

COPY Ex 216

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

IN THE MATTER OF MISSOURI GAS ENERGY'S TARIFFS
TO IMPLEMENT A GENERAL RATE INCREASE FOR
NATURAL GAS SERVICE

Case No. GR-2004-0209

FILED²

JUL 13 2004

Missouri Public
Service Commission

DEPOSITION OF TRAVIS ALLEN
TAKEN ON BEHALF OF MISSOURI GAS ENERGY

June 16, 2004

Exhibit No. 216
Case No(s). GR-2004-0209
Date 6-22-04 Rptr XF

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JUN 17 2004

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

In the Matter of Missouri Gas)
Energy's Tariffs to Implement a) Case No. GR-2004-0209
General Rate Increase for Natural)
Gas Service.)

VIDEOTAPED DEPOSITION OF TRAVIS ALLEN,
a witness, produced, sworn and examined on the 16th day of
June, 2004, between the hours of 8:00 a.m. and 6:00 p.m.
of that day at the offices of Office of the Public
Counsel, 200 Madison Street, Suite 650, in the City of
Jefferson, County of Cole, State of Missouri, before

KELLENE K. FEDDERSEN, RPR, CSR, CCR
MIDWEST LITIGATION SERVICES
714 West High Street
P.O. Box 1308
Jefferson City, MO 65101
(573)636-7551

and Notary Public within and for the State of Missouri,
commissioned in Cole County, Missouri, in the
above-entitled cause, on the part of Missouri Gas Energy,
pursuant to Notice.

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1 APPEARANCES
2 FOR MISSOURI GAS ENERGY:
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23
24 ALSO PRESENT: David Murray
25 John Kiebel
Matt Barnes
Kimberlee Lauer, Videographer
SIGNATURE INSTRUCTIONS:
Presentment waived; signature requested.
EXHIBIT INSTRUCTIONS:
None marked.
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Direct Examination by Mr. England 3

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1 A. I am employed by the Office of the Public
2 Counsel, State of Missouri, as a Public Utility Financial
3 Analyst.
4 Q. What was that position again?
5 A. Public Utility Financial Analyst.
6 Q. Am I correct in understanding that you have
7 caused to be prepared and filed in this rate case
8 involving Missouri Gas Energy certain direct, rebuttal and
9 surrebuttal testimony in question and answer form?
10 A. Caused to be filed? If you mean have I
11 filed direct testimony, rebuttal testimony, surrebuttal
12 testimony, yes, that's correct.
13 Q. Yes. And do you have copies of that
14 testimony with you this morning?
15 A. Yes.
16 Q. For the record, I have a copy of your
17 direct testimony which has on it the date April 15, 2004.
18 Would that have been the date on or about when it was
19 filed in this case, do you recall?
20 A. Yes, that was the day direct testimony was
21 filed.
22 Q. And likewise, I have your rebuttal
23 testimony, which has on it the date May 24, 2004. Would
24 that have been the date your rebuttal testimony was filed
25 in this case?

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1 TRAVIS ALLEN, being sworn, testified as follows:
2 DIRECT EXAMINATION BY MR. SWEARENGEN:
3 Q. Good morning, Mr. Allen. How are you?
4 A. Good. How are you?
5 Q. I'm Jim Swearengen. We met before. I'm an
6 attorney for Missouri Gas Energy in connection with the
7 rate case in which you have filed testimony, which is
8 Case GR-2004-0209.
9 Let me ask you at the outset, have you ever
10 had your deposition taken previously?
11 A. No.
12 Q. If during the course of my questions this
13 morning I ask you something that you don't understand,
14 please feel free to ask me to clarify it if I can or to
15 rephrase the question.
16 A. Okay.
17 Q. And if you need to take a break for any
18 reason during the deposition, just let me know and we can
19 certainly do that.
20 A. Okay.
21 Q. Would you once again please state your name
22 for the record.
23 A. Travis Allen.
24 Q. By whom are you employed and in what
25 capacity?

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1 A. Yes.
2 Q. And finally your surrebuttal has the date
3 June 14, 2004. Would that have been the date that
4 testimony was filed?
5 A. Yes.
6 Q. By way of background, could you just
7 briefly summarize your formal education and training?
8 A. I received a bachelor's degree in economics
9 and finance with a specialization in business markets from
10 Southern Illinois University - Edwardsville, and I also
11 received a master's degree in business economics and
12 finance with a specialization in finance from Southern
13 Illinois University - Edwardsville.
14 Q. What was the specialization for your BS
15 degree?
16 A. Financial markets and institutions.
17 Q. Are you a certified public accountant?
18 A. No.
19 Q. You indicated you have a BS and a master's
20 of science degree, or I should say degrees. Do you have a
21 Ph.D.?
22 A. No.
23 Q. Have you taught any classes at the college
24 level?
25 A. No.

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1 Q. Have you taught any classes at any level?
2 A. No.
3 Q. Have you written any textbooks?
4 A. No.
5 Q. Have you published any articles on any
6 topic?
7 A. No.
8 Q. Are you a certified rate of return analyst?
9 A. I am a Public Utility Financial Analyst
10 with the Office of the Public Counsel.
11 Q. Do you consider yourself a certified rate
12 of return analyst?
13 A. What do you mean, certified? Could you
14 clarify that, please?
15 Q. Do you know the meaning of the term
16 certified rate of return analyst?
17 A. I'm not sure.
18 Q. Do you have any documents which indicate
19 that you are a certified rate of return analyst?
20 A. No.
21 Q. Are you a member of the Society of Utility
22 and Regulatory Financial Analysts?
23 A. No.
24 Q. What year did you say you graduated from
25 Southern Illinois University?

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1 you started college?
2 A. No.
3 Q. During the time you were in college, did
4 you have any part-time jobs or full-time jobs?
5 A. Yes.
6 Q. And what were they?
7 A. I worked as a pharmacy technician for
8 Buchler's Drugstore in Mount Carmel, Illinois, and I
9 worked for Walgreens Drugstore as a pharmacy technician in
10 Wood River, Illinois.
11 Did you ask up to the time of my graduation
12 with my bachelor's degree?
13 Q. I didn't really limit it to that, but you
14 can if you wish at this point.
15 A. After I graduated with my bachelor's
16 degree, I worked as a graduate assistant at Southern
17 Illinois University - Edwardsville.
18 Q. Was that employment as a graduate assistant
19 during the time you were working on your master's degree?
20 A. Yes.
21 Q. What kind of work did you undertake as a
22 graduate assistant?
23 A. I worked for three different professors. I
24 worked for Dr. Rik Hafer. I was a research assistant to
25 him. I worked for Dr. Radcliffe Edmonds. I was his

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1 A. I graduated in December of 2001 with my
2 bachelor's degree, and May of 2003 with my master's
3 degree.
4 Q. From that, can I assume that you were in
5 school during the period December 2001 to May 2003 working
6 on your master's degree?
7 A. Yes.
8 Q. What year did you graduate from high
9 school?
10 A. 1997.
11 Q. And when did you then start college?
12 A. August of 1998.
13 Q. Were you employed during that period of
14 time between the time you graduated from high school in
15 1997 and the time you started college in August of 1998?
16 A. Yes.
17 Q. By whom were you employed?
18 A. CVS Drugstores.
19 Q. And where is that located?
20 A. It was located in Mount Carmel, Illinois.
21 Q. What kind of work did you perform for the
22 CVS Drugstore?
23 A. I was a sales clerk.
24 Q. Did you hold any other jobs after
25 graduation from high school and before August of 1998 when

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1 assistant in his econometrics course. And I worked for
2 Dr. Donald Elliott, and I was his assistant in his
3 forecasting course.
4 Q. These individuals you mentioned, I take it
5 were they on the faculty at Southern Illinois University -
6 Edwardsville?
7 A. Yes.
8 Q. What type of work did you do for them,
9 starting with -- was it Dr. Hafer?
10 A. Yes. Dr. Hafer, I helped prepare a data
11 set for a research project he was working on.
12 Q. What type of research project was that?
13 A. I'm trying to think. The project that he
14 was working on was off of an article that he had read in,
15 I believe, the St. Louis Post Dispatch regarding
16 discrimination of loan approvals.
17 Q. Did you do any other work for him?
18 A. I graded some papers for him in a course
19 that he was teaching.
20 Q. And what course was that?
21 A. I believe it was his financial markets
22 course. I really don't remember, though.
23 Q. How about Dr. Edmonds, was that the second
24 individual you named that you did some work for?
25 A. Yes.

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1 Q. What did you do for Dr. Edmonds?
2 A. I was his assistant in his econometrics
3 course, and what I did was I essentially tutored his
4 students in that course and provided them an outlet to go
5 to if they were having trouble understanding a subject
6 area.
7 Q. Could you explain what econometrics is,
8 please?
9 A. Yeah. It's -- it's -- it's the use of
10 linear-type regressions to make predictions.
11 Q. What is a linear-type regression?
12 A. Ordinary least squares regressions.
13 Q. Excuse me? Could you restate that?
14 A. Ordinary least squares.
15 Q. And define those terms, if you would, for
16 me.
17 A. An ordinary least squares regression is a
18 regression that has a dependent variable Y equals
19 independent variable X times a parameter beta, plus an
20 error term.
21 Q. Did you do any other work for Dr. Edmonds?
22 A. No.
23 Q. I think the last person you mentioned was a
24 Dr. Elliott; is that correct?
25 A. Yes.

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1 Q. What work did you do for Dr. Elliott?
2 A. I was his assistant in his forecasting
3 course in which I provided an outlet for students to come
4 to if they had problems understanding a subject area.
5 Q. What is a forecasting course?
6 A. Forecasting course is -- it was essentially
7 a business forecasting course where we used various
8 methods to try to predict the future.
9 Q. Now, does that constitute all of the work
10 that you undertook while you were working on your master's
11 degree?
12 A. Yes.
13 Q. You said you graduated with a master's of
14 science in business economics and finance; is that right?
15 A. Yes, with a specialization in finance.
16 Q. And that was in May of 2003?
17 A. Yes.
18 Q. Did you -- were you employed after that
19 point in time?
20 A. Yes.
21 Q. By whom?
22 A. I was employed by FedEx Ground.
23 Q. What is FedEx Ground?
24 A. It is a package delivery system, company.
25 Q. Where were you employed by FedEx Ground, at

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1 what location?
2 A. In Evansville, Indiana.
3 Q. How long did you work there?
4 A. I believe like two months.
5 Q. When did you start and when did you finish?
6 A. I believe I started in the beginning of
7 January, and I finished at the end of February.
8 Q. Would that have been January of 2004?
9 A. Yes.
10 Q. What were your duties and responsibilities
11 during your two months of employment with FedEx Ground?
12 A. Loading trucks.
13 Q. Why did you end your employment with FedEx
14 Ground in February of 2004?
15 A. Because I was offered the position of
16 financial analyst with the Office of the Public Counsel.
17 Q. That's the time you came to work for the
18 Public Counsel?
19 A. Yes.
20 Q. What about the period of time May 2003 to
21 January 2004, were you employed during that period of
22 time?
23 A. No.
24 Q. Were you seeking employment during that
25 period of time?

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1 A. Yes.
2 Q. Where did you seek employment?
3 A. I applied to various companies. I'm not
4 sure if I can give you a listing of all of them. I'm not
5 sure if I remember every place I applied. But I applied
6 to Integra Bank. I applied to Old National Bank. I
7 applied to various government agencies.
8 Q. Anything else?
9 A. That's all I can remember right now.
10 Q. Generally speaking, what types of jobs were
11 you seeking when you sought employment with the banks and
12 the government agencies?
13 A. With the banks and government agencies, I
14 was -- well, let me backtrack. With the banks, I was
15 looking for a position either in financial analysis or
16 credit analysis. With government agencies, I was
17 primarily seeking positions regarding financial analysis.
18 Q. Were you told by any of those prospective
19 employers why they did not hire you?
20 A. No.
21 Q. Tell me again when you came to work for the
22 Office of the Public Counsel.
23 A. March 2004.
24 Q. How were you made aware that there was a
25 position at the Office of Public Counsel, a position

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1 available?
2 A. By Dr. Donald Elliott.
3 Q. Is that the same Dr. Elliott that -- that
4 you did some work for while you were working on your
5 master's degree?
6 A. Yes.
7 Q. How did Dr. Elliott know about the
8 position, do you know?
9 A. He was informed by James Busch.
10 Q. And who is James Busch?
11 A. He's an economist here at the Office of the
12 Public Counsel.
13 Q. And what is his relationship with
14 Dr. Elliott? What is Mr. Busch's relationship with
15 Dr. Elliott?
16 A. Mr. Busch attended SIUE as well, and I
17 believe he has a friendship with Dr. Elliott.
18 Q. SIUE is Southern Illinois University -
19 Edwardsville?
20 A. Yes.
21 Q. When did you apply for the position with
22 the Office of Public Counsel, do you recall?
23 A. I don't recall specific date. I believe it
24 was sometime in January of 2004.
25 Q. How did you make that application?

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1 A. I'm sorry?
2 Q. How did you make your application to the
3 Office of Public Counsel?
4 A. What do mean, make my application?
5 Q. Well, did you write a letter saying, here I
6 am, here are my qualifications? Did you fill out an
7 application? Did you make a phone call? How did you
8 apply for the job?
9 You said you became aware of it sometime in
10 January of 2004. What did you then do which ultimately
11 led to your employment?
12 A. I believe, if I remember correctly, I
13 contacted Mr. Busch, who informed me as to how I could
14 apply for the position.
15 Q. How did you then apply for the position?
16 A. I believe I downloaded an application, and
17 I sent along with that a cover letter, standard
18 application process.
19 Q. Do you still have a copy of that
20 application and cover letter?
21 A. I don't personally, no.
22 Q. Would the Office of Public Counsel have
23 that, do you think?
24 A. I don't know.
25 Q. What position did you apply for at that

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1 time?
2 A. The position of Public Utility Financial
3 Analyst.
4 Q. Which is the position you now hold?
5 A. Yes.
6 Q. What was your understanding in January of
7 2004 as to the qualifications for that position?
8 A. Had to have a fundamental understanding of
9 financial analysis. Had to have a master's degree. I
10 think those are the two main criteria.
11 Q. Were there any other criteria that you were
12 aware of?
13 A. Not that I can remember specifically.
14 Q. After you sent in the application sometime
15 either during January of 2004 or thereafter, what happened
16 next?
17 A. Could you be more specific, please?
18 Q. Well, did you hear from anyone at the
19 Office of Public Counsel indicating they were interested
20 in pursuing your application?
21 A. Yes, I believe I received an e-mail from
22 the Staff sec-- or the Office of the Public Counsel
23 secretary, Bonnie Howard, indicating that the Office of
24 the Public Counsel would like to set up an interview with
25 me.

