

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

March 31, 2008
Jefferson City, Missouri
Volume 2

In the Matter of the Application)
of Laclede Gas Company for and)
Accounting Authority Order)
Authorizing the Company to Defer) Case No. GU-2007-0138
for Future Recovery the Costs of)
Complying with the Commission's)
Cold Weather Rule)

MORRIS WOODRUFF, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE

CONNIE MURRAY,
ROBERT M. CLAYTON, III,
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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: All right. It looks like it's
3 8:30, so we can go ahead and get started. Welcome
4 everyone. We're here today for a hearing in Case No.
5 GU-2007-0138, which concerns the application of Laclede
6 Gas Company for an accounting authority order concerning
7 its recovery of costs of complying with the permanent
8 amendment to the Commission's cold weather rule.

9 We'll begin today by taking entries of
10 appearance, beginning with Staff.

11 MS. HEINTZ: Lera Shemwell and Jennifer Heintz
12 for the Staff of the Commission, P.O. Box 360, Jefferson
13 City, 65102.

14 JUDGE WOODRUFF: Thank you. And for Public
15 Counsel?

16 MR. POSTON: Thank you. Marc Poston, appearing
17 for the office of Public Counsel, P.O. Box 2230, Jefferson
18 City, Missouri, 65102.

19 JUDGE WOODRUFF: Thank you. And for Laclede?

20 MR. ZUCKER: Michael C. Pendergast and Rick
21 Zucker, here on behalf of Laclede Gas Company, 720 Olive
22 Street, St. Louis, Missouri, 63101.

23 JUDGE WOODRUFF: Thank you. We'll begin today
24 by take opening statements. And I don't think the parties
25 indicated, but I was assuming that Laclede would go first

1 if that's --

2 MR. PENDERGAST: That's fine.

3 JUDGE WOODRUFF: If you disagree with that,
4 that's fine. All right. Begin with Laclede, then.

5 MR. PENDERGAST: Good morning, Judge. If it
6 please the Commission. I'd like to begin by thanking the
7 Staff and expressing my appreciation for their entering
8 into the stipulation and agreement with Laclede that
9 continues the methodology for calculating the cost of
10 complying with the Commission's changes to the cold
11 weather rule that was used in the company's last rate case
12 proceeding with one update that had been recommended by
13 Staff. We appreciate your willingness to do that.

14 And, of course, we are here today to address
15 what amount of compliance costs Laclede should be
16 permitted to recover in its next general rate case
17 proceeding in connection with the Commission's 2006
18 permanent amendment to the cold weather rule.
19 That much, I know.

20 What I don't know is why it's taking a hearing,
21 your valuable time and the filing of testimony and briefs
22 to do that. Less than nine months ago, all of us, with
23 the exception of Commissioner Jarrett, were gathered in
24 this very same room to address the identical issue of what
25 level of compliance costs Laclede should be permitted to

1 recover in its last rate case in connection with the
2 Commission's 2005 emergency amendment to the cold weather
3 rule.

4 And I say identical issue because under the
5 explicit wording of the permanent amendment compliance
6 costs for both the permanent and emergency amendment are
7 to be determined in the same manner.

8 The occasion for that gathering was the
9 presentation of the unanimous stipulation and agreement
10 resolving Laclede's last general rate case proceeding.
11 During the course of that presentation, then Commissioner
12 Gaw asked Mark Oligschlager, who, as I recall, was sitting
13 right over there, the lead auditor on the case, how the
14 code weather rule compliance costs being recommended by
15 the parties as part of settlement had been derived.

16 The transcript is attached as Exhibit 8 to
17 Mr. Fallert's testimony, and I've left copies of
18 Mr. Fallert's testimony there with nice color coded index
19 tabs for the Commission's reference. Mr. Oligschlager
20 testified that the parties had taken the compliance cost
21 amounts being recommended directly from the calculations
22 set forth in the direct testimony of Public Counsel
23 witness, Ted Robertson.

24 A copy of the relevant portions of
25 Mr. Robertson's testimony is also attached as Exhibit 6 to

1 Schedule 1 to Mr. Fallert's testimony. Given
2 Mr. Oligschlager's answer, Commissioner Gaw,
3 understandably, turned to Mr. Poston for additional
4 elaboration, who, in turn, called upon Mr. Robertson.

5 For his part, Mr. Robertson indicated he had
6 reviewed Laclede's analysis of the compliance costs, made
7 several adjustments and then recommended an amount in his
8 direct testimony that he believed was consistent with the
9 Commission's previous orders mandating how such costs
10 would be determined.

11 As Mr. Robertson said, at the time, we had an
12 order, and we followed it. So how did Public Counsel say
13 compliance costs should be determined in accordance with
14 the Commission's rules and orders just nine months ago?
15 Well, let's run through it real quickly. It's not very
16 complicated.

17 As you see from the order of rule-making that
18 I've attached -- or that is attached to Mr. Fallert's
19 testimony as Exhibit 1, if you go into that Exhibit 1
20 about three pages, you will see the language that
21 determines how you're supposed to calculate those
22 compliance costs.

23 And the first thing you do is you look at the
24 unpaid new charges for service after a customer has been
25 connected who has taken advantage of the rule's provisions

1 and you begin with that amount. If those unpaid charges
2 have gone up, then you recognize that, which is exactly
3 what we did. Mr. Robertson reviewed that and found that
4 it was appropriate with an offset that we had also made.
5 And I will discuss that in a little bit.

6 The second component is that you look at the
7 difference between what the utility could have collected
8 under the pre-existing rule, which was, in most cases, 80
9 percent of the customer's arrearage that the customer
10 would have to pay in order to either stay on or be
11 reconnected.

12 And, of course, these are all customers that
13 have broken previous payment agreements. And, generally
14 speaking, they are high risk customers from the standpoint
15 of having a rather poor payment performance. So it's the
16 difference between the 80 percent you could have collected
17 and the 50 percent or \$500, whichever is less, that you
18 were entitled to collect under the new rule.

19 Well, we went ahead and calculated what that
20 number was based on a tracking of thousands and thousands
21 of customers. The specific detail for each one, we had
22 gone ahead and include in our filing. Came up with the
23 number. Mr. Robertson reviewed it, was satisfied with it.
24 We had that component finished.

25 He then added carrying costs, which the rule

1 also provides for, Laclede's short-term borrowing rate,
2 and added that to his compliance cost amount. And then we
3 got to the point where the rule constructed and
4 collaborative effort on this exercise took place.
5 And that had to do with Part G of the rule, which talks
6 about recognizing incremental expenses and revenues.

7 Of course, the prior part of the rule under G
8 that I just explained talks about what costs are eligible
9 and says so in very explicit terms. But this also
10 indicates that there is supposed to be incremental
11 expenses and revenue.

12 On the incremental expense side, what we had
13 done in providing our calculation was to calculate an
14 amount that we believed for the increased arrearage
15 amount, the first component, was already included in rates
16 based on a ratio of what was in rates in bad debts and
17 what amount of incremental increase in bad debts we had.
18 And we offset that arrearage increase amount by that.

