previous case, the 0200, the complaint case for the AAO.  
3 And then as you went through the testimony in this case,  
4 you attempted to recreate any number and what you came out  
5 to was 234 million. But given your expertise is not in  
6 depreciation and it was a high level, you're saying that  
7 was within your -- maybe not comfort level, but you didn't  
8 have enough information to say you were absolutely more  
9 correct and you didn't have enough information to say that  
10 Everygy's 145 million was incorrect, so you can accept  
11 theirs.

12 MR. MAJORS: I think that's a very accurate  
13 description of what the thought process was. And another  
14 point, when you look at the 300 million, it just -- and  
15 this is the highest level you can get -- it doesn't make a  
16 whole lot of sense that a (audio cuts out) old unit would  
17 still be two-thirds undepreciated. And so that's what you  
18 would -- if you believe the 300 million net book value,  
19 then you believe that depreciation over nearly 60 years for  
20 units 1 and 2, and unit 3 was a vintage 1969 -- that would  
21 be 58 years-ish.

22 And so even with -- I think it was discussed  
23 earlier. There was two high level improvements to Sibley.  
24 One was in the late 80s/early 90s. The western coal  
25 conversion that I think you discussed with Mr. Spanos

1 earlier. That was to convert it from using the high sulfur  
2 coal to the low sulfur coal. The other being in the  
3 2009/2010-time frame when the selective catalytic reduction  
4 equipment to control SO2 emissions -- I'm sorry, nitrous  
5 oxide emissions, was installed in the unit. That was  
6 approximately \$109 million. And I believe there was  
7 probably -- I believe there was some precipitator work to  
8 control particulate emissions in that same time frame. But  
9 even with those improvements, you're still faced with if  
10 you believe in the 300 million, it's still two-thirds  
11 undepreciated. That, on a high level, doesn't make all  
12 that much sense.

13 JUDGE HATCHER: Is there any advantage to  
14 shareholders or ratepayers for making the \$109 million  
15 improvement and then setting perhaps an artificial  
16 depreciation date of 40 years longer? Is there any (audio  
17 cuts out) to the previous Public Service Commission  
18 assigning a depreciation schedule that I think we're now  
19 arguing was too long?

20 MR. MAJORS: Okay. I think you're saying was  
21 there any benefit or was there any motivation to set --

22 JUDGE HATCHER: Could there be.

23 MR. MAJORS: No. I mean, I don't dispute -- I  
24 believe the extended useful life -- and somebody will  
25 correct me if I'm wrong -- was 2040. I mean, I think,

1 generally, you would use that retirement rate to set  
2 depreciation rates. Again, I'm not a depreciation expert.  
3 When you're developing remaining life depreciation rates,  
4 you would take that retirement date into account. And I  
5 don't think there was anything nefarious either way in  
6 setting depreciation rates too high or too low.

7           Evergy, in consultation with its own internal  
8 engineers and outside experts, they determine unit by unit  
9 when do we think we can operate this unit profitably,  
10 safely, and within laws and regulations. And that date is  
11 used to project out once the recovery period -- what's the  
12 proper recovery period? And it's never going to -- like  
13 anything else, it's never going to be perfect. So I would  
14 suspect that every unit will have some net book value at  
15 the end of its life.

16           In fact, as a contrast to where we are here at  
17 Sibley, the Montrose unit, which was a three-unit site,  
18 Montrose 1 was retired I think in 2016. Montrose 2 and 3  
19 were retired at the end of 2018. Not (audio cuts out)  
20 site, three units approximately 160 megawatt a piece,  
21 vintage late 1950s, old. Somewhat -- well, less efficient  
22 than other generating units on the system. If continued  
23 operations would happen, in need of substantial investment  
24 in environmental equipment. And so according to the  
25 company's IRP, it did not make a lot of sense to keep those

1 units running.

2           And by the same token, in comparison to Sibley,  
3 they still had a substantial net book value on the books.  
4 Now, that net book value for Montrose was not separately  
5 calculated by Mr. Spanos or any other depreciation expert.  
6 It would have been simply buried in the depreciation  
7 reserve. So that's kind of a -- it's a contract between  
8 where we are at Sibley because it had another 20 years of  
9 life left. Whereas Montrose, I don't believe did. Or at  
10 any time, or in the near past, those units were just  
11 expected to be retired because of their age, efficiency,  
12 and the investment required to keep them running.

13           JUDGE HATCHER: Thank you. That cleared a lot  
14 up. I think I was confused on the 40 years with the 2040.  
15 But just one small detail. Thank you.

16           And I'm sorry, that is going to open this all  
17 back up to recross and redirect. We're going to keep you  
18 up here a little bit longer. But thank you, Mr. Majors.  
19 You're doing a great job.

20           That will take care of bench questions. Let's go  
21 to recross and let me find my handy new schedule. Again,  
22 we will go fairly quickly for our new court reporter and  
23 those in the courtroom.

24           Charge Point, any questions?

25           (No response)

1 Google.

2 UNIDENTIFIED SPEAKER: No questions, Your Honor.

3 JUDGE HATCHER: Nucor.

4 MR. ELLINGER: No questions, Judge.

5 JUDGE HATCHER: City of St. Joseph.

6 (No response)

7 Dogwood.

8 (No response)

9 Sierra Club.

10 (No response)

11 Renew Missouri.

12 MS. GREENWALD: No questions, Judge.

13 JUDGE HATCHER: Velvet Tech.

14 MS. BELL: No questions, Your Honor.

15 JUDGE HATCHER: Evergy.

16 MS. WHIPPLE: Excuse me, briefly.

17 JUDGE HATCHER: Yes.

18 MS. WHIPPLE: Jackie Whipple again for the  
19 company.

20 Mr. Majors, you were discussing with  
21 Mr. Opitz and then with Judge Hatcher the different  
22 accounts with the company and how rates are set, trying to  
23 make that general. Do you recall that conversation?

24 MR. MAJORS: Yes.

25 MS. WHIPPLE: Isn't it true that the individual

1 unit plant balances and reserve balances don't have an  
2 impact on setting rates?

3 MR. MAJORS: Because they're all grouped  
4 together, yes, I would agree with that.

5 MS. WHIPPLE: Yes. So in other words, only the  
6 aggregate amounts of reserve balances are used to set  
7 rates; isn't that right?

8 MR. MAJORS: Yes.

9 MS. WHIPPLE: And so isn't it also true that Mr.  
10 Spanos' unit and locational calculations would not have  
11 impacted the aggregate balances that were used to set rates  
12 in the last rate case?

13 MR. MAJORS: No. I don't believe they would  
14 impact that.

15 MS. WHIPPLE: Thank you.

16 JUDGE HATCHER: Thank you. That will take us to  
17 excused party MIEC.

18 (No response)

19 Next is Mr. Opitz with MECG.

20 MR. OPITZ: Briefly, Your Honor.

21 Mr. Majors, you were discussing your calculation  
22 to get to a \$234 million value with the judge. Do you  
23 recall that?

24 MR. MAJORS: Yes.

25 MR. OPITZ: Can you tell me what time period you

1 used in making that calculation?

2 MR. MAJORS: So what I did was went back to the  
3 2004 rate case, which the plant cut off -- I'm sorry, ER-  
4 2004-0034 when it was still Aquilla. The plant cutoff was  
5 September 30th of 2003. I'm sorry, does that answer your  
6 question? I can describe the other cases as well.

7 MR. OPITZ: So you started there but up through  
8 when, I guess that length of time.

9 MR. MAJORS: I cut off at the 2018 rate case.  
10 And so what I did was I used the beginning reserve. Back  
11 then it was -- 2004 was \$127 million and used the  
12 authorized depreciation rates on the plant in service.  
13 Accrued that depreciation until the next rate case when  
14 rates would have changed. That would be the 2006 rate  
15 case. And went rate case to rate case using those plant  
16 balances, accruing the depreciation and then adding that  
17 up.

18 And then the second step was to -- for the  
19 interim additions between case to case, I used the average  
20 of the plant balances, the difference. So if you had a  
21 plant balance in 2006 versus 2004, take the difference,  
22 divide by 2. You assume, ratably, that plant was added.  
23 And then you'd assign depreciation reserve based on the  
24 authorized rates. And so doing that, I would call it a  
25 simple exercise would come up with around \$234 million.

1 But again, that's a simple exercise based on what was in  
2 staff's accounting schedules going back to 2004.

3 MR. OPITZ: Thank you.

4 No more questions, Your Honor.

5 JUDGE HATCHER: And Mr. Clizer?

6 MR. CLIZER: I'd like to start picking up where  
7 Ms. Whipple from Evergy left off. You, I believe -- and  
8 I'm going to paraphrase here, so make sure I get this  
9 correct -- said that the reallocation -- the theoretical  
10 reallocation Mr. Spanos performed would not have had an  
11 impact on the aggregate net plants. Did I get that right?

12 MR. MAJORS: I think she had mentioned it was in  
13 the last rate case, and my interpretation was, let's say  
14 you had your pool of reserve -- for generation only. Let's  
15 just put it that way. If Mr. Spanos were to take that pool  
16 -- let's say you half a half a billion dollars, and all  
17 he's doing is dicing it up, allocating it to certain units  
18 based on his calculations, versus a very simply allocation  
19 based on relevant amounts of plant, so it's just a ratio.  
20 As long as your total pool of half a billion -- my example  
21 -- of reserve is still there, then there's no rate-based  
22 impact, therefore, no revenue requirement impact. But  
23 that's my interpretation of her question.

24 MR. CLIZER: I'd like to run down that path just  
25 a little bit if you're willing to bear with me.



1 MR. MAJORS: Sure.

2 MR. CLIZER: Let's for the sake of this, let's  
3 assume a hypothetical, right. Let's assume that the  
4 utility has two generating plants.

5 MR. MAJORS: Yes.

6 MR. CLIZER: We'll call net original costs for  
7 both of them 6 million. We'll keep it simple.

8 MR. MAJORS: Each?

9 MR. CLIZER: Each. And we'll say accumulated  
10 reserve at 4 million each. All right. So the unrecovered  
11 balance, the net book value is 2 million each for these,  
12 right?

13 MR. MAJORS: Yes.

14 MR. CLIZER: But the total net book value is 4  
15 million?

16 MR. MAJORS: Yes.

17 MR. CLIZER: What happens if the Commission were  
18 to order that you couldn't earn a return on plant A? How  
19 much would you earn a return on at that point?

20 MR. MAJORS: I believe it would be the \$2 million  
21 net book value of the second plant.

22 MR. CLIZER: Which I'll refer to as plant B, to  
23 keep things simple.

24 MR. MAJORS: Plant B. Yes.

25 MR. CLIZER: And if we reallocate the

1 depreciation reserve, so that we take 2 million from plant  
2 B and put it into plant A -- sorry, I have to move closer  
3 to the mic. We reallocate that reserve, so we take 2  
4 million from B and put it into A. So as I figure it, it  
5 would be 6 million total depreciation reserve for A and 2  
6 million total depreciation reserve for B.

7 MR. MAJORS: I'm going to say yes, but I think  
8 one of those you said they couldn't earn a return.

9 MR. CLIZER: Sorry. Let's say that they're  
10 earning a return on both at the moment.

11 MR. MAJORS: Okay.

12 MR. CLIZER: Under that scenario, the total  
13 amount of plant on which they would earn a return -- if  
14 they could earn a return on both, if still 4 million,  
15 right?

16 MR. MAJORS: Yes.

17 MR. CLIZER: And that's consistent with what you  
18 said. As long as you can earn a return on both plants,  
19 shifting the depreciation doesn't affect the aggregate  
20 plant that you earn a return on.

21 MR. MAJORS: Right. Nor does it affect (audio  
22 cuts out).

23 MR. CLIZER: But if I again come back and say  
24 they can't earn a return on plant A, in the second  
25 scenario, you would agree with me that they're now earning

1 a return on \$4 million worth of remaining plant.

2 MR. MAJORS: This is assuming you moved the two  
3 million from A to B?

4 MR. CLIZER: Correct.

5 MR. MAJORS: Yes.

6 MR. CLIZER: So by shifting the reserve from  
7 plant A to plant B, you increase the amount on which you  
8 can earn a return, if you assume that there is no return  
9 earned on plant A.

10 MR. MAJORS: If you did those transfers, yes.

11 MR. CLIZER: Thank you. Really quick, you had  
12 mentioned how you would come up with a 234. The 2004 rate  
13 case that you used, were you starting with staff's  
14 accounting schedules?

15 MR. MAJORS: I was starting with the last known  
16 accounting schedules. I went through each case and  
17 determined if there was a stipulation or an order and  
18 whether or not depreciation rates changed, or they were  
19 stipulated, or ordered. For each case, I went to the -- it  
20 was typically -- I think for these first two, there was no  
21 true-up. Since then, there's been some true-ups. So to  
22 answer your question, yes, I used the latest, greatest  
23 staff accounting schedules. Those were the earliest ones  
24 that I could appropriate on EFIS.

25 MR. CLIZER: Thank you. Now, in response to a

1 question from the judge, you were kind of explaining why  
2 you decided to go with Mr. Spanos' number versus, say, what  
3 MECG has put on. Do you recall that?

4 MR. MAJORS: Yes.

5 MR. CLIZER: And again, I'm paraphrasing. I'm  
6 trying to do it well, but you'll correct me if I do it  
7 wrong. Your answer was effectively, you couldn't verify  
8 Mr. Spanos' number, but the company had told you that the  
9 2018 rate case numbers were based on a general allocation  
10 of reserve, and that's why you went with it.

11 MR. MAJORS: That's probably a very condensed  
12 version. I'm not going to disagree with that.

13 MR. CLIZER: What I want to confirm is that it  
14 was staff's position based off the company's representation  
15 of the 2018 case that effectively decided that you would  
16 agree with Mr. Spanos.

17 MR. MAJORS: Not entirely. Other prior responses  
18 to DR27 have said that it's not allocated -- those reserve  
19 amounts aren't allocated by unit. And so, yes, the 300 is  
20 there, but my understanding is it's just based on the ratio  
21 of a relative plant to say Sibley to Jeffrey to Iatan 2.  
22 And then you take that up, you find the ratio of the plant  
23 to total plant and then you multiply that times the total  
24 reserve for the steam units.

25 MR. CLIZER: All right. One last line of

1 questioning, I think. You had mentioned it not making  
2 sense (audio cuts out) would still have two-thirds of its  
3 depreciation. Do you recall that?

4 MR. MAJORS: I would say in this scenario, yes.  
5 It just doesn't make sense, at a very high level.

6 MR. CLIZER: And so would your conclusion be that  
7 the depreciation rates that have been set in the past were  
8 inaccurate?

9 MR. MAJORS: No. I think -- no. I don't believe  
10 they were inaccurate. I think they were calculated using  
11 the best information that they had at the time.

12 MR. CLIZER: Would the same hold true for the  
13 other generating facilities? Non-Sibley.

14 MR. MAJORS: What would hold true?

15 MR. CLIZER: Could there be an under recovery for  
16 all of the other facilities?

17 MR. MAJORS: I suppose there could. I don't  
18 know. There could be.

19 MR. CLIZER: And finally, when you make that  
20 statement, what method of depreciation are you using to  
21 come to that conclusion?

22 MR. MAJORS: Oh, that's just a simple calculation  
23 of taking the '18 case, the 476, which I think we've all  
24 discussed, versus the 176 in reserve. That gives you the  
25 \$299.9 million if you take the 176 divide by the 476. That

1 gives you a 37 percent reserve to total plant. And then  
2 the one minus that number, reciprocal, I think, would be 63  
3 percent. So 63 percent of the total plant would be  
4 unrecovered at the time of retirement. On a very high  
5 level, that doesn't make a whole lot of sense, in this  
6 example.

7 MR. CLIZER: No further questions. Thank you.

8 JUDGE HATCHER: Thank you, Mr. Clizer.

9 And we go to redirect, Ms. Mers.

10 MS. MERS: Okay. Nicole Mers for staff.

11 I know you've walked through a few things a  
12 couple of times, but I think just to make sure the record  
13 is clear and that all parties are on the same page, could  
14 you provide a concise, simple statement of what you look at  
15 to calculate a value for Sibley to then put in an EMS run?  
16 Because there's been a lot of debate over the 2018, 2004, a  
17 300 number.

18 MR. MAJORS: So I think to answer your question,  
19 let's go back to the 2018 case. We would request, both in  
20 the direct filing and the true up, what's called staff data  
21 request 27. It's a standard data request. (Audio cuts  
22 out) probably for the last 30 years. We would obtain that  
23 information, might have some follow up data requests on  
24 that. But that information would go into staff's  
25 accounting schedules. Schedules three is plant in service.

1 I believe schedule six is accumulated reserve. And so we  
2 would obtain that information by unit in most cases. I  
3 think it's got more detailed as of late, in terms of  
4 separating the units. But we would include that in staff's  
5 accounting schedules and that's how net plant in service,  
6 and consequently, rate base in the return is calculated.

7 MS. MERS: So again, when parties were  
8 questioning you on the various figures for net book value  
9 in this case, the potential for the various components and  
10 offset, does that lead to the fact that there are that many  
11 different numerical values being suggested as the correct  
12 net book value?

13 MR. MAJORS: Well, quite honestly, there wasn't a  
14 lot of questioning until this case on the reserve that we  
15 put in the accounting schedules. I think there is now.  
16 And again, honestly, at the bottom of that page where it  
17 says reserve isn't allocated by a generating unit, that was  
18 kind of more or less an aside.

19 But to your point, if there's belief in that  
20 number, I mean, that number is explained by what the  
21 company has said. I don't dispute that. But the number  
22 identified by Mr. Spanos is calculated based on his  
23 methodologies and techniques to develop that number. So  
24 there can be -- there is (audio cuts out) what is the  
25 correct number, is there a correct number that's accurate.

1 MS. MERS: So would it be correct, to restate  
2 what you just said, that it's just not as simple as going  
3 to the 2018 EMS run and pulling that figure?

4 MR. MAJORS: No. I don't think it's that simple  
5 and it's -- I think if you take that in context with what  
6 I've done and went back to a high level do some kind of  
7 verification of that, I don't come up with 300 million. I  
8 actually went farther than this and I went and looked at --  
9 not went and looked -- but I pulled the information when  
10 Iatan 2 came into service in 2010, in the subsequent 2012  
11 cases, and obtained the plant in service and depreciation  
12 reserve.

13 On the contrary, with Iatan 2, because it is  
14 recorded on a unit basis, the build out of depreciation  
15 that I calculated was right on top, very close to what the  
16 company had in the '18 case. And so if I were to take that  
17 from 12 -- I'm sorry, the 2010 case through the '18 case,  
18 take the Iatan 2 using authorized rates, building out the  
19 reserve, I came very close to what was actually recorded as  
20 of June 30, 2018.

21 MS. MERS: And so the fact Sibley was not, at  
22 least in past cases, wasn't accounted for in an -- a unit  
23 location, individual unit location I think is the term  
24 that's been used -- would you think that explains the fact  
25 that the Commission couldn't order, in the EC case, a set



1 value for Sibley?