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1 Q. And did you accept that opportunity for an
2 interview?
3 A. Yes.
4 Q. When was that interview?
5 A. The exact date, I do not know.
6 Q. Approximately?
7 A. Beginning of February.
8 Q. Who did you meet with or who were you
9 interviewed by?
10 A. I was interviewed by John Coffman and Russ
11 Trippensee.
12 Q. And who's Mr. Coffman?
13 A. He is the Public Counsel.
14 Q. And who is Mr. Trippensee?
15 A. He is an accountant with the Office of the
16 Public Counsel.
17 Q. During the course of that interview, what
18 questions did they ask you, do you recall?
19 A. Specifically, I don't recall. I believe we
20 discussed my education and the requirements of the job.
21 Q. What did they tell you were the
22 requirements of the job at that time?
23 A. That my job duties would include filing --
24 I'm sorry -- preparing and filing expert testimony on
25 financial analysis topics for the Office of the Public

5 (Pages 14 to 17)

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1 Counsel, presenting it to the Missouri Public Service
2 Commissioners, testifying under oath, as well as assisting
3 the attorneys in the office with cross-examination and the
4 preparation of briefs.

5 Q. Did they give you anything in writing that
6 set out the job description?

7 A. I believe it was on the website.

8 Q. You don't recall receiving anything from
9 them during the interview?

10 A. No.

11 Q. When they told you about these job -- about
12 the job description and your expected duties and
13 responsibilities, what was your response?

14 A. My response was that I believe that I had
15 the education and skills to perform the job at a very high
16 level.

17 Q. Do you know whether or not anybody else had
18 applied for that position or for the position that you
19 ultimately got?

20 A. I was informed after I was offered the
21 position, sometime after I had already started working,
22 that 60 people had applied for the position.

23 Q. When were you offered the position, how
24 long after the interview?

25 A. Approximately three weeks, the end of

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1 substance -- what was the substance of that conversation?

2 A. Actually, to backtrack, I didn't
3 specifically speak with Mr. Trippensee. He had called my
4 house and he had talked to my mother about a letter that I
5 was going to be receiving, and I was informed of the
6 conversation by my mother.

7 Q. And what was -- what did she tell you?

8 A. That I was going to be receiving a letter
9 from the State of Missouri informing me that -- about the
10 merit system with the Office of the Public Counsel.

11 Q. And this was before you'd been offered the
12 position; is that correct?

13 A. Yes.

14 Q. Now, during this three-week period after
15 the interview and before you were offered the position,
16 did you talk to or communicate with anyone outside the
17 Office of Public Counsel about the job?

18 A. I believe I probably brought it up in
19 casual conversation with some family members and friends.

20 Q. Did you talk to any former Office of Public
21 Counsel employees about the position?

22 A. No.

23 Q. So three weeks after the interview, you
24 were notified that -- or you were offered the position; is
25 that true?

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1 February.

2 Q. Was that the only interview you had?

3 A. With the Office of the Public Counsel?

4 Q. Yes.

5 A. Yes.

6 Q. In the meantime, in that three-week period,
7 did you talk to anybody else about the position?

8 A. Anybody else with the Office of the Public
9 Counsel?

10 Q. Well, let's start there.

11 A. Between the time that I had my interview
12 and the time that I accepted the position, I believe I
13 spoke with Bonnie Howard and Russ Trippensee via e-mail
14 and telephone conversations.

15 Q. Who's Bonnie Howard?

16 A. She is the secretary with the Office of the
17 Public Counsel.

18 Q. And what was the substance of your
19 communications with her?

20 A. She sent me -- I can't remember if she sent
21 me an e-mail or if she called me, but the substance of the
22 conversation was that she needed an official transcript
23 from Southern Illinois University - Edwardsville.

24 Q. What about your conversation or
25 conversations with Mr. Trippensee, what were the

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1 A. Yes.

2 Q. And how was that communicated to you?

3 A. Through a phone conversation with
4 Mr. Russell Trippensee.

5 Q. When did you then start your employment?

6 A. Approximately the second week of March, I
7 believe.

8 Q. That would be the second week of March of
9 2004?

10 A. Yes.

11 Q. Now, other than looking at the job
12 description which I think you said you had obtained
13 online, and other than the discussions that you had when
14 you were interviewed by Mr. Coffman and Mr. Trippensee
15 when they discussed with you the job duties and
16 responsibilities, before you started your employment did
17 you have any further discussions with anyone about your
18 duties and responsibilities?

19 A. No, I don't think so.

20 Q. After you started work in the second week
21 of March of 2004, did you have any discussions with anyone
22 about your duties and responsibilities?

23 A. Yes, I believe I had conversation with
24 Mr. Russell Trippensee and Mr. John Coffman.

25 Q. What did they tell you in those

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1 conversations about your duties and responsibilities?
2 A. They essentially reiterated what we had
3 talked about in my interview.
4 Q. Prior to coming to work for the Office of
5 Public Counsel, have you undertaken any rate of return or
6 cost of capital work?
7 A. I had studied it and performed it through
8 my education.
9 Q. Did you do it in the context of any
10 employment?
11 A. No.
12 Q. Now, you mentioned you studied it. When
13 would that have been?
14 A. Both in my undergraduate and graduate
15 studies.
16 Q. In connection with that, did you
17 calculate -- ever calculate a return on equity for a
18 company?
19 A. Yes.
20 Q. And can you tell me the circumstances
21 surrounding that?
22 A. Specifically, I mean, I don't remember
23 exactly which company. It was more along the lines of
24 assignments through my coursework where I had experience
25 with it.

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1 Q. Was that in undergraduate school?
2 A. Both undergraduate school and graduate
3 school. Courses, I could give you courses that I
4 specifically dealt with rate of return.
5 Q. That would be fine. Go ahead. Are these
6 courses you took?
7 A. Yes. Specific courses was a financial
8 management and decision-making course that I took as an
9 undergraduate.
10 Q. Now, what did -- what did that course have
11 to do with calculating a return on equity?
12 A. It introduced me to valuation of equity as
13 well as capital structure issues and capital budgeting
14 decisions.
15 Q. Okay. What other courses?
16 A. Specific courses where I worked on cost of
17 equity, another course was portfolio analysis course that
18 I took as an undergraduate student, which it dealt with a
19 variety of cost of equity valuation techniques, including
20 the DCF model and the capital asset pricing model.
21 Q. Was that an undergraduate course or a
22 graduate school course?
23 A. That was an undergraduate course.
24 Q. Okay. Any other courses?
25 A. Yes. I believe we dealt with it in my

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1 financial markets course.
2 Q. And when you say it, what are you talking
3 about?
4 A. With the DCF model. Also --
5 Q. What course was that again?
6 A. Financial markets.
7 Q. Was that an undergraduate course?
8 A. Yes.
9 Q. Are you certain that that course covered
10 that topic?
11 A. I am not certain.
12 Q. Okay.
13 A. In my graduate studies, we dealt with
14 analysis in my security analysis and modeling course. It
15 was a graduate level course and more advanced analysis.
16 Q. What type of analysis did you deal with in
17 that course?
18 A. Security analysis. Also, we dealt with it
19 in my corporate financial analysis and strategy course.
20 Q. Now, when you say it --
21 A. I'm sorry. We dealt with both the DCF
22 model and the capital asset pricing model in my corporate
23 financial analysis and strategy course, and to some extent
24 in my financial innovations and engineering course.
25 Q. When was that course taken?

Page 25

1 A. As a graduate student.
2 Q. When you say to some extent, what do you
3 mean by that?
4 A. It was more of a -- that course was more
5 engineered towards derivative securities.
6 Q. Did it deal with the discounted cash flow
7 or DCF model in any respect?
8 A. Yes.
9 Q. And in what respect?
10 A. The evaluation of securities.
11 Q. And when you say securities, what do you
12 mean by that?
13 A. Equity securities.
14 Q. In any of these classes that you referred
15 to where you were involved with the DCF model to some
16 extent, was it the DCF model as applied to utility rate
17 cases and return on equity for utility companies?
18 A. No, but that's irrelevant.
19 Q. And why do you say --
20 A. Because the model is --
21 Q. Go ahead.
22 A. The model is cross sectors. It's
23 completely applicable to any sector. And also, I'd like
24 to add that I have read Dr. Gordon's book, The Cost of
25 Capital to a Public Utility. Dr. Myron Gordon is assumed

7 (Pages 22 to 25)

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1 to or has been anointed, so to speak, as the father of the
2 DCF method. And that is definitely an authoritative book
3 in the area of public utility and DCF analysis.
4 Q. When did you read that book?
5 A. Prior to filing testimony.
6 Q. Prior to --
7 A. Prior to filing direct testimony.
8 Q. In this case?
9 A. Yes.
10 Q. Have you filed any testimony in any other
11 case before the Missouri Public Service Commission other
12 than the current MGE case?
13 A. No.
14 Q. How many rate cases have you been involved
15 with before this case in any way -- in any way?
16 A. This is the first rate case I've been
17 involved in.
18 Q. Have you had any training since you joined
19 the Office of the Public Counsel?
20 A. Yes.
21 Q. Could you describe that training, please,
22 first when did it occur and then describe it?
23 A. When I was hired, the Office of the Public
24 Counsel hired Mr. John Tuck as sort of a -- an outlet in
25 training for me, somebody that I could talk to if I had

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1 questions about things. And also I -- subsequent or
2 before filing rebuttal testimony and after filing direct
3 testimony, I attended a basics in public utilities
4 conference at the University of New Mexico.
5 Q. Let's back up just a minute. You said
6 you'd had some training since you joined the Office of
7 Public Counsel, and you mentioned Mr. Tuck. Is he the one
8 who trained you?
9 A. Specifically, I wouldn't say training, as
10 for of a -- a resource that I could use.
11 Q. Let's -- we'll come back to that in a
12 minute, but let's focus on training. Have you had any
13 specific -- did you have any specific training after you
14 accepted employment with the Office of Public Counsel?
15 A. Besides my -- my conversations with
16 Mr. Tuck, no. But as far as general training, my
17 education prepared me more than sufficiently to prepare
18 this -- to perform this job at a high level.
19 Q. So would it be fair to say that you haven't
20 had any formal training, but you have had access to
21 Mr. Tuck from time to time, is that -- would that be true?
22 A. I --
23 Q. Since joining the Office of the Public
24 Counsel.
25 A. I prefer to phrase it the way I answered

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1 the question the first time.
2 Q. And how was that?
3 A. That I had through my education and through
4 my conversations with Mr. Tuck -- oh, and I'd also like to
5 add that prior to filing direct testimony in this case, I
6 had read several previous filings of the Office of the
7 Public Counsel as well as Staff filings and --
8 Q. I'll get to that.
9 A. -- company witness filings.
10 Q. I'll get to that in just a minute. Let me
11 go back. You came to work for the Public Counsel when?
12 A. Approx-- the beginning of March,
13 approximately.
14 Q. March of 2004?
15 A. Yes.
16 Q. Okay. Let's focus on that time period.
17 From March of 2004, over that period of time, the next
18 several weeks or months, did you undergo any training?
19 A. I took the initiative on myself to review a
20 variety of different sources that I was going to be
21 needing to perform this job.
22 Q. Let me -- and I'll ask you about that in
23 just a second. Did you go to -- did you take any courses
24 or any programs or go to any schools?
25 A. No.

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1 Q. Okay. Any seminars or classes?
2 A. Between the time I was hired and the time
3 that I filed direct testimony, no.
4 Q. Okay. But during that period of time, you
5 indicated that Mr. Tuck was available to you as a
6 resource?
7 A. Yes.
8 Q. And what was your understanding as to why
9 Mr. Tuck was being made available to you as a resource?
10 A. Because the Office of the Public Counsel
11 had no other expert financial analyst in the office that I
12 could go to as a resource if I had questions about things.
13 Mr. Tuck is an expert in the field of financial analysis.
14 He was a previous employee with the Office of the Public
15 Counsel, so he's familiar with the process. So they
16 acquired his services so that I would have a resource.
17 Q. Now, after your employment with the Office
18 of Public Counsel and before you filed your direct
19 testimony in this case, did you utilize Mr. Tuck as a
20 resource in any way?
21 A. I'm sorry. I didn't hear the entire
22 question.
23 Q. Did you utilize Mr. Tuck as a resource
24 after your employment with the Office of Public Counsel
25 but before the time you filed your direct testimony in

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1 this case?
2 A. Yes.
3 Q. And when did that occur?
4 A. Approximately towards the end of March.
5 Q. Did you use him just one time?
6 A. I believe we had one meeting in that time
7 period, but I believe -- well, I know we had phone
8 conversations.
9 Q. How many phone conversations?
10 A. I don't know.
11 Q. What was the topic of discussion at your
12 one meeting?
13 A. The topic of discussion was primarily the
14 procedural aspect of filing testimony. We also discussed
15 the DCF model.
16 Q. What did he tell you?
17 A. Could you be more specific?
18 Q. What did he tell you about the DCF model?
19 A. It was more along the lines of a
20 conversation where I had ideas that I thought that I would
21 use and --
22 Q. And what were those --
23 A. -- and I wanted to --
24 Q. What were those ideas?
25 A. And I wanted to talk to him about that.