19 Mr. Robertson looked at that offset, looked how
20 we had calculated it, and, once again, found it to be
21 satisfactory. Mr. Robertson, however, did not agree with
22 the fact that we had included administrative costs.
23 These were largely additional costs. At least we thought
24 they were additional costs associated with more call
25 center personnel and time to set up payment agreements.

1 We thought that they were, in fact, incremental costs.

2 But we conceded the point and said, Fine, we'll go ahead
3 and remove those administrative costs.

4 And then for the incremental revenues,
5 Mr. Robertson proposed that we look at payments made by
6 customers substant -- subsequent to when the customer was
7 hooked back up or allowed to maintain service. And to the
8 extent that those payments actually reduced their
9 arrearage levels that that be recognized as an additional
10 offset.

11 Quite frankly, we thought that was fair. We
12 thought it is reasonable. And we agreed to it. And so
13 when all is said and done, we were able to go ahead and
14 calculate a compliance cost amount for the cold weather
15 rule that was fully consistent with the Commission's rules
16 and that all of us, the company, the Staff and the Office
17 of Public Counsel were able to come before you and, under
18 oath, state that it was consistent with the Commission's
19 rules.

20 So how are we -- why are we here today? Has the
21 rule changed since that presentation nine months ago? No.
22 Has how it's administered changed since that presentation
23 nine months ago? No. Has there been any observable odd
24 result achieved under the compliance cost calculation that
25 would justify another look? No.

1 In fact, the amounts that we're asking to
2 recover for the permanent amendment are about half of what
3 everybody agreed was appropriate for the emergency
4 amendment. And that's due in large part to the fact that
5 fewer customers were eligible because more customers had,
6 once again, broken payment agreements the prior winter.

7 No. The only thing I think that has really
8 changed is Public Counsel's view of what the rule
9 requires. And to buy that new view that Public Counsel is
10 now asserting, here's what you need to do.

11 First of all, you have to conclude that an
12 experienced regulatory auditor on Public Counsel's Staff
13 made some kind of colossal blunder less than a year ago
14 when this very issue by erroneously representing to the
15 Commission that the method being used by Staff and the
16 company in this proceeding was the correct one.

17 You have to believe that he somehow failed to
18 take into account or recognize the tapestry of legal and
19 accounting arguments that Public Counsel is now weaving in
20 an effort to short the company on its compliance costs.

21 You also have to believe that those in the
22 office charged with supervising him, were offering him
23 legal advice, also failed to pick up on what he was doing
24 and advise him of all the significant and asundry errors
25 he was making in developing his recommendation, a failure

1 that you would have to believe continued right through the
2 moment he stood before you in an open hearing and said
3 that this was the right method for calculating costs under
4 the rule.

5 Perhaps Mr. Robertson thought that if the
6 arguments that are now being raised by Public Counsel
7 were, in fact, valid that Public Counsel would have
8 included them in its application for rehearing of the
9 Commission's order of rule-making that adopted them.

10 Instead, Public Counsel has shown in Exhibit 2
11 Mr. Fallert's Schedule 1, filed an application rehearing
12 that described how the rule worked in a way that is
13 consistent with the understanding that Mr. Robertson and
14 the Staff and the company had when they made their
15 compliance cost recommendations nine months ago.

16 And I would just direct you to the example
17 that's set forth in that application for rehearing when
18 Public Counsel clearly says that the difference in these
19 upfront payments is an amount that the utility would be
20 allowed to collect.

21 There wasn't anything in the application for
22 rehearing that said, Well, the rule's ambiguous. It's
23 unclear. We don't know how you're going to go ahead and
24 calculate it. They said, This is how the rule says you're
25 going to go ahead and calculate it.

1 And perhaps Mr. Robertson thought that if Public
2 Counsel really believed the arguments that they're now
3 raising, they would have appealed the Commission's order
4 of rule-making. It did not. Or that they would have
5 objected when Laclede filed a tariff to implement the
6 rule's provisions once they were approved. Once again,
7 Public Counsel did not. Or that during the ensuing rate
8 case that someone in the office would have told him he was
9 off base, that the rule really meant something different
10 than what he thought it did.

11 And as we've already discussed, no one ever told
12 him that. And wonder -- any wonder why he may have
13 thought he was on the right path?

14 In any event, I respectfully suggest to you that
15 Mr. Robertson had it right. If there are any errors in
16 how the rule has been interpreted, they are by no means
17 his. I suppose that everyone is always free to change
18 their mind about something. And I suppose that that right
19 applies to agencies and institutions as well as it does to
20 individuals. But they don't have a right to raise
21 whatever argument they want any time they want.

22 As I said, as Public Counsel's own application
23 for rehearing makes it clear, they fully understood how
24 the rule was intended to operate in terms of cost
25 calculation.

1 Public Counsel had an opportunity to appeal that
2 rule. They had an opportunity to object to Laclede's
3 filing of the tariff to implement that rule. They did
4 neither.

5 And what we have today is nothing but an
6 impermissible collateral attack in a separate proceeding
7 on the rule masquerading as a question of interpretation
8 and ambiguity that simply doesn't exist. For that reason
9 alone, their position should be rejected. But it should
10 also be rejected because it's just plain wrong.

11 It's wrong technically because it's based on a
12 ludicrous assumption that Laclede incurred no costs as a
13 result of the amendment's reduction in the amount of the
14 upfront payment that a utility could demand for customers
15 who had broken a previous payment agreement.

16 As I said before, that reduction is from 80
17 percent of a customer's arrears to 50 percent or \$500,
18 whichever less. Whichever is less.

19 Now, how could that impose costs on a utility?
20 Well, everybody here knows Jackie Hutchinson. She is one
21 of the people at the Social Services agencies that hand
22 out LIHEAP and Utilicare assistance each year. She has a
23 finite amount of money each year to do that. And that
24 finite amount of money doesn't go ahead and increase or
25 decrease based on what changes the Commission makes to the

1 cold weather rule.

2 So with that finite amount of money, say it's
3 \$5 million. Reducing the amount from 80 to 50 percent
4 means that there are going to be more high risk, poor
5 paying customers who have demonstrated their high risk by
6 having broken a previous payment agreement who are going
7 to be able to go ahead and either retain service or
8 they're going to be able to go ahead and have their
9 service restored.

10 Not only are you going to have more customers
11 like that, but those customers are going to have their
12 service restored with higher arrearages than they
13 otherwise would have had. Instead of having an arrearage
14 that's been reduced by 80 percent, they're going to have
15 an arrearage that's only been reduced by 50 percent.

16 And I can tell you as soon as night follows day
17 that putting significantly more customers on who have
18 significantly higher arrearages who have demonstrated
19 their inability to go ahead and pay in the past is going
20 to go ahead and result in a higher cost.

21 But that's not where it stops. What happens
22 when you put that customer back on? Let's say a customer
23 owes you a thousand dollars and they were disconnected in
24 May. And you're coming up to September, October. The
25 rule is being changed. If that customer can't get back

1 on, say they owe that thousand dollars, that ultimately in
2 month or two of Laclede's accounting procedures, it's
3 taken to bad debts.