2 MR. MAJORS: Well, I think part of the reason --  
3 I think the reason the Commission couldn't order a set  
4 value is because -- well, not only that. Okay. They had  
5 the ability to order a set value, but it wasn't a necessary  
6 requirement of the AAO case. And in fact, they did not  
7 order the specific O&M deferral or the net book value  
8 because the AAO case was simply a determination of whether  
9 or not this event was extraordinary and whether or not the  
10 company should defer balance on their books and records.

11 But I think the reason why no net book value was  
12 determined was because there were there were at least three  
13 opinions on what the net book value should be. And so my  
14 understanding was the Commission wasn't required to  
15 determine a net book value in that case, nor was it  
16 required to determine the prudence of the retirement of  
17 Sibley, which they noted in their order.

18 MS. MERS: And would you think it's fair to say  
19 that -- in the EC case, you said there's at least three  
20 positions. In this case, would you agree there's at least  
21 four?

22 MR. MAJORS: Yes.

23 MS. MERS: And then in the 2018 case, I believe  
24 you testified in response to questions from various parties  
25 that you were involved in that. Counsel for MECG even

1 brought up the EMS run that you had been a part of,  
2 correct?

3 MR. MAJORS: Yes.

4 MS. MERS: And did parties present multiple  
5 positions on that value in that case before it was settled?

6 MR. MAJORS: My recollection -- well, the 2018  
7 case was -- I believe it was a settled case, and that was -  
8 - part of the driver was tax reform. I don't recall that  
9 the net book value was an issue at that time. I think --  
10 I'm not going to talk for OPC, but I think they did take  
11 some issue with the retirement of Sibley. But I don't  
12 think the net book value was an issue at the time of the  
13 2018 rate case.

14 MS. MERS: And you, in response to some  
15 questioning from the bench, you were asked about at what  
16 point in time you had reviewed the 300 million figure,  
17 versus coming to the 145.6 figure. In your evaluation and  
18 evidence, other than what you explained to the judge, were  
19 there any other problematic or reasons that you thought  
20 that figure -- you couldn't rely on that as opposed to the  
21 145?

22 MR. MAJORS: I think, other than what I've said  
23 about the very high level, it doesn't make sense that is  
24 two thirds undepreciated, no, I don't think there was any  
25 other reasons why that the 145 was preferred over the 300.

1 I think it's important to note that in rebuttal I said the  
2 commission should consider and could consider the 300. But  
3 staff's recommendation and what has been in staff's revenue  
4 requirement models has always been the 145, and the other  
5 calculations that are based on the 145.

6 MS. MERS: So to maybe summarize, and --

7 JUDGE HATCHER: Ms. Mers, I'm so sorry to  
8 interrupt. You keep moving this closer, but then you're  
9 engaging the witness and moving away from the microphone.  
10 And since we don't have a recorder here, I'm so sorry to  
11 ask you to move that microphone, again.

12 MS. MERS: I apologize. I will. Maybe just make  
13 sure somebody sanitizes it when I'm done, but I will get  
14 very close. Hopefully this is better. But I think I'm  
15 almost done, so hopefully that helps. I guess to summarize  
16 it and kind of put on a very layperson way of putting it,  
17 in your expertise and experience being trained as an  
18 auditor, is it just fair to say that the 300 didn't pass  
19 the smell test you?

20 MR. MAJORS: I don't know that I would  
21 characterize it that way. I mean, the 300 is -- there's no  
22 question that it's in the accounting schedules. There's no  
23 question that if you were to go back in time, that's what's  
24 in the books. That's what's -- as a response to the data  
25 request and is on the book's records. But with the

1 evidence and the testimony in this case, I would not use  
2 that number. I think that what I just said may contradict  
3 some of the things I've said in testimony, but staff's  
4 recommendation is to use the 145.

5 MS. MERS: And then I think what would be my  
6 final question, but in your exam -- or when you were being  
7 questioned by counsel for OPC, you were asked if you  
8 thought all plant could be under-depreciated. And that was  
9 in reference to your statement that you've made about  
10 Sibley being only (audio cuts out) depreciated didn't make  
11 sense. Did you do a calculation for any plant other than  
12 Sibley, or look at that information?

13 MR. MAJORS: I looked at the information on the  
14 Montrose plant. I do have that. And again, the Montrose  
15 plant was retired around 2016, March, and -- I'm sorry.  
16 Unit 1 was March of 2016, my recollection of what this says  
17 here, and November of 2018 for units 2 and 3. I did ask  
18 the company what was the net book value at the time of  
19 retirement?

20 And similar to what is on DR27, is that the  
21 statement that what comes out of power plan is just an  
22 allocation based on total, reserve, total plant reserve.  
23 And that net book value at the time of retirement for unit  
24 1 was \$31 million. And units 2, 3 in common was \$137  
25 million.

1 MS. MERS: Okay. Apologies. My last question.  
2 You were asked by the bench about the 145 in direct, and  
3 then the mention of the 300 in rebuttal. Do staff continue  
4 to evaluate issues and evidence after filing direct?

5 MR. MAJORS: Absolutely. I think a great example  
6 of that would be the last Spire case where the Office of  
7 the Public Council brought to the Commission and staff's  
8 attention about a discrimination lawsuit settlement. And  
9 that was something that we were unaware of prior to our  
10 direct filing. So we supported removing those dollars. I  
11 wouldn't say that's an isolated example. I think other  
12 parties do bring matters to staff's attention that we were  
13 unaware of.

14 MS. MERS: And that doesn't just continue through  
15 direct, but if something large comes to our attention in  
16 rebuttal, it's throughout the case?

17 MR. MAJORS: Oh, sure. Another good example is  
18 in the 2014 case. We had something called independence  
19 power of light transmission costs that were a new item in  
20 the true-up that we were unaware of until that time. And  
21 so we quickly hatched a position on that and determined  
22 what staff's position was going to be. And that was just  
23 strictly in the true-up. So, yeah. I think issues like  
24 this sometimes do evolve throughout the case.

25 MS. MERS: Okay, thank you.

1 JUDGE HATCHER: Thank you, Mr. Majors. You are  
2 excused.

3 And staff, bring up your next witness, please.

4 MS. MERS: Staff call Cedric Cunigan to the  
5 stand.

6 JUDGE HATCHER: Sir, please raise your right  
7 hand.

8 (Cedric Cunigan sworn)

9 JUDGE HATCHER: Thank you. Please have a seat.  
10 Ms. Mers, go ahead.

11 MS. MERS: Could you please state and spell your  
12 name for the record?

13 MR. CUNIGAN: Cedric, C-e-d-r-i-c, Cunigan, C-u-  
14 n-i-g-a-n.

15 MS. MERS: And by whom are you employed and in  
16 what capacity?

17 MR. CUNIGAN: The Missouri Public Service  
18 Commission and I'm a professional engineer.

19 MS. MERS: And did you prepare or cause to be  
20 prepared direct testimony that has been labeled Exhibit  
21 209, rebuttal testimony that has been marked Exhibit 237 in  
22 both public and confidential formats, and surrebuttal true-  
23 up direct that has been marked as Exhibit 261 in both  
24 confidential and public versions?

25 MR. CUNIGAN: Yes.

1 MS. MERS: And do you have any corrections to  
2 make to that testimony?

3 MR. CUNIGAN: No.

4 MS. MERS: And if I asked you those questions  
5 today, would your answers be the same?

6 MR. CUNIGAN: Yes.

7 MR. MERS: And is that information true and  
8 correct to the best of your knowledge and belief?

9 MR. CUNIGAN: Yes.

10 MS. MERS: At this time, I would offer to admit  
11 those pieces of evidence or testimony.

12 JUDGE HATCHER: Thank you, Ms. Mers.

13 Counsel has heard the motion for the Commission  
14 to accept Exhibits 209, 237, and 261. Any objections?

15 (No response)

16 Hearing none, they are so admitted.

17 (Exhibits 209, 237, and 261 admitted)

18 MS. MERS: I will go ahead and offer the witness  
19 for cross-examination.

20 JUDGE HATCHER: Thank you, ma'am.

21 Let's go to the presiding officers handy cheat  
22 sheet. Let's go through the parties. Again, we will move  
23 through them economically as some have been excused.

24 ChargePoint.

25 (No response)

1 Google.

2 UNIDENTIFIED SPEAKER: No questions, Your Honor.

3 JUDGE HATCHER: Nucor.

4 MR. ELLINGER: No questions, Judge.

5 JUDGE HATCHER: City of St. Joe.

6 (No response)

7 Dogwood.

8 (No response)

9 Sierra Club.

10 (No response)

11 Renew Missouri.

12 MS. GREENWALD: No questions, Your Honor.

13 JUDGE HATCHER: MIEC.

14 (No response)

15 And Mr. Opitz, with MECG.

16 MR. OPITZ: Judge, I'm still thinking about it,

17 but isn't the order -- company is ahead of MECG on the --

18 JUDGE HATCHER: Oh, yes. My apologies.

19 MR. OPITZ: And same for --

20 MS. BELL: Velvet.

21 MR. OPITZ: -- Velvet.

22 JUDGE HATCHER: Oh, I skipped right ahead. Let's

23 go back to Everygy.

24 MS. WHIPPLE: No, thank you, Judge.

25 JUDGE HATCHER: Thank you.



1           And now we go again to MIEC. Oh, and Velvet  
2 Tech.

3           MS. BELL: No questions, Your Honor.

4           JUDGE HATCHER: Thank you. Mr. Opitz, I think we  
5 are back to you, again.

6           MR. OPITZ: I guess much to do about nothing. I  
7 have no questions now.

8           JUDGE HATCHER: That's okay. I appreciate the  
9 exercise.

10          Office of Public Counsel?

11          MR. CLIZER: I also have no questions. Thank  
12 you.

13          JUDGE HATCHER: Excellent. Thank you.

14          And redirect. No redirect.

15          MS. MERS: Yeah. Not unless you or any of the  
16 commissioners would have any questions, Your Honor.

17          JUDGE HATCHER: First, we'll ask the  
18 commissioners if they have any questions. Any Commission  
19 questions for Mr. Cunigan, professional engineer?

20          UNIDENTIFIED SPEAKER: No questions, Judge.  
21 Thank you.

22          JUDGE HATCHER: Thank you, Chairman and  
23 Commissioner Holsman.

24          The bench does have a few questions. The first  
25 I'm going to follow up with one of my last questions of Mr.

1 Majors. Can you walk me through the 300 million to the  
2 145, or perhaps more simply, do you support his answer?

3 MR. CUNIGAN: I wasn't a part of the last case on  
4 how that 300 million was calculated, but I was able to see  
5 how it was calculated moving the 2018 balances forward. I  
6 was also able to calculate through the depreciation  
7 software how the company got to the 145.

8 JUDGE HATCHER: Did you have a chance to review  
9 Mr. Meyer's testimony?

10 MR. CUNIGAN: Yes.

11 JUDGE HATCHER: I'd like to point you to table 6  
12 and that is on page 13 of Mr. Meyer's direct. Do you  
13 happen to have that?

14 MR. CUNIGAN: I do not have that in front of me.

15 MS. MERS: If I can approach, Your Honor, I have  
16 --

17 JUDGE HATCHER: Please, go ahead.

18 MR. CUNIGAN: Can you give me that position,  
19 again?

20 JUDGE HATCHER: Page 13, table 6.

21 And offering the testimony was counsel Nicole  
22 Mers. That's for the future court reporter's notes.

23 Okay. My question is, on that table  
24 Mr. Meyer describes how the accumulated depreciation  
25 reserves of several of their generating units has decreased

1 between the amount presented in this case, in comparison to  
2 staff's accounting schedules from the prior rate case.

3 Does staff have an opinion about that reduction?

4 MR. CUNIGAN: The reduction is due to the  
5 reallocation of the reserve balances.

6 JUDGE HATCHER: I'm sorry. Reallocation from the  
7 general to the specific generating units. Is that what you  
8 mean, reallocation?

9 MR. CUNIGAN: Yeah. So when Mr. Majors was  
10 talking, the plant balances for the individual FERC  
11 accounts are not tied to the unit or location, but the  
12 total balance for that FERC account would remain the same.

13 JUDGE HATCHER: So to paraphrase in layman's  
14 terms, Evergy has been keeping the accumulated depreciation  
15 reserves in one combined account for all of its generating  
16 units?

17 MR. CUNIGAN: By type. So like steam generation  
18 is together.

19 JUDGE HATCHER: Okay. And the normal course of  
20 business is that as a generating unit retires, in the  
21 typical course of unit that is usually within, I would say,  
22 maybe a few years or a half a decade of the calculated  
23 depreciation point where the asset is fully depreciated.  
24 The normal course of business is to subtract out that  
25 portion from the accumulated reserve of that type,

1 generating unit type.

2 MR. CUNIGAN: Yes. As the assets would retire,  
3 they would be removed from plant and service and the  
4 reserve for those accounts.

5 JUDGE HATCHER: And the hang up here is the  
6 presumed extra life added on to Sibley when the two million  
7 something dollar repairs were done, and that has caused  
8 objections, which has now caused the parties to try and  
9 take the combined account and decipher out how much should  
10 be attributed or delegated to Sibley?

11 MR. CUNIGAN: That is a part of it.

12 JUDGE HATCHER: Give me the part I'm missing.

13 MR. CUNIGAN: I think that the big piece is that  
14 whatever is in the accounting schedules doesn't necessarily  
15 match up with a depreciation study for what those accounts  
16 should be. And Mr. Spanos calculated a theoretical  
17 reserve, which will tell you what that account should be at  
18 given the life parameters you have, like the age and the  
19 expected life expectancy. And so when those don't match  
20 up, as in a lot of our cases, we get a stipulation, and it  
21 is never agreed to what the actual reserve balance is, but  
22 the final rate is what's ordered.

23 JUDGE HATCHER: I'm going to look to counsel for  
24 objections before I let you answer my next question.

25 In the normal course of business then, is my

1 understanding -- and I do not want to get into settlement  
2 discussions of this case or any case. But in the normal  
3 course of business, Mr. Cunigan mentioned the stipulation,  
4 would -- whatever that amount, which is not known to the  
5 commissioners -- again, in just the normal course of  
6 business be a division between ratepayer recovery and  
7 shareholders? I don't want to get to fine a point on that,  
8 but is that kind of -- okay, I'm way --

9 MR. CUNIGAN: Wait for objections, or?

10 UNIDENTIFIED SPEAKER: Can you repeat the  
11 question, Your Honor?

12 JUDGE HATCHER: I'm still trying to wrap my head  
13 around this. So I know that we're -- the numbers are never  
14 going to match up, because it is a predicted life  
15 expectancy versus an actual life expectancy. And when that  
16 asset actually comes to its end, as I believe you are  
17 testifying to, is normally within a kind of a close range.  
18 Okay. And then we jumped off to that difference disappears  
19 into a stipulation and comes out on the other side with a  
20 number of what the rate base is and what the rate of return  
21 is.

22 So my question is, understanding that the  
23 commissioners and myself are not privy to settlements.  
24 There's rulings against us knowing about it, knowing the  
25 details, so I don't want those. But when we are talking

1 about going through that process, is that process of  
2 splitting up the difference that is unrecovered to then be  
3 -- I don't want to trip on terms of art -- associated to  
4 ratepayers, or associated to shareholders?

5 I think I'm going to move on. I withdraw the  
6 question. You've testified to the decrease in the  
7 accumulated depreciation reserves for the five generating  
8 units.

9 MR. CUNIGAN: It's a reallocation of the total  
10 plant imbalance.

11 JUDGE HATCHER: And does staff agree with that?

12 MR. CUNIGAN: Yes.

13 JUDGE HATCHER: I would like to turn to your  
14 surrebuttal, page 9. Mr. Cunigan's, surrebuttal, page 9,  
15 lines 13 to 14. The testimony states, "This resulted in a  
16 roughly \$173 million increase of the steam production plant  
17 reserve balances from staff's current EMS run, with Sibley  
18 plant removed." Here's my question. To confirm, are you  
19 referring to the steam production units as referenced in  
20 Greg Meyer's direct testimony?

21 MR. CUNIGAN: Yes.

22 JUDGE HATCHER: And the \$173 million reserve  
23 balance amount is based on which date?

24 MR. CUNIGAN: So for that amount, I took the 2018  
25 accounting schedule values from true-up, and I applied the

1 depreciation expense to those plants for the next 3 or 4  
2 years to get to current time. And then assuming 3.5  
3 percent inflation, that's how I calculated the 173 million.  
4 But it is taking those 2018 true-up staff accounting  
5 schedules and moving that forward to current time, and then  
6 that is the difference between the 154 net book value  
7 estimates between the company, staff, and MECG.

8           So one has a lower depreciation reserve for these  
9 accounts because the Sibley amounts are in there. If you  
10 take those Sibley amounts and put it outside, you have a  
11 higher net book value for Sibley, but you also have to  
12 increase the reserve for the remaining plants.

13           JUDGE HATCHER: Why would you have to increase  
14 the reserve if, theoretically, each plant has contributed  
15 its depreciation reserve, but in the aggregate of that  
16 group?

17           MR. CUNIGAN: It's the fact that you're removing  
18 Sibley for this case, or it has been proposed to remove  
19 Sibley from this case.

20           JUDGE HATCHER: Let's get back to my date  
21 question. So 2018, and then you said that you worked to  
22 current time, and did you calculate that up to the true-up  
23 date of May 31, 2022?

24           MR. CUNIGAN: I believe it was -- it was either  
25 May or June. But yeah. It would have been the true-up

1 period for this case.

2 JUDGE HATCHER: Okay. And are the calculations  
3 for your proposed value of the regulatory liability and  
4 unrecovered investment, are your calculations included in  
5 your testimony?

6 MR. CUNIGAN: It was included in a work paper  
7 attached to my surrebuttal, but I don't think it was just  
8 out on the -- it wasn't attached to the testimony. But it  
9 should have been included in a work paper to the parties.

10 JUDGE HATCHER: The Commission would also like to  
11 see a copy of engineer Cunigan's calculations end of the  
12 day.

13 MS. MERS: Yes. Since we already have them, I  
14 don't believe it should be problematic for us to give that.  
15 And I apologize, Nicole Mers, for staff.

16 JUDGE HATCHER: Yes. Nicole Mers. This is Judge  
17 Hatcher.

18 I don't want to over burden you. Tomorrow is  
19 fine. We are going to be here. Let's call it tomorrow.

20 With that, I have no more questions. Hold on.  
21 Stay right there. I have now subjected you to stay up here  
22 for a little bit longer, and I apologize. Let's get to  
23 recross-examination.