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1 Q. What were those ideas?
2 A. One of the ideas was that I believe that it
3 was more appropriate to use the semi-annual compounding
4 form of the DCF model. The previous Office of the Public
5 Counsel witness, financial analyst Mr. Burdette, I
6 believe, had used the annual form. And after reviewing
7 previous testimony of Mr. Tuck, I saw that he had also
8 used the semi-annual compounding form of the DCF model,
9 which was what I was more inclined to use, and I talked to
10 him about that.
11 Q. Why were you more inclined to use that form
12 of the model?
13 A. Because I believe it does a better job of
14 gauging investors' expectations.
15 Q. What did Mr. Tuck say when you indicated to
16 him that that's what you proposed to do?
17 A. He agreed with me.
18 Q. Did you have any other discussions with
19 Mr. Tuck about the DCF model?
20 A. I believe we discussed appropriate time
21 periods for gauging the current stock price as well as
22 various growth rate methodologies.
23 Q. And with respect to those topics, what did
24 you say to Mr. Tuck?
25 A. Specifically, I believe the conversation

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1 revolved around the fact that I bel-- that it was my
2 belief that the better way to gauge stock price is to use
3 a six-month -- I'm sorry -- a six-week average of the
4 stock price as opposed to the spot stock price, and --
5 Q. What did Mr. Tuck say with respect to that?
6 A. He seemed to agree with me that would be
7 appropriate because it would limit volatility.
8 Q. What else did you say you discussed with
9 Mr. Tuck?
10 A. We discussed different growth rate
11 methodologies.
12 Q. And what growth rate methodologies did you
13 discuss?
14 A. After reading Dr. Gordon's book, I came --
15 it was my belief that the appropriate -- the best growth
16 rate methodology to was to use BR plus SB method
17 championed by Dr. Gordon.
18 Q. And what --
19 A. And I had noticed in his -- in Mr. Tuck's
20 testimony that that seemed to be the method that he
21 preferred as well.
22 Q. And what did Mr. Tuck tell you when you
23 said that's what you proposed to use or preferred to use?
24 A. He agreed with me.
25 Q. Now, were these conversations you had with

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1 him at that meeting you had with him or did they occur
2 later in telephone conversations?
3 A. I believe, if I remember correctly, that
4 they were at the meeting, and there may have been
5 follow-up questions on the phone, conversations, but
6 specifically I really don't recall that.
7 Q. You don't recall what you talked to him
8 about on the phone?
9 A. Not necessarily specifically. It was more
10 like a situation where when I was performing my analysis,
11 if I had a question that popped into my mind, I would
12 possibly utilize that resource of Mr. Tuck and give him a
13 phone call.
14 Q. How many times did you talk to Mr. Tuck on
15 the phone before you filed your direct testimony in this
16 case, do you recall?
17 A. I don't recall specifically, but I can give
18 you an approximation of less than ten times.
19 Q. Have you talked to Mr. Tuck since you filed
20 your direct testimony in this case?
21 A. Yes.
22 Q. And how many times have you talked with
23 Mr. Tuck since you filed your direct testimony in this
24 case?
25 A. I can't give you a specific number of

9 (Pages 30 to 33)

1 times. I would say approximately between 15 and 20 times.
2 Q. When did you learn that you would be
3 involved in this case, do you recall?
4 A. I learned that I would be involved in this
5 case when I was hired, when I accepted the position.
6 Q. And who told you that?
7 A. It was either Mr. -- well, it was probably
8 both Mr. Trippensee and Mr. Coffman. Specifically, I'm
9 not sure who told me first.
10 Q. So that would have been when you were
11 offered the job and accepted employment?
12 A. It was the first day that I came to work.
13 Q. You said that you learned you had the job
14 or were being offered the job about three weeks after you
15 were interviewed; is that correct?
16 A. Yes, that's correct.
17 Q. And when you were offered the job, how long
18 did it take you to make up your mind as to whether or not
19 you were going to accept it? Did you accept it
20 immediately?
21 A. Yes.
22 Q. Okay. And that would have been about when?
23 A. The end of February.
24 Q. And once again, you came to work, actually
25 physically came to work when?

1 A. Approximately second week of March.
2 Q. And that would have been the time that you
3 would have learned for the first time that you would be
4 involved in this case; is that true?
5 A. Yes.
6 Q. Prior to the second week of March of 2004,
7 had you read any cost of capital or rate of return
8 testimony?
9 A. Yes.
10 Q. And in what context did you do that?
11 A. I read direct testimonies of Mark Burdette
12 prior to going to my interview with Mr. Coffman and
13 Mr. Trippensee.
14 Q. Now, you read testimony, prepared testimony
15 of Mr. Mark Burdette?
16 A. Correct.
17 Q. And who is Mr. Burdette?
18 A. Mr. Burdette held the position of Public
19 Utility Financial Analyst prior to me.
20 Q. What testimony of Mr. Burdette's did you
21 read?
22 A. Specifically, I don't remember exactly
23 which testimony it was that I read prior to going to my
24 interview.
25 Q. Was it direct testimony?

1 A. Yeah.
2 Q. Did it include rebuttal or surrebuttal as
3 well?
4 A. Yes.
5 Q. Both, direct, rebuttal and surrebuttal?
6 A. Direct and rebuttal.
7 Q. What kind of case was it?
8 A. It was a rate case.
9 Q. Involving what kind of a utility, do you
10 recall?
11 A. I do not recall.
12 Q. You don't know whether it was a gas or
13 electric or water or telephone utility?
14 A. I honestly don't recall that specific piece
15 of testimony before.
16 Q. How did you get that piece of testimony?
17 A. It was mailed to me by Mr. James Busch.
18 Q. What was the subject of the testimony?
19 A. Rate of return.
20 Q. Other than that piece of testimony or those
21 two pieces of testimony, the direct and the rebuttal,
22 prior to being assigned to work on this case, had you read
23 any other cost of capital or rate case testimony?
24 A. I'm trying to think if during that time
25 period I had also read a piece of direct testimony of

1 Mr. David Murray, but I -- I can't say for sure.
2 Q. And who would Mr. David Murray be?
3 A. He's a financial analyst with the Public
4 Service Commission Staff.
5 Q. Once you got the assignment that you were
6 going to work on this case, which was in the second week
7 of March of this year, 2004, what did you then do to
8 prepare for your assignment? And before you answer that,
9 let me ask you one other question. What was your
10 assignment specifically?
11 A. My assignment was to prepare a cost of
12 equity and rate of return analysis for MGE.
13 Q. And once you got that assignment, what did
14 you do to prepare for it?
15 A. I looked at -- prior to filing direct
16 testimony, I looked at ValueLine Investment Survey. I
17 looked at C.A. Turner Utility Returns. I looked at Yahoo
18 Finance. I reviewed the Ibbotson Associates 2002 and 2003
19 yearbook. I reviewed Principles of Corporate Finance
20 textbook.
21 Q. Who's the author of that?
22 A. Stewart Myers and Richard Brealey. I
23 reviewed -- I read The Cost of Capital to a Public Utility
24 authored by Myron Gordon. I read portions of The
25 Regulation of Public Utilities tex-- or book which was

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1 authored by Charles Phillips. I reviewed The Fundamentals
2 of Investment textbook, which was authored by Gordon
3 Alexander and William Sharp and Jeffrey Bailey. I also
4 reviewed The Investment Analysis and Portfolio Management
5 textbook authored by Frank Riley and Keith Brown. I
6 reviewed The Essentials of Corporate Finance textbook,
7 which was authored by Steven Ross, Randolph Westerfield
8 and Bradford Jordan. I reviewed The Cost of Capital
9 Practitioner's Guide, authored by Mr. David Parcell.
10 I reviewed all company responses to OPC
11 Data Requests 2001 through 2015. I read the Bluefield
12 Waterworks case. I read the Hope Natural Gas case.
13 I read the Kansas City vs. Kansas City Gas Company case.
14 I also read direct testimony filing of John Tuck in Case
15 ER-93-41. I also read the direct testimony of John Tuck
16 in Case WR-95-205/SR-95-206.
17 Read the direct testimony of Mr. Mark
18 Burdette in Case GR-2001-292. I read the direct testimony
19 of Mr. David Murray in Case GR-2001-292, and read the
20 direct testimony of Mr. John Dunn in Case GR-2001-292.
21 Also, I read the direct testimony of Mr. Mark Burdette in
22 WR-2003-0500, direct testimony of Mr. David Murray in
23 WR-2003-0500.
24 And in this case, I read the direct -- in
25 this case, Case GR-2004-0209, I read the direct testimony

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1 and I was -- it was my understanding through a
2 conversation with -- well, after seeing these cases
3 referenced in the previous testimony filings, that I
4 believe I asked Mr. Doug Micheel about these cases and he
5 informed me that these were seminal cases and that -- and
6 he acquired the cases for me to read.
7 Q. Did you read any regulatory decisions
8 involving rate cases?
9 A. Prior to filing direct testimony?
10 Q. Yes.
11 A. No.
12 MR. MICHEEL: Jim, why don't we take a
13 break? We've been at it about an hour --
14 MR. SWEARENGEN: Sure. That will be fine.
15 MR. MICHEEL: -- and I need to use the
16 restroom.
17 (A BREAK WAS TAKEN.)
18 BY MR. SWEARENGEN:
19 Q. Mr. Allen, before we took a break, you were
20 talking about what you had done in the way of preparation
21 before you submitted your direct testimony in this case on
22 April 15, and you listed various things that you had read
23 and reviewed and what have you, and all of that took place
24 between the second week of March and April 15 of 2004; is
25 that true?

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1 of John Dunn, Michael Noack, James Oglesby, John Quain,
2 Carlton Rickets and Jay Cummings.
3 Q. Anything else?
4 A. I believe that is a good synopsis of what I
5 reviewed prior to filing direct testimony.
6 Q. With respect to the testimonies that you
7 read, who suggested that you read those?
8 A. It wasn't a suggestion. It was my
9 initiative to get a better understanding of the process --
10 Q. How did you know --
11 A. -- and methodologies used in rate cases.
12 Q. How did you know what testimony to read?
13 A. I believe I asked for the last MGE case and
14 the last fully litigated case, as well as the testimony
15 of -- all the direct testimony of the company that the
16 company had filed in this case.
17 Q. Now, who did you ask that of?
18 A. Mr. Russ Trippensee.
19 Q. You mentioned that you had read some cases,
20 court cases involving --
21 A. Yeah. I read the Hope case, the Bluefield
22 case, and the Kansas City vs. Kansas City Gas Company
23 case. I didn't read those to become an expert in the law.
24 I read those to try to gather the specific points or
25 specific things that an analyst has to abide by and meet,

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1 A. Yes.
2 Q. When did you start working on your direct
3 testimony in this case, drafting it? When did you start
4 drafting, writing your direct testimony?
5 A. Specifically writing, approximately two
6 weeks before the filing.
7 Q. So you started actually writing, composing
8 your testimony around April 1?
9 A. Yes.
10 Q. How did you know what topics to cover in
11 your testimony?
12 A. Specific topics were my discretion.
13 Q. Did someone tell you that?
14 A. Yes.
15 Q. Who told you that?
16 A. I was told when I was hired that my job was
17 to perform a cost of equity and rate of return analysis
18 and that was -- that was the broad canvass. Now,
19 specifically what I wrote in my testimony, what I included
20 and what I didn't include in my testimony, that's my
21 decision.
22 Q. Were you given any prior testimony, any
23 existing testimony from other cases to use as a model?
24 A. I had access to other cases, but nobody
25 came and said, here's the model that we use.

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1 Q. What piece of testimony or pieces of
2 testimony did you use as a model?
3 A. I have access to all of Mr. Burdette's
4 files.
5 Q. Do I take it from that, then, you reviewed
6 all of Mr. Burdette's files before you began writing your
7 direct testimony?
8 A. No.
9 Q. What specific files of Mr. Burdette's did
10 you look at?
11 A. I reviewed his previous MGE files.
12 Q. And when you say previous MGE files, can
13 you be a little more specific as to what cases you're
14 talking about?
15 A. Specifically I reviewed the 2001 case.
16 Q. Is that the piece of testimony that you
17 used as a model for the form of your direct testimony in
18 this case, Mr. Burdette's direct testimony in the 2001 MGE
19 case?
20 A. You keep saying as a model, and I've made
21 it clear that it was my discretion. I didn't have, like,
22 a specific model. I did look at his testimony and I
23 reviewed it, and what I felt was relevant and that I
24 agreed with and I liked the way that it was presented I
25 left in. What I did not agree with I took out.