4 What happens when it gets taken to bad debts?
5 Well, the amount that you get to recover in your rate case
6 goes up. And that amount goes up by whatever the
7 customer's arrearage is, not 50 percent, not 80 percent,
8 but 100 percent. And then the utility goes ahead and gets
9 to collect that higher amount, not just for one year, but
10 for two years or three years or whenever it has another
11 rate case.

12 Instead, we go ahead and say, Well, we won't
13 take a bad debt now. We won't include it in rates now.
14 We won't go ahead and start recovering it as soon as our
15 rate case is effective. Instead, we'll take a promise to
16 pay later for an amount that is smaller than that, and we
17 only get to go ahead and recoup once, not year after year
18 after year as part of an allowance that's in rates.

19 So instead of getting 100 percent of it, we get
20 maybe 80 percent of it. And we only get it once. We
21 don't get it as a recurring amount in rates. That is a
22 huge impact, and it's an impact that makes any effort to
23 say that somehow these compliance costs are excessive is
24 simply ludicrous.

25 And as Mr. Fallert says in his testimony, there

1 is also the fact that you now have significantly more
2 customers on that are high risk that many of which will
3 need to be disconnected. What that means is in a world of
4 limited resources, you now have to go ahead and spend your
5 resources in the form of personnel who go out and,
6 unfortunately, have to go out and disconnect customers.
7 When they pay, you now have more to do.

8 And that means the customers that you might
9 otherwise be able to get to perhaps go ahead and get some
10 additional revenue because they decide to pay up when
11 they're -- you know, have a chance to get to not nearly as
12 quickly as you otherwise would. Not to mention just the
13 additional costs of going out and sending people to do
14 that and try several times when they have an inside meter
15 just to go ahead and perform the work. That's an
16 additional cost that's not fully reflected in rates.

17 So even if you think that it's permissible to
18 raise these issues at this late point in time, not
19 withstanding everything that's come before, it's just not
20 a compelling -- it's not even a -- a tenable pace.

21 Finally, it's also wrong, as a matter of public
22 policy, because of the terrible signal it sends about the
23 sincerity and seriousness of efforts to help vulnerable,
24 financially challenged customers maintain their utility
25 service.

1 Public Counsel has been one of the foremost
2 advocates of helping customers maintain and retain utility
3 service as evidenced by their promotion of low income
4 energy assistance programs, as evidenced by the fact that
5 they have often come before you and requested that the
6 cold weather rule be modified in order to provide more
7 lenient terms for customers to go ahead and retain
8 service.

9 Well, if you're really going to be serious about
10 that, then you have to go ahead and be just as serious
11 about permitting costs to be recovered that are
12 legitimately incurred in pursuing that particular
13 objective.

14 You don't go ahead and say, Let's make the
15 change and then start pulling legal arguments out of your
16 hat after the fact, nickel and dime the company and stop
17 them from collecting the legitimate costs they've incurred
18 to do that.

19 I think that's something that shouldn't be
20 tolerated by the Commission. I think you ought to reject
21 it, and I think you ought to find that the compliance cost
22 amounts that have been calculated and recommended to you
23 by Staff, by the company, and, in a sense, although he's
24 not here today, by Mr. Robertson, ought to go ahead and be
25 approved. Thank you.

1 JUDGE WOODRUFF: Opening for Staff?

2 MS. HEINTZ: Thank you, Judge.

3 OPENING STATEMENT

4 BY MS. HEINTZ:

5 MS. HEINTZ: Apart from reiterating Staff's
6 support from the stipulation and agreement, I have no
7 opening statement. Thank you.

8 JUDGE WOODRUFF: Opening for Public Counsel?

9 OPENING STATEMENT

10 BY MR. POSTON:

11 MR. POSTON: Good morning. Excuse me. My name
12 is Marc Poston, and I represent Laclede's 630,000 natural
13 gas customers. These are the very same customers that
14 will pay through rates whatever amount the Commission
15 determines is Laclede's costs of complying with the cold
16 weather rule. And this won't be limited to those
17 customers that service under the cold weather rule, but
18 will be a cost borne by all Laclede customers.

19 The cold weather rule was first adopted by the
20 Commission in 1977. But the first change to lower the
21 reconnection requirements occurred in 2001 in an emergency
22 rule amendment. That emergency amendment was a response
23 to high gas prices and the likelihood that more consumers
24 would be disconnected from service during the winter.

25 In 2005, the Commission renewed the lower

1 reconnection requirements in another emergency cold
2 weather rule when facing price effects once again. And in
3 2006, made reduced reconnection require -- or payments
4 permanent.

5 It is this permanent amendment that Laclede now
6 claims caused it to incur two and a half million in
7 incremental costs for the cold weather rule period of
8 November 1st, 2005 through March 31st, 2006.

9 As you have seen from our position statement,
10 Public Counsel has a list of reasons why Laclede's cost
11 calculation should be rejected or that Laclede should be
12 ordered to resubmit its costs with the offsets that are
13 necessary to calculate the true costs of compliance with
14 the rule.

15 We are not contesting that Laclede be allowed to
16 book its incremental cost of complying with the rule. We
17 just disagree with how Laclede has performed that
18 calculation. The purpose of the cold weather rule
19 amendment was to protect consumers from harm during the
20 winter by making it easier to reconnect or retain service
21 for someone that has fallen behind on their bills.

22 The amendment provided, as previous emergency
23 amendment had, that the gas companies would be allowed to
24 recover their incremental costs in complying with the
25 rule. But the Commission was concerned with preventing a

1 utility from recovering more than its true incremental
2 costs.

3 To address this, the Commission added a
4 provision, subsection 14(f)(2), to the cold weather rule
5 that states, "No gas utility shall be permitted to recover
6 costs under this connection that would have been incurred
7 in the absence of this section."

8 That seems easy enough to understand. If the
9 costs claimed by the utility would have been incurred
10 without the amendment, it's not a cost for the rule.

11 To provide further protections from excess
12 recovery, the Commission also prohibited bad debts that
13 accrued before the effective date of the rule. And the
14 Commission also restricted the amounts that could be
15 booked under the AAO to only the incremental expenses and
16 incremental revenues caused by the amendment, incremental
17 or additional revenues which would be offset by
18 incremental or additional expenses.

19 Now, I've just given three examples in the rule
20 amendment that clearly shows the Commission's intention to
21 not allow the utility to recover expenses that it was
22 going to incur even with or without the rule. And these
23 provisions were all included in the cold weather rule
24 amendment throughout the rule-making from the first
25 proposed rule-making to the final order of rule-making.

1 And the Commission's final order of rule-making
2 repeats the Commission's intention to prevent utilities
3 from over-recovering and flatly rejects the utility
4 company's attempt to get an uncollectible tracker added to
5 the rule. The Commission concluded that the uncollectible
6 tracker would allow recovery of costs not associated with
7 the rule.

8 Not mentioned anywhere in the final order of
9 rule-making comment or response section or in comments
10 before the Commission was the curious provision occurring
11 for the first time in the rule language. And this
12 provision states the costs eligible for recovery include
13 additional unpaid arrearages incurred by reconnected or
14 reinstated customers and the unpaid difference between the
15 initial payment under the cold weather rule amendment and
16 the initial payment required under the old rule.