24 And again, for our future court reporter, I'm  
25 going to (audio cuts out) read through this list.



1 Charge point.  
2 (No response)  
3 Google.  
4 (No response)  
5 Nucor.  
6 MR. ELLINGER: No questions, Judge.  
7 JUDGE HATCHER: City of St. Joseph.  
8 (No response)  
9 Dogwood.  
10 (No response)  
11 Sierra Club.  
12 (No response)  
13 Renew Missouri.  
14 MS. GREENWALD: No questions, Your Honor.  
15 JUDGE HATCHER: Velvet Tech.  
16 MS. BELL: No questions, Your Honor.  
17 JUDGE HATCHER: Evergy.  
18 MS. WHIPPLE: Yes, thank you.  
19 Mr. Cunigan, staff's rates are based on a Sibley  
20 netbook value of 145.6 million as calculated by Mr. Spanos,  
21 correct?  
22 MR. CUNIGAN: Yes. Staff and Mr. Spanos use  
23 similar calculation methods.  
24 MS. WHIPPLE: Thank you.  
25 JUDGE HATCHER: And that was Ms. Whipple.

1 MS. WHIPPLE: Yes.

2 JUDGE HATCHER: Next party is the excused MIEC.

3 (No response)

4 Next after that is Mr. Opitz, MECG.

5 MR. OPITZ: No, thank you, Your Honor.

6 JUDGE HATCHER: Mr. Clizer, OPC.

7 MR. CLIZER: Just briefly. Well, actually, I  
8 can't say that for certain.

9 You were asked questions regarding this table in  
10 Mr. Meyer's testimony. And you were asked a series of  
11 questions regarding how all of this math worked. And I  
12 feel like I'm going to make an effort here to try and  
13 simplify this. I'm also going to try to get closer to the  
14 mic. So let's walk back to the rate case in 2018. You  
15 with me?

16 MR. CUNIGAN: Yes.

17 MR. CLIZER: At that time, Evergy has several  
18 steam plant generation in plant. I used the plant twice,  
19 but they have several steam generating plants. You've got  
20 Jeffrey Energy, Lake Road, Iatan, Sibley, right?

21 MR. CUNIGAN: Yes.

22 MR. CLIZER: The net original cost of each of  
23 those is going to be book to plant in service, right?

24 MR. CUNIGAN: Yes.

25 MR. CLIZER: And that is going to show up in the

1 staff's accounting schedules, right?

2 MR. CUNIGAN: Yes.

3 MR. CLIZER: So the reserve, there is an  
4 allocation of the reserve amongst those facilities in  
5 staff's accounting schedules, right?

6 MR. CUNIGAN: Yes.

7 MR. CLIZER: Now, I don't want to get too deep in  
8 the weeds on how that allocation is done, but all we need  
9 to know right now is the accumulated reserve for those  
10 plant are allocated amongst the plants in the staff  
11 accounting schedules.

12 MR. CUNIGAN: Yes.

13 MR. CLIZER: So moving forward, in the 2018  
14 complaint case, Mr. Spanos presented a different method of  
15 allocating that reserve. Would you say that's accurate?

16 MR. CUNIGAN: I can't say that the method was  
17 different from what he presented in 2018. It was different  
18 from staff's accounting schedules and what was present in  
19 staff's accounting schedules.

20 MR. CLIZER: The numbers were different. We can  
21 agree on that.

22 MR. CUNIGAN: Yes.

23 MR. CLIZER: And what we are seeing in this table  
24 6, on page 13 is that between the 2018 rate case and the  
25 complaint case, reserve that was previously booked to

1 Jeffrey, Lake Road, Iatan was removed and transferred to  
2 (audio cuts out). Would you say that's accurate?

3 MR. CUNIGAN: On the schedules, that's the way it  
4 appears, but as stated earlier, the accounts are all  
5 mingled for the locations, and so I can't say that it  
6 actually changed in accounts. It's just the way that it  
7 appears on our tracking of it.

8 MR. CLIZER: Sure. But you would agree with me  
9 that the numbers have gotten smaller. The reserve balances  
10 for those facilities have gotten smaller between the last  
11 rate case and this one.

12 MR. CUNIGAN: Yes.

13 MR. CLIZER: And if I add up all the difference  
14 and I compare it, it's roughly the same amount that was  
15 increased for Sibley.

16 MR. CUNIGAN: Yes.

17 MR. CLIZER: And you would agree with me, then,  
18 if we turn to page 14, Evergy -- sorry. I'm going to read  
19 the lines from Mr. Meyer's surrebuttal. "Evergy has  
20 decreased the accumulated depreciation reserve balances for  
21 the Jeffrey Energy Center, Iatan 1 and 2, Lake Road's  
22 generating units to account for a portion of the  
23 undepreciated balance for Sibley from the Sibley unit  
24 retirements." Would you agree with that statement?

25 MR. CUNIGAN: I would agree with the affect. I

1 can't agree with the reasoning.

2 MR. CLIZER: Fair enough. If the Commission  
3 determines to grant no return on Sibley, but continues to  
4 allow a return on these remaining plants, you would agree  
5 with me that the reduction in reserve and subsequent  
6 increase in net book value results in a higher return on  
7 investment for the company?

8 MR. CUNIGAN: I'm sorry. That was a lot. Can  
9 you read where it is at, again?

10 MR. CLIZER: No, I agree. That was a lot. Let's  
11 try and break that down. In this case, you have -- not  
12 you, but in this case, the amount of accumulated  
13 depreciation reserve for the remaining steam plant is lower  
14 than it was in the last rate case.

15 MR. CUNIGAN: Yes.

16 MR. CLIZER: The result is the net book value of  
17 those remaining plants is higher than it was in the last  
18 case.

19 MR. CUNIGAN: Yes.

20 MR. CLIZER: So the company will earn a higher  
21 return, or rather the company will make more in the return  
22 on those remaining plants as a result of this.

23 MR. CUNIGAN: I think the issue you run into with  
24 that is that, again, the accounts aren't actually  
25 segregated. So when you look at the total account balance,

1 that remains the same. But because Sibley is being removed  
2 from that account balance, that's where you run into the  
3 issue. And I think I touched on that in my testimony that  
4 it is the timing of the reallocation that makes it seem if  
5 this was done back in 2010, it wouldn't have been as big of  
6 an issue.

7 MR. CLIZER: Are your depreciation rates higher  
8 because of the change in reserve allocation?

9 MR. CUNIGAN: I did not run depreciation rates  
10 given the -- I did not run depreciation rates with a 2018  
11 move -- or Mr. Meyer's scenario. So I can't tell you if  
12 they would have been higher, or what the magnitude of  
13 depreciation expense would be. It may change individual  
14 accounts, but I can't tell you what the total effect on,  
15 you know, rate base would be.

16 MR. CLIZER: The judge asked about your  
17 surrebuttal testimony and your calculation of the reserve  
18 adjustments. In that discussion, you said you started with  
19 the 2018 case. Do you recall that?

20 MR. CUNIGAN: Yes.

21 MR. CLIZER: Did you update plant for additions  
22 and retirements between June 2018 and it's --until it's  
23 retirement?

24 MR. CUNIGAN: I did not do that for that  
25 scenario. I was just looking at the reserve balances, and

1 I did not include plant additions and retirements. It was  
2 a simple calculation of moving depreciation expense into  
3 reserve for those accounts.

4 MR. CLIZER: If the reserve for an account is  
5 higher, how does that affect the depreciation rate of the  
6 remaining life?

7 MR. CUNIGAN: If the reserve is higher, then the  
8 depreciation rate would be lower given the same time frame.

9 MR. CLIZER: That would lower the depreciation  
10 expense that would need to be included in the case,  
11 correct?

12 MR. CUNIGAN: Yes.

13 MR. CLIZER: And, conversely, if you lower the  
14 depreciation rates -- sorry. If you lower the reserve, it  
15 would increase depreciation rate?

16 MR. CUNIGAN: Yes. Given everything else is  
17 constant.

18 MR. CLIZER: Which would also increase  
19 depreciation expense, correct?

20 MR. CUNIGAN: Yes.

21 MR. CLIZER: No further questions. Thank you,  
22 Your Honor.

23 JUDGE HATCHER: Thank you Mr. Clizer.

24 That will take us to redirect. Nicole Mers, for  
25 staff.

1 MS. MERS: In questioning from the bench you were  
2 asked if the extension in life because of the \$21 million  
3 repair was causing a disconnect between parties. Do you  
4 recall that?

5 MR. CUNIGAN: Yes.

6 MS. MERS: Do you recall was that \$20.1 million  
7 repair made in response to the forced outage in 2008?

8 MR. CUNIGAN: I don't recall.

9 MS. MERS: And do you recall if that forced  
10 outage had a large impact on the remaining life of Sibley?

11 MR. CUNIGAN: Yes. From other testimony today.  
12 Yes.

13 MS. MERS: Is it your recollection that Evergy  
14 had announced a retirement date that would have been six  
15 weeks beyond that forced outage?

16 MR. CUNIGAN: I don't recall that.

17 MS. MERS: Okay. I will maybe, myself, tread a  
18 dangerous ground here and try not to get into anything  
19 objectionable. And, also, although the question was  
20 withdrawn, maybe help try to clarify where you were going.  
21 Not to assume, to be so bold, but see if I can make that  
22 happen. Do you recall being asked kind of about the  
23 mismatch that can happen between things being stipulated or  
24 agreed to in a settlement versus the calculations and  
25 figures that parties would use to kind of produce the



1 revenue requirement?

2 MR. CUNIGAN: Yes.

3 MS. MERS: Is it your understanding -- and, of  
4 course, you are not a lawyer -- but is it your  
5 understanding that settlements are often black boxed?

6 MR. CUNIGAN: Yes.

7 MS. MERS: And it is your understanding that  
8 means a particular position isn't necessarily rejected or  
9 accepted.

10 MR. CUNIGAN: Yes.

11 MS. MERS: And in those situations, a party can  
12 kind of back into whatever that total figure is of their  
13 own accord.

14 MR. CUNIGAN: Yes.

15 MS. MERS: So one party may not want to include a  
16 plant and assume that that is all being borne by  
17 shareholders, while another party may think it is included  
18 in that black box and is being borne by ratepayers. Is  
19 that your understanding of how that process would work?

20 MR. CUNIGAN: Yes.

21 MS. MERS: Hopefully. Does that -- okay. You  
22 were asked by counsel for OPC if Spanos had different  
23 results for the depreciation reserve in the 2018 case and  
24 the 2019 complaint case. Do you recall that?

25 MR. CUNIGAN: Yes.

1 MS. MERS: Are you familiar with the testimony of  
2 OPC witness John Robinett in this case?

3 MR. CUNIGAN: I don't have it in front of me, but  
4 I've read it.

5 MS. MERS: Do you recall how many methods to  
6 determine the Sibley balances he provides?

7 MR. CUNIGAN: I think he provided two additional  
8 methods, but I think there was a total of four options.

9 MS. MERS: And did those provide different  
10 results?

11 MR. CUNIGAN: Yes.

12 MS. MERS: You were also asked by OPC about the  
13 \$300 million reserve that was proposed by Greg Meyer. He  
14 asked what the impact would be on depreciation rates. Do  
15 you recall that?

16 MR. CUNIGAN: Yes.

17 MS. MERS: Did any other party besides staff and  
18 Evergy provide depreciation rates in this case?

19 MR. CUNIGAN: No.

20 MS. MERS: That is all I have. Thank you.

21 JUDGE HATCHER: Thank you.

22 Mr. Cunigan, you are excused. I appreciate you  
23 coming up and testifying.

24 That leaves us with three witnesses left, and it  
25 is 2:30. About an hour and a half after we started. This

1 seems like a good time to take a break. Let's call it 15  
2 minutes. Everyone come back at 2:45. We are in recess,  
3 and we are off the record.

4 (Recess taken)

5 JUDGE HATCHER: Let's go back on the record. The  
6 time has expired for our recess.

7 Thank you, Dr. Marke.

8 (Geoff Marke sworn)

9 JUDGE HATCHER: Thank you, sir. Please have a  
10 seat.

11 A little bit out of order. I'll bring everyone  
12 listening on WebEx and on live stream up to speed. We have  
13 returned from our afternoon break. We have three witnesses  
14 remaining and we have discussed recalling Mr. Spanos for  
15 any follow up that might have occurred. We also discussed  
16 an exhibit for the rebuttal testimony of Mr. Spanos from  
17 the complaint file for the AAO, which was EC and ending in  
18 0200.

19 I'm ready for a motion from Everyg to admit Mr.  
20 Spanos' said rebuttal testimony.

21 MS. WHIPPLE: So moved.

22 JUDGE HATCHER: Are there any objections? Again,  
23 this is Mr. Spanos' rebuttal testimony from the AAO  
24 complaint case, which is, I forget the year, but it is EC  
25 and the --

1 UNIDENTIFIED SPEAKER: 2019.

2 JUDGE HATCHER: 2018 --

3 UNIDENTIFIED SPEAKER: '19.

4 JUDGE HATCHER: '19. I feel like an auctioneer.

5 But it ends in 0200. Any objections?

6 MR. CLIZER: No objections, Your Honor. Would it  
7 be possible to have leave to potentially file other late  
8 filed exhibits, if other parties have response to Mr.  
9 Spanos' that was filed in that case? If you follow me.

10 JUDGE HATCHER: I do. And that seems very messy.

11 MR. CLIZER: I'm not asking at the moment that I  
12 actually be allowed to just -- something the Commission  
13 will consider in the future, if parties feel it is  
14 necessary.

15 MS. WHIPPLE: Your Honor, it is our understanding  
16 that this was requested by the Commission.

17 JUDGE HATCHER: I take your meaning.

18 Mr. Clizer, I'm going to leave that open, and  
19 let's see where we end up next Friday.

20 No objections. The exhibit is admitted. And  
21 let's get to the number. I have 133.

22 MS. WHIPPLE: That is our number, as well.

23 JUDGE HATCHER: Excellent.

24 (Exhibit 133 admitted)

25 MS. WHIPPLE: And with your permission, I will

1 hand these out quickly. I've got the copies if you would  
2 like them.

3 JUDGE HATCHER: Yes. Please go ahead.

4 And for our future court reporter, that was Judge  
5 Hatcher speaking with John Clizer of the OPC, and Ms.  
6 Whipple of Everygy.

7 And Dr. Marke has been sworn in. Mr. Clizer.

8 MR. CLIZER: Thank you.

9 Dr. Marke, can you please state and spell your  
10 last name?

11 MR. MARKE: Geoff Marke. You want the full name,  
12 right?

13 MR. CLIZER: Yes.

14 MR. MARKE: Geoff Marke. It is G-e-o-f-f, M-a-  
15 r-k-e.

16 MR. CLIZER: Thank you. By whom are you employed  
17 and in what capacity?

18 MR. MARKE: Missouri Office of Public Counsel.

19 MR. CLIZER: And did you prepare or cause to be  
20 prepared testimony for this case, which has been pre-  
21 marked 306 for the direct testimony, 307 for the rebuttal  
22 testimony, both public and confidential versions, and 308  
23 for the surrebuttal testimony of Dr. Geoff Marke both  
24 confidential and public versions?

25 MR. MARKE: Yes.

1 MR. CLIZER: Are the answers that you gave in  
2 those pre-filed testimonies the same -- if I asked you the  
3 same questions today as were asked in those pre-filed  
4 testimonies, would your answers today be the same?

5 MR. MARKE: Yes, they would.

6 MR. CLIZER: Do you have any corrections to make  
7 to those pre-filed testimony?

8 MR. MARKE: I do not.

9 MR. CLIZER: With that I will offer the testimony  
10 of Dr. Geoff Marke. So that would be 306 for the direct,  
11 307 for the rebuttal, both public and confidential, and 308  
12 for the surrebuttal, both public and confidential.

13 JUDGE HATCHER: You've heard the motion by Mr.  
14 Clizer. Now, as I usually do, are there any objections to  
15 the admission of Dr. Marke's testimony admitted as Exhibit  
16 306, Exhibit 307, and Exhibit 308?

17 (No response)

18 Hearing none, so admitted.

19 (Exhibits 306, 307, and 308 admitted)

20 JUDGE HATCHER: Mr. Clizer.

21 MR. CLIZER: I tender the witness for  
22 cross-examination.

23 JUDGE HATCHER: That was too fast for me. I need  
24 to find the cheat sheet. Okay. And again, for our future  
25 court reporter, I will read through the excused parties

1 with some economy, with speed.  
2 Charge Point, any questions?  
3 (No response)  
4 Google.  
5 UNIDENTIFIED SPEAKER: No questions, Your Honor.  
6 JUDGE HATCHER: Nucor.  
7 MR. ELLINGER: No questions, Judge.  
8 JUDGE HATCHER: City of St. Joseph.  
9 (No response)  
10 Dogwood.  
11 (No response)  
12 Sierra Club.  
13 (No response)  
14 Renew Missouri.  
15 MS. GREENWALD: No questions, Your Honor.  
16 JUDGE HATCHER: The excused party, MIEC.  
17 (No response)  
18 Mr. Opitz, MECG.  
19 MR. OPITZ: No questions, Your Honor.  
20 JUDGE HATCHER: Staff.  
21 (No response)  
22 Velvet Tech.  
23 MS. BELL: No questions, Your Honor.  
24 JUDGE HATCHER: And that goes to Evergy.  
25 MR. ZOBRIST: Thank you, Judge. Karl Zobrist.

1 Dr. Marke, do you have available your direct  
2 examination before you?

3 MR. MARKE: Yes, sir.

4 MR. ZOBRIST: Could you please turn to page 9 of  
5 your direct?

6 MR. MARKE: I'm there.

7 MR. ZOBRIST: In answer to the question that is  
8 set forth on line 5, if you would go to your answer that  
9 begins on line 10. It states, "In vertically integrated  
10 regulated states like Missouri, electricity prices are  
11 based on utilities. Actual expenditures and utilities have  
12 little reason to control costs, because cost reductions  
13 ultimately are passed on to customers." Did I read that  
14 correctly, sir?

15 MR. MARKE: Yes.

16 MR. ZOBRIST: Okay. Would you agree that only  
17 costs that are found to be prudently incurred by the Public  
18 Service Commission are passed onto customers?

19 MR. MARKE: Yes.

20 MR. ZOBRIST: And so costs that are found to be  
21 imprudent are not passed onto customers?

22 MR. MARKE: That's correct.

23 MR. ZOBRIST: Okay. Now if you'd go to line 13.  
24 It's the next sentence on that very same page. You say,  
25 "Additionally, regulators allow utilities to earn a



1 specific" -- pardon me. I'll start again. "Additionally,  
2 regulators allow utilities to earn a specified rate of  
3 return on capital expenditures to 'incentivize' investment  
4 in capital intensive facilities." Did I read that  
5 correctly?

6 MR. MARKE: That's correct.

7 MR. ZOBRIST: Okay. Now is it true that a  
8 utility is not -- same page, same answer. So page 9, line  
9 13 through 14. That's what it says. "Additionally,  
10 regulators allow utilities" --

11 MR. CLIZER: Are you on Metro? Yeah.

12 MR. ZOBRIST: I'm sorry. This is in Evergy  
13 Missouri West. It's the 130. Okay. Do you need a moment,  
14 Mr. Clizer? Okay.

15 Dr. Marke, is it true that a utility is not  
16 guaranteed a specific rate of return or a return on equity  
17 by the Commission?