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1 As far as the analysis in my testimony,
2 it's all my own analysis. So to answer your question,
3 there was no specific model that was handed to me and
4 said, we have to do it this way.
5 Q. Okay. You looked at Burdette's testimony
6 in the MGE 2001 case. Did you look at any other
7 testimony?
8 A. Yes, I've looked at previous testimonies.
9 Q. And what testimonies were those?
10 A. I've already indicated that earlier.
11 Q. Tell me again, please.
12 A. The direct testimony of John Tuck.
13 Q. In what case?
14 A. ER-93-41.
15 Q. Now, let me ask you about that. Was there
16 anything in Mr. Tuck's testimony in that case that you
17 used in the preparation of your testimony in this case?
18 A. Could you clarify that question?
19 Q. Was there anything in Mr. Tuck's testimony
20 in the ER case that you just mentioned that you used in
21 the direct testimony you put together for this case?
22 A. I'm not sure. I don't recall.
23 Specifically that case, these cases that I read, these
24 previous direct testimony filings were to get an
25 understanding of the form, and I read most of these prior

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1 to even filing my direct testimony, so close to three
2 months ago now.
3 Q. I thought you said earlier --
4 A. So the specifics --
5 Q. -- that you read all those cases prior
6 to -- or all those testimonies prior to filing your direct
7 testimony. Are you changing your answer in that regard?
8 A. Can you read back what I just said?
9 Q. Sure.
10 THE REPORTER: "Answer: I'm not sure. I
11 don't recall. Specifically that case, these cases that I
12 read, these previous direct testimony filings were to get
13 an understanding of the form, and I read most of these
14 prior to even filing my direct testimony, so close to
15 three months ago now."
16 THE WITNESS: Yes, that's consistent with
17 what I said before.
18 BY MR. SWEARENGEN:
19 Q. You said you read most of them, and I
20 understood you to say earlier that you had read all of
21 those cases.
22 A. I'm sorry. Yeah, I read all of these cases
23 before.
24 Q. And those cases, the testimonies that
25 you've referred to in those cases you looked at for

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1 purposes of getting the form of your direct testimony in
2 this case?
3 A. Not a model. Just a general how previous
4 witnesses have done it.
5 Q. Was there anything in any of those
6 testimonies that you had listed earlier that are on your
7 list there in front of you that you lifted out and used in
8 your testimony in this case?
9 A. Yes. There was some verbiage specifically
10 to the 2001 case that Mr. Burdette had filed, specifically
11 just general explanative -- I'm sorry. That's not a
12 word -- explanation-type topics of broad general topics
13 that I -- that I read and I agreed with and I liked the
14 way it was presented, so I just -- I used that because
15 really there was no need to reinvent the wheel.
16 Q. So with respect to anything that you may
17 have borrowed from somebody else's testimony, it would
18 have been limited to Mr. Burdette's testimony in the 2001
19 MGE case; is that a fair statement?
20 A. I believe I borrowed something or reviewed
21 something from Mr. Tuck's testimony and implemented that
22 into my testimony as well.
23 Q. Okay. And which piece of testimony was
24 that?
25 A. I don't recall which specific testimony it

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1 was. It was the issue with floatation cost adjustments,
2 and that was in rebuttal testimony.

3 Q. Okay. I'm talking about your direct
4 testimony. All these questions have to do with your
5 direct testimony.

6 Other than Mr. Burdette's direct testimony,
7 did you borrow from any other direct testimony in putting
8 together your direct testimony?

9 A. No. And just want to say that I'm not
10 comfortable with the term borrowed.

11 Q. What term would you like to use?

12 A. The term that I like to use is that I
13 reviewed it and I -- and I understood it. So if you want
14 to do a broad generalization of borrowed, I just don't
15 necessarily agree with that term.

16 Q. Okay. What term would you use instead,
17 then?

18 A. I'm not sure what I would use, but I
19 wouldn't use borrowed or canned.

20 Q. Did I use the word canned?

21 A. No, but I know it's been brought up in this
22 test-- in these filings.

23 Q. So if I looked at Mr. Burdette's testimony
24 in the MGE 2001 case, would I find similarities in
25 statements made there with the testimony in your case --

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1 A. Whatnot. I believe the discounted cash
2 flow anal-- or section on page 6 is pretty consistent with
3 what Mr. Burdette had laid out. I read it and I agreed
4 with it, and there was no need to take it out of my
5 testimony.

6 This whole sustainable growth rate
7 determination, I don't believe Mr. Burdette had that in
8 his testimony. I don't believe he used that methodology.

9 Q. And what page is that in your direct
10 testimony?

11 A. I'm mistaken. I think -- I think this
12 might have been a general explanation that he had in his
13 testimony. I'm sorry.

14 The entire section on page 11 where I --
15 where I discuss my analysis of projected growth rate data.

16 Q. That's new?

17 A. Yes. My discussion of historic and
18 projected retention growth rates on page 12. My summation
19 of all my growth rates. The section on page 13 where I
20 describe the expected growth rate, how I determined the
21 expected growth rate. The calculations on page 14.
22 Again, all the numbers in my analysis are -- were
23 performed -- were produced through my independent
24 analysis. The calculation of my expected dividend, how I
25 performed that on page 14. I believe to some extent the

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1 in your testimony in this case, your direct testimony?

2 A. You would find similarities between the
3 2001 case and the 2004 case in general verbiage of broad
4 general topics, but that's not to say that I just lifted
5 it out and implemented it into my testimony without
6 reading it and comprehending it.

7 Q. How did you change Mr. Burdette's testimony
8 in the MGE 2001 case to fit your direct testimony in this
9 case?

10 A. Specific changes include a section where I
11 discuss current capitalization consistent with how
12 Southern Union has been capitalized in the past.

13 Q. What page is that on of your direct
14 testimony? Is that what you're referring to now, your
15 direct testimony in this case?

16 A. Yes.

17 Q. And what page is that on?

18 A. Page 3.

19 Q. Okay. Go ahead.

20 A. The addition of a graph of common equity on
21 page 4. All the numbers in my whole entire direct
22 testimony were computed with my own analysis of the
23 company. So that includes embedded cost rate numbers and
24 whatnot. That's a Southern Illinois term. Sorry.

25 Q. Excuse me. What was that term?

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1 calculation of my dividend yield range, my explanation
2 there of how I calculated that.

3 Q. That's different?

4 A. Yes, I believe so. That's on page 15. My
5 return on rec-- my return on equity recommendation. I
6 believe the general -- the general explanation of the CAPM
7 was -- was laid out by Mr. Burdette. And I'm sorry. I
8 just recall this. This other general drawbacks of CAPM
9 had been laid out and I had reviewed it and I agreed with
10 it, so I stuck it in my testimony. That had been
11 performed by, I believe, Mr. Tuck in a previous filing.
12 So that's on page 17 and 18. So I misspoke when I said
13 that it was only Burdette.

14 Q. So on pages 17 and 18 of your direct
15 testimony, you utilize as a resource some testimony that
16 Mr. Tuck had filed in a prior case?

17 A. Yeah. It's just -- it's just general
18 verbiage about the drawbacks of capital -- the capital
19 asset pricing model.

20 Q. Was it testimony involving Missouri Gas
21 Energy?

22 A. I don't believe so. Those drawbacks are
23 relevant regardless if you're doing a CAPM for a Missouri
24 Gas Energy or if you're doing it for GM. Those drawbacks
25 of the capital asset pricing model are well known and

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1 documented.

2 Q. You don't remember what case it was, then?

3 A. Not specifically, no.

4 Q. Okay. Go ahead.

5 A. The explanation of how I determined my
6 risk-free rate on page 18, the explanation of what my CAPM
7 showed, my capital asset pricing model showed.

8 Q. How did you know to do a CAPM, a capital
9 asset pricing model calculation?

10 A. Through my education. It's well understood
11 that any respectable analyst would provide a check on his
12 DCF, and the capital asset pricing model is a good way to
13 check it. Any analyst who doesn't perform a check on
14 their DCF analysis really lends -- it really undermines
15 the reliability of that analysis.

16 Q. And where did you learn that?

17 A. In my education at school.

18 Q. Specifically?

19 A. That's -- what do you mean, specifically?
20 Through my understanding and experience with the DCF model
21 in those courses that I referred to earlier.

22 Q. And where did you understand that you
23 needed to address that topic in your direct testimony in
24 this case?

25 A. Any time you're dealing with the DCF model,

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1 that you've been discussing?

2 A. I believe I took out a case that he had
3 explained because I had not had the opportunity to read
4 that case. So I don't remember what case it was. He
5 noted a legal case, and I honestly can't even remember
6 which one it was. But I simply didn't have time to read
7 it and read through it and form my own opinions about it,
8 so I had to take it out of my direct testimony.

9 Q. Did you ever have any discussions with Mark
10 Burdette about his testimony in the prior MGE case?

11 A. No.

12 Q. Have you ever had any discussions with Mark
13 Burdette about anything?

14 A. No.

15 Q. Have you communicated with him in any
16 fashion at all?

17 A. I've communicated with him via e-mail.

18 Q. And what were the substance of those
19 communications?

20 A. I believe maybe once or twice I
21 communicated with him around the beginning of my
22 employment, but honestly I don't remember what it was
23 because my primary source was Mr. Tuck.

24 Q. Did it have anything to do with your
25 assignment in this case, your communications with

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1 you need to perform a check to do the reliability, to
2 determine how reliable your analysis is. An analyst who
3 doesn't do that is really flying -- flying solo and really
4 subjects themselves to a lot of error.

5 Q. Okay. Now, what page were you on when we
6 began talking about the CAPM?

7 A. Page 19.

8 Q. Why don't you go ahead from page 19 and
9 tell us where your testimony here differs from
10 Mr. Burdette's testimony?

11 A. I believe the overall calculations of the
12 weighted average cost of capital, the numbers are
13 obviously different. And then the appendices, I went
14 through and I read the appendices. There were just --
15 again, these are general financial topic explanations. I
16 read them and I agree with them. If I didn't agree with
17 them, I took them out.

18 I believe specifically he had a --
19 Mr. Burdette had filed an appendix on the economic
20 rationale for regulation. I didn't necessarily agree with
21 what he had in there, so I took that appendix out. I
22 didn't like it, didn't like the way it read.

23 Q. Other than that, though, the appendices to
24 your direct testimony in this case are similar if not
25 identical to the appendices in Mr. Burdette's testimony

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1 Mr. Burdette?

2 A. I think -- I think specifically questions
3 that I had -- I do remember one question I had for him.
4 One question I had for him was where he had gathered his
5 Thomson financial data, and he directed me to where I
6 could find that. That's one specific thing that I can
7 remember. Other than that, I don't really recall anything
8 substantial that I communicated with him about.

9 Q. Where is he employed now, do you know?

10 A. I don't know where he's employed. I think
11 he works -- I don't know.

12 Q. How many drafts of your direct testimony
13 were prepared, do you recall?

14 A. Probably three or four.

15 Q. And where are those drafts now?

16 A. I don't have any drafts left.

17 Q. Have they been provided to MGE in this
18 case?

19 A. No. I eliminated -- once the drafts, once
20 I changed them, there was no need to keep them. I just
21 threw them away prior to filing my direct testimony.

22 Q. In putting together your direct testimony
23 in this case, was there a target rate of return that was
24 suggested to you as something that you should address?

25 A. Absolutely not. My assignment was to

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1 perform a fair rate of return, a market-derived fair rate
2 of return, and that's what I did.

3 Q. And who gave you that assignment?

4 A. Broad assignment was Mr. Trippensee or
5 Mr. Coffman. Probably both of them, just general
6 conversation that I would be involved in the MGE case and
7 my assignment is to develop a fair market-derived cost of
8 equity for MGE on rate of return.

9 Q. Did Mr. Trippensee or Mr. Coffman discuss
10 capital structure with you?

11 A. I don't remember any conversations
12 regarding capital structure.

13 Q. With anyone?

14 A. It may have came up -- come up in a
15 conversation with Mr. Tuck, talking with him about what I
16 planned on doing.

17 Q. And what -- what did you say to Mr. Tuck
18 about what you planned on doing?

19 A. It was my position that, as a result of
20 Southern Union's management's extensive growth strategy,
21 that it's driven the consolidated capital structure down
22 to, what, about a 26 percent equity ratio. It was my
23 opinion that the consolidated capital structure was more
24 appropriate than the hypothetical capital structure or
25 quasi-hypothetical capital structure that Mr. Dunn had

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1 Energy Corporation. They've acquired Valley Resources,
2 Incorporated, and they acquired Panhandle.

3 Q. Now, were you aware of all that prior to
4 the time you filed your direct testimony in this case?

5 A. Yes. Also, my analysis has focused on the
6 fact that the use of the consolidated capital structure I
7 believed was most appropriate because Southern Union has
8 invested roughly \$600 million of capital into the
9 Panhandle operations. That increased the risk to not only
10 shareholders but ratepayers.

11 Now, if this transaction turns out to be a
12 great success for Southern Union, the bulk of those
13 benefits of that transaction go to shareholders through a
14 higher equity price. So essentially Southern Union is
15 increasing the risk of ratepayers because if this
16 transaction is a bust, what I mean by that is that it does
17 not prove to be a profitable operation for Southern Union,
18 and let's say in the most extreme case that Panhandle
19 can't make their -- can't service their debt and the
20 bondholders of Panhandle seize all of Panhandle's assets.

21 If that's the case, that \$600 million that
22 Southern Union has invested in Panhandle is gone. Now,
23 that's \$600 million that could have been used to draw down
24 debt, replace infrastructure, things that would have been
25 beneficial to the company and to ratepayers.

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1 developed in his direct testimony. Consequently, it was
2 my opinion that that was the capital structure that should
3 be used in this case.

4 Q. And once again so I'm clear, what was your
5 opinion based on?

6 A. My analysis.

7 Q. You mentioned Southern Union's growth
8 strategy?

9 A. Could you be more specific? What do you
10 mean? Is there a question there?

11 Q. Earlier you said something about to the
12 effect of because of Southern Union's growth strategy.

13 A. That was a part of my analysis. The
14 question is, why is their capital structure so low in
15 equity? And the reason for that is that Southern Union
16 management has made a conscious decision to aggressively
17 strive for growth.

18 Q. Now, what is your --

19 A. So --

20 Q. What is that statement based on that you
21 just made?

22 A. Through their history of acquisition of
23 Panhandle in recent years. Southern Union has acquired
24 Pennsylvania Enterprises, Incorporated. They've acquired
25 Fall River Gas Company. They've acquired Providence

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1 So what Southern Union is doing is they are
2 increasing the risk of ratepayers, but they are not
3 providing them any upside if the transaction turns out to
4 be a success. And what they're proposing is that we're
5 going to increase your risk, you're not going to share in
6 the benefits, but we want to raise your rates. And that
7 to me is absolutely inappropriate.

8 So that's the main reason, along with the
9 fact that you have to realize that this is Southern
10 Union's management that has made a conscious decision to
11 strive for this aggressive growth. That's why their
12 capital structure is the way it is. That is why I believe
13 the most appropriate capital structure in this case is a
14 consolidated capital structure.

15 Q. Is what you just said, the narration that
16 you've just gone through, contained in your direct
17 testimony in this case?

18 A. It is not contained in my direct testimony.

19 Q. Did you discuss the use of the consolidated
20 capital structure with Mr. Tuck?

21 A. Yes.

22 Q. And what did he say to you about using the
23 consolidated capital structure?

24 A. He was in agreement with my rationale.

25 Q. Are there any policies or procedures that

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1 are utilized by the Office of Public Counsel in developing
2 recommendations on rate of return, return on equity or
3 capital structure generally?