17 This language was proposed by Laclede off the
18 record, and, unfortunately, found its way into the final
19 rule. And as you've read in Laclede's testimony, Public
20 Counsel sought rehearing on order of rule-making.

21 What I didn't realize at the time we filed at
22 the application for the rehearing was the ambiguity
23 between the new initial payment recovery provision and the
24 other provisions prohibiting recovery of costs that would
25 have been incurred without the amendment.

1 Pre-existing provisions limiting the gas
2 company's recovery to incremental expenses are based on an
3 accrual system of accounting which utilities are required
4 to follow under the generally -- generally accepted
5 accounting principles of GAAP.

6 The new provisions that -- provision that
7 calculates costs based on the initial payments received is
8 contrary to GAAP. It would constitute a cash system of
9 accounting.

10 The prefiled testimony of Public Counsel's Chief
11 Accountant, Mr. Russ Trippensee, the only CPA to file
12 testimony, shows how Laclede's costs calculation would
13 allow recovery of costs that are not incremental expenses
14 caused by the rule, and, more importantly, would violate
15 accepted accounting principles. It is crucial that the
16 Commission follow these accepted accounting principles to
17 prevent over-recovery.

18 Our evidence will show that the costs
19 calculation proposed by Laclede will allow recovery in
20 direct violation of specific provisions of the rule, in
21 violation of GAAP and contrary to the Commission's
22 intention to only allow a utility to recover the
23 incremental costs covered by the rule.

24 We also believe there are other offsets that
25 should apply, offsets that would further ensure Laclede

1 did not recover expenses it would not have incurred
2 without the rule, and these arguments will be fully
3 developed in our brief.

4 For me, this argument is all about principle and
5 has nothing to do with dollars. I get nothing for
6 dragging us through this except more work for myself. But
7 we couldn't let a clear injustice occur without a fight to
8 prevent it. We owe that much to the 630,000 Laclede
9 customers that we represent, just as the Commission has a
10 duty to protect these customers from Laclede's attempt to
11 cheat them out of over one and a half million dollars.
12 Thank you.

13 JUDGE WOODRUFF: Thank you.

14 COMMISSIONER MURRAY: May I ask a ask a legal
15 question?

16 JUDGE WOODRUFF: Go right ahead.

17 COMMISSIONER MURRAY: Mr. Poston, how is that
18 not a collateral attack on the rule?

19 MR. POSTON: We are not challenging the rule
20 itself as being unlawful or -- what we're challenging is
21 Laclede's interpretation of the rule.

22 COMMISSIONER MURRAY: And it is as -- was
23 interpreted by the representative from Public Counsel at
24 the time, so you're challenging the way Public Counsel
25 interpreted it at the time; is that correct?

1 MR. POSTON: Mr. Robertson, for the most part,
2 accepted Laclede's calculations in that case, but with a
3 few tweaks, as Mr. Pendergast talked about.

4 I should also point out that in the stipulation,
5 all the parties stipulated that they were not agreeing to
6 any cost determination methodology. And that was part of
7 the language of that stipulation.

8 COMMISSIONER MURRAY: So you're saying they did
9 not agree to any methodology, but they agreed that the
10 numbers were correctly calculated at that time?

11 MR. POSTON: To settle that case, we did agree
12 with that. But as I stated before you now that we do not
13 agree with the way that was calculated, and we think this
14 is an opportunity to look at it now.

15 COMMISSIONER MURRAY: In your opening statement,
16 you've pointed out that the -- all of the customers of
17 Laclede are the ones who pay any costs that are incurred
18 as a result of the amendments to the cold weather rule; is
19 that correct?

20 MR. POSTON: Correct.

21 COMMISSIONER MURRAY: And that has always been
22 the case, has it not?

23 MR. POSTON: That's right.

24 COMMISSIONER MURRAY: And that is why some of
25 us, including one Commissioner speaking, has resisted

1 making these rules more lenient to customers that are in
2 arrearages because it does, indeed, cost all of the other
3 customers; is that correct?

4 MR. POSTON: That's been my understanding of
5 your position, yes.

6 COMMISSIONER MURRAY: And Public Counsel, at the
7 time, imposed -- at the time the rule was -- the
8 amendments were proposed opposed the inclusion of the
9 accounting authority order to allow the utilities to
10 recover; is that correct?

11 MR. POSTON: That's right.

12 COMMISSIONER MURRAY: So Public Counsel's
13 position has always been that the utility should pay the
14 costs and not the other customers. Would you agree?

15 MR. POSTON: Well, that's not entirely true. In
16 some of the past emergency provisions that we proposed, we
17 actually included an AAO in those -- in those proposals.
18 But this time, when this was becoming a more permanent
19 rule, we took the position that an AAO was unnecessary
20 because it was now an ongoing cost of the company.

21 COMMISSIONER MURRAY: All right. So you're not
22 challenging the fact that the other customers are going to
23 have to pay whatever the costs that were incurred are; is
24 that correct?

25 MR. POSTON: That's not part of our challenge,

1 no. I'm not sure I'm understanding your question. But --

2 COMMISSIONER MURRAY: Okay. Well, in your
3 opening statement, you seemed to make it something that
4 the Commission should consider that it was all the other
5 customers that were going to have to be paying. But that
6 has always been the case, indeed, with this cold weather
7 rule, has it not?

8 MR. POSTON: I believe so. Yeah. That was the
9 point I was just making, is that -- just letting the
10 Commission know who was going to pay for the costs that
11 Laclede is claiming, yes.

12 COMMISSIONER MURRAY: All right. Thank you.

13 JUDGE WOODRUFF: All right. Thank you. And I
14 believe we're ready for our first witness, which would be
15 Laclede's witness.

16 MR. ZUCKER: Laclede would call James Fallert to
17 the stand.

18 JUDGE WOODRUFF: Mr. Fallert, if you'd please
19 raise your right hand.

20 JAMES FALLERT,
21 being first duly sworn to testify the truth, the whole
22 truth, and nothing but the truth, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. ZUCKER:

25 JUDGE WOODRUFF: All right. You may proceed.

1 Q (By Mr. Zucker) Good morning, Mr. Fallert.

2 A Good morning.

3 Q Are you the same James A. Fallert who filed
4 testimony in this case on March 24th, 2008?

5 A Yes.

6 Q Do you have that testimony with you today?

7 A Yes, I do.

8 Q If all of the same questions were asked as were
9 asked in that testimony, would your answers be the same
10 today?

11 A Yes.

12 MR. ZUCKER: I move for admission of
13 Mr. Fallert's March 24th, 2008, testimony into evidence.

14 JUDGE WOODRUFF: All right. Let's -- we need to
15 mark it. Did you have a copy for the court reporter?

16 MR. ZUCKER: Yes, I do.

17 JUDGE WOODRUFF: It will be No. 1.

18 (Exhibit No. 1 was marked for identification.)