18 MR. MARKE: That is true.

19 MR. ZOBRIST: Now, you put the word incentivize  
20 in quotes there; is that correct?

21 MR. MARKE: I did.

22 MR. ZOBRIST: Do you believe that the Commission  
23 is not properly incentivizing Evergy or other Missouri  
24 public utilities to operate prudently with regard to their  
25 investment decisions in their capital facilities?

1 MR. MARKE: No. I believe that they provide a  
2 healthy return for utilities.

3 MR. ZOBRIST: So why is the word incentivize in  
4 quotes in your answer?

5 MR. MARKE: It's in contract to the  
6 free-market example that follows that.

7 MR. ZOBRIST: Okay. And in that following  
8 sentence that begins towards the end of line 14, again on  
9 page 9 of your direct in the Evergy Missouri (audio cuts  
10 out), you say, "That is, utilities have a perverse  
11 incentive to increase their capital investments i.e., rate  
12 base." Did I read that correctly?

13 MR. MARKE: You did.

14 MR. ZOBRIST: So do you believe that Missouri  
15 statutes and policies that encourage electric utilities to  
16 invest in generation and other infrastructure is perverse?

17 MR. MARKE: I don't believe the statute is  
18 perverse, if I'm answering that correctly. I believe the  
19 opportunity is there for it to be -- I don't want to say  
20 perverted but distorted. We'll use that word.

21 MR. ZOBRIST: So you believe that a competitive  
22 market doesn't have those flaws that our system here in  
23 Missouri has.

24 MR. MARKE: I think a competitive market has the  
25 market accountability to hold it (audio cuts out).

1 MR. ZOBRIST: Now, Dr. Marke, is it generally  
2 true in the United States that those states that operate  
3 under a competitive basis, in other words, they do not have  
4 vertically integrated utilities like we do Missouri,  
5 regulated as they are in Missouri, they their retail rates  
6 tend to be higher than those in Missouri?

7 MR. MARKE: In general, yes.

8 MR. ZOBRIST: Now, on page 12 of this direct --  
9 if you could go there, please. Lines 21 through 22.

10 MR. MARKE: I'm there.

11 MR. ZOBRIST: The question was: "Are there any  
12 benefits from stranding a coal plant?" And you answered,  
13 "There are absolutely clear environmental and health  
14 related benefits from the closure of fossil fuel generating  
15 plants." Did I read that correctly?

16 MR. MARKE: Yes, you did.

17 MR. ZOBRIST: And so is it correct that the  
18 closing of Sibley provided those benefits?

19 MR. MARKE: It would.

20 MR. ZOBRIST: And would you agree that a utility  
21 should not have to wait until the Environmental Protection  
22 Agency brings an enforcement action before a coal plant is  
23 shut?

24 MR. MARKE: I'm going to ask you to repeat that  
25 again, so I can --

1 MR. ZOBRIST: Sure.

2 MR. MARKE: Thanks.

3 MR. ZOBRIST: Would you agree with the  
4 proposition that a utility should not have to wait until  
5 the Environmental Protection Agency demands that it close a  
6 coal plant?

7 MR. MARKE: Each utility and each coal plant,  
8 fossil fuel plant, renewable plant, is going to be on a  
9 case-by-case basis. I don't think I can generalize.

10 MR. ZOBRIST: Okay. Now, in your testimony just  
11 above where I was quoting on lines 11 through 19, you make  
12 a comparison between Evergy Missouri West -- or at least  
13 electric utilities in Missouri and the Ford Motor Company.  
14 Do you remember that?

15 MR. MARKE: I do.

16 MR. ZOBRIST: Now, you state -- I believe it is  
17 on lines 12 and 13, that it would not be prudent to "shut  
18 down an operating plant that's more efficient, more  
19 productive, and cleaner than other operating plants." Is  
20 that correct?

21 MR. MARKE: Yes.

22 MR. ZOBRIST: Okay. Therefore, if a less  
23 efficient, a less productive, and a dirtier plant is shut  
24 down, that would be prudent, correct?

25 MR. MARKE: Assuming we were shutting down the

1 plant to begin with? I'm operating under that assumption?

2 MR. ZOBRIST: Correct.

3 MR. MARKE: Given the option between shutting  
4 down an efficient, clean plant versus shutting down an  
5 inefficient, non-clean plant, yes.

6 MR. ZOBRIST: Is your testimony in this case that  
7 the Sibley unit 3 was efficient, productive, and cleaner  
8 than other operating plants in the Evergy Missouri West  
9 system?

10 MR. MARKE: It's a unique question. But I would  
11 believe -- I'm going to need to qualify that beyond just a  
12 yes and no answer, or response, if I may.

13 MR. ZOBRIST: Go ahead.

14 MR. MARKE: Evergy -- Sibley Unit 3 was the only  
15 wholly owned unit within Evergy's system. There are  
16 dirtier plants within its footprint. Jeffrey, for example.  
17 There are, in terms of efficiency and marketability, you  
18 know, what's being able to be sold into the SPP market. I  
19 caught just a little bit of Mr. Zobrist's opening. In  
20 terms of whether or not a plant is profitable, on a  
21 temporal level, you really need to look at it, not only  
22 historically and when it occurred, but also, what's  
23 happening in the market moving forward.

24 And my testimony, both my direct, my rebuttal, my  
25 surrebuttal -- well, my surrebuttal anyway, provided detail

1 of comments that are (audio cuts out) made both in various  
2 IRP dockets, special contemporary dockets, and in previous  
3 rate cases, where amongst other things, we posited that a  
4 serious concern about reliability and the fact that there  
5 were more renewables coming online that would put a greater  
6 pressure on the marketability, the efficiency of having  
7 those baseload coal plants available. And I would say what  
8 I heard in agenda this week --

9 MR. ZOBRIST: Judge, I think he's now going  
10 beyond an explanation of my question. So I would request  
11 that the witness conclude his question. Because I've got  
12 some follow up for what Mr. Marke just said.

13 MR. MARKE: Have I answered the question, sir?

14 MR. ZOBRIST: I've got a follow up question. I  
15 think you were teaching class, respectfully. So let me ask  
16 you this. You're not here testifying that unit 3 was the  
17 most efficient, most productive, and cleanest plant in the  
18 Evergy Missouri fleet, are you?

19 MR. MARKE: That's a normative statement. I  
20 mean, when we sit there, well, what's the most efficient?  
21 What's the most cleanest? I mean, compared to what?

22 MR. ZOBRIST: The other units in its fleet.

23 MR. MARKE: And I responded that it wasn't.

24 MR. ZOBRIST: Okay. All right. Let me ask you  
25 this. You compare the Missouri West (audio cuts out)

1 company. There's not a regulatory commission that sets the  
2 capital stretcher or the return on equity for Ford Motor  
3 Company, correct?

4 MR. MARKE: That's correct.

5 MR. ZOBRIST: Okay. And when Ford Motor Company  
6 wants to operate a plant or construct a plant, it doesn't  
7 have to come to a commission to obtain a certificate of  
8 convenience and necessity, correct?

9 MR. MARKE: That's correct.

10 MR. ZOBRIST: And the prices that Ford charges  
11 for its products are not set by a regulatory commission.

12 MR. MARKE: That's correct.

13 MR. ZOBRIST: Okay. Now, in your direct  
14 testimony, generally you referred to the integrated  
15 resource planning process here at the Commission, correct?

16 MR. MARKE: Yes, sir.

17 MR. ZOBRIST: Okay. Is it true that utilities  
18 don't plan for anomalous extraordinary events, for example,  
19 like a Winter Storm Uri?

20 MR. MARKE: I'm not sure I would agree with that.  
21 Maybe in the most general sense.

22 MR. ZOBRIST: Okay. Well, would you agree with  
23 your colleague, Ms. Mantel (phonetic), who testified that  
24 there is no way to plan for all extreme circumstances?

25 MR. MARKE: I would agree with that.

1 MR. ZOBRIST: It would likely be cost prohibitive  
2 for customers to pay for an infrastructure that would  
3 anticipate anomalous and extraordinary events, correct?

4 MR. MARKE: Yes.

5 MR. ZOBRIST: Okay. Have you read the testimony  
6 of Sierra Club witness Devy Gulek (phonetic)?

7 MR. MARKE: Unfortunately, I haven't.

8 MR. ZOBRIST: Are you familiar with it at all?

9 MR. MARKE: I'm familiar with it.

10 MR. ZOBRIST: Okay. Let me just you a question  
11 at a high level, and if you can't answer it, that's fine.

12 MR. MARKE: Sure.

13 MR. ZOBRIST: She essentially has testified that  
14 she wants Evergy to start a process of retiring its other  
15 coal plants. Are you aware of that, sir?

16 MR. MARKE: Yes, I am.

17 MR. ZOBRIST: Do you agree with her  
18 recommendation to retire Iatan 1, La Cygne 1 and 2, and  
19 Jeffrey 3 before the end of their depreciable lives?

20 MR. MARKE: No.

21 MR. ZOBRIST: Do you agree that a prudent  
22 electric utilities analysis in order to retire a generating  
23 plant, should include an assessment of the cost to replace  
24 its capacity?

25 MR. MARKE: Yes.



1           MR. ZOBRIST: Now, you have a short reference to  
2 securitization, specifically Evergy Missouri West  
3 securitization case on page 73 of your surrebuttal. Am I  
4 not correct that the securitization statute 393.1700  
5 prohibits the Commission from considering whether a public  
6 utility, an electric public utility, does or has filed, or  
7 should have filed a securitization case when it is dealing  
8 with a general rate case like this proceeding?

9           MR. MARKE: Mr. Zobrist, give me a second just to  
10 see what I said.

11           MR. ZOBRIST: Sure. It is at page 73, and I was  
12 referring to your lines of testimony at line 4 through 7.

13           MR. MARKE: Okay. Hold on.

14           MR. ZOBRIST: And this is in your surrebuttal if  
15 I didn't make that clear.

16           MR. MARKE: Got it. All right. Can you please  
17 repeat the question?

18           MR. ZOBRIST: Yeah. I mean, doesn't section  
19 393.1700 say the Commission is not supposed to consider  
20 whether a utility could or should have filed a petition for  
21 securitization when it's dealing with issues in a general  
22 rate case?

23           MR. MARKE: I'm not familiar with exactly what  
24 the statute says. I think there may be some  
25 miscommunication as to what I was referring to in terms of

1 the securitization in my testimony though.

2 MR. ZOBRIST: Okay. If you could go to page 58  
3 of your surrebuttal testimony.

4 MR. MARKE: I'm there.

5 MR. ZOBRIST: Now, in your testimony here you  
6 have incorporated (audio cuts out) of Public Counsel's  
7 filing in the AAO Case Number EC2019-0200. Correct?

8 MR. MARKE: Yes, sir.

9 MR. ZOBRIST: And on lines 22 through 24 of page  
10 58, you state that "A decision had already been made to  
11 retire Sibley." Correct?

12 MR. MARKE: That's what it says.

13 MR. ZOBRIST: Okay. And you further state on  
14 line 24 through line 1 of page 59 that "both SPP and the  
15 local labor union were notified that Sibley's retirement  
16 was certain, but Mr. Ives' testimony did not reflect that  
17 reality." Correct?

18 MR. MARKE: That's what it says.

19 MR. ZOBRIST: Okay. Well, you're adopting this  
20 as your testimony, correct?

21 MR. MARKE: Yes.

22 MR. ZOBRIST: Okay. Now, on the previous page on  
23 page 58, you quoted an email from Duane, D-u-a-n-e,  
24 Anstaett, A-n-s-t-a-e-t-t, who was vice president of  
25 Evergy's generation operations, in an email that he wrote

1 on October 2, 2018, correct?

2 MR. MARKE: Yes, sir.

3 MR. ZOBRIST: And were you aware that there was a  
4 follow up email on October 3, 2018, that dealt with the  
5 subject matter of the retirement of Sibley?

6 MR. MARKE: I know that there were a series of  
7 emails that I think were included into evidence earlier  
8 today. I have -- I remember reviewing them, but I did not  
9 include them, the entirety in my testimony.

10 MR. ZOBRIST: Okay. I've got a copy of some of  
11 those emails, and I'd like to have those marked. Judge, I  
12 believe it would be Exhibit 134. For the record, this was  
13 attached to the late Mr. Schellenberg's surrebuttal on  
14 behalf of Public Counsel. And I'm citing these because Dr.  
15 Marke has cited some of Mr. Schellenberg's surrebuttal, as  
16 well. I think I have more emails.

17 UNIDENTIFIED SPEAKER: Sorry.

18 MR. ZOBRIST: Dr. Marke, I've handed you what  
19 I've marked as Exhibit 134. It was attached to  
20 Mr. Schellenberg's surrebuttal in the AAO Case EC-2019-  
21 0200. It is marked Schedule RES-S-1 part 4, pages 1-15; is  
22 that correct?

23 MR. MARKE: Yes, it is.

24 MR. ZOBRIST: Now, sir, if you would go to page 4  
25 of 15.

1 MR. MARKE: I'm there.

2 MR. ZOBRIST: Okay. That is the October 2, 2018,  
3 email that you quote on page 58 of your surrebuttal  
4 testimony, correct?

5 MR. MARKE: Yes, it is.

6 MR. ZOBRIST: Okay. Among the recipients of that  
7 email were -- and I'm looking at the to line, on the second  
8 line below that, Darrin Ives, correct?

9 MR. MARKE: Yes.

10 MR. ZOBRIST: And then on the third line, do you  
11 see the name Kevin Bryant?

12 MR. MARKE: Yes, I do.

13 MR. ZOBRIST: And do you know who Mr. Bryant is?

14 MR. MARKE: Yes, I do.

15 MR. ZOBRIST: Okay. Am I correct he's the  
16 executive vice president and chief operating officer of  
17 Evergy?

18 MR. MARKE: Yes, sir.

19 JUDGE HATCHER: Dr. Marke, could you please scoot  
20 a little closer to the mic?

21 Sorry to interrupt. Please go ahead.

22 MR. ZOBRIST: And then at the end of the fourth  
23 line going to the fifth line is Terry Bassham, who at the  
24 time was the chief executive officer of Evergy, correct?

25 MR. MARKE: That's correct.

1 MR. ZOBRIST: Okay. And this email was sent at  
2 1:53 p.m. on October 2, 2018, right?

3 MR. MARKE: Yes, sir.

4 MR. ZOBRIST: Okay. Now, the next day,  
5 Mr. Bryant replied to Mr. Anstaett's email on October 3,  
6 2018, at 2:57 p.m., correct?

7 MR. MARKE: Yes.

8 MR. ZOBRIST: And at the bottom of that page,  
9 which is page 3 of 15, he thanks Mr. Anstaett and his team  
10 for their work. And then looking at the second sentence,  
11 Mr. Bryant says, "We will plan to review such  
12 recommendation at the CEO staff meeting on October 15, in  
13 advance of a comparable review with the Evergy board at the  
14 operations committee and full board meeting later this  
15 month." Is that correct?

16 MR. MARKE: That's correct.

17 MR. ZOBRIST: Then the final sentence says, "Once  
18 we've reviewed with the board, we can then circle back with  
19 the management team to review any feedback received and  
20 make a final decision." Did I read that correctly?

21 MR. MARKE: Yes, you did.

22 MR. ZOBRIST: Okay. So although Mr. Anstaett  
23 recommended that Evergy close Sibley on October 2nd,  
24 essentially on October 3rd, Mr. Bryant is saying, "Hold on,  
25 we're going to study this more and then we'll get back to

1 you." Correct?

2 MR. MARKE: That's what the email says.

3 MR. ZOBRIST: Okay. And then the next email is  
4 above that, again on page 3 of 15, and Mr. Bryant, on  
5 Saturday, November 10, 2018, at (audio cuts out) in the  
6 afternoon, says, "All." And this is directed to a number  
7 of people. And it states, "With feedback from recent  
8 management and board meetings, I'd like to recommend moving  
9 forward with plans to cease burning coal at Sibley." Did I  
10 read that correctly?

11 MR. MARKE: Yes.

12 MR. ZOBRIST: And he essentially says to  
13 Mr. Anstaett and his team and others that if anybody has  
14 any concerns, they should let him know by the end of the  
15 day on Monday, November 12th. And absent that he says,  
16 "We're going to move -- we would like to begin" -- he says  
17 beginning, I think he means begin -- "begin definitively  
18 moving forward on Tuesday, November 13." Correct?

19 MR. MARKE: Yes.

20 MR. ZOBRIST: Okay. And do you have any reason  
21 to doubt this chronology, Dr. Marke?

22 MR. MARKE: No.

23 MR. ZOBRIST: Okay. And then on the next page  
24 back, page 2 of 15, from Mr. Anstaett to Kevin Bryant, he  
25 says, "KB, thanks for the support here. Having heard

1 nothing contrary, we will move forward accordingly (audio  
2 cuts out) tomorrow. Any concern with this direction,  
3 please just let us know." Correct?

4 MR. MARKE: Correct.

5 MR. ZOBRIST: Okay. And then the final email is  
6 Mr. Bryant saying, "Sounds good, DA. Signed, KB." Meaning  
7 Mr. Bryant, correct?

8 MR. MARKE: Correct.

9 MR. ZOBRIST: And that final okay was given by  
10 Mr. Bryant on November 13, 2018, at 4:12 in the afternoon,  
11 right?

12 MR. MARKE: Yes.

13 MR. ZOBRIST: Okay. Now, at the top of page 59,  
14 line 1, you state -- and I'm quoting -- "In fact, Mr. Ives  
15 was expressly told one day prior to the on the record  
16 presentation that GMO was definitely going to retire the  
17 Sibley units and did not bring this up at the  
18 presentation." Did I read that correctly?

19 MR. MARKE: Yes.

20 MR. ZOBRIST: Okay. Now, the presentation that  
21 you're talking about was in what proceeding?

22 MR. MARKE: The last rate case.

23 MR. ZOBRIST: Right. The 2018 rate case. Okay.  
24 And isn't it true that the final decision to retire Sibley  
25 had not been made on October 2 or October 3, 2018?

1           MR. MARKE: Based off of the email chain you  
2 read, it would appear so.

3           MR. ZOBRIST: No further questions, Judge. Thank  
4 you. Oh, did I move the admission of Exhibit 134? I  
5 believe I did not.

6           JUDGE HATCHER: No. So moved.  
7           Counsel, you have heard the motion by  
8 Mr. Zobrist. Any objections to the admission of Exhibit  
9 134 which is data request 1039?

10          MR. CLIZER: Your Honor, I do object. Again,  
11 this is duplicative of the prior. The only difference is  
12 that they include DRs 1040 through some other at the end  
13 which was not questioned on. Because they were questioned  
14 on, I'd like to stand on the prior exhibit which is the  
15 same.

16          MR. ZOBRIST: Judge, this was offered impeachment  
17 of this witness to clarify certain things. He cites in his  
18 surrebuttal testimony a number of exhibits from Mr.  
19 Schellenberg. That's exhibits that bear the markings RES-  
20 1. And this was meant to clarify and further elaborate on  
21 the testimony of Dr. Marke.

22          JUDGE HATCHER: I appreciate that, Mr. Zobrist.  
23 My question and Public Counsel's question is why did you  
24 include the data response for 1041, 1043, 1046, 1047, and  
25 1052?