4 A. No. I'm given a blank canvass and I'm
5 told -- I was directed to perform and develop a fair
6 market-derived return on equity and rate of return for
7 MGE, and that's what I did.

8 Q. So there's no such policies that the Office
9 of Public Counsel has that would apply generally to any
10 utility?

11 A. General policies on -- could you be more
12 specific on that question?

13 Q. In developing recommendations on rate of
14 return, return on equity or capital structure.

15 A. No, there are no policies.

16 Q. And I take it, then, that there would be no
17 policies, no such policies that would be applicable
18 specifically to MGE in this case?

19 A. No. The only policy is to use my
20 professional expert opinion to develop what I believe to
21 be a fair rate of return for MGE in this case. That was
22 the only policy.

23 Q. When you were working on your direct
24 testimony and going through the various drafts that you
25 mentioned earlier, did you ever have any questions

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1 the witness' testimony and he's responsible, he or she is
2 responsible for what's in there.

3 Q. So you didn't independently arrive at any
4 results in your testimony that you were later told to
5 change?

6 A. No, I did not -- I did not -- I was never
7 told specifically to change something.

8 Q. Were you ever told in any fashion
9 specifically or indirectly to change something?

10 A. No. It's ultimately my decision.

11 Q. Did anyone suggest any changes to you in
12 your direct testimony?

13 A. Sure. Yeah. I -- I have -- when I
14 completed a draft, I let Mr. Trippensee and Mr. Micheel
15 review it. They made suggestions as far as mostly, if I
16 remember correctly, verbiage. Nothing as far as, like,
17 the content of the analysis because that's my area of
18 expertise, not theirs.

19 So they made suggestions. What I took and
20 what I didn't, I don't really remember. Ultimately it's
21 my decision, but nothing -- nothing as far as the content
22 as far as we want you to change this or change that. It's
23 ultimately my decision. They can make suggestions, but
24 that's all they are is suggestions.

25 Q. Earlier you read from a list of materials

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1 concerning the content of that testimony?

2 A. I'm not -- I don't understand your
3 question.

4 Q. Did you have any questions about what you
5 were writing when you were putting together your drafts of
6 your direct testimony in this case and say, I wonder if I
7 should say this or I wonder if I should say that or I
8 wonder if I should include this topic or not include this
9 topic? Did any of those thoughts ever occur to you in
10 drafting your testimony?

11 A. I really don't remember specifically, but I
12 can't say that there weren't times where I was like,
13 should I include this, should I not? But ultimately it's
14 my decision whether I include things or not in my
15 testimony.

16 Q. Did you talk to anyone about what should be
17 included or not included in your testimony?

18 A. I don't specifically remember when I was
19 drafting my testimony if I talked to somebody saying, what
20 do you think about this, what don't you think, do you
21 think I should include this, should I not, because
22 ultimately -- I mean, I may have. I don't remember.

23 But ultimately it's my decision. Nobody
24 pressures anybody in the Office of the Public Counsel to
25 put things in or take things out because in the end it's

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1 that you had looked at after you had been given this
2 assignment and prior to filing your testimony. I'm
3 assuming that that was an all-encompassing statement of
4 what you looked at in connection with your direct
5 testimony in this case?

6 A. I'm sorry. I didn't catch all that
7 question. Could you say that again?

8 Q. You recall earlier this morning I asked you
9 what you had done to prepare your direct testimony in this
10 case, what you had looked at, what you had reviewed, and
11 you read from a list of materials, reports, prior case
12 testimonies, court cases, what have you. And my question
13 is, that was an all-encompassing statement, was it not?

14 A. An all-encompassing statement of the things
15 I looked at and reviewed prior to filing my direct
16 testimony?

17 Q. Yes.

18 A. Yes.

19 Q. Okay. Did anyone in the Office of Public
20 Counsel review those documents as well?

21 A. I'm sure they have. I don't know
22 specifically.

23 Q. In connection with this case, did anyone
24 tell you anything about those documents?

25 A. Could you be more specific?

16 (Pages 58 to 61)

1 Q. Well, let's refer back to your list.
2 A. Okay.
3 Q. Do you have it in front of you?
4 A. Yes.
5 Q. And looking at that list, did anyone in the
6 Office of Public Counsel tell you anything about the
7 content of any of those cases, reports, texts, case laws,
8 whatever, cases, statutes, whatever's on that list, did
9 anyone discuss any of that with you?
10 A. I remember having a discussion with
11 Mr. Micheel regarding Hope and Bluefield, but I mean I
12 read all this material myself. I didn't ask them to, you
13 know, give me cliff notes.
14 Q. Other than your discussion with Mr. Micheel
15 involving the Hope and Bluefield cases, did you discuss
16 any of those materials with anybody else in the Office of
17 the Public Counsel?
18 A. You know, I don't specifically remember
19 going to somebody and discussing something.
20 Q. Do you recall anyone in the Office of the
21 Public Counsel telling you anything at all about those
22 documents?
23 A. Well, I discussed the Hope and Bluefield --
24 oh, I'm sorry, and also the Kansas City Gas case with
25 Mr. Micheel.

1 Q. When you say the Kansas City Gas case, do
2 you have any kind of further reference or citation to that
3 case?
4 A. Yeah. It's State ex rel Kansas City vs.
5 Kansas City Gas Company, 163 SW 854, Missouri, 1914.
6 I reviewed these cases to get a general
7 understanding of the legal guidelines for analysts, the
8 kind of things you have to meet. I'm not a lawyer by any
9 means, but I just wanted to get an understanding of what
10 the courts have said a fair rate of return.
11 Q. Other than your discussions with
12 Mr. Micheel about those cases, did you talk to anybody in
13 the Office of Public Counsel about any of the other
14 materials that you listed earlier?
15 A. Not that I specifically remember. There
16 were definitely no in-depth conversations that I remember.
17 Q. In putting together your direct testimony
18 in this case, how many times did you make the discounted
19 cash flow or DCF calculation, do you recall?
20 A. I'm not really sure. I mean, I had my
21 analysis and I performed a DCF range. So if you include
22 my range, including the low end that I discarded, there
23 were three DCF calculations in my analysis.
24 Q. Did you --
25 A. I didn't -- if you're -- I didn't

1 repeatedly do my DCF analysis to result in a lower and
2 lower DCF to get to a range, no. I created what I felt
3 was a fair analysis. What it turned out to be is what it
4 turned out to be.
5 Q. Did you just do that one time, is that what
6 you're saying?
7 A. Yes, I calculated that range.
8 Q. Did you use different scenarios when you
9 did this or did you just elect one set of scenarios and
10 make a calculation and that's it?
11 A. If you look at Schedule TA-8 of my direct
12 testimony.
13 Q. Excuse me. Schedule?
14 A. TA-8.
15 Q. Thank you. Go ahead.
16 A. The only scenarios that I looked at was the
17 low expected growth rate, the projected BR sustainable
18 growth rate and the high growth rate. Eventually I threw
19 out the low and I recommended a range of 9.01 to 9.34.
20 Q. Now, up to now I've been asking you
21 questions about the preparation of your direct testimony
22 in this case. In putting together your rebuttal and
23 surrebuttal testimonies, what was the process that you
24 went through?
25 A. In putting together my rebuttal testimony,

1 I reviewed the direct testimony of company witness Dunn
2 and the direct testimony of Staff witness Murray. I
3 reviewed them to determine what I agree with and what I
4 did not agree with in their analyses, in their logic, and
5 I -- and I wrote on those topics that I did not agree
6 with.
7 Q. Did you prepare any drafts of your rebuttal
8 testimony?
9 A. Yes.
10 Q. And did anyone in the Office of Public
11 Counsel review those drafts?
12 A. Yes.
13 Q. And who would that have been?
14 A. Mr. Trippensee and Mr. Micheel.
15 Q. And did either of those gentlemen provide
16 any comments or suggest revisions to your rebuttal
17 testimony?
18 A. Yes, they provided suggestions, but again,
19 they did not mandate changes.
20 Q. And what were those suggestions?
21 A. Specifically I'm not -- I don't remember.
22 I don't save drafts, so -- but primarily it was just,
23 again, verbiage-type suggestions. But in the end it was
24 ultimately my decision what I do with my testimony.
25 Q. Now, with respect to your surrebuttal

1 testimony, what process did you go through?
2 A. In my surrebuttal testimony, I reviewed the
3 rebuttal testimony of company witness Dunn, the rebuttal
4 testimony of Staff witness Murray, and the rebuttal
5 testimony of company witness Morin, and I wrote on my
6 agreements and disagreements -- or I'm sorry. I wrote on
7 the rebuttal testimony of Mr. Murray and Mr. Dunn.
8 Q. And did you prepare drafts of that
9 surrebuttal testimony?
10 A. Yes.
11 Q. And did anyone in the Office of Public
12 Counsel review that?
13 A. Yes.
14 Q. And who would that have been?
15 A. Mr. Trippensee and Mr. Micheel.
16 Q. Were any changes suggested by either of
17 those gentlemen?
18 A. Yes. Again, they were just verbiage
19 suggestions, not mandates.
20 Q. Since you filed your direct testimony in
21 this case, have you had any additional education or
22 training in the area of rate of return or cost of capital?
23 A. Yes. I took a week-long course in the
24 basics of public utility, the basic of public utility
25 regulation at the University of New Mexico, or it was held

1 it?
2 A. No.
3 Q. Since you have filed those three pieces of
4 testimony, have you discussed it with anybody on the
5 Commission Staff?
6 A. Nothing in detail. I mean, I've had
7 conversations with Staff witness Murray about --
8 specifically I don't even remember what we talked about.
9 It was nothing in detail.
10 Q. How many times did you talk to him?
11 A. Maybe two or three times.
12 Q. And when would those conversations have
13 occurred?
14 A. I don't know when they occurred.
15 Q. Did you meet with him in person or talk to
16 him on the phone?
17 A. I think we did both.
18 Q. Did you make any note from your discussions
19 with him?
20 A. No.
21 Q. Did you talk to anybody else on the Staff
22 about your testimony?
23 A. Not that I recall, no.
24 Q. What is your understanding of the
25 responsibility of Office of Public Counsel in the

1 by the University of New Mexico.
2 Q. When did you take that course?
3 A. May 9th through May 15th, I want to say.
4 Q. Of this year?
5 A. Yes.
6 Q. What topics were covered in that course?
7 A. Rate base, rate of return, how to determine
8 if the company is overearning or underearning. Those are
9 the things that stick out in my mind.
10 Q. Anything else that you can remember?
11 A. Not specifically.
12 Q. Have you discussed your -- any of your
13 testimony, direct, rebuttal or surrebuttal, with anyone on
14 the Commission Staff?
15 A. Prior to filing it or post filing of the
16 direct, rebuttal and surrebuttal?
17 Q. Let's start out with prior to filing your
18 direct testimony, did you discuss your direct testimony
19 with anybody on the Staff prior to filing it?
20 A. No.
21 Q. How about your rebuttal testimony, did you
22 discuss that with anybody on the Staff prior to filing it?
23 A. No.
24 Q. How about your surrebuttal testimony, did
25 you discuss that with anybody on the Staff prior to filing

1 rate-setting process?
2 A. Our responsibility is to determine a fair
3 market-derived rate of return for the company.
4 Q. What is your understanding of the
5 Commission Staff's responsibility in the rate-setting
6 process?
7 MR. MICHEEL: I'm going to object, calls
8 for speculation.
9 THE WITNESS: I'm not honestly sure. I
10 haven't studied what the Staff's responsibilities are.
11 BY MR. SWEARENGEN:
12 Q. What is your understanding of the Public
13 Service Commission's responsibility in the rate-setting
14 process?
15 A. I'm honestly -- I have not reviewed that.
16 My -- my focus has been on my assignment and my
17 responsibility.
18 Q. Do you believe that management efficiency
19 of utility companies should be encouraged in Missouri?
20 A. I think with a regulated -- with a
21 regulated utility, a company that has a captive customers
22 or a captive customer base, that management efficiencies
23 should be expected. I believe that is a -- almost a
24 mandate of regulation in that it is trying to mimic what
25 would happen in a competitive market to the best of its

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1 ability. In a competitive market, if customers were not
2 happy with their service, they could leave. They could go
3 to another provider. But in a regulated environment where
4 you have a captive customer base, the customers are
5 essentially stuck with one provider. So I think it should
6 be expected if you're truly trying to mimic market
7 competition.

8 Q. You said expected, and my question was,
9 should it be encouraged? Should management efficiency of
10 utility companies operating in this state be encouraged?

11 A. Again, I don't think it's an encouragement
12 issue. I think it's an expectation issue.

13 Q. So would you say it should not be
14 encouraged?

15 A. I will stick with my answer that I said
16 just before.

17 Q. Let me ask you this. How does the Office
18 of Public Counsel assess whether or not the management of
19 a particular utility in this state is efficient?

20 A. With this case, my knowledge of the subject
21 has to do with customer performance or customer
22 satisfaction and, as far as I remember, had to do with
23 dropped call rates and how long it took to answer the
24 phone calls. But specifically I'm not -- I'm not really
25 versed in this topic here. This is more -- this is

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1 issues involving revenues, expenses or what have you in
2 setting rates?

3 A. The revenue requirement, as I said, the
4 rates that we set right now are going to be in effect
5 until the next time the company comes in for a rate case.
6 So it should be set to provide them a sufficient return of
7 and return on investment for that time period.

8 MR. SWEARENGEN: Why don't we take another
9 short break at this point?

10 (A BREAK WAS TAKEN.)

11 BY MR. SWEARENGEN:

12 Q. Mr. Allen, let me ask you, have you read
13 the direct, rebuttal and surrebuttal testimony of Staff
14 witness in this case Mr. Murray?

15 A. I've read his direct and rebuttal. I have
16 not had a chance to read his surrebuttal as of yet.

17 Q. With respect to his direct testimony and
18 his rebuttal, what areas of his testimony generally do you
19 disagree with, if any?