19 Q (By Mr. Zucker) Mr. Fallert, in your testimony,
20 you reference -- or you make --

21 JUDGE WOODRUFF: Just a moment. You offered the
22 testimony, I believe.

23 MR. ZUCKER: Yes, I did.

24 JUDGE WOODRUFF: All right. I'll ask for
25 objections to the receipt of that document. Hearing no

1 objections, it will be received into evidence.

2 (Exhibit No. 1 was offered and admitted into
3 evidence.)

4 JUDGE WOODRUFF: All right. You may proceed.

5 Q (By Mr. Zucker) Mr. Fallert, in your testimony,
6 Exhibit 1, you referred to your -- the original filing in
7 this case, your -- the request for -- or Laclede's request
8 for determination. Do you recall that?

9 A Yes.

10 Q And you did not include that request for -- all
11 the information attached to that request in your
12 testimony. You just referred to it.

13 A Yes.

14 MR. ZUCKER: Okay. So I would formally offer
15 the -- Laclede's request for determination with all
16 attachments into evidence, also.

17 JUDGE WOODRUFF: Do you have that -- is that
18 marked -- do you need to mark it separately, then? Is it
19 -- was it -- it's under part of the Fallert filing?

20 MR. ZUCKER: Right. It's just referred to
21 because it's a pleading that has been filed on EFIS.

22 JUDGE WOODRUFF: Okay. Did you have a copy of
23 it today or --

24 MR. ZUCKER: Yes, I do.

25 JUDGE WOODRUFF: Okay. Go ahead and -- and

1 we'll -- we'll mark that. And do you have a copy for the
2 Bench?

3 MR. ZUCKER: No. It's very large, which is why
4 we just referred to it. But I just wanted to make sure to
5 get it in the record.

6 JUDGE WOODRUFF: Where is it filed?

7 MR. ZUCKER: It should be No. 1. Well, not No.
8 1.

9 JUDGE WOODRUFF: Which case?

10 MR. ZUCKER: It's in this case, GU-2007-0138,
11 and it's our Request for Determination filed on October
12 31, 2007.

13 JUDGE WOODRUFF: Okay.

14 MR. ZUCKER: And it does have 88 pages worth of
15 -- of lines of specific customers and their accounts. So
16 it was filed as highly confidential, and we would like to
17 keep it highly confidential --

18 JUDGE WOODRUFF: Okay.

19 MR. ZUCKER: -- In the record.

20 JUDGE WOODRUFF: We'll mark it as Exhibit 2-HC,
21 then.

22 (Exhibit 2-HC was marked for identification.)

23 JUDGE WOODRUFF: Exhibit 2-HC has been offered
24 into evidence. are there any objections to its receipt?
25 Hearing none, it will be received.

1 (Exhibit No. 2-HC was offered and admitted into
2 evidence.)

3 MR. ZUCKER: Thank you, your Honor. Pass the
4 witness.

5 JUDGE WOODRUFF: All right.

6 MR. ZUCKER: Thank you, Mr. Fallert.

7 MR. FALLERT: Thank you.

8 JUDGE WOODRUFF: For cross-examination beginning
9 with Staff?

10 MS. HEINTZ: Thank you, Mr. Fallert. I don't
11 have any questions for you.

12 JUDGE WOODRUFF: All right. Public Counsel?

13 MR. POSTON: Thank you.

14 CROSS-EXAMINATION

15 BY MR. POSTON:

16 Q Good morning, Mr. Fallert.

17 A Good morning.

18 Q And the purpose of your testimony is to provide
19 evidence supporting the compliance costs; that accurate?

20 A Yes.

21 Q And on page 3 of your testimony, you state that
22 Laclede's compliance costs are \$2,494,311, correct?

23 A Yes.

24 Q And to support this number, you reference
25 Laclede's original application filing in October of 2007

1 that opened this case, correct?

2 A Yes.

3 Q And in that filing, there was a spreadsheet that
4 includes over 8,000 individual customer accounts that
5 Laclede claims were reconnected or retained service under
6 the cold weather rule; is that correct?

7 A Yes.

8 Q And have all of these 8,000 plus customers after
9 being reconnected or reinstated under the cold weather
10 rule been disconnected or had a payment plan expire?

11 A No. Some of them would have complied with the
12 provisions of the rule.

13 Q Some of --

14 A Complied with their payment plan and still be
15 taking servicing at this time.

16 Q Some of the 8,000 that are on your
17 spreadsheet --

18 A Yes.

19 Q -- would still be -- all right.

20 A And there wouldn't be any claim for a cost
21 recovery from those customers, obviously, since they did
22 comply with the provisions of the payment plans.

23 Q All right. And please explain your
24 understanding of what it means to have a payment plan
25 expire and how it's applied under the cold weather rule.

1 A The payment plan would expire at the point where
2 the customer hasn't -- has violated the terms of the plan
3 or has met the terms of the plan and paid off their --
4 their balances.

5 Q Okay. And violate the terms of the plan, what
6 -- what would that be?

7 A Violating the terms of the plan would be missing
8 accumulated -- missing payments that had been agreed to
9 under the plan. And -- and the -- and, subsequently, the
10 expiration of the cold weather rule period.

11 Q So the March 31st date, you would call that to
12 be the expiration of a payment plan once March 31st hits?

13 A That's the expiration of the cold weather rule
14 period. Customers really have the opportunity to come
15 back on the plan prior to that if they miss a payment. So
16 we certainly would consider them to still be under the
17 plan at that point.

18 Q I'd like to walk a few of the accounts from your
19 spreadsheet with you.

20 MR. POSTON: I have a portion of that that I'd
21 like to have marked as an exhibit.

22 JUDGE WOODRUFF: All right.

23 MR. POSTON: This will be HC because it does
24 have account numbers and names on it.

25 JUDGE WOODRUFF: Okay. It will be 3-HC, then.

1 (Exhibit No. 3-HC was marked for
2 identification.)

3 MR. POSTON: Was this 3-HC? Is that --

4 JUDGE WOODRUFF: Yes. 3-HC.

5 Q (By Mr. Poston) Mr. Fallert, would you agree
6 that this exhibit is a copy of the first page of Laclede's
7 spreadsheet from its October 2007 filing?

8 A Well, it looks like it. Yes.

9 MR. POSTON: Judge, I move to have Exhibit 3-HC
10 entered into the record.

11 JUDGE WOODRUFF: All right. Exhibit 3-HC has
12 been offered. Any objections to its receipt?

13 MR. ZUCKER: No, your Honor. It's already part
14 of the record as an attachment to the Request for
15 Determination.

16 JUDGE WOODRUFF: Okay. Which was 2-HC?

17 MR. ZUCKER: Right.

18 JUDGE WOODRUFF: Okay. Hearing no objection,
19 then, 3-HC will be received into evidence.

20 (Exhibit No. 3-HC was offered and admitted into
21 evidence.)

22 MR. POSTON: And I -- the only difference is
23 that I've labeled a few of these accounts for discussion
24 purposes.

25 JUDGE WOODRUFF: Yes.

1 Q (By Mr. Poston) All right. And to simplify my
2 questions, I'm going to leave off the cents and just refer
3 to the whole dollar amounts on the spreadsheet. And I
4 labeled one of these accounts number -- excuse me -- No.

5 1. Do you see that?