1 MR. ZOBRIST: Because that's what Mr.  
2 Schellenberg (audio cuts out) in here, and I did not want  
3 to truncate or separate that and be subject to, you know,  
4 an objection that I wasn't presenting the entire thing. I  
5 would say, I guess one further thing, it clarifies that the  
6 estimated amount of repairs was \$2.21 million, Judge. I  
7 think I heard a different figure earlier in the case. And  
8 this relates to other discussions that we have had on the  
9 issue, so I felt that the integrity of the exhibit really  
10 required me to offer it in evidence as it was presented  
11 initially to the Commission.

12 JUDGE HATCHER: Okay. But your pointing out of  
13 the accuracy of the number is in the emails.

14 MR. ZOBRIST: Correct.

15 JUDGE HATCHER: Okay. Here is the problem, from  
16 my point of view, is citation. Because we now have two  
17 exhibits with different page numbers that say the same  
18 thing. And since nobody has brought up the extra data  
19 responses, and I think a party would be able to object if  
20 they felt that it was incomplete, I'll ask for any  
21 objections to Exhibit 134.

22 You did make an objection; is that correct?

23 MR. CLIZER: To clarify, my objection is that  
24 it's duplicative. It is literally already in the record.  
25 We don't need a second one.

1 JUDGE HATCHER: So the answer is yes. OPC made  
2 an objection.

3 Mr. Zobrist, did you have any further reply?

4 MR. ZOBRIST: Well, I mean, Judge, I want this in  
5 here because this was a Public Counsel exhibit. This came  
6 in from Mr. Schellenberg in the AAO case. And I think I'm  
7 entitled to have this come in the way it came in because  
8 Dr. Marke cited some other things from Mr. Schellenberg.  
9 He didn't cite this. I think that goes to credibility and  
10 to other issues. This is not unduly cumulative under the  
11 administrative procedure rules. I mean, of the things that  
12 are unduly repetitive and cumulative, this is, you know, 15  
13 pages. So I don't see that there's a burden and I see that  
14 there's no prejudice. But I think it's helpful to place  
15 this in context, as well as some of the other additional  
16 information that I didn't particularly cover but I think is  
17 relevant to a number of the discussions that we have had  
18 today.

19 MR. CLIZER: Your Honor, if it will help, the OPC  
20 will stipulate that these emails were included as an  
21 attachment to Mr. Schellenberg's testimony. There's no  
22 reason to have two versions of the same set of emails.

23 JUDGE HATCHER: Mr. Zobrist, I would like to know  
24 your position on my problem with citation. The end of the  
25 case, we're all writing briefs or orders and you cite to

1 Exhibit 134, page 2, and Mr. Clizer cites to Exhibit 131,  
2 page 1, and it's the same quote. That's my problem.

3 MR. ZOBRIST: Judge, I respectfully don't see  
4 that's a problem. But if you want us to have dual  
5 citations to make it clear to you and to the commissioners,  
6 I'd be glad to do that. But I think the fact that I've got  
7 at the bottom that this was a schedule that Public Counsel  
8 offered, and it was not included in this manner, by this  
9 witness, I think goes to his credibility and I think it's  
10 important.

11 MS. MERS: Could staff suggest that perhaps 134  
12 stay in the record and 131 be removed? Then it's no longer  
13 duplicative. There's no longer the need for double  
14 citations. You know, it seems like 134 is more pressing  
15 for Evergy to make its case than 131 was. That seems a  
16 simple solution.

17 MR. CLIZER: Yes. That works for us because that  
18 solves the duplicative problem. Can we strike all the DR  
19 responses after 1039, since they are not part of the cross-  
20 examination?

21 JUDGE HATCHER: What I heard was a pretty  
22 forceful argument by Mr. Zobrist. I don't know what I'm  
23 missing because Mr. Zobrist, your point is, this is a  
24 minimal thing, which would lead me to my question, why not  
25 go with the first one? But you have made a passionate

1 argument over what appears to me to be a smaller issue.  
2 I'm not a lawyer in the case. I have a solution, and  
3 without objection -- I'm sorry, if there are no objections,  
4 I'm going to admit Mr. Zobrist's Exhibit 134. I'm going to  
5 strike Exhibit 131.

6 (No response)

7 Excellent. I heard no --

8 MR. CLIZER: No objections.

9 JUDGE HATCHER: So done. Exhibit 131 is stricken  
10 from the record. We will keep Exhibit 134.

11 (Exhibit 134 admitted)

12 (Exhibit 131 stricken)

13 MR. ZOBRIST: Thank you, Judge.

14 JUDGE HATCHER: Where are we at?

15 MR. ZOBRIST: We're on cross-examination.

16 JUDGE HATCHER: Right. Thank you. Go ahead.

17 MR. ZOBRIST: No, I'm finished.

18 JUDGE HATCHER: Okay. Who's next for  
19 cross-examination? And I think that is going to be the  
20 commissioners. Do any commissioners have any questions for  
21 Dr. Marke?

22 (No response)

23 Hearing none. The bench also has no questions.

24 Redirect. Mr. Clizer, go ahead.

25 MR. CLIZER: Thank you. I can't seem to get

1 close enough to this mic.

2 All right. Let's talk about some emails. Just  
3 to start off with, I want to make sure that it's clear.  
4 The whole section here that was being cited from your  
5 surrebuttal testimony, that was an excerpt from the brief  
6 of the Office of Public Counsel filed in the complaint  
7 case.

8 MR. MARKE: That is correct.

9 MR. CLIZER: And you were adopting it, correct?

10 MR. MARKE: That's correct.

11 MR. CLIZER: I just want to make sure that was  
12 obvious. All right. Now, with regard to the emails, how  
13 did they affect what you were attempting -- or rather,  
14 Everygy was arguing that it was not certain that the plant  
15 was going to be shut down, right?

16 MR. MARKE: That's what they were arguing in the  
17 rate case. As that rate case was taking place, this  
18 information was never brought to our attention or to MECG's  
19 attention. We entered into -- there were various  
20 stipulations and agreements that were entered into. Again,  
21 this information was never brought (audio cuts out). We  
22 wrote copious amounts of testimony before this raising this  
23 as an issue, wanting to try this as an issue. Again,  
24 skirting the line over settlement discussions or not, I  
25 think a reasonable person could say that their position may

1 have been altered, had they been aware of this information.  
2 This is what drove us, ultimately, to file a complaint case  
3 with the Commission.

4 MR. CLIZER: And it's true that the decision to  
5 retire to Sibley, at least by December, had been made long  
6 before the rate case?

7 MR. MARKE: The company had the opportunity to  
8 bring this information in front of the Commission  
9 beforehand. They could have brought this information  
10 before rates went into effect. They chose not to. Again,  
11 this is why we brought the complaint case. You know, as  
12 you qualify that the complaint case is an AAO because PISA  
13 wouldn't allow us to go ahead and mess with base rates  
14 after the 1st of the year.

15 MR. CLIZER: Do you fully agree with the  
16 assessment that the decision wasn't made until November to  
17 retire Sibley?

18 MR. MARKE: Personally, no.

19 MR. CLIZER: Why?

20 MR. ZOBRIST: Judge, yeah. I think that does  
21 call for speculation unless there's something more to the  
22 question Mr. Clizer wants to ask.

23 JUDGE HATCHER: I would have to agree on its  
24 face.

25 Mr. Clizer, do you have a response?

1 MR. CLIZER: I'll move on.

2 JUDGE HATCHER: Thank you.

3 MR. CLIZER: I might come back to that.

4 Dr. Marke, you were asked about statements on  
5 page 73 of your surrebuttal. Do you recall that?

6 MR. MARKE: Yes.

7 MR. CLIZER: Lines 4 through 7. And at the time,  
8 you were trying to explain what exactly you were referring  
9 to by that section in referencing securitization. Can you  
10 please explain what you were referring to?

11 MR. MARKE: I'd like to read it out loud, just so  
12 the court has a record of this. But it's -- "There's of  
13 course a legitimate argument for the Commission to disallow  
14 fuel costs related to Evergy West's inability to properly  
15 manage its resource adequacy in the securitization case.  
16 And to disallow capital costs related to the Sibley  
17 stranded investment in this case. But I fail to see how  
18 management can be deemed to be prudent in both cases."

19 What I was attempting to say before I got cut off  
20 was that my testimony wasn't implying to securitize Sibley  
21 in this case. I was referring to the securitization of  
22 Storm Uri costs.

23 MR. CLIZER: You were asked questions regarding  
24 the IRP process and whether or not utilities plan for  
25 anomalous events. Do you recall that?

1 MR. MARKE: I do recall that.

2 MR. CLIZER: Is your prudence argument based on  
3 Everygy's failure to plan for an anomalous event?

4 MR. MARKE: No, it's not. Mr. Zobrist -- I think  
5 the phrases that he used were efficient and clean, I think  
6 were the two that I remember. What I would also point out  
7 is size matters. And 25 percent of your generation load  
8 matters if you're taking it off of your resource mix while  
9 you're increasing load simultaneously. That was the  
10 concern. That is still the concern today.

11 MR. CLIZER: Were there other problems that you  
12 saw with regard to the IRP process regarding the decision  
13 to retire Sibley?

14 MR. MARKE: Many. If the IRP process -- I would  
15 first say is that it's not a prudency process. There's  
16 very little recourse for us to go ahead and air our  
17 grievances other than to file memorandums saying as much.  
18 Which we did, and that's included in my surrebuttal  
19 testimony.

20 But the key thing that was significant about the  
21 IRP process is it looked at the modeling of shutting down  
22 Sibley within a vacuum. It did not take into account that  
23 if you see renewable prices going down, and cheap,  
24 efficient electricity generation coming up with renewable,  
25 being able to take advantage of tax credits and so forth,



1 in a vacuum, it would make sense to shut down that coal  
2 plant. But if you're seeing that, what is everybody else  
3 seeing? And everybody else in SPP market is responding the  
4 exact same way.

5           And if that market is all acting in a certain way  
6 -- which again, I point back to that Wednesday agenda  
7 meeting with SPP, then you've got problems. You have  
8 diminishing returns, first of all, in the amount of  
9 renewables that can come online, where you end up getting -  
10 - SPP has to get creative, and you have to have performance  
11 based renewable capacity accreditation. Because each one  
12 of those incremental renewables is being valued as a lower  
13 level. It also means that the remaining baseload coal  
14 plants are that much more valuable. When I was crossed  
15 about Sierra Club and Sierra Club's points, I maintain --  
16 and believe the company's position is the same, too -- that  
17 they can't just shut down Iatan and Jeffrey for that very  
18 reason. We won't have reliable power. But it cuts both  
19 ways.

20           MR. CLIZER: There was a discussion about plants  
21 that were more efficient, less efficient, more dirty, less  
22 dirty. Do you recall that?

23           MR. MARKE: I do.

24           MR. CLIZER: Just for the record, are there  
25 plants within Evergy's generation fleet that you consider

1 to be more dirty than Sibley --

2 MR. MARKE: Yes.

3 MR. CLIZER: -- or less efficient?

4 MR. MARKE: Yes.

5 MR. CLIZER: And those plants were not shut down?

6 MR. MARKE: That's correct.

7 MR. CLIZER: What is your understanding of why  
8 those plants were not shut down?

9 MR. MARKE: It would probably be speculative on  
10 my part to sit there and say why, you know, certain plants  
11 were chosen over another, beyond the fact that Sibley was  
12 wholly owned by the company. So they --

13 MR. ZOBRIST: Judge, if that's speculation then  
14 I'm going to move to strike.

15 MR. MARKE: Fair enough.

16 MR. CLIZER: And you had mentioned at the time  
17 (audio cuts out) raised other concerns regarding  
18 reliability.

19 MR. MARKE: Yes.

20 MR. CLIZER: Have we seen those concerns play  
21 out?

22 MR. MARKE: We're seeing it play out right now.

23 MR. CLIZER: In what ways?

24 MR. MARKE: Increased fuel costs. The exposure  
25 to anomalous events that may be more reoccurring. We see

1 it being played out as the SPP's capacity requirements  
2 increase to account for that. All of these are going to be  
3 costs that are going to be borne by customers. And it's  
4 not enough just to consider it in the context of a  
5 generation as a whole, you also need to take into account  
6 the additional transmission and distribution investment  
7 that's going to be tied to that. All of those are real  
8 costs that are going to be borne by ratepayers.

9 MR. CLIZER: Are you aware of any recent  
10 presentations that discuss these problems?

11 MR. ZOBRIST: Object. That's vague and  
12 ambiguous. I'm not sure what that's referring to.

13 MR. CLIZER: I'll waive.

14 You were asked questions regarding shutting down  
15 Sibley and whether that provided an environmental benefit.  
16 Do you recall that?

17 MR. MARKE: Yes.

18 MR. CLIZER: Were there certainly detriments to  
19 shutting down Sibley, as well?

20 MR. MARKE: Yes.

21 MR. CLIZER: Such as?

22 MR. MARKE: Increased exposure to the SPP market,  
23 increased fuel costs. Increased, you know, value of the  
24 lost load in terms of reliability issues. Increased costs  
25 associated with -- increased costs associated with this

1 whole endeavor that we're in right now in determining, you  
2 know, what the appropriate depreciation value is and where  
3 it should be booked. And how it's going to be recovered  
4 back from ratepayers. All of these are byproducts of that  
5 decision.

6 MR. CLIZER: Was there any way that Evergy could  
7 have achieved same or similar environmental benefits  
8 without fully shutting down the Sibley facility?

9 MR. MARKE: Sure. Seasonal dispatch. Even  
10 mothballing it, you know, would have at least opened up  
11 that opportunity. There's a variety of different methods.  
12 (Audio cuts out) option.

13 MR. CLIZER: You were asked about other states  
14 having higher rates that have -- I believe the term is  
15 deregulated. I'm not sure if that's accurate. Do you  
16 recall that?

17 MR. MARKE: Yes. I do.

18 MR. CLIZER: Is that a fair comparison to this  
19 state or to the competitive markets the questions were  
20 driven at?

21 MR. MARKE: Context is important as to why  
22 deregulated states -- you know, really, when we're talking  
23 about deregulated states, you're talking about, you know,  
24 movement that took place in really, primarily on the coast  
25 at the turn of the century. And it was really halted, you

1 know, due to, I would say accounting issues stemming from  
2 Enron. It stemmed the tide on deregulation across the  
3 United States.

4           But the reason deregulated states tend to have,  
5 in general, higher rates than vertically integrated states,  
6 to date has been in part because of a lot of investor-owned  
7 generation that was prematurely retired, too. So those  
8 were additional costs being borne by customers at that  
9 time. I have not -- I mean, the most recent examples I've  
10 seen of comparing deregulated versus regulated states are  
11 at least a few years old. It would be difficult for me to  
12 say one way or the other at this point.

13           MR. CLIZER: You were asked about your statements  
14 regarding a perverse incentive to increase rate base. Do  
15 you recall that?

16           MR. MARKE: I do.

17           MR. CLIZER: That concept of a perverse  
18 incentive, is that something unique to you, or have other  
19 people raised that similar concern?

20           MR. MARKE: The concepts also coined as the  
21 Averch-Johnson effect, or gold plating is the preferred  
22 term of art in this field. But it basically implies that a  
23 utility has a perverse incentive to build rate base. I can  
24 say I've been in discussions with CEOs, and executives that  
25 have said, you know, quite frankly, "You know, I feel like

1 my job is to go ahead and increase rate base." And as you  
2 increase rate base, that increases the opportunity for  
3 earnings.

4           And that's not to suggest that OPC doesn't want a  
5 healthy utility, or that OPC doesn't believe that  
6 investment is necessary. Of course investment's necessary.  
7 We try our damndest to call balls and strikes when we feel  
8 like it moves outside of those lanes. And shutting down a  
9 coal plant that has as much generation that it was supposed  
10 to -- capacity that it was supposed to provide for its  
11 customers is an example of that. Add on the fact that it  
12 was 20 years prior to its end of its useful life. That's,  
13 from my vantage point, well within the scope of a prudency  
14 review. That's what a reasonable person would call a  
15 strike on.

16           MR. CLIZER: So to the extent that there might  
17 exist that perverse incentive, what would your advice the  
18 Commission to do?

19           MR. ZOBRIST: Objection. Judge, that goes beyond  
20 the scope of my cross-examination.

21           MR. CLIZER: I would disagree with that. I  
22 believe he was asked a question whether or not there was a  
23 statutory problem regarding a perverse incentive. And I  
24 would like Dr. Marke to explain why that's not the case.

25           MR. ZOBRIST: Respectively, that wasn't the

1 question. The question was: what advice would you give the  
2 Commission. So if he rephrases the question, I'd be glad  
3 to listen to it and decide whether to object.

4 MR. CLIZER: In that case, let me rephrase the  
5 question.

6 Do you perceive that there's a statutory problem  
7 regarding a perverse incentive?

8 MR. MARKE: I think it's incumbent upon the  
9 Commission to be cognizant of when utilities increase rate  
10 base unnecessarily. I think it's our statutory directive  
11 to make the Commission aware of that when we feel like  
12 that's the case.

13 MR. CLIZER: And you were asked a question at the  
14 very beginning of cross-examination by Evergy whether or  
15 not only prudently incurred costs are passed on. Do you  
16 recall that?

17 MR. MARKE: I do.

18 MR. CLIZER: So to summarize your position in  
19 this case is that the retirement of Sibley was not a  
20 prudently incurred cost?

21 MR. MARKE: That is correct.

22 MR. CLIZER: Thank you, Your Honor. No further  
23 questions.

24 JUDGE HATCHER: Thank you.

25 You are excused, Dr. Marke.

1 MR. MARKE: Thank you.

2 JUDGE HATCHER: Let's go ahead and call up Mr.  
3 Robinett.

4 And Mr. Robinett, please raise your right hand.  
5 (John Robinett sworn)

6 JUDGE HATCHER: Thank you. You may be seated.  
7 Mr. Clizer, your witness.

8 MR. CLIZER: Let's see if I can do it right this  
9 time. Mr. Robinett, can you state and spell your full name  
10 for the record?

11 MR. ROBINETT: John A. Robinett. And Robinett is  
12 spelled, R-o-b-i-n-e-t-t.

13 MR. CLIZER: And by whom are employed and in what  
14 capacity?

15 MR. ROBINETT: I'm employed by the Missouri  
16 Office of the Public Counsel as a utility engineering  
17 specialist.

18 MR. CLIZER: And did you prepare or cause to be  
19 prepared testimony which has been pre-marked 309 for the  
20 direct testimony, both public and confidential, 310 for the  
21 rebuttal testimony, both public and confidential, and 311  
22 for the surrebuttal testimony?

23 MR. ROBINETT: Yes.

24 MR. CLIZER: And if I were to ask you the same  
25 questions that were posed in those testimonies today, would



1 you answers today be the same or substantially similar?