20 A. If you look at my rebuttal testimony, some
21 issues that I had with Mr. Murray's direct testimony is
22 his calculation of long-term debt cost. Another issue
23 that I had --

24 Q. Excuse me. What page are you referring to?

25 A. I'm sorry. Page 23 of my rebuttal

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1 discussed at length, I believe, in the testimony filings
2 of OPC witness Bolin.

3 Q. Would you agree that cost of service or
4 revenue requirement determinations are made on a
5 forward-looking basis?

6 A. Yes, because the rates that we set now are
7 going to be in effect for several years until they come in
8 for another rate case. That's definitely what I do as far
9 as when I develop a cost of equity analysis, it's a -- the
10 DCF is a forward-looking model.

11 Q. So you would agree, then, that information
12 should be used in setting rates which is designed to
13 replicate expected or normal or likely levels of revenues,
14 expenses, investment and so forth which would be
15 experienced during the period of time the rates are in
16 effect?

17 A. I will stick with my answer that I said to
18 your first question.

19 Q. Which was?

20 A. That the DCF is a forward-looking model,
21 and the revenue requirement, it goes -- it's a factor into
22 the revenue requirement, which yes.

23 Q. Beyond the cost of capital issue that
24 you're testifying on and the DCF model, you don't know
25 whether or not that same principle would apply to other

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1 testimony.

2 Q. Thank you. Anything else?

3 A. I'm sorry. I thought you were trying to
4 get there.

5 Another issue that I had -- that I had with
6 his direct testimony was the way in which he calculated
7 the level of the short-term debt that he used in his
8 analysis. There wasn't a big discrepancy in this case,
9 but I feel that my approach is -- gives a better
10 indication of the level of short-term debt.

11 Those are the two issues I wrote about in
12 my rebuttal testimony.

13 Q. Were there any other areas where you
14 disagreed with Mr. Murray's testimony, his direct or his
15 rebuttal, that you did not discuss in your testimony?

16 A. Yes. Due to time constraints, I did not
17 discuss those. I primarily focused on what I considered
18 to be a bigger issue, and that was the testimony, the
19 direct testimony of Mr. Dunn.

20 Q. Let's go back to Mr. Murray, though. You
21 said there were other issues or areas where you disagreed
22 with Mr. Murray but you did not address those in your
23 testimony. What were those areas?

24 A. Specifically, I didn't agree with the use
25 of negative growth rates. I didn't agree with his data

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1 set.

2 Q. When you say data set, what do you mean?

3 A. The use of his -- his data set extended
4 only to 2002. I didn't agree with his CAPM analysis and
5 his risk-free rate calculation.

6 Q. In what respect? In what respect?

7 A. If I'm remembering correctly, he used a
8 historic market risk premium, and I don't believe that
9 captures current investor expectations as well as current
10 risk-free rate would. Generally, I simply did not agree
11 with the way in which he performed his growth rate
12 analysis.

13 Q. Anything else?

14 A. That's -- that's what I remember off the
15 top of my head right now.

16 Q. And those four items that you just
17 mentioned, the use of the negative growth, the data set,
18 the CAPM analysis and his growth rate analysis, those are
19 not mentioned in your rebuttal or surrebuttal testimony;
20 is that correct? I think you said that those are things
21 that you --

22 A. Those are things that I didn't mention in
23 my rebuttal testimony.

24 Q. Yes.

25 A. I believe in my surrebuttal testimony that

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1 disagreement with Mr. Murray but you didn't put it in your
2 rebuttal. Is that a fair characterization of what we're
3 trying to discuss here?

4 A. Yes. There are areas of Mr. Murray's
5 testimony that I did not agree with, but I simply did not
6 have the time or the resources to put it in my rebuttal
7 testimony.

8 Q. You mentioned growth rate analysis, you
9 disagree with his growth rate analysis. Could you expand
10 on that for us, please?

11 A. If you look on Schedule 16 of his direct
12 testimony, you'll see how he calculated his proposed range
13 of growth to be 3.9 percent to 4.9 percent. I just simply
14 do not agree with the methodology that he used.

15 As far as his end results, I have to say
16 that his end results are consistent with -- I don't have a
17 whole big problem with his end results. I just don't
18 agree with his methodology.

19 Q. What do you think he should have done
20 differently with respect to his methodology or any of his
21 calculations?

22 A. I believe that it is mechanistic in its
23 averaging of an average, of an average. I don't believe
24 that there's enough subjectivity in the analysis.

25 Q. Now, these matters where you have indicated

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1 I mentioned the stale risk-free rate.

2 Q. You mentioned the what?

3 A. The stale risk-free rate.

4 Q. Okay.

5 A. I'm sorry, Mr. Swearngen. I forgot about
6 a correction that I wanted to make at the beginning of
7 this session here. The correction I wanted to make,
8 getting off the topic, I'm sorry, was appendix in my
9 direct testimony.

10 Q. Uh-huh.

11 A. Appendix F, this selection criteria for my
12 proxy group.

13 Q. What page was that?

14 A. Page 28.

15 Q. Page 28 of your direct testimony,
16 Appendix F?

17 A. Yes.

18 Q. You want to make a change there?

19 A. Line 7 through 12, that was my own criteria
20 for selecting companies, comparable companies.

21 Q. Okay.

22 A. I wanted to make that distinction.

23 Q. Okay. Let's go back to where we were.

24 We're talking about your criticism of Murray's testimony,
25 and you were listing some other areas where you were in

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1 you disagree with Mr. Murray, how did you come to realize
2 you had these disagreements?

3 A. Through review of his direct testimony.

4 Q. Did you discuss these issues with anyone
5 else?

6 A. No. I reviewed it on my own.

7 Q. Do you agree with the historical data that
8 Mr. Murray used in his testimony?

9 A. I believe that you have to be careful when
10 you're looking at historical data to make sure generally
11 what you -- the negative growth rates I don't agree with,
12 and I believe you must be careful to make sure that if
13 you're going to use historical growth rates, generally you
14 need to be careful that what occurred in the past is what
15 you expect to occur in the future.

16 Q. Earlier I think you mentioned a change to
17 your Appendix F concerning your selection criteria for
18 your group of comparable gas utilities?

19 A. Yes.

20 Q. Do you agree with Mr. Murray's selection
21 criteria that he used to select his proxy companies?

22 A. Where is Mr. Murray's selection criteria?

23 Q. Have you reviewed his testimony?

24 A. I have reviewed his testimony, but --

25 Q. Are you familiar with the criteria,

20 (Pages 74 to 77)

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1 selection criteria that he used?
2 A. Not off the top of my head.
3 Q. Do you have a copy of his testimony there
4 with you?
5 A. Yes.
6 Q. Direct testimony?
7 A. Yes.
8 Q. Can you look in the index of that?
9 A. Yes.
10 Q. And does that indicate where he discusses
11 selection criteria?
12 A. Not in the table of contents.
13 Q. Can you look through his testimony and find
14 where he discusses that?
15 MR. MICHEEL: If you know, you can go ahead
16 and tell the witness.
17 MR. SWEARENGEN: I don't. If I did, I
18 would have.
19 THE WITNESS: Okay.
20 BY MR. SWEARENGEN:
21 Q. Have you located his selection criteria for
22 his proxy companies?
23 A. I'm looking at Schedule 13, which is titled
24 Criteria for Selecting Comparable Natural Gas Distribution
25 Companies.

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1 Q. Okay. You agree with the selection
2 criteria that Mr. Murray has used?
3 A. I agree with the methodology that I
4 employed.
5 Q. What about Mr. Murray's methodology?
6 A. He indicates distribution revenues to total
7 revenue greater than 90 percent. In this day and age with
8 the consolidation, I believed that in my analysis that
9 60 percent was an accurate filter or an appropriate
10 filter. No Missouri regulations, I agree with that.
11 Q. No Missouri regulations?
12 A. No Missouri regulated operations.
13 Q. Thank you. And you agree with that?
14 A. Yes. That is a criteria in my selection.
15 Publicly traded company, I agree with that. Information
16 printed in ValueLine, I agree with that.
17 As far as the other criteria, for me to
18 make a decision right now if I agree with that or not, I
19 would have to look at it more in depth.
20 Q. You can't answer that right now?
21 A. Not right now. I wouldn't feel comfortable
22 answering it right now.
23 Q. Why are the -- are your proxy companies
24 different than Mr. Murray's proxy companies, do you know?
25 A. Because our selection criteria is different

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1 and because of the subjective nature of financial
2 analysis.
3 Q. In what areas does the methodology that you
4 utilized in putting together your recommendation in this
5 case differ from Mr. Murray's?
6 A. Mr. Murray, I believe, utilized the annual
7 compound growth form of the DCF model, whereas I utilized
8 the semi-annual compound form of the DCF model. The way
9 in which we calculated our growth rates is a distinction
10 between the two of us. The way in which we performed our
11 CAPM analysis is a distinction.
12 Dividend growth rates were not -- while I
13 looked at them, they were not factored into my overall
14 recommendation. They were not included. Again, as I
15 mentioned, our data sets, there was a distinction between
16 that. His data set extended to 2002 and mine extended to
17 2003.
18 I'm trying to figure out what his overall
19 CAPM analysis showed, but it's my understanding that my
20 CAPM was -- seemed to be more supportive of my DCF results
21 than Mr. Murray's. I believe those are the -- those are
22 what I can think of right now.
23 Q. Did you apply the DCF model differently
24 than did Mr. Murray?
25 A. I used the semi-annually compounded form of

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1 the DCF model.
2 Q. Which is different than --
3 A. The annual form.
4 Q. Which is what Mr. Murray used?
5 A. Yes.
6 Q. And what different result did that lead to?
7 A. The end result of Mr. Murray's analysis was
8 he recommended a -- his DCF ROE was 8.2 percent to
9 9.2 percent. My recommendation was 9.01 percent to
10 9.34 percent.
11 Q. Are there any other areas where you think
12 Mr. Murray is wrong about something in this case?
13 A. Those are the areas that I can think of
14 right now.
15 MR. SWEARENGEN: This might be a good place
16 to break. I can't finish by lunch. Let's just go ahead.
17 MR. MICHEEL: Whatever you want to do, Jim.
18 It's your deposition.
19 (A BREAK WAS TAKEN.)
20 BY MR. SWEARENGEN:
21 Q. Mr. Allen?
22 A. Yes.
23 Q. I believe it's your surrebuttal testimony
24 where you refer to the rebuttal testimony of MGE witness
25 Dr. Roger Morin; is that correct?

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1 A. I don't believe I reference Dr. Morin. I
2 certainly didn't speak about him at any length. I don't
3 remember referencing him in my surrebuttal testimony. Let
4 me take a look here. Do you have a page number that
5 you're speaking of?

6 Q. Well, once again I'm sorry I don't.

7 MR. MICHEEL: My recollection is, just for
8 the record, that he didn't talk about Dr. Morin at all in
9 his surrebuttal testimony.

10 BY MR. SWEARENGEN:

11 Q. Do you mind taking a look at your
12 surrebuttal and confirming what your counsel just said?

13 A. I referenced Dr. Morin's deposition, if
14 that's what you're speaking of, but not his testimony.

15 Q. And where did you reference his deposition
16 testimony?

17 A. Several times throughout my surrebuttal
18 testimony.

19 Q. Can you tell us where?

20 A. Sure. Let me look through here and find
21 it. On page 4, lines 5 through 10, page 10, lines 22
22 through 18.

23 Q. Now, where you refer to Dr. Morin's
24 testimony there starting on page 10, what's the purpose of
25 that reference?

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1 A. The purpose of this reference is to -- to
2 state what Dr. Morin said in his testimony regarding
3 consensus forecasts as opposed to relying on one person's
4 forecast of growth.

5 Q. And why did you choose to put that portion
6 of Dr. Morin's deposition testimony in your testimony?

7 A. Because I felt that it was relevant
8 speaking with the fact that Mr. Dunn had disregarded or
9 seemed to have disregarded his consensus forecast that he
10 had on page 43 of his direct testimony.

11 Q. And what did you do with respect to
12 utilizing a consensus forecast?

13 A. I illustrate that the growth rate
14 recommendation that I made was consistent with the Thomson
15 growth rate in Mr. Dunn's direct testimony, and also for
16 that matter the growth rate that I recommended is
17 consistent with the Thomson growth rate and earnings per
18 share for my recommended proxy group.

19 And let me clarify that my growth rate that
20 I recommended is consistent with the earnings per share
21 growth rate on page 43 of Dr. -- or I'm sorry --
22 Mr. Dunn's direct testimony.

23 Q. Let me ask you this. Reference to
24 Dr. Morin's deposition testimony on pages 10 and 11 of
25 your surrebuttal, is that -- is his statement there or

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1 statements there; are they consistent with your position
2 in this case?

3 A. Could you clarify that question, please?

4 Q. Well, do you agree with what Dr. Morin has
5 said in the testimony that you cite and refer to?

6 A. I think that generally a consensus forecast
7 is one measure to look at and it should be looked at to
8 see if your recommendation is consistent with what other
9 analysts are recommending. If -- if for some reason a
10 consensus of analysts is recommending, for example,
11 4 percent and you come up with 8 percent, then there's
12 obviously a cause for alarm there, and you would have
13 to -- I think a reasonable and -- a reasonable analyst
14 would -- that would draw a red flag.

15 Q. And to make sure I understand, then, you
16 would agree with Dr. Morin's testimony that you've cited
17 on this point?

18 A. I just answered that question.

19 Q. And what was your answer? Can you answer
20 it yes or no and then explain it?

21 A. The answer is that I agree that consensus
22 forecasts should be looked at and reviewed --

23 Q. And is --

24 A. -- to the extent that you're -- the
25 recommendation that you're making to see if you're

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1 relatively in the ballpark.

2 Q. And is that what Dr. Morin is saying in the
3 testimony that you have cited?

4 A. Dr. Morin is citing -- saying that a
5 consensus of -- the question that he was asked was, would
6 you agree that an average of all available forecasts from
7 investment houses is likely to produce the best DCF growth
8 rate? And he answered, I would agree with that statement
9 that the consensus forecast of many analysts is about the
10 best proxy you can think of for long-term growth, I agree.