6 A Yes.

7 Q And the balance before reconnection or retention
8 for customer No. 1 was \$1,048, correct?

9 A Yes.

10 Q And does this represent amounts that were owed
11 to Laclede prior to the customer's reconnecting or
12 retaining service under the cold weather rule?

13 A Yes. That would be the balance at that point in
14 time.

15 Q And is the same true for the other 8,000 plus
16 accounts, all of the entries under the beginning balance
17 include amounts owed to the Laclede before the customer
18 reconnected or retained service under the cold weather
19 rule?

20 A Yes.

21 Q And when did Customer No. 1 begin accumulating
22 these arrearages?

23 A Oh, it would have been over some period of time
24 prior to the point where they entered the cold weather
25 rule.

1 Q And what is the earliest year or month in which
2 those arrearages could have been due?

3 A It could have been accumulated over some time
4 over the prior year, most likely.

5 Q But there is no starting date for which if you
6 went before that, Laclede would not have included those
7 arrearages in the cold weather rule?

8 A That's the customer's entire balance at that
9 point in time.

10 Q So it's possible that as least a part of the
11 1,048 is for unpaid charges that were due prior to
12 September 30th?

13 A That's possible. Yes.

14 Q And that's true for the other 8,000 accounts?
15 They, too, could have included charges due before
16 September 30th, 2006?

17 A The balance is whatever balance was on the books
18 at the point where we put them on the cold weather rule,
19 whenever it was accumulated.

20 Q And were any of the unpaid debts that included
21 in your beginning balance that occurred prior to September
22 30th considered bad debts by Laclede?

23 A Not if it was a -- if it was a balance that
24 we're still trying to collect from the customer. We
25 haven't written it off at that point.

1 Q And so at what point would you write off a -- a
2 balance that's -- that's owing, that's due?

3 A Our typical write-off policy is we'll write off
4 a balance six months after the account's gone final and
5 we've been unsuccessful in collecting the balance.

6 Q Are all of the accounts of the 8,000 customers,
7 do they have balances that were overdue for a period
8 shorter than six months?

9 A Well, all of these are balances of either --
10 either current balances or maybe a customer who has been
11 disconnected, but it's a balance at that point in time of
12 what the customer owes us. We haven't necessarily written
13 it off. We're still trying to collect it.

14 In some cases, it may have - the customer may
15 have been disconnected. In most cases, we wouldn't have
16 written it off yet because of the six month flag and the
17 write-off policy.

18 Q Okay. And turning back to the specific account
19 that I highlighted on the spreadsheet with the No. 1, the
20 initial payment that that customer made on that account to
21 reconnect or retain service was \$227, correct?

22 A Yes.

23 Q And for this account, will you agree that
24 Laclede did not reconnect the customer under the 500 or 50
25 percent terms of the cold weather rule?

1 A Well, the -- the initial payment was less than
2 \$500. Yes.

3 Q Isn't it -- isn't it true that \$227 is closer to
4 20 percent of the 1,048 that this customer owed?

5 A That amount would be about right. Yes.

6 Q And would you agree the accounts I've labeled
7 with numbers two and three were also reconnected or
8 retained with something less than the 500 or 50 percent
9 terms of the cold weather rule?

10 A Well, they were reconnected for something less
11 than the \$500. Yes.

12 Q Would you agree that Laclede reconnected or
13 retained Customer No. 2 with an initial payment of roughly
14 10 percent of her pre-existing arrears?

15 A Well, we let her on for less than 10 percent.
16 But the \$500 would be less than 20 percent. So you're not
17 really talking about a big variation there between the
18 rule and the amount that they were allowed on for.

19 Q And looking back at my No. 1, the third column
20 of numbers shows the balance due after initial payment,
21 which here is \$821, correct?

22 A Yes.

23 Q And the next column showing \$1,168, that
24 represents the customer's current balance taking into
25 account all payments received and additional gas used

1 after reconnection; is that correct?

2 A Yes.

3 Q And the 1,168 reflects the customer's current
4 balance as of when? What -- what date?

5 A Well, that would have been our measurement point
6 of September 30, 2007.

7 Q And are all current balances on your spreadsheet
8 as of that same date?

9 A They're all September balances, the customers'
10 September balance.

11 Q And do you know if Customer No. 1 is currently
12 receiving service from Laclede?

13 A I don't know the current status of that
14 customer.

15 Q Is it possible that that customer could have
16 paid off the entire 1,168 between their snapshot date and
17 today?

18 A I would say it's possible, but not likely.

19 Q Okay.

20 A It's probable more likely the balances have gone
21 up since then since we're heading into -- we've headed
22 through a winter period going -- generally, these
23 customers will tend to have their balances grow after
24 September 30 period because they're running through the
25 winter period when they're running higher bills.

1 Q But it is still possible?

2 A Well, it certainly is possible.

3 Q Does Laclede propose that the Commission true-up
4 these 8,000 accounts at the time the cold weather rule
5 costs are included in rates, and this would be to offset
6 for additional payments received by Laclede between now
7 and the next rate case?

8 A No. We filed based on September 30 filing.
9 And, actually, when we originally filed our Cost Request
10 for Determination back in October, we recommended that
11 this cost determination be delayed until our next rate
12 case. So we considered all those factors, and it was
13 Public Counsel that came forward and insisted that we have
14 this hearing now and determine these numbers now and
15 that's why we're here to determine them as of September 30
16 now.

17 Q The answer is you have proposed no type of
18 true-up to bring in those payments?

19 A No. We're following the rule as Public Counsel
20 insisted in its filing that we do, and we're determining
21 the costs now based on September 30 balances.

22 Q In looking back at Customer 1, the next column
23 labeled Old Rule, this shows Laclede would have collected
24 from this customer had it reconnected or retained the
25 customer with an initial payment of 80 percent of

1 arrearages; is that correct?

2 A That's right.

3 Q And do you know if -- if Customer No. 1 would
4 have connected or retained service with an \$839 payment
5 had the Commission not amended its cold weather rule?

6 A No. I -- I couldn't speculate on that.

7 Q And do you know if any of the accounts on your
8 spreadsheet would have reconnected or retained service
9 with an 80 percent payment had the Commission not amended
10 its cold weather rule?

11 A Not when we're guessing what people might have
12 done in a situation that didn't exist. So I wouldn't
13 speculate on that. No.

14 Q Would you agree that prior to the cold weather
15 rule amendment, there were customers that reconnected
16 under the old cold weather rule with an 80 percent
17 payment?

18 A Certainly.

19 Q And will you agree that prior to the cold
20 weather rule amendment and while the 80 percent initial --
21 initial payment provision was effective that Laclede would
22 often reconnect customers by allowing less than an 80
23 percent payment?

24 A That happened at times, certainly. A lot of
25 times, they're elderly, handicapped customers. If a

1 customer has an additional heat grant customer amount with
2 perhaps some more money coming in later, we might let them
3 on for a smaller amount initially, certainly.

4 Q And does the amount that Laclede wants to
5 recover as its cost of complying with the cold weather
6 rule amendment include an offset for the accounts that
7 Laclede would have reconnected or reinstated even without
8 the cold weather rule amendment?