2 MR. ROBINETT: Yes, they would.

3 MR. CLIZER: And do you have any corrections to  
4 make?

5 MR. ROBINETT: None at this time.

6 MR. CLIZER: And are the answers to those  
7 questions true and correct to the best of your knowledge  
8 and belief?

9 MR. ROBINETT: They are.

10 MR. CLIZER: All right. Your Honor, I would  
11 offer Exhibits 309, the direct testimony of John A.  
12 Robinett, public and confidential; 310, the rebuttal  
13 testimony of John Robinett, public and confidential; and  
14 311, the surrebuttal testimony of John Robinett.

15 JUDGE HATCHER: Thank you.

16 Counsel, you have heard the motion. I will  
17 combine them as is my practice. Are there any objections  
18 to the admission on the record of Exhibit 309, 310, and  
19 311, both the public and confidential versions  
20 respectively?

21 (No response)

22 Hearing none, so admitted.

23 (Exhibits 309, 310, and 311 admitted)

24 JUDGE HATCHER: Go ahead.

25 MR. CLIZER: I tender the witness for

1 cross-examination.

2 JUDGE HATCHER: Thank you.

3 And again, for our future court reporter, we will  
4 call through the parties with some economy since some  
5 parties are excused.

6 Charge Point.

7 (No response)

8 Google.

9 UNIDENTIFIED SPEAKER: No questions, Your Honor.

10 JUDGE HATCHER: Nucor.

11 MR. ELLINGER: No questions, Judge.

12 JUDGE HATCHER: City of St. Joseph.

13 (No response)

14 Dogwood.

15 (No response)

16 Sierra Club.

17 (No response)

18 Renew Missouri.

19 MS. GREENWALD: No questions, Your Honor.

20 JUDGE HATCHER: Missouri Industrial Energy  
21 Consumers.

22 (No response)

23 And Mr. Opitz for MECG.

24 MR. OPITZ: No thank you, Your Honor.

25 JUDGE HATCHER: Staff.

1 MS. MERS: No questions. Thank you.

2 JUDGE HATCHER: Velvet Tech?

3 MS. BELL: No questions, Your Honor.

4 JUDGE HATCHER: And Everyg.

5 MS. WHIPPLE: No, thank you.

6 JUDGE HATCHER: Are there any commissioner  
7 questions for Mr. Robinett? It's star 6 to unmute if  
8 you're on the phone.

9 (No response)

10 Hearing none, the bench does have a couple  
11 questions. In the complaint case we've been referring, EC-  
12 2019-0200, Mr. Spanos included an updated accumulated  
13 depreciation reserve for Sibley. Are you familiar with his  
14 testimony and methodology for how he got to the \$145.6  
15 million net book value?

16 MR. ROBINETT: I would say generally, but I don't  
17 know -- I haven't reviewed it all specifically.

18 JUDGE HATCHER: What is your opinion on that  
19 methodology?

20 MR. ROBINETT: That methodology looks at a very  
21 specific set of time, and what it does is it goes back and  
22 looks at all of the vintages and tries to calculate out  
23 what reserves should have been if a certain rate had been  
24 in effect for the life of that asset. And then that's all  
25 summed up to get to that value.

1 JUDGE HATCHER: And your calculations for the  
2 proposed value, are those calculations included in your  
3 testimony? And work papers are not included in what is  
4 filed with the Commission.

5 MR. ROBINETT: I understand that but I'm trying  
6 to think. I believe I walk through the math in my  
7 testimony. Specifically my rebuttal beginning at page 16,  
8 line 9.

9 JUDGE HATCHER: Okay. Thank you. That's all the  
10 questions from the bench. That does require you to stay  
11 there and we will go to recross.

12 Again, for our future court reporter, we're going  
13 to go through those excused parties rather quickly.

14 Charge Point.

15 (No response)

16 Google.

17 UNIDENTIFIED SPEAKER: No questions, Your Honor.

18 JUDGE HATCHER: Nucor.

19 MR. ELLINGER: No questions, Judge.

20 JUDGE HATCHER: City of St. Joseph.

21 (No response)

22 Dogwood.

23 (No response)

24 Sierra Club.

25 (No response)

1 Renew Missouri.

2 MS. GREENWALD: No questions, Your Honor.

3 JUDGE HATCHER: MIEC.

4 (No response)

5 Mr. Opitz with MECG.

6 MR. OPITZ: No, thank you, Your Honor.

7 JUDGE HATCHER: Staff.

8 MS. MERS: No, thank you.

9 JUDGE HATCHER: Velvet Tech.

10 MS. TECH: No questions, Your Honor.

11 JUDGE HATCHER: And Everyg.

12 MS. WHIPPLE: No thank you.

13 JUDGE HATCHER: Redirect.

14 MR. CLIZER: It should be brief. I'm hoping so.

15 Mr. Robinett, you were asked a bench question  
16 regarding your calculations included in testimony. Do you  
17 recall that?

18 MR. ROBINETT: Yes.

19 MR. CLIZER: Did you stake a specific position as  
20 to what the remaining net book value of the Sibley asset is  
21 in your testimony?

22 MR. ROBINETT: So I went through two different  
23 scenarios to arrive at a final total that also included the  
24 dismantlement costs. Yes.

25 MR. CLIZER: And why did you do two?

1 MR. ROBINETT: I've got to go back through my  
2 testimony and review it.

3 MR. CLIZER: Mr. Robinett, if you think your  
4 testimony will explain it yourself, we can move on.

5 MR. ROBINETT: I think it will.

6 MR. CLIZER: Never mind then. Let's move on.  
7 You were asked your opinion on what Mr. Spanos -- the  
8 theoretical calculation Mr. Spanos performed in the  
9 complaint case. Do you recall that?

10 MR. ROBINETT: Yes.

11 MR. CLIZER: Does what Mr. Spanos did, as you  
12 described it, consider what has actually been collected for  
13 depreciation reserve?

14 MR. ROBINETT: I struggle to answer that question  
15 only because it considers the entirety of what has been  
16 collected among all of those assets, and then he determined  
17 how to allocate that based on a theoretical position.

18 MR. CLIZER: And do you see a problem with that?

19 MR. ROBINETT: I don't know that I would do a  
20 theoretical reserve calculation for that starting point of  
21 what was unrecovered. I would have relied on something  
22 else.

23 MR. CLIZER: No further questions. Thank you.

24 JUDGE HATCHER: Mr. Robinett, you are excused.  
25 Thank you, sir.

1 MR. ROBINETT: Thank you.

2 MR. CLIZER: Your Honor, I have a question about  
3 the -- an exhibit number from earlier. I think it was the  
4 rebuttal testimony of John Spanos from the 0200 case.

5 JUDGE HATCHER: Exhibit 133.

6 MR. CLIZER: That's 133. And that has been  
7 admitted; is that correct?

8 JUDGE HATCHER: Yes.

9 MR. CLIZER: And so we're done with Spanos or --

10 JUDGE HATCHER: No. As soon as we are done with  
11 Mr. Meyer, my intent is to ask if any counsel has questions  
12 for Mr. Spanos.

13 MR. CLIZER: Okay. Thank you.

14 JUDGE HATCHER: Mr. Meyer -- I'm sorry, I  
15 startled you a little bit. Please raise your right hand.

16 (Greg Meyer sworn)

17 JUDGE HATCHER: Thank you. Please have a seat.

18 And Mr. Opitz, your witness.

19 MR. OPITZ: Mr. Meyer, can you state your name  
20 for the record?

21 MR. MEYER: Greg Meyer, M-e-y-e-r.

22 MR. OPITZ: And where are you employed and what's  
23 your position?

24 MR. MEYER: I'm employed by Brubaker & Associates  
25 Inc., and I'm a principal.

1 MR. OPITZ: And did you prepare on behalf of MECG  
2 a direct testimony, public and confidential versions,  
3 Exhibit Number 400; rebuttal testimony Number 401; and  
4 surrebuttal testimony, public and confidential versions,  
5 Number 402 in this case?

6 MR. MEYER: Yes, I did.

7 MR. OPITZ: And do you have any corrections to  
8 make to that testimony?

9 MR. MEYER: No, I do not.

10 MR. OPITZ: If I were to ask you the questions  
11 posed in that testimony, would your answers be the same?

12 MR. MEYER: Yes, they would.

13 MR. OPITZ: And the answers in there are true and  
14 correct to the best of your knowledge?

15 MR. MEYER: Yes, they are.

16 MR. OPITZ: Your Honor, at this time, I would  
17 offer Exhibits 400, public and confidential, 401, and 402,  
18 public and confidential into the record, and tender Mr.  
19 Meyer for cross.

20 JUDGE HATCHER: Thank you.

21 You have heard the motion restated by  
22 Mr. Opitz. Are there any objections to the admission of  
23 Exhibits 400, 401, or 402?

24 (No response)

25 Hearing none, so admitted.



1 (Exhibits 400, 401, and 402 admitted)

2 JUDGE HATCHER: The witness has been tendered.

3 Again, for our future court reporter, we will go through

4 all of the names with some economy.

5 Charge Point.

6 (No response)

7 Google.

8 (No response)

9 Nucor.

10 MR. ELLINGER: No questions, Judge.

11 JUDGE HATCHER: City of St. Joseph.

12 (No response)

13 Dogwood.

14 (No response)

15 Sierra club.

16 (No response)

17 Renew Missouri.

18 MS. GREENWALD: No questions, Your Honor.

19 JUDGE HATCHER: MIEC.

20 (No response)

21 Mr. Clizer with OPC.

22 MR. CLIZER: Thank you, Your Honor.

23 Good afternoon, Mr. Meyer.

24 MR. MEYER: Afternoon.

25 MR. CLIZER: Were you present earlier when Mr.

1 Spanos was testifying?

2 MR. MEYER: Yes, I was.

3 MR. CLIZER: I believe Mr. Spanos suggested that  
4 he disagreed with the description of what he performed in  
5 the 2018 complaint case as a theoretical calculation. Do  
6 you recall that?

7 MR. MEYER: I believe I do.

8 MR. CLIZER: Do you agree that what was performed  
9 in the 2018 complaint case was not theoretical?

10 MR. MEYER: In the 2018 case?

11 MR. CLIZER: In the complaint case. Sorry.

12 MR. MEYER: In the complaint case.

13 Mr. Spanos' testimony says that his calculation is based  
14 off of a theoretical reserve.

15 MR. CLIZER: To clarify the record, that was the  
16 2019 complaint case. That's my fault. Sorry.

17 I know that your position disagrees with what the  
18 starting net book value is, but you would agree that the  
19 theoretical calculation performed by Mr. Spanos at least  
20 properly considers what has already been collected. Right?

21 MR. MEYER: No. Not whatsoever.

22 MR. CLIZER: Would you agree with me that the  
23 application of the theoretical reserve calculation  
24 performed by Mr. Spanos in the complaint case is consistent  
25 with his approach in the past?

1           MR. MEYER: No. In fact, Mr. Spanos provides  
2 testimony that says you should not use the theoretical  
3 reserve to establish depreciation rights.

4           MR. CLIZER: Would you agree with me that Mr.  
5 Spanos established depreciation rates in 2016?

6           MR. MEYER: I believe he did a study, but those  
7 rates weren't approved by -- were not used to set rates for  
8 Evergy. The last time depreciation rates were used or were  
9 approved is in a 2010 case. And I can track those rates  
10 all the way up through this current rate case. And so this  
11 is the first rate case they've changed since 2010.

12           MR. CLIZER: Do you have a copy of the rebuttal  
13 testimony filed by Mr. Keith Majors?

14           MR. MEYER: No. Just his direct and surrebuttal.

15           MR. CLIZER: That's all right. I'm going to read  
16 you a passage from his testimony and ask if you agree with  
17 what Mr. Majors is testifying. Starting on page 4 at line  
18 19, Mr. Majors states, "Evergy West witness Kennedy used  
19 the same 145.6 million NBV as calculated in the AAO case by  
20 Evergy witness John J. Spanos." Would you agree with that  
21 statement?

22           MR. MEYER: Evergy West used 145.6 as an NBV as  
23 calculated by Mr. Spanos in the 2019 complaint case.  
24 That's correct.

25           MR. CLIZER: Mr. Majors goes on, "His sponsored

1 NBV is not related to the amount that was included in the  
2 cost of service for the Sibley plants in the Case Number  
3 2018 rate case and is based on a 'theoretical reserve'  
4 calculation." Would you agree with that?

5 MR. MEYER: That's absolutely true.

6 MR. CLIZER: Mr. Majors goes on to say, "Although  
7 Mr. Spanos briefly explains the method of calculating this  
8 amount, there is no clear reasoning why this method is  
9 superior to the allocated reserve amount included in the  
10 2018 rate case." Would you agree with that statement?

11 MR. MEYER: I would agree that the use of a  
12 theoretical reserve calculation to come up with a net book  
13 value for Sibley was inappropriate.

14 MR. CLIZER: Continuing on, Mr. Major says, "This  
15 amount was 300 million and formed the basis of the  
16 depreciation expense and rate of return calculation which  
17 was ultimately included in the cost of service in the 2018  
18 rate case." Would you agree with Mr. Majors on that  
19 statement?

20 MR. MEYER: Yes. The 300 million can be traced  
21 to not only the accounting schedules but to the  
22 accompanying work papers that were provided for the true-  
23 ups. And both the company and the staff agreed that the  
24 net book value of Sibley was \$300 million. According to  
25 their true-up calculations which was the basis for at least

1 negotiating the rate case.

2 MR. CLIZER: Are you familiar with the report and  
3 order that was filed in the complaint case?

4 MR. MEYER: Yes.

5 MR. CLIZER: Is your recommendation in this case  
6 premised on the assumption that the Commission ordered the  
7 company to track return on based on amounts from the 2018  
8 rate case?

9 MR. MEYER: The Commission ordered that parties  
10 should calculate the regulatory liability, which includes a  
11 return on on net book value of Sibley, and the O&M in what  
12 was included in customer rates.

13 MR. CLIZER: Returning to Mr. Major's testimony,  
14 again at page 5, line 8, he states, "I can conclude that  
15 the NBV of 300 million is the amount upon which the AAO  
16 'return on' deferrals should be calculated as that amount  
17 was the basis of the rate of return and depreciation  
18 calculations." Is that consistent with your position?

19 MR. MEYER: Yes. And I think Mr. Majors earlier  
20 today said that if the Commission adopted my position, his  
21 calculation would be the same.

22 MR. CLIZER: So based on at least this rebuttal  
23 testimony, you would believe that staff is agreeing with  
24 your position?

25 MR. MEYER: Well, that testimony, yes. But I

1 think Mr. Majors, in all due fairness, thinks --  
2 highlighted his position on the witness stand and he's back  
3 to 145, which I disagree with.

4 MR. CLIZER: I have no further questions. Thank  
5 you, Your Honor.

6 JUDGE HATCHER: Thank you, Mr. Clizer.

7 We will turn to staff, and I will gently remind  
8 our witness, Mr. Meyer, please move that microphone as  
9 close as you can. It's for our future court reporter who  
10 will have to transcribe this.

11 Staff counsel, please go ahead.

12 MS. MERS: Nicole Mers for staff.

13 Good afternoon, Mr. Meyer.

14 MR. MEYER: Afternoon.

15 MS. MERS: Are you familiar with the company's  
16 argument that because the decision to retire Sibley was  
17 prudent, disallowing the return on the plant subverts  
18 regulatory principles?

19 MR. MEYER: Yes. I'm familiar that they're  
20 arguing for a retired plant.

21 MS. MERS: Are you aware of any expenses incurred  
22 by the company that are not recoverable in rates but are  
23 not disallowed due to prudence?

24 MR. MEYER: Can you repeat that, please?

25 MS. MERS: Sure. Are you aware of any expenses

1 or costs that are incurred by the company that are not  
2 recoverable or used to set rates or included in rate base,  
3 but they are not disallowed, or not included in rate base  
4 because of a prudence determination?

5 MR. MEYER: Yes.

6 MS. MERS: And would an example of that be rate  
7 case expense?

8 MR. MEYER: Well, I mean, there's several  
9 examples. Any time you normalize or test your expense or  
10 amortize it over several periods of time, those are  
11 instances where the exact cost of providing service and the  
12 rates don't sync up. There's also disallowances, you know,  
13 typically on dues and donations that the staff makes that,  
14 you know, the company continues to do those, you know,  
15 knowing the regulatory treatments, so --

16 MS. MERS: And for an example, again, I'll focus  
17 on rate case expense, are you familiar with the  
18 justification that the parties have used for sharing cost?

19 MR. MEYER: Right. Rate cases expenses typically  
20 have been 50/50 between customers and -- I'll call them  
21 shareholders. So that would be an expense that, you know,  
22 there's been no arguments about whether those would cost --  
23 well, there have been arguments. I'm sorry, I take that  
24 back. I believe in a prior KCPL case, or an Evergy case  
25 there was an argument that the level of expenses -- and I

1 think this is what prompted the sharing -- that the level  
2 of rate case expenses was excessive.

3 MS. MERS: And would you agree that the  
4 justification behind these examples such as rate case  
5 expense, such as dues and donations, that sharing could be  
6 applied to allowing the return of but not on, in this case?

7 MR. MEYER: Oh, absolutely. I think that  
8 allowing the investors the return of the investment but  
9 denying the return on is a fair balance between  
10 shareholders and customers. I would also note that in many  
11 utilities and their risk assessments that they put in their  
12 10-Ks, they list that possibility, that risk that there  
13 will not be a return on power plants that are being  
14 retired. So they recognize it and that's built in -- in my  
15 mind, that's built into the ROE as a risk that's done and  
16 included.

17 MS. MERS: You used to be a member of staff; is  
18 that correct?

19 MR. MEYER: Yes.

20 MS. MERS: And in your experience as a member of  
21 staff, and perhaps you've brought this practice into your  
22 consultant work, do witnesses constantly get new  
23 information and evaluate that information to see how that  
24 could update change or impact a position that has been  
25 filed in a case?



1           MR. MEYER: Well, I think that -- and that's the  
2 benefit of the rounds of testimony is that a witness can  
3 present a position in direct, and then depending on the  
4 response, they can update their position to either  
5 affirmatively say that it continues, or it says, given some  
6 new information, a change in position is warranted.

7           MS. MERS: And were you here for Mr. Majors'  
8 testimony that that was his process in developing his  
9 direct and rebuttal in this case?

10          MR. MEYER: I heard that. I don't agree with him  
11 but that's okay.

12          MS. MERS: Okay. And although you were asked  
13 about that 300 million number is in staff's surrebuttal the  
14 145.6, staff's position that has been baked into the  
15 revenue requirement in the case?

16          MR. MEYER: Are you suggesting that the 145's in  
17 rates?

18          MS. MERS: Not in -- I apologize. That was a  
19 terribly worded question. We'll just say it the easy way.  
20 Is staff's position in surrebuttal the 145.6 the same as it  
21 was in direct for the net book value of Sibley?

22          MR. MEYER: Yes.

23          MS. MERS: Okay. Thank you. I have nothing  
24 further.

25          JUDGE HATCHER: Thank you.

1           That will take us to Velvet Tech.

2           MS. BELL: No questions, Your Honor.

3           JUDGE HATCHER: And Everyg.

4           MS. WHIPPLE: No, thank you.

5           JUDGE HATCHER: Okay. I will ask for  
6 commissioner questions. Are there any commissioner  
7 questions for Mr. Meyer?