11 And then he was asked, and what -- and that
12 would be better than one individual analyst's
13 determination of growth? And he answered, yeah, I would
14 think it's better to rely on the consensus forecast rather
15 than one person's forecast. That stands to reason.

16 Q. Now, do you agree with his statement there?

17 A. Again, I think that it is certainly one
18 thing that an analyst should look at. To say yes or no I
19 agree with that, I'm not going to make that determination.
20 I agree that it should definitely be considered to see if
21 in general your growth rate recommendation that you're
22 recommending is consistent with that.

23 Q. So have you put testimony from Dr. Morin in
24 your testimony that you don't agree with?

25 A. No. I agree with his -- with his analysis

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1 that you should look at the projected growth rates.
2 Q. Where in your testimony do you next refer
3 to Dr. Morin's deposition testimony?
4 A. Looks like it's on page 13, lines 13
5 through 22.
6 Q. And why did you insert at this point in
7 your surrebuttal testimony Dr. Morin's deposition
8 testimony?
9 A. Because Mr. Dunn had mischaracterized my
10 analysis and said that I completely disregarded my CAPM
11 analysis, which I showed was not true, and I just wanted
12 to point out that even company witness Morin says that you
13 should always use your -- as at least a check on your DCF
14 analysis. And what I wanted to point out was, I did that.
15 Company witness Dunn did not.
16 Q. And let me ask you this question. Do you
17 agree with the statement that Dr. Morin has made there as
18 shown on page 13 of your surrebuttal testimony?
19 A. Yes. I believe that there should -- there
20 should be more than one model consulted.
21 Q. Where next in your testimony, in your
22 surrebuttal testimony do you refer to Dr. Morin's
23 deposition testimony?
24 A. Looks like it's on page 13, and then it
25 continues on to page 14.

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1 Q. And what was the purpose of you placing
2 that excerpt from his deposition testimony in your
3 testimony?
4 A. The purpose of it was to illustrate that
5 Dr. Morin seems to believe that if your CAPM result is
6 right in the middle of your DCF range, that your CAPM
7 supports your DCF analysis.
8 Q. And do you agree with that, with his
9 testimony that you have cited and referred to in your
10 surrebuttal?
11 A. I believe -- I believe so, yes. I believe
12 that if your CAPM is within -- especially if it's right in
13 the middle of your range, that it -- it provides the
14 analyst with a degree of confidence in their DCF analysis.
15 Q. Now, where is the next point in your
16 testimony that you refer to Dr. Morin's deposition
17 testimony?
18 A. Looks like it's on page 14, lines 12
19 through 17.
20 Q. What's the purpose of that, of you
21 inserting that excerpt of Dr. Morin's testimony in your
22 testimony?
23 A. To indicate or to illustrate that
24 Dr. Morin, the company's witness, does not believe that
25 sole reliance on the DCF model meets the Hope principle,

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1 and to illustrate that the only witness in this case that
2 is relying on one DCF -- or solely relying on the DCF is
3 company witness Dunn.
4 Q. And do you agree with Dr. Morin's testimony
5 that you have placed in your testimony?
6 A. I do.
7 Q. Are you fam-- were you familiar with
8 Dr. Morin before this case arose?
9 A. No, I was not.
10 Q. Since you have become familiar with him,
11 have you reviewed any of his textbooks on regulatory
12 finance?
13 A. No, I have not.
14 Q. Do you know whether or not those textbooks
15 are available to you in the library of the Office of
16 Public Counsel?
17 A. I do believe that we have a copy of the
18 textbook that was referenced in Mr. Murray's deposition,
19 but I simply have not had the time to review that textbook
20 as of yet.
21 Q. Which textbook do you have, do you know?
22 A. I don't even remember the name of it.
23 Q. Can I take it from that that you did not
24 utilize or were not familiar with Dr. Morin's textbook in
25 your education at Southern Illinois University -

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1 Edwardsville?
2 A. That's correct.
3 Q. Have you read all his rebuttal testimony in
4 this case?
5 A. I reviewed his rebuttal testimony briefly,
6 definitely not extensively. He didn't reference me at all
7 in his rebuttal testimony, so I didn't spend a great deal
8 of time reviewing his rebuttal testimony.
9 Q. Do you have an opinion as to whether or not
10 Dr. Morin should be considered an expert in the subject
11 matter of cost of capital, rate of return?
12 MR. MICHEEL: I'm going to object. That
13 calls for a legal conclusion.
14 THE WITNESS: I have not read any of his
15 material. So as far as me being able to qualify him as an
16 expert, I can't make that qualification as of now. I know
17 that he is considered an authoritative figure, though.
18 But as far as my personal opinion --
19 BY MR. SWEARENGEN:
20 Q. By who is he considered an authoritative
21 figure?
22 A. He seems to be considered an authoritative
23 figure by the company for sure.
24 Q. Anyone else?
25 A. He seems to be -- I'm not sure. I mean, I

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1 know that I've heard that in his -- his deposition and
2 being an authoritative figure, but honestly, I have not
3 reviewed his material, so it's hard for me to say.
4 Q. Does anyone in the Office of the Public
5 Counsel consider him to be an authoritative figure in the
6 area of rate of return, cost of capital?
7 A. I don't know.
8 Q. Have you become familiar enough with his
9 testimony in this case to state what areas you agree with
10 in his testimony?
11 A. No, I haven't.
12 Q. Do you have a copy of his testimony with
13 you today?
14 A. I'm not sure.
15 Q. Let me hand you one. I've got one here if
16 you don't. If you turn to page 6 of that, if you would,
17 please.
18 A. Okay.
19 Q. At the top, in response to a question, at
20 the bottom of page 5 of his rebuttal testimony the
21 question is, please summarize your specific criticisms of
22 Mr. Murray's testimony. And his answer begins at the top
23 of page 6 of his rebuttal testimony. Do you see that?
24 A. Yes.
25 Q. Starting there he lists areas of criticisms

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1 of Murray's testimony. Have you reviewed this portion of
2 his testimony previously?
3 MR. MICHEEL: I'm just going to object.
4 That's been asked and answered. This witness has
5 indicated he hasn't closely reviewed this testimony.
6 THE WITNESS: I briefly reviewed this
7 testimony after it was filed, shortly after it was filed.
8 Indicated that I noticed that he did not reference me at
9 all in his testimony, so I have not spent a great deal of
10 time reviewing his testimony. So I'm not really that
11 familiar with his testimony.
12 BY MR. SWEARENGEN:
13 Q. Can you tell me which, if any, of these 15
14 criticisms he lays out at pages 6 through 9 of his
15 rebuttal testimony would apply to your testimony?
16 A. Could you clarify that question for me,
17 please?
18 MR. SWEARENGEN: Can you read it back?
19 THE REPORTER: "Question: Can you tell me
20 which, if any, of these 15 criticisms he lays out at pages
21 6 through 9 of his rebuttal testimony would apply to your
22 testimony?"
23 THE WITNESS: So you're asking me, of these
24 criticisms that he has of Mr. Murray, which ones are
25 applicable to my testimony, which ones are equal

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1 criticisms from my testimony?
2 BY MR. SWEARENGEN:
3 Q. Yes.
4 A. My direct testimony?
5 Q. Yes.
6 A. I mean, you're asking me to assume that
7 Mr. Morin, that I can get inside Mr. Morin's head and say
8 what he thinks is applicable to my testimony as well, and
9 I don't think I can do that.
10 Q. That wasn't my question. My question was,
11 which of these criticisms -- and you have them in front of
12 you -- apply to your testimony?
13 A. The other problem I have with answering
14 this question is, just because Mr. Morin thinks these are
15 criticisms does not mean that I believe that they are
16 valid criticisms.
17 Q. That's not my question.
18 A. So asking me to state that, it's hard for
19 me to do.
20 Q. Why is it hard for you to look at the 15
21 criticisms and make a determination as to whether or not
22 they apply to your testimony? Why is that hard for you to
23 do?
24 MR. MICHEEL: Why don't we go off the
25 record and you give him time to read those, Jim.

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1 MR. SWEARENGEN: Sure --
2 MR. MICHEEL: He's got I don't know how
3 many pages there.
4 MR. SWEARENGEN: About three pages.
5 MR. MICHEEL: You know, and he says he
6 hasn't done it, so --
7 MR. SWEARENGEN: That's fine. Let's do it.
8 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)
9 BY MR. SWEARENGEN:
10 Q. Okay. Thank you, Mr. Allen, for reviewing
11 portions of Dr. Morin's rebuttal testimony. Looking again
12 at page 6 of that testimony where he lists 15 criticisms
13 of Staff witness Murray's testimony, which of those would
14 apply to your testimony?
15 A. Of the criticisms that he states, the only
16 ones that I believe would apply to my testimony are No. 1,
17 No. 2 and No. 14, but the legitimacy of those criticisms I
18 think is questionable.
19 Q. Now, with respect to the other 12
20 criticisms that you don't think apply, can you tell us why
21 they do not apply?
22 A. No. 3 does not apply because I used -- this
23 states Mr. Murray's DCF formulation understates the
24 required return on common equity capital, use of proper
25 DCF functional form, raises his estimate by approximately

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1 30 basis points. I did not use the same model as
2 Mr. Murray. I used the semi-annual compounding model.
3 Q. Okay. What about No. 4?
4 A. Same answer. The semi-annual compounding
5 form of the DCF model recognizes the timing of dividends.
6 Q. What about No. 5?
7 A. I did not use a four-month stock price in
8 the DCF model.
9 Q. Okay. What about No. 6?
10 A. I did not use two-year-old data. My data
11 set extended to 2003.
12 Q. What about No. 7?
13 A. My primary growth rate was not historical
14 growth rates. It was the projected retention growth rate.
15 Q. What about No. 8?
16 A. While I looked at dividend growth rates,
17 they were ultimately not a factor in my recommendation.
18 Q. And why was that?
19 A. Because I eliminated the low end of my DCF
20 range, and that was the only part of my range that
21 dividends were incorporated into.
22 Q. No. 9, risk premium method, why does that
23 not apply?
24 A. I did not perform a risk premium method.
25 Q. And why did you not do that?

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1 Q. And I guess the last one would be criticism
2 No. 15 on page 9?
3 A. Yeah. And again, I didn't rely singly,
4 solely on one model.
5 Q. While you have Dr. Morin's testimony in
6 front of you, could you turn to page 41, please, where he
7 states his conclusions.
8 A. Okay.
9 Q. Have you read that section of his
10 testimony, his conclusions?
11 A. Briefly back in whenever surrebuttal was
12 filed, end of May, let me -- yeah. I'm not real familiar
13 with it.
14 Q. Can you take just a minute and familiarize
15 yourself with that? We can go off the record if you want
16 to.
17 A. Sure.
18 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)
19 BY MR. SWEARENGEN:
20 Q. Mr. Allen, you have now read pages 41
21 through 43 of Dr. Morin's rebuttal testimony in this case;
22 is that correct?
23 A. Yes.
24 Q. And had you read that previously? I don't
25 recall what you said.

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1 A. I simply believe that my -- in this case my
2 CAPM provided more than overwhelming support for my DCF.
3 Q. Have you ever done a risk premium
4 calculation?
5 A. I believe a couple times in my education,
6 but I -- as far as familiarity with it, I'm not really
7 familiar with it as of right now.
8 Q. Okay. What about No. 10?
9 A. Again, I use -- I didn't use a stale
10 risk-free rate. I used an up-to-date risk-free rate.
11 Q. No. 11?
12 A. I don't think my market risk premium is
13 stale because of the risk-free rate that I used was not
14 stale.
15 Q. What about No. 12?
16 A. Well, here's a situation where I'm not
17 really sure what Mr. Morin is referring to as the plain
18 vanilla version of the CAPM, but the CAPM version that I
19 used I believe is accurate and a legit method.
20 Q. No. 13?
21 A. His argument is that the current spread
22 between the A and the BBB bonds is far more relevant and
23 it's currently 50 basis points and not 32 that Mr. Murray,
24 but this adjustment is just not applicable to my analysis
25 because I didn't make this type of adjustment.

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1 A. I read it previously towards the end of May
2 briefly, but nothing that stuck in my head.
3 Q. Would you agree with me that in those pages
4 Dr. Morin recommends adjusting Staff witness Murray's
5 9.3 ROE recommendation for certain items?
6 A. Yes.
7 Q. And Dr. Morin concludes that if one does
8 this, the recommended return on equity is 11.6 percent; is
9 that correct?
10 A. Could you indicate where you read that?
11 Q. At the bottom of page 42, for example.
12 A. Well, this is his CAPM, the 11.6, but I
13 believe the DCF range that Morin is recommending 10.4 to
14 10.4 -- I mean, I'm sorry, 10.4 to 11.4.
15 Q. And where do you get that?
16 A. Page 41, line 23.
17 Q. Do you have any other comments about
18 Dr. Morin's recommendations in that regard?
19 A. In what regard?
20 Q. Do you have any comments about his
21 recommendation about making those adjustments to Staff
22 witness Murray's testimony to come up with the DCF range
23 that you just indicated or the CAPM number of 11.6?
24 A. I don't agree with his floatation cost
25 allowance adjustment. As far as his 30 point basis point,

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1 30 basis points from the understatement of growth in the
2 dividend yield component due to the use of the wrong form
3 of the DCF model, I don't have a thorough enough
4 understanding of his testimony to make a determination on
5 that.

6 As far as the 20 basis points due to the
7 use of the annual DCF model rather than the quarterly
8 version, again, I have not thoroughly reviewed this
9 testimony enough to make a determination on that, whether
10 I agree with that or not.

11 The 50 point basis points from the use of
12 stale growth rate data, I don't agree with the use of
13 stale data. But as far as the magnitude of this
14 adjustment, I can't make a determination on that.