9 A Well, I wouldn't -- when we did our -- our
10 calculation of the additional balances here, we did make
11 an adjustment for additional balances, which reduces them
12 by about 60 percent. Mr. Pendergast referred to it in his
13 opening statement.

14 We have recognized the fact that there -- there
15 is an ongoing level of cold weather rule activity imbedded
16 in our current rates, and we've recognized that. And the
17 calculations are to ensure that we're only really asking
18 for incremental costs.

19 Q That adjustment was for uncollectibles that are
20 in your current rates, correct?

21 A Yes.

22 Q Right. Okay. And what I'm asking is, is there
23 an offset account for the customers that would have
24 reconnected under the 80 percent, not your uncollectibles
25 but people that would have come on or reconnected under

1 the 80 percent, a number of accounts you can look back in
2 the past and say, We had X number of accounts that would
3 have reconnected at 80 percent or that prior years show us
4 X number of accounts reconnect under the 80 percent
5 provision? Is there an offset to take those out of the
6 equation that you're trying to recover for today?

7 A Well, it's a little difficult to determine how
8 customers would have reacted since that rule is no longer
9 in effect. What you have to realize is that by -- by
10 putting customers on --

11 MR. POSTON: Judge, my question was a yes or no
12 question. Did they take into account that 80 percent?

13 A Did we explicitly include any customer?

14 Q (By Mr. Poston) No. Did you explicitly make an
15 offset because there would have been a subset of customers
16 that would have reconnected at 80 percent as your -- the
17 2.4, 2.5 million, has that been adjusted to remove the
18 customers and the payments that would have otherwise
19 reconnected under the 80 percent provision?

20 MR. ZUCKER: I'm going to object to that
21 question. Mr. Fallert was trying to answer the previous
22 question when he was interrupted. He should be given a
23 chance to answer the question the way he wants to answer
24 it.

25 JUDGE WOODRUFF: I'll overrule the objection.

1 It was calling for a yes or no answer as to whether there
2 was an adjustment made. So you can -- if you can answer
3 that, just go ahead and answer that question.

4 A Could you repeat the question again because I'm
5 not quite getting it.

6 Q (By Mr. Poston) Okay. In -- before the cold
7 weather rule amendment, there was a provision that allowed
8 reconnection with an 80 percent payment, correct?

9 A Yes.

10 Q And Laclede kept -- connected some customers
11 under that 80 percent provision. So did your current
12 calculations offset the number of customers that you're
13 claiming have reconnected? For the new provisions, did
14 you offset for the number that would likely have
15 reconnected under the 80 percent?

16 A Well, effectively, the calculations do recognize
17 that in that the customer came on for 80 percent and now
18 we let them on for 50 percent. We're claiming the
19 difference between that. But only if the customer didn't
20 pay us.

21 If -- if they did subsequently pay us up to the
22 level of the 80 percent, we're not claiming those dollars.
23 So if -- if the customer pays enough eventually to get him
24 up to pay the 80 percent he would have paid us under the
25 old rule, we're not claiming any additional dollars. So

1 it's effectively imbedded in the way the formula is worked
2 when it's calculated, we are recognizing those -- those
3 facts.

4 Q And looking at the account I've labeled No. 2,
5 do you see where that customer paid over 1500 of her
6 original arrearages?

7 A Yes.

8 Q And do you know if Laclede would have
9 reconnected this customer and received that \$1,500 under
10 the old rule where the customer was required to make an 80
11 percent upfront payment?

12 A Well, again, I'm -- since the situation wasn't
13 in effect, I don't know what would have happened under the
14 old rule as far as this customer's activity.

15 Q And please jump down to my No. 4. And this
16 customer's beginning balance was \$372 when they were
17 reconnected or retained, correct?

18 A Yes.

19 Q And would you agree that, according to your
20 spreadsheet, that customer made no payments on their
21 beginning arrearages and ran up additional arrearages of
22 almost \$6,500?

23 A Yes.

24 Q And Laclede is claiming over \$6,500 as its cost
25 under the cold weather rule reconnecting or retaining this

1 customer, correct?

2 A Well, that's the total it shows for this
3 customer. What you have to recall is the adjustment we
4 make at the end of the spreadsheet to all of these
5 customers is we knocked about 61 percent off of that
6 additional balance number. So the real number is -- is 39
7 percent or so of that \$6500.

8 Q That wasn't account specific, though. That was
9 just an adjustment you made to --

10 A That was an adjustment to every account that had
11 an additional balance on those 88 pages. We just did it
12 in one number rather than showing it on 8,000 different
13 lines.

14 Q Would you agree that a number of the 8,000
15 customers reconnected or retained service in November and
16 December at the beginning of the cold weather rule period?

17 A Yes. I think this activity occurred throughout
18 the cold weather rule period.

19 Q And the cold weather rule period lasts five
20 months, correct?

21 A Yes.

22 Q Would you agree with me that your 8,000 accounts
23 include accounts that could have been disconnected for
24 failure to pay even under the cold weather rule amendment,
25 yet Laclede chose to leave those customers connected?

1 A What period are you talking about? Are you
2 talking about during the cold weather rule period?

3 Q During the time that Laclede was providing
4 service and during the time that these customers were
5 accumulating additional arrearages. For example, the
6 Customer No. 4, if this customer had reconnected in early
7 November, would you agree that Laclede could have
8 disconnected this customer several months into the cold
9 weather rule period and --

10 A Well, we're restricted during the cold weather
11 rule period from cutting off customers if it's below 32
12 degrees, which effectively means, for most of the period
13 up through March 31, we can't really cut off these
14 customers.

15 There are some cut days during that period
16 because of the requirements. And because of scheduling
17 requirements and for practical matters, it's -- there's
18 very few that we can effectively cut off before the cold
19 weather rule period ends on March 31st.

20 Q Okay. And is it possible that this customer
21 with 6,000 plus arrearages is today current on her bill?
22 Has she paid that off?

23 A Well, there's always a possibility it's
24 happened. Again, I would characterize it as rather
25 unlikely given the apparent payment history here.

1 Q And are you a Certified Public Accountant,
2 Mr. Fallert?

3 A No. But I've got a number of them working for
4 me.

5 Q And have you taken the CPA exam?

6 A No, I haven't. But I have been Controller of
7 Laclede Gas Company for ten years.

8 MR. POSTON: That's all the questions I have.
9 Thank you.

10 JUDGE WOODRUFF: All right. Thank you. Then
11 we'll come up for questions from the Bench. Commissioner
12 Murray?

13 COMMISSIONER MURRAY: Thank you.

14 CROSS-EXAMINATION

15 BY COMMISSIONER MURRAY:

16 Q Mr. Fallert, Mr. Poston was asking you about
17 Customer No. 1 on the document that is before you.

18 A Yes.

19 Q And he -- he made a reference to customer having
20 been able to reconnect for 80 percent prior to the cold
21 weather rule amendments. Do you recall that?