8           (No response)

9           Hearing none, the bench does have a couple quick  
10 questions. These are going to be the same questions I had  
11 just asked Mr. Robinett.

12           Are you familiar with the methodology that Mr.  
13 Spanos used to come up with the 145.6 million NBV, which is  
14 net book value, for Sibley?

15           MR. MEYER: Yes. According to his testimony,  
16 it's based off of a theoretical reserve calculation. A  
17 theoretical reserve calculation takes the plant by vintage  
18 year and applies a formula to it. So it's one minus the  
19 net salvage value times the original cost of the investment  
20 that's put in that vintage, times one minus the next  
21 salvage, times one minus the remaining life of the asset  
22 over the average life of the asset.

23           So it doesn't -- it's a calculation at a snapshot  
24 in time. It doesn't trace and it doesn't attempt to trace  
25 any collection of depreciation expense on any asset. It

1 just says, "This is" -- and it's used as a check point.  
2 And Mr. Spanos, in other testimonies, has said this is what  
3 it's needed for. It's just as a check. And so it's not --  
4 it has no basis and no -- and in fact, in other cases,  
5 Gannett Fleming has testified that you shouldn't use the  
6 theoretical reserve to calculate depreciation rates. And I  
7 understand that.

8           And the reason that is is because if the  
9 theoretical reserve results in a calculation that exceeds  
10 the actual depreciation reserve, then the utility will be  
11 deprived of depreciation expense for that difference. And  
12 so it's a snapshot. It assumes that all the prior  
13 depreciation expense was adequate and here's where the  
14 depreciation reserve should be. But it doesn't look at  
15 what was actually collected in rates. And that's one of  
16 the shortfalls and that's why it shouldn't be used.

17           So if Mr. Spanos testifies that you shouldn't use  
18 the theoretical reserve calculation to establish  
19 depreciation rates, then why should you use it to establish  
20 the value of an undepreciated asset for purpose of this  
21 rate case? I just can't get those two to connect.

22           JUDGE HATCHER: Your testimony, did it propose a  
23 value of the net book value of Sibley, the 300 million?

24           MR. MEYER: Yes. That was -- and that's -- just  
25 so we're clear, that's based off of the staff's EMS run.

1 Which, you know, we took Mr. Majors through the specific  
2 lines. And it's also based off of -- and that's attached  
3 to my testimony -- it's also based off the company's work  
4 papers that were provided to the parties. I think they  
5 identically match. I think Mr. Robinett has a slight  
6 difference. He says there's \$2 difference in plant and \$1  
7 difference in reserve. But they match up exactly, and so  
8 does the depreciation expense.

9           So there's unequivocal evidence that it's 300  
10 million. And that's consistent with the Commission order  
11 that said calculate this reg. liability on what's being  
12 collected in rates. And what's being -- what ratepayers  
13 are being asked to pay in that case was the recovery of  
14 \$300 million of net book value.

15           JUDGE HATCHER: Okay. That is all the questions  
16 I have. I'm sorry, Mr. Meyer, I'm going to ask you to stay  
17 on our witness stand just a little longer.

18           That takes us to recross. Again, we will go  
19 through the parties.

20           Charge Point.

21           (No response)

22           Google.

23           UNIDENTIFIED SPEAKER: No questions, Your Honor.

24           JUDGE HATCHER: Nucor.

25           MR. ELLINGER: No questions, Judge.

1 JUDGE HATCHER: City of St. Joseph.  
2 (No response)  
3 Dogwood.  
4 (No response)  
5 Sierra Club.  
6 (No response)  
7 Renew Missouri.  
8 MS. GREENWALD: No questions, Your Honor.  
9 JUDGE HATCHER: MIEC.  
10 (No response)  
11 JUDGE HATCHER: OPC and Mr. Clizer.  
12 MR. CLIZER: No questions. Thank you.  
13 JUDGE HATCHER: Staff.  
14 (No response)  
15 Velvet Tech.  
16 MS. BELL: No questions, Your Honor.  
17 JUDGE HATCHER: Everygy.  
18 MS. WHIPPLE: No, thank you.  
19 JUDGE HATCHER: Mr. Meyer, you are excused.  
20 Thank you, sir.  
21 MR. OPITZ: Your Honor, I might have some  
22 redirect.  
23 MR. MEYER: I'm not leaving yet.  
24 JUDGE HATCHER: Please stick around,  
25 Mr. Meyer. Presiding officer is mistaken. We do have some

1 redirect.

2 Please go ahead.

3 MR. OPITZ: Mr. Meyer, OPC was asking about the -  
4 - he was asking about the report and order in the complaint  
5 case, saying that you should calculate the regulatory  
6 liability according to rates. Do you recall that?

7 MR. MEYER: I do.

8 MR. OPITZ: And why is it important that that's  
9 what the -- why is that important to your testimony in this  
10 case that that is what the Commission order talked about?

11 MR. MEYER: Well, there's two ramifications for  
12 changing what's in the Commission's -- or I'm sorry.  
13 There's two ramifications from changing what was presented  
14 in the company's work papers and in the staff's EMS. The  
15 first one is that you are assigning -- if you use the 145,  
16 you're not capturing the full unrecovered, undepreciated  
17 value of Sibley. That has two impacts.

18 The first one is, if you use the 145, you're  
19 understating the return on the regulatory liability that  
20 would be calculated. And you're also understating the  
21 amount of investment that should be not subject to a return  
22 on the investment as proposed and supported by staff, OPC,  
23 and MECG.

24 So there's two distinct ramifications by not  
25 going what's in the EMS run or the company work papers.

1 And these both effect what ratepayers pay. It's  
2 unquestionable that ratepayers were paying for a net book  
3 value of \$300 million. We've established that in both the  
4 company's papers and the staff's. And yet, when you want  
5 to move to a lesser value, you're taking money away from  
6 customers that have paid into that, and not allowing them  
7 to get a refund for that. And then also requiring them to  
8 pay a return on a portion of that plant going forward.

9 MR. OPITZ: Staff was asking you about witness  
10 Major's process for, I guess changing his position in this  
11 case. Do you recall that?

12 MR. MEYER: I do.

13 MR. OPITZ: And she listed, I guess the direct  
14 145 and said that was the same in surrebuttal. But he also  
15 had a couple other positions. Well, let's just say, you  
16 recall her talking about.

17 MR. MEYER: I do.

18 MR. OPITZ: So she listed those. And are you  
19 also aware of other positions he might have taken in this  
20 case?

21 MR. MEYER: Well, two things. He agreed with us,  
22 or agreed in cross, I'm sorry, that \$300 million is the  
23 unrecovered investment in the accounting schedules. He  
24 also agreed that there is no place where he can point to  
25 where rates are established under the 145 that he supports,

1 or the staff supports. So I still have struggled this  
2 whole time that, given the Commission order that says  
3 what's collected in rates, how the 145 can adopted.  
4 Because it's never -- and Mr. Majors correctly said this --  
5 it's never been put into a rate calculation.

6 MR. OPITZ: And on the stand today he also talked  
7 about a 200 and --

8 MR. MEYER: 234.

9 MR. OPITZ: -- 234 number.

10 MR. MEYER: Right.

11 MR. OPITZ: And that was his attempt to try and  
12 calculate using old rates. Do you remember that?

13 MR. MEYER: I do.

14 MR. OPITZ: And he essentially seemed to say on  
15 the stand that, while he did that, he wasn't -- it was kind  
16 of a, you know, high level evaluation and he wasn't sure  
17 about it, so he was defaulting to keeping at the 145. Is  
18 that your understanding?

19 MS. MERS: Judge, I'm sorry, this is beyond the  
20 scope of bench questions and cross.

21 MR. OPITZ: Your Honor, I guess staff was asking  
22 about the process to which staff came to -- at least in my  
23 view, go from one position to another, and then back to  
24 another in surrebuttal. And I'm asking about, I guess the  
25 additional developments in that process. And I guess Mr.



1 Meyer's view of how that was done.

2 JUDGE HATCHER: I'll allow it.

3 MR. OPITZ: Okay.

4 Mr. Meyers, what's your view of how that  
5 calculation was done?

6 MR. MEYER: Well, I haven't had the opportunity  
7 to review Mr. Majors 234 calculation. However, his two-  
8 thirds argument I believe is significantly flawed. If you  
9 look at the work papers that were supplied by Mr. Spanos in  
10 the complaint case, approximately \$190 million of new plant  
11 investment is invested in the Sibley units from 2007  
12 forward.

13 So the idea that, you know, that the depreciation  
14 reserve could be -- you know, isn't meeting the two-thirds,  
15 that has a direct impact on the low value of the  
16 depreciation reserve. There's been a significant amount of  
17 money spent at Sibley since 2007. And I think Mister --  
18 that could address the 300 million that we have now, too.

19 And the reason that is -- just a follow up -- if  
20 you have investment of that magnitude -- 190 million over  
21 the 476, just to give you a feel, it's not had the  
22 opportunity to be depreciated by a piece of property that  
23 was put in in 2000. Plus the fact that depreciation rates,  
24 until this rate case, haven't changed since 2010.

25 MR. OPITZ: Going back to a question counsel for

1 OPC was asking you. Essentially, he asked whether there  
2 was any clear reasoning why one method -- he was quoting  
3 testimony, I believe, and he was saying there's no clear  
4 reason why one method to determine depreciation is  
5 superior. Do you recall that?

6 MR. MEYER: I do.

7 MR. OPITZ: And in your view, which method is  
8 superior and should be used?

9 MR. MEYER: Well, to calculate the depreciation  
10 expenses it's imperative, and I think Mr. Spanos would  
11 agree with me, that you have to look at the reserves that  
12 have been collected, and not the theoretical reserves. In  
13 Mr. Spanos work papers, again provided in the complaint  
14 case, he identifies through the five major steam production  
15 plant accounts, approximately \$599 million of theoretical  
16 reserve. The total allocated reserve, or the collected  
17 reserve from that is about 411 million.

18 And that's why Mr. Spanos strongly urges people  
19 to not use the theoretical reserve to set depreciation  
20 rates. Because if he'd done it in this case, using the  
21 theoretical reserve you would have recognized 189 million,  
22 \$190 million of depreciation reserves that weren't  
23 collected from ratepayers. And that would have lowered,  
24 significantly the depreciation rates that Evergy would be  
25 allowed to collect on a remaining life basis.

1           So I agree with Mr. Spanos. I don't think you  
2 should use the theoretical reserve to determine depreciate  
3 rates. But I do believe that it's also imperative that you  
4 don't use it to calculate a reserve that was clearly marked  
5 in work papers from the company and the EMS runs from the  
6 staff.

7           MR. OPITZ: So the reserves that should be used  
8 in this case, which ones are those?

9           MR. MEYER: The 300 million unrecovered at June  
10 2018, updated through the rate effective period in this  
11 rate case.

12          MR. OPITZ: And using that value of reserves  
13 insures that customers aren't paying a return on this  
14 retired plant, correct?

15          MR. MEYER: They're not paying a return on this  
16 retired plant, and they're also being fully recognized for  
17 the money they paid from the date it was retired until the  
18 new rates are effective in this case. So it's two-fold.

19          MR. OPITZ: And that's a just and reasonable  
20 outcome in your opinion?

21          MR. MEYER: I wouldn't have proposed it if I  
22 didn't think it was.

23          MR. OPITZ: I don't have any further questions,  
24 Your Honor.

25          JUDGE HATCHER: Thank you, Mr. Opitz.

1 Mr. Meyer, you are excused.

2 We are at the end of the day, and as promised, we  
3 are going to see if Mr. Spanos is available.

4 First, before we call him up, I will ask if any  
5 parties have questions for Mr. Spanos?

6 MR. CLIZER: No.

7 JUDGE HATCHER: Anybody that has a question for  
8 Mr. Spanos, going once --

9 You do? Oh, I'm sorry. Keep discussing. Go  
10 ahead.

11 No. You're fine. Let's go ahead and call Mr.  
12 Spanos up to the stand.

13 MR. OPITZ: Your Honor, I would ask that, at this  
14 point, if we're doing recross of Mr. Spanos --

15 This is Tim Opitz speaking, for the record.

16 -- that it be limited to the new exhibits that  
17 were offered after he was on the stand earlier.

18 MR. CLIZER: OPC would second that. That was the  
19 purpose of asking for the additional cross.

20 JUDGE HATCHER: That sounds reasonable to me, Ms.  
21 Mers. Okay.

22 Yes. Mr. Spanos, please come up for the purpose  
23 only of responding to the exhibits that have appeared since  
24 your testimony.

25 Sir, you may go ahead and have a seat. You've

1 already been sworn in. I just remind you, gently, that  
2 still applies, please talk slowly. Please use the  
3 microphone.

4 (John Spanos previously sworn)

5 JUDGE HATCHER: Go ahead. Yes.

6 MS. MERS: Nicole Mers for staff.

7 In your testimony in the EC2019-0200 case, you  
8 used a theoretical reserve for that, correct?

9 MR. SPANOS: I think it needs to be clarified  
10 that I'm using an actual book reserve that has been  
11 assigned and developed based on all rates that have been in  
12 place. The assignment of the actual book reserve to the  
13 location level is based on the recovery and ages of those  
14 assets. And when you take that from the location level to  
15 the vintage level, the only way to calculate that is based  
16 on theoretically assigning that to the vintage level based  
17 on the age of the dollars.

18 So in my testimony where I reference that I have  
19 a theoretical calculation, I agree with Mr. Meyer. That  
20 was probably the only thing that I agreed with him on, is  
21 that that should not be the basis. But it should be a  
22 basis of how you assign it to the vintage level based on  
23 the ages of the asset. The amounts by location were  
24 developed based on the actual amount of accumulated  
25 depreciation that had been incurred through rates for the -

1 - in this case, all the steam assets themselves.

2 MS. MERS: And you're employed by Gannet Fleming;  
3 is that correct?

4 MR. SPANOS: Yes, I am.

5 MS. MERS: And does Gannet Fleming provide  
6 teaching or educational materials upon depreciation?

7 MR. SPANOS: We do train quite a few. There's  
8 the society of depreciation professionals, which we offer a  
9 lot of training. We also do special training for  
10 utilities, Commission staffs, and even some other  
11 interveners.

12 MS. MERS: May I approach?

13 JUDGE HATCHER: Yes.

14 MS. MERS: Apologies, I do not have enough  
15 copies, but I have showed this to counsel.

16 MR. CLIZER: Your Honor, I think I need to  
17 inquire if this exhibit is inside of that Exhibit 133 or  
18 related to that rebuttal testimony in the 0200 case.  
19 Because if it's not, I'm going to object to it as being  
20 outside the scope.

21 MS. MERS: It is not in the rebuttal testimony,  
22 but it relates to the justification on why that method  
23 would have been used -- or at least I'm going to inquire, I  
24 do not want to assume. But the purpose of presenting it  
25 would be to inquire of the witness if he agrees with those

1 reasons, and if those reasons were the basis for why he  
2 used that approach in the rebuttal testimony that is now an  
3 exhibit.

4 MR. CLIZER: I would also like to object on the  
5 basis that that questioning could have been brought forward  
6 at the prior cross-examination.

7 JUDGE HATCHER: I'm going to allow it because we  
8 have traveled quite a bit since Mr. Spanos was up this  
9 morning. And I would like to make sure that he has the  
10 opportunity to address some of our discussions.

11 MS. MERS: So you kind of got the preview of  
12 where I was going, but do you see --

13 Again, apologies parties that I don't have more  
14 copies of this.

15 -- but the common uses on why theoretical reserve  
16 would be used? And could you read those aloud?

17 MR. SPANOS: Yes. I do see that document. So  
18 the area to read, "Theoretical reserve common uses. Used  
19 as the basis to allocate a functional plant (audio cuts  
20 out) reserve to the plant account level for companies that  
21 to not maintain the book reserve at the account or  
22 subaccount level. Used as a basis to allocate a plant  
23 account book reserve balance to the vintage level. And  
24 used as a benchmark to assess the adequacy of the company's  
25 book reserve."

1 MS. MERS: And would any of those reasons support  
2 why you used the theoretical reserve method as part of your  
3 rebuttal testimony in the complaint case?

4 MR. SPANOS: Yes. All three of them are  
5 applicable. I think the key one that I was trying to  
6 explain in the first question you asked is, we have the  
7 book reserve, how it's been developed at the account level.  
8 And it now needs to be assigned because we used to be at  
9 whole life, and we did not have lifespan. So now when you  
10 add the remaining life and lifespan, you have to now assign  
11 the book reserve that has been calculated based on rates  
12 that were in place to that detail, degree of detail at a  
13 location level, and at a vintage level.

14 And so it is used -- the theoretical reserve then  
15 takes that number that you have -- and in this case, I'll  
16 say Sibley at 145, and assign that to the vintage level  
17 based on those recovery patterns. So it's allocating to  
18 the vintage level each of those assets.

19 MS. MERS: And then your use of that method in  
20 your rebuttal testimony is not a different version than  
21 what is commonly accepted in depreciation studies or  
22 testimony. Is that correct based on that being training  
23 material?

24 MR. SPANOS: That's absolutely correct. And  
25 that's the same process that I used in the subsequent -- or



1 excuse me, the prior studies. The accounting order and in  
2 this current study, all those same methodologies, when you  
3 bring in lifespan and remaining life and how you calculate  
4 it at a vintage level. I did not change the total book  
5 reserve that had been recorded at the account level.

6 MS. MERS: Okay. Thank you. I have no further  
7 questions.

8 JUDGE HATCHER: I am going to open it back up.  
9 We are way off book. So I'm just going to open it. I will  
10 come back to the company for redirect. You will have the  
11 final questions.

12 Are there any parties that would like to ask  
13 further questions?

14 MR. OPITZ: I would, Your Honor.

15 JUDGE HATCHER: Tim Opitz.

16 MR. OPITZ: Tim Opitz from MECG.

17 JUDGE HATCHER: Yes.

18 MR. OPITZ: Mr. Spanos, you were talking about  
19 just a minute ago a theoretical reserve. Would you agree  
20 that the theoretical reserve is an estimate of the  
21 accumulated depreciation based on the current plant  
22 balances and depreciation parameters, service life, and net  
23 salvage estimates at a specific point in time? Put another  
24 way, it is theoretically what the reserve would have been  
25 had the current plant balances utilized the same

1 depreciation parameters since the initial assets were  
2 placed in service.

3 MR. SPANOS: I agree with what you read. And if  
4 that was the case, then a net book value for Sibley would  
5 be zero because it's been retired. So that's why I do not  
6 agree with the fact that the way that it is being portrayed  
7 here is accurate with that calculation. Because if we used  
8 the parameters that were in place as of the retirement  
9 date, we would have gotten full recovery of that, including  
10 the net salvage component. So I think putting it in  
11 perspective as to what your question is, that's the  
12 appropriate answer.