15 And the 50 -- again, point No. 6 that he
16 makes here on page 41, line 19, the 50 basis points from
17 inappropriate use of dividend growth rates, I can't make a
18 determination on, you know, the magnitude of the
19 adjustment because I have not reviewed this testimony well
20 enough. But again, I did not use dividend growth rates in
21 my analysis.

22 That's all the adjustments that he lists
23 here.

24 Q. Did you sit in and listen in on Dr. Morin's
25 deposition?

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1 Q. Did you have any discussions with anybody
2 about Murray's deposition testimony?

3 A. Nothing substantial that sticks in my mind.

4 Q. You say nothing substantial. What
5 insubstantial discussions did you have?

6 A. I mean, I discussed with Mr. Micheel
7 that -- the deposition of Mr. Murray, but as far as
8 anything specific that sticks in my mind about it, I
9 remember having a conversation about him with it, but --

10 Q. You don't remember what was said?

11 A. I think we talked about the whole notion of
12 the canned testimony that was brought up, but other than
13 that, I don't really remember any -- anything substantial.

14 Q. Have you read the transcript of Staff
15 witness Murray's deposition?

16 A. Yes.

17 Q. And why did you do that?

18 A. Why did I do it?

19 Q. Yes.

20 A. To -- just to review what was asked of him
21 and how he answered.

22 Q. And did you do that in preparation or
23 anticipation of your own deposition?

24 A. I did that after -- no more than a week
25 after Murray's deposition, but yeah, obviously it was

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1 A. The deposition that took place last week?

2 Q. Well, there's been one deposition of
3 Dr. Morin in this case that I'm aware of done by
4 telephone.

5 A. Yes.

6 Q. Did you participate in that?

7 A. Yes.

8 Q. Did someone suggest that you do that?

9 A. No. I wanted to sit in on that.

10 Q. Did you sit in on Staff witness Murray's
11 deposition in this case?

12 A. Yes.

13 Q. And did someone suggest that you do that?

14 A. No. I wanted to sit in on it.

15 Q. Did you take any notes in conjunction with
16 either of those depositions, Staff witness Murray's
17 deposition or Dr. Morin's deposition?

18 A. I took notes at the Murray deposition,
19 which I supplied to the company in response to a Data
20 Request that they sent me. I did not take notes at
21 Mr. Morin's deposition.

22 Q. As a result of sitting in on Staff witness
23 Murray's deposition, did anyone advise you to do things
24 differently in your deposition?

25 A. No.

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1 useful in preparation for this deposition.

2 Q. Is that why you did it, to prepare for this
3 deposition?

4 A. No.

5 Q. Why did you do it, then?

6 A. I just did it to review what was asked of
7 him and how he responded.

8 Q. And when would that have been, do you
9 recall?

10 A. I already answered that. It was roughly a
11 week after his deposition.

12 Q. Which was when, do you remember?

13 A. I don't remember.

14 Q. Did you make any notes on the transcript of
15 that deposition or in conjunction with it?

16 A. No.

17 Q. Have you watched the video of Staff witness
18 Murray's deposition?

19 A. No.

20 Q. As a result of sitting in on Mr. Murray's
21 deposition and reviewing the transcript of that, was there
22 anything that he did that you wanted to be sure you did
23 differently?

24 A. I was not going to allow my testimony to be
25 referred to as canned.

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1 Q. Anything else?
2 A. No.
3 Q. Have I referred to your testimony as
4 canned?
5 A. No.
6 Q. Do you consider yourself an expert?
7 A. Yes.
8 Q. In what areas?
9 A. In the area of public utility financial
10 analysis.
11 Q. And are you offering expert testimony as a
12 part of this case involving MGE?
13 A. Yes.
14 Q. And on what subject?
15 A. Return on equity, rate of return.
16 Q. How did you become an expert on public
17 utility financial analysis?
18 A. Through my education, through the --
19 Q. Which you discussed earlier?
20 A. Yes. Through the resources that I reviewed
21 prior to filing direct testimony, which I referred to
22 earlier, and through training, which I referred to
23 earlier.
24 Q. Now, that training you referred to earlier,
25 when did that occur?

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1 A. The specific training, the course that I
2 took occurred after May 9th to the 14th.
3 Q. That was after you filed your direct
4 testimony in this case?
5 A. But also what I'm referring to is not
6 specifically training, but the resources that I had in
7 conversations with Mr. Tuck.
8 Q. Which you've mentioned earlier?
9 A. Yes.
10 Q. Since this issue of a person being
11 qualified as an expert has come up in this case, what
12 steps have you taken to become more qualified as an expert
13 on these issues?
14 A. I'm assuming you're referring to the
15 hearing regarding the striking of Mr. Murray's testimony?
16 Q. Let me ask you this question. When did you
17 first become aware that there was a problem with
18 Mr. Murray's testimony from the standpoint of whether or
19 not he was -- he is an expert witness? Was that at the
20 time MGE filed its motion to strike his testimony?
21 A. I believe the company is making the
22 argument that he is not an expert witness.
23 Q. Right. And when did you first become aware
24 of that?
25 A. When the company filed that he was not an

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1 expert witness, when they filed their motion.
2 Q. Were you aware of this issue prior to MGE
3 raising it by the filing of its motion to strike Murray's
4 testimony?
5 A. No.
6 Q. Have you read MGE's motion to strike
7 Murray's testimony?
8 A. Yes, I read it.
9 Q. Were you aware of any case law or statutes
10 concerning the subject of expert testimony before MGE
11 raised the issue?
12 A. Are you referring to Supreme Court
13 standards?
14 Q. Anything that you might know of about
15 expert testimony. Were you aware of any case law or
16 statutes concerning expert testimony before MGE filed its
17 motion to strike Murray's testimony?
18 A. No.
19 Q. Since MGE filed its motion to strike
20 Murray's testimony, have you read any court cases or
21 statutes concerning that topic?
22 A. No.
23 Q. Has anyone told you that this Missouri Gas
24 Energy rate case might change how in the future the Public
25 Counsel submits testimony on this -- on the topic of rate

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1 of return and cost of capital?
2 A. No.
3 Q. Have you had any discussions with any of
4 your attorneys about what the law requires for your
5 testimony to be admissible as expert testimony?
6 A. No.
7 Q. What is your understanding of what you need
8 to do to be sure you can be qualified as an expert?
9 A. I believe the Commission has made a ruling
10 on that last week as far as -- and I don't have a copy of
11 it here with me, but I would refer you to that. That's my
12 understanding of it.
13 Q. Has anyone at the Staff or with the Office
14 of Public Counsel or anybody else expressed any concern
15 that you are not an expert on the topic that you purport
16 to be an expert on?
17 A. No.
18 Q. You indicated that Mr. Tuck was made
19 available as a resource to you at the time you came to
20 work for the Public Counsel back in the middle of March of
21 this year; is that right?
22 A. Yes.
23 Q. And is it your understanding that Mr. Tuck
24 was employed by the Public Counsel prior to that time in
25 that capacity?

27 (Pages 102 to 105)

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1 A. It's my understanding that he was employed
2 as a public utility financial analyst with the Office of
3 Public Counsel.
4 Q. At the time you were hired?
5 A. No.
6 Q. When was Mr. Tuck so employed?
7 A. I believe Mr. -- in his surrebuttal
8 tomorrow on page 2, he states that I was employed by the
9 Office of the Public Counsel as a public utility financial
10 analysis from June 1992 until February 1995.
11 Q. And then, according to your understanding,
12 he came back to work for the Public Counsel in a
13 consulting basis in the middle of March of this year; is
14 that correct?
15 A. That's my understanding.
16 Q. Why has Mr. Tuck filed surrebuttal
17 testimony for the Public Counsel in this case, do you
18 know?
19 A. I do not know.
20 Q. Did you have -- did you make a
21 recommendation to anyone that Mr. Tuck or someone else
22 file surrebuttal testimony?
23 A. No.
24 Q. So he wasn't employed at your suggestion;
25 is that a fair statement?

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1 A. I did not make a recommendation that he
2 file surrebuttal testimony.
3 Q. Do you know who made the decision that he
4 do that?
5 A. No.
6 Q. Do you know if anyone else was considered
7 as a possible witness?
8 A. No.
9 MR. SWEARENGEN: That's all I have. Thank
10 you.
11 THE WITNESS: Thank you.
12 MR. MICHEEL: Waive presentment. We just
13 need him to review it and sign it.
14 (PRESENTMENT WAIVED; SIGNATURE REQUESTED.)
15
16
17
18
19
20
21
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23
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25

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1 CERTIFICATE OF REPORTER
2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)
5 I, KELLENE K. FEDDERSEN, RPR, CSR, CCR, and
6 Notary Public within and for the State of Missouri, do
7 hereby certify that the witness whose testimony appears in
8 the foregoing deposition was duly sworn by me; that the
9 testimony of said witness was taken by me to the best of
10 my ability and thereafter reduced to typewriting under my
11 direction; that I am neither counsel for, related to, nor
12 employed by any of the parties to the action to which this
13 deposition was taken, and further that I am not a relative
14 or employee of any attorney or counsel employed by the
15 parties thereto, nor financially or otherwise interested
16 in the outcome of the action.
17
18
19 KELLENE K. FEDDERSEN, RPR, CCR
20 Notary Public, State of Missouri
21 (Commissioned in Cole County)
22 My commission expires 3/28/05.
23
24
25

Page 109

1 SIGNATURE PAGE
2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)
5 I, Travis Allen, do hereby certify:
6 That I have read the foregoing deposition;
7 That I have made such changes in form and/or
8 substance to the deposition as might be necessary to
9 render the same true and correct;
10 That having made such changes thereon, I hereby
11 subscribe my name to the deposition.
12 I declare under penalty of perjury that the
13 foregoing is true and correct.
14 Executed the ____ day of _____, 2004, at
15 _____
16
17 TRAVIS ALLEN
18
19 Notary Public:
20 _____
21 My commission expires: _____
22
23
24 KF/Travis Allen
25 Re MGE - Case No. GR-2004-0209

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ERRATA SHEET

1
2 Witness: Travis Allen
in Re: MGE, Case No. GR-2004-0209
3
4 Upon reading the deposition and before subscribing
thereto, the deponent indicated the following changes
should be made:
5
6 Page Line Should read:
Reason assigned for change:
7 Page Line Should read:
Reason assigned for change:
8
9 Page Line Should read:
Reason assigned for change:
10 Page Line Should read:
Reason assigned for change:
11
12 Page Line Should read:
Reason assigned for change:
13 Page Line Should read:
Reason assigned for change:
14
15 Page Line Should read:
Reason assigned for change:
16 Page Line Should read:
Reason assigned for change:
17
18 Page Line Should read:
Reason assigned for change:
19 Page Line Should read:
Reason assigned for change:
20
21 Page Line Should read:
Reason assigned for change:
22 Page Line Should read:
Reason assigned for change:
23
24 Reporter: Kellene K. Feddersen, RPR, CSR, CCR
25

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1 Midwest Litigation Services
2 714 West High Street
P.O. Box 1308
Jefferson City, MO 65102
3
4 Phone (573)636-7551 • Fax (573)636-9055
5
6 June 17, 2004
7 Douglas E. Michael
8 Office of the Public Counsel
200 Madison Street, Suite 650
Jefferson City, MO 65102
9 In Re: MGE Case No. GR-2004-0209
10 Dear Mr. Michael:
11 Please find enclosed your copy of the deposition of Travis
Allen taken on June 16, 2004, in the above-referenced
case. Also enclosed is the original signature page and
errata sheet.
12
13 Please have the witness read your copy of the transcript,
indicate any changes and/or corrections desired on the
errata sheet and sign the signature page before a notary
public.
14
15 Please return the errata sheet and notarized signature
page to Mr. Swearingen for filing prior to trial date.
16
17 Thank you for your attention to this matter.
18
19 Sincerely,
20 Kellene K. Feddersen, RPR, CSR, CCR
21
22 Enclosure
cc: James Swearingen
Robert Berlin
23
24
25

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ERRATA SHEET

Witness: Travis Allen
In Re: MGE, Case No. GR-2004-0209

Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page 5 Line 9 Should read: ... *specialization in financial markets + institutions* ...

Reason assigned for change: *misspoke*

Page 27 Line 10 Should read: ... *more of a --* ...

Reason assigned for change: *misspoke*

Page 37 Line 17 Should read: ... *C.A. Turner Utility Reports* ...

Reason assigned for change: *misspoke*

Page 34 Line 8 Should read: ... *and rate of return*.

Reason assigned for change: *misspoke*

Page 56 Line 16 Should read: ... *if it does*

Reason assigned for change: *misspoke*

Page 37 Line 13+14 Should read: ... *in this case is the consolidated* ...

Reason assigned for change: *misspoke*

Page 63 Line 10 Should read: ... *said about a fair rate* ...

Reason assigned for change: *misspoke*

Page 81 Line 8+9 Should read: ... *8.52 percent to 9.52 percent* ...

Reason assigned for change: *misrepresented witness Murray's recommendation*

Page 83 Line 17 Should read: ... *growth rate in earnings per* ...

Reason assigned for change: *misspoke*

Page 106 Line 8 Should read: *testimony on page 2, ...*

Reason assigned for change: *misspoke*

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Reporter: Kellene K. Feddersen, RPR, CSR, CCR

SIGNATURE PAGE

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Travis Allen, do hereby certify:

That I have read the foregoing deposition;

That I have made such changes in form and/or
substance to the deposition as might be necessary to
render the same true and correct;

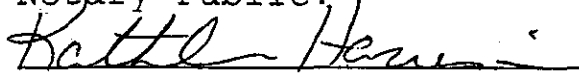
That having made such changes thereon, I hereby
subscribe my name to the deposition.

I declare under penalty of perjury that the
foregoing is true and correct.

Executed the 21 day of June, 2004, at


TRAVIS ALLEN

Notary Public:



My commission expires:

January 31, 2006

KATHLEEN HARRISON
Notary Public - State of Missouri
County of Cole
My Commission Expires Jan. 31, 2006

ORIGINAL

KF/Travis Allen

Re MGE - Case No. GR-2004-0209