13 MR. OPITZ: Mr. Spanos, you testify on behalf of  
14 other utilities in the state of Missouri; is that right?

15 MR. SPANOS: Yes, I do.

16 MR. OPITZ: And what I read you, did that sound  
17 familiar to you?

18 MR. SPANOS: The language that you read is  
19 familiar. I think, again, you need to understand the  
20 scenario we're in in this particular case and what's  
21 happened in the history of Evergy assets.

22 MR. OPITZ: Well, that quote and opinion is from  
23 your rebuttal testimony in a recent Ameren Missouri rate  
24 case.

25 MR. SPANOS: Yes. And I think if you were to

1 look at the Ameren rate case and the details of that case,  
2 those have unit breakdowns. I continue to use the actual  
3 book reserve in those cases for the account --

4 MR. OPITZ: Your Honor --

5 MR. SPANOS: -- and I lay it out in the same  
6 exact way I've done here.

7 MR. OPITZ: Your Honor, there's no question  
8 pending.

9 Would you agree, Mr. Spanos, that a theoretical  
10 reserve imbalance is merely a comparison of the book  
11 reserve to the theoretical reserve at a single point in  
12 time based on the service life and net salvage estimates?  
13 These estimates can and will evolve over time as more  
14 information is available.

15 MR. SPANOS: They will evolve over time and that  
16 is how you develop a remaining life rate. So the rates  
17 that have been approved take that into consideration in  
18 these calculations.

19 MR. OPITZ: Would you agree that you've testified  
20 that theoretical reserve can provide a benchmark of a  
21 company's reserve position, but is not the "correct"  
22 reserve amount? The theoretical reserve will change every  
23 time a study is performed. For example, if there is a  
24 change in the estimated retirement date for a power plant,  
25 this will change the calculated theoretical reserve.

1 MR. SPANOS: I agree with those statements and  
2 agree that that's exactly what's been done here. I have  
3 not assigned a theoretical reserve to each unit. I've  
4 taken the actual book reserve and assigned the amount that  
5 would be calculated based on the past rates and the  
6 parameters that are in place today.

7 MR. OPITZ: And that's not -- that amount is not  
8 tied to anything that was set in rates in the last Evergy  
9 rate case; is that right?

10 MR. SPANOS: I'm sorry, could you repeat that  
11 question?

12 MR. OPITZ: Your theoretical reserve amount is  
13 not tied to anything that was established in rates in that  
14 Evergy rate case, the most recent Evergy rate case.

15 MR. SPANOS: Can you explain to me what  
16 theoretical reserve you're asking about?

17 MR. OPITZ: The 145 million you've calculated.

18 MR. SPANOS: Again, as I've stated, I'm using the  
19 actual book reserve and the actual book reserve is only  
20 assigned to the vintage level based on the theoretical  
21 reserve.

22 MR. OPITZ: Mr. Spanos, that's a yes or no. Is  
23 that 145 included anywhere in the rates of the most recent  
24 Evergy West rate case?

25 MR. SPANOS: The 145 was part of the calculation.

1 It is not a theoretical reserve calculation.

2 MR. OPITZ: Was that 145, however you want to  
3 characterize your calculation, included in the rates that  
4 were set in Evergy West most recent rate case? Yes or no.

5 MR. SPANOS: Can you give me what rate case  
6 you're --

7 MR. OPITZ: The ER2018-0146.

8 MR. SPANOS: As I answered your question earlier  
9 today, the rates were developed under those methodologies  
10 with the changes that were required part of that case.

11 MR. OPITZ: Those are your depreciation rates.  
12 I'm asking about, is this 145 included in the rates that  
13 were set in the ER2018-0146 rate case? Yes or no?

14 MR. SPANOS: Are you asking about depreciation  
15 rates or are you asking about some other rates?

16 MR. OPITZ: Can you point to anywhere in that  
17 rate case where that 145 amount was used to establish the  
18 rates?

19 MR. SPANOS: The rates for -- sorry, you need to  
20 help me. I'm not following --

21 MR. OPITZ: That established the rates customers  
22 pay. Can you point to anywhere where that 145 was relied  
23 upon in the ER2018-0146 where that 145 amount you've  
24 calculated in this case was used to set rates in that case,  
25 paid customers.

1 MR. SPANOS: Depreciation rates are a component  
2 of a rate case. That's as far as I can tell you. I don't  
3 know the specifics that you're asking.

4 MR. OPITZ: Is that a yes or is that a no?

5 MS. MERS: Okay, Judge. This is beyond  
6 argumentative at this point and asked and answered multiple  
7 times.

8 MR. OPITZ: Your Honor, I guess I'd ask you to, I  
9 guess -- I don't think it's unreasonable to ask this  
10 witness to answer that yes or no if he can point to  
11 anywhere where it's in there. And I would ask you to  
12 direct him to answer yes or no.

13 JUDGE HATCHER: Everyy is going to have the  
14 opportunity to ask you to explain or expand on your answer  
15 here. As I understand the basic question though, it is:  
16 can Mr. Spanos point to 145.6 million at any point in time  
17 before this case? Specifically, can he point to that  
18 number somewhere in the previous rate case.

19 MR. OPITZ: Correct.

20 MS. MERS: I would just also point out that Mr.  
21 Spanos is not responsible for accounting schedules. He's a  
22 depreciation expert.

23 JUDGE HATCHER: And I would point out that we all  
24 seem to have agreed that the 145 looks to be new here. Or  
25 not new, but it's calculated in this case. No? Okay.

1 Mr. Spanos, can you give a yes or no?

2 MR. SPANOS: I don't know the answer to the  
3 question that he's asking.

4 JUDGE HATCHER: And I think I can help because  
5 he's talking about rates, but the customer rates that they  
6 pay for electric usage, not depreciate rates. I think  
7 we're getting very confused on using just the abbreviated  
8 rates.

9 Try your question again.

10 MR. OPITZ: Can you point me to anywhere in the  
11 most recent Evergy West rate case ER2018-0146 that would  
12 indicate customer rates for usage were based upon your  
13 amount of \$145 million?

14 MS. MERS: For the record, same objections.

15 JUDGE HATCHER: I'm going to allow it because I  
16 know the answer I expect, and I have not heard that.

17 Go ahead.

18 MR. SPANOS: Are you asking me to answer that  
19 question yes or no? Or can I give an answer to what I  
20 understand?

21 MR. MEYER: I'm asking for a yes or no.

22 JUDGE HATCHER: Let's --

23 MS. MERS: Judge, I would ask that he be allowed  
24 to fully answer the question if he's put --

25 MR. OPITZ: Your Honor, they'll have an

1 opportunity to redirect and say --

2 MS. MERS: This is a settled case that we're  
3 referring to. He doesn't --

4 JUDGE HATCHER: I don't see the difference in  
5 allowing Mr. Spanos to explain following a yes or no, and  
6 the difference between allowing his counsel to ask him on  
7 the promised redirect.

8 So Mr. Spanos, if you can start, please with a  
9 yes or no, I would be very interested in hearing your  
10 explanation. But I would like for the record to get Mr.  
11 Opitz' question answered beginning with a yes or no.

12 MS. MERS: I'm sorry, is he required to answer  
13 yes or no, or can he testify that he doesn't no or can't  
14 answer yes or no?

15 JUDGE HATCHER: Oh, yeah. Absolutely. I'm  
16 sorry. Yes. Those are options, too. I apologize.

17 MR. SPANOS: I don't know the answer to how that  
18 is. I've calculated the 145 here and in the accounting  
19 order. Those are the times that I've calculated that  
20 number. It's been built on time before that. I don't know  
21 how that gets applied to customer rates as being asked in  
22 this question.

23 MR. OPITZ: Were you retained by Evergy in that  
24 case? In the 2018 case ER2018-0146.

25 MR. SPANOS: I don't remember the actual cases.



1 They all kind of were together. So I'm sorry, I don't have  
2 the actual cases in front of me.

3 MR. OPITZ: Do you attach a copy of your case  
4 experience, your testimony, in most cases?

5 MR. SPANOS: I do.

6 MR. OPITZ: And do you attach that to your direct  
7 testimony?

8 MR. SPANOS: I do.

9 MR. OPITZ: Can you turn to your direct  
10 testimony. And I'm trying to get there myself. Do you see  
11 anywhere in your testimony that refreshes your recollection  
12 whether or not you were retained by Evergy in that 2018  
13 rate case?

14 MR. SPANOS: During that time period, I do not  
15 see that. I see the EC2019-0200 case as the one that I  
16 have listed on my list of cases.

17 MR. OPITZ: So you were not a witness in that  
18 2018 rate case?

19 MR. SPANOS: No. I mean, I was part of the '16  
20 case and the '19 work. I do not see any reference to  
21 writing testimony in that particular case. That list in my  
22 direct is when I write testimony or am orally giving  
23 testimony.

24 MR. OPITZ: Okay. I have no further cross, Your  
25 Honor.

1 JUDGE HATCHER: Are there any other questions for  
2 Mr. Spanos?

3 (No response)

4 Redirect.

5 MS. MERS: Very briefly.

6 That question that you were trying to provide a  
7 fulsome response to Mr. Opitz about rates in the 2018 case,  
8 could you please complete your response.

9 MR. SPANOS: Sure. There's a lot of components  
10 that go into a rate case. And my conducting the  
11 depreciation study is one piece of that. And those results  
12 get applied to what's part of the rate case. And so I  
13 don't always know how that gets translated, whether it be a  
14 settlement or whether the actual ruling gets translated  
15 into each particular account as to what is utilized as the  
16 rates that was a -- the depreciation rates as part of the  
17 rate case rates to customers. And that's why I was  
18 struggling with that answer is because I don't get involved  
19 in that aspect of it. I'm working on developing  
20 depreciation rates for recovery of investment.

21 MS. MERS: Thank you. No further questions.

22 JUDGE HATCHER: Thank you.

23 Mr. Spanos, you are excused.

24 MR. SPANOS: Thank you.

25 JUDGE HATCHER: Please be safe on your travels

1 home.

2 MR. SPANOS: Thank you. I appreciate you having  
3 me.

4 JUDGE HATCHER: We will wrap up for the day.

5 MS. BELL: Your Honor, one request. I'm sorry.  
6 Stephanie Bell with Velvet. I would like to offer Exhibit  
7 800 and ask that the Commission take notice of it. It is  
8 the second amended report and order in File Number EO2022-  
9 0061.

10 JUDGE HATCHER: I know the judge that wrote that.

11 Okay. Exhibit 800, the very well written second  
12 amended report and order. Are there any objections to its  
13 admission onto the hearing record as Exhibit 800.

14 MS. MERS: I'm not sure if there is an objection  
15 but I would like to understand its purpose. I don't know  
16 if it's relevant.

17 MS. BELL: Your Honor, Velvet Tech doesn't have a  
18 witness in this case, and as you know, isn't currently  
19 taking service. But this case describes Velvet's position  
20 in relation to this case and status as a potential  
21 customer. And so I would like it entered.

22 JUDGE HATCHER: That immediately brings up a  
23 question. As a potential customer, how come you don't just  
24 talk to Evergy? I don't hear any objections. So admitted.

25 (Exhibit 800 admitted)

1 MS. BELL: Thank you, Your Honor. And then with  
2 that, I would request to be excused for the remainder of  
3 the hearing.

4 JUDGE HATCHER: Any objections?

5 (No response)

6 Hearing none, granted.

7 MR. ELLINGER: Judge, Marc Ellinger on behalf of  
8 Nucor. I would request to be excused for the remainder of  
9 the hearing.

10 JUDGE HATCHER: No objections. Granted.

11 UNIDENTIFIED SPEAKER: Judge, same request for  
12 Google.

13 JUDGE HATCHER: No objections. Granted.

14 MR. ZOBRIST: Judge, Karl Zobrist. I'm not going  
15 to ask to be excused because this is far too much fun. I  
16 do just have -- if the bench is in the mode of accepting  
17 other sort of administrative measures, I did discuss in  
18 opening statement the two old Missouri Public Service  
19 cases. I don't know what your practice is but they're  
20 certainly appropriate for the bench and the Commission to  
21 take official notice or administrative notice of its prior  
22 rulings.

23 And so I just want to formally offer the  
24 Commission's report and order in Case Number E091-358 that  
25 was decided by the Commission on December 20, 1991. That

1 was an AAO case for the coal conversion and the life  
2 extension for Sibley.

3 And then the rate case, it's Number ER90-101, and  
4 other cases decided October 5, 1990, where some of the  
5 seminal decisions with regard to the Sibley unit were also  
6 decided by the Commission.

7 JUDGE HATCHER: Okay. Do you have those prepared  
8 as an exhibit?

9 MR. ZOBRIST: I do not have them as an exhibit.  
10 I have curtesy copies for you, Judge. And I'll bring those  
11 up. They have West law cites. And that's going to be in  
12 our brief, so all the lawyers should have access to that.  
13 But I do have a copy for you, sir.

14 JUDGE HATCHER: My point was the Commission  
15 prefers exhibits over the taking notice of. Let's go ahead  
16 -- because they are final decisions. Any objections to --

17 MR. ZOBRIST: Want me to repeat it, Judge?

18 JUDGE HATCHER: No. No. No. I'm looking for  
19 your next number.

20 MR. ZOBRIST: 135 and 136.

21 JUDGE HATCHER: Any objections to the admission  
22 of Exhibit 135 which will be the Commission's decision in  
23 EO-91-358?

24 (No response)

25 Hearing none, so admitted.

1 (Exhibit 135 admitted)

2 MR. CLIZER: If you'll let me -- sorry, I wasn't  
3 fast enough.

4 JUDGE HATCHER: No, no. Go ahead.

5 MR. CLIZER: I'm not objecting, I just want to --  
6 these are the orders as available online through Lexus or  
7 something?

8 JUDGE HATCHER: Correct.

9 MR. CLIZER: Yeah. I have no objection.

10 MR. ZOBRIST: And Judge, we'll provide copies in  
11 the morning, so --

12 JUDGE HATCHER: Excellent.

13 Last question, any objections to the admission of  
14 Exhibit 136, to be filed tomorrow, which is the  
15 Commission's decision in ER-91-101?

16 MR. ZOBRIST: 90-101.

17 JUDGE HATCHER: 90. 90-101.

18 (No response)

19 Hearing none, so admitted.

20 (Exhibit 136 admitted)

21 MS. MERS: Judge Hatcher, in that vein, you had  
22 mentioned wanting, I believe, staff witness Cedric  
23 Cunigan's surrebuttal true-up direct work papers. Would  
24 you like us to file that as an exhibit? And if so, can we  
25 just go ahead and see if parties would object to that now?

1 They were all provided, the work paper, ahead of time. So  
2 it should --

3 JUDGE HATCHER: Oh, okay.

4 Any objections to the work papers as described by  
5 Ms. Mers for tomorrow's exhibit for staff for engineer  
6 Cunigan?

7 What's you next number?

8 MS. MERS: I believe it is 283.

9 JUDGE HATCHER: For information and belief, any  
10 objections to Exhibit 283, which purports to be tomorrow  
11 engineer Cunigan's work papers?

12 (No response)

13 Hearing none, so admitted.

14 MR. FISHER: Judge, I just -- Jim Fisher. The  
15 list we had had 283 as the staff true-up rebuttal  
16 accounting schedules. But maybe that's incorrect.

17 MS. MERS: I have 282 as the staff true-up --

18 JUDGE HATCHER: I have 283.

19 MS. MERS: Well, we can do 284.

20 JUDGE HATCHER: Sold.

21 JUDGE HATCHER: And I'm looking on page 7, just  
22 for your reference tonight. Not now during the hearing.  
23 But 283 staff true-up rebuttal accounting. That is  
24 underneath the true-up rebuttal testimony of Dr. Wong.

25 MS. MERS: I apparently lost a page, so my

1 apologies. 284 it is.

2 JUDGE HATCHER: 284, any objections?

3 (No response)

4 Hearing none, 284 is so admitted.

5 (Exhibit 284 admitted)

6 MR. CLIZER: Your Honor, I have I guess in the  
7 same vein of asking for notice of report and orders, I can  
8 bring it as an exhibit tomorrow -- okay. I'll bring one.

9 JUDGE HATCHER: Excellent. I can ask tonight but  
10 it's going to be, you know, tomorrow.

11 Thank you. Let's see what business we have to  
12 wrap up.

13 MR. ZOBRIST: I have just one request of counsel.  
14 If it's sufficient for me to provide you the first page  
15 with the West Law of Lexus side, is that good enough? Or  
16 do all the lawyers need to have full copies?

17 Okay. Good. And I'll --

18 JUDGE HATCHER: Would all the lawyers waive their  
19 copies for Commission decisions? That would mean no copies  
20 for Evergy. That would mean no copies for MEGC.

21 MS. MERS: As long as it is readily available in  
22 either EFIS or West Law. I do know with some of the older  
23 cases, as you may have heard, you keep saying his struggle  
24 to look back -- but some of the older cases are harder to  
25 find on EFIS. So as long as it is easily accessible, I



1 have no issue for that. But if it's --

2 JUDGE HATCHER: What about timeliness? Because I  
3 would say it's easily accessible after I admit it as an  
4 exhibit, but that might be while you're writing briefs.

5 UNIDENTIFIED SPEAKER: Your Honor, can we agree  
6 to just email them copies to counsel?

7 JUDGE HATCHER: Sold.

8 Okay. We are down to announcements.

9 UNIDENTIFIED SPEAKER: Would the Court be  
10 amenable to pushing back the start an hour tomorrow? I  
11 said Court, I meant Commission. I apologize.

12 JUDGE HATCHER: I appreciate the promotion. I'm  
13 looking at the schedule and we have one issue. That is  
14 AMI. Which for our listening audience is Automation --

15 UNIDENTIFIED SPEAKER: Advanced Metering  
16 Infrastructure.

17 JUDGE HATCHER: -- Advanced Metering  
18 Infrastructure. I have on my list six witnesses. And we  
19 are discussing a 9:30 start time. I'm going to say no.  
20 Only because we already have this all distributed and set  
21 up.

22 UNIDENTIFIED SPEAKER: I understand. Say no  
23 more. Thank you.

24 MR. ZOBRIST: Judge, just for my purposes, I have  
25 five witnesses. Do you have one more?

1 JUDGE HATCHER: I have Lutz (phonetic), Kaisley  
2 (phonetic), Ives, Eubanks (phonetic), Marke, Robinett.

3 UNIDENTIFIED SPEAKER: (Audio cuts out) scheduled  
4 for tomorrow.

5 JUDGE HATCHER: Okay. That might be one of the  
6 updates. I certainly might have missed that. So we're  
7 down to five witnesses. No. I would like to start at  
8 8:30. We've all seen my luck with changing WebExs.

9 Okay. Let's talk. We only have the one issue  
10 tomorrow. I do not anticipate that taking all day. Any  
11 last announcements before we adjourn for the day?

12 (No response)

13 Excellent. I will see everyone and their  
14 exhibits tomorrow.

15 UNIDENTIFIED SPEAKER: Thank you, Judge.

16 JUDGE HATCHER: We are adjourned and off the  
17 record. Thank you.

18 (Hearing concluded)

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CERTIFICATE OF TRANSCRIPTIONIST

I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.

*Julie Thompson*

Julie Thompson, CET-1036