22 A Yes.

23 Q Now, if -- if that has, indeed, been the case
24 that a customer who could have connected under the old
25 rule had to come up with 80 percent of the arrearages in

1 order to reconnect, but under the new rule only had to
2 come up with either 50 percent or \$500, whichever was
3 less --

4 A Yes.

5 Q -- then that would -- that would, indeed, be a
6 cost, would it not, a cost created by the cold weather
7 rule?

8 A Yes. The difference between the 80 percent that
9 we could have collected under the old rule and 50 percent
10 of \$500 under the new rule. That's the amount we're
11 measuring and determined potential cost under the rule.

12 Q Okay. And in your -- in the reference here to
13 customer -- these customers that Office of Public Counsel
14 has highlighted, Customer No. 1, for example, although
15 Laclede could have collected \$500 from that customer
16 before reconnecting, Laclede only connected -- only
17 collected \$227 in that example, correct?

18 A Yes.

19 Q But in calculating the costs of the cold weather
20 rule amendment, the only costs calculated were the
21 difference between what Laclede could have collected
22 versus the under the old rule versus what it did collect
23 under the new rule; is that correct?

24 A That's correct. If -- if we let the customer on
25 for less than the \$500 or 50 percent, that's on us. We --

1 we didn't claim that difference as part of the cost of the
2 rule.

3 Q And that's no different than you have always
4 operated, is it? In other words, you have always worked
5 with customers whenever possible and not strictly followed
6 the minimum reconnection fees if -- if there are
7 extraordinary circumstances; is that right?

8 A That's correct.

9 Q And I -- and I would think that that would be in
10 the customer's benefit that the company is willing to work
11 and not strictly adhere to the minimums required if
12 there's a circumstance that you think warrants accepting
13 less than that for reconnection.

14 A It's something that we look at the individual
15 situation and determine what we think is best in that
16 situation.

17 Q And -- and as you say, you're not trying to
18 claim that as a cost?

19 A No.

20 Q You're just basically absorbing that if it
21 results in not ever being able to collect that extra
22 costs?

23 A That's correct.

24 Q And the customers who are listed on this
25 spreadsheet for this calculation, what would happen if at

1 some later time the arrearages that are shown here as the
2 current -- the current balance, what would happen if six
3 months, a year from now, that balance is brought at that
4 zero by the customer?

5 A Well, it -- as far as our calculation here?

6 Q In -- in relation to recovery under the cold
7 weather rule amendments here, then would it at some point
8 be recalculated? Would it at some point that be offset?

9 A Not really. If the person went to the rule, I
10 think we'd measure at this point in time at September 30,
11 and there would be no true-up or adjustment of that rule
12 because our feeling is that the September 30 measurement
13 point tends to be something of a low point as far as these
14 customer's balances because we've just come through the --

15 COMMISSIONER APPLING: Summer months.

16 A The summer season where that's the point where
17 they can. And after that, as you move through the winter,
18 the balances will tend to increase. And that's the
19 pattern that we saw on the emergency cold weather rule
20 previously.

21 We measured it September 30. The balances
22 actually increased after that. So we think that measuring
23 it September 30 here is actually a conservative
24 measurement point. In all likelihood, the balances would
25 increase after that.

1 And, in fact, we did look at what the balances
2 would have looked like if we measured it at March 31,
3 2007, which is at this end of the cold weather rule
4 period. And the balances were higher at that point as
5 well. So -- we think September 30 is a fairly
6 conservative measurement point.

7 Q And does the company do some sort of outreach as
8 you're getting toward the winter season to kind of remind
9 people that it's -- if at all possible, they should be
10 bringing their accounts up to date prior to the cold
11 weather rule season?

12 A I believe that the -- well, I know the Social
13 Service agencies are active during that period in getting
14 people set up, in particular, people who are heat grant
15 eligible. And we cooperate closely with them in order to
16 get the word out to people who are -- who are eligible for
17 assistance to -- to get in and -- and seek that
18 assistance.

19 Q And I think the Public -- the Public Service
20 Commission puts out some information to customers that re
21 -- reminding them that they should be bringing their
22 arrearages up to date prior to the winter season.

23 So would you say that it is -- if a customer has
24 a significant arrearage as of September -- is it September
25 30th?

1 A Yes.

2 Q That that arrearage is not likely to come down
3 over the winter months?

4 A I -- I think that's the period where the
5 customers have the most difficulty keeping their payments
6 up. Overall, you'd expect the balances to increase. And,
7 certainly, we'll see some who are able to pay their --
8 their amounts down.

9 But on balance, generally, we see -- you'd
10 expect to see the -- the balances increasing because the
11 bills are higher during that period.

12 Q And -- and, Mr. Fallert, you're experienced with
13 the cold weather rule as it existed prior to the
14 amendments and in the permanent, I guess it was called a
15 permanent amendment to the cold weather rule, which made
16 it more lenient, more -- made it easier for people to be
17 connected even if they were not paying their bills.

18 Has that -- let me see how I phrase this. Has
19 that created a situation in which there are significantly
20 more people connected who are further and further behind
21 on their utility bills?

22 A I think that's generally what we've -- we've
23 seen because we -- the Social Service agencies have a
24 certain amount of money that they can devote to help
25 customers who -- who need the help.

1 And as we -- as we spread those dollars over
2 more customers because we let them on for less, it puts
3 more customers on who have difficulty keeping up with
4 their payments. So, yes, I think that's -- that's safe to
5 say that, you know, generally, relaxation in the cold
6 weather rule keeps more of those customers on, which I
7 think is the intent of the changes in the rule.

8 Q And the result -- the end result of that, to
9 other customers, is that other customers pay more; is that
10 correct?

11 A That will tend to, you know, reduce the amount
12 of arrearages and, ultimately, bad debts that we incur.
13 And that ultimately rolls through the rate-making process
14 and increases the base rates for all of our other
15 customers.

16 Q So when the Office of Public Counsel comes to
17 the Public Service Commission and asks for us to set up
18 rules that make us -- make it more lenient and easier for
19 people who are significantly in arrears to stay connected,
20 they are, in effect, arguing for us to cause the other
21 customers to help pay for those people to stay connected,
22 are they not?

23 A Yes. That's -- that's the trade-off.

24 COMMISSIONER MURRAY: Yes. All right. Thank
25 you very much.

1 MR. FALLERT: You're welcome.

2 JUDGE WOODRUFF: All right. Commissioner
3 Appling?

4 CROSS-EXAMINATION

5 BY COMMISSIONER APPLING:

6 Q Good morning, Mr. Fallert.

7 A Good morning.

8 Q How are you doing?

9 A Good.

10 Q Good. I'm trying to get a feel for the
11 percentage of people that is behind in Laclede. And I
12 know this doesn't go directly to the situation here, but I
13 just want to ask you a couple questions. Can you give me
14 a feel -- are you the right person to talk to about that?

15 A I know --

16 Q I know that you're the Controller, but that
17 doesn't mean that you're controlling it, right?

18 A Well, I -- I can try. And if I get to a number
19 I'm not sure about, I'll -- I'll let you know.

20 Q Well, stay -- stay right. Okay? Don't get too
21 deep. I want to make sure that we don't spend too long
22 talking about it. But I want to kind of get a feel for
23 what it is and then talk at the end. What is this costing
24 Laclede in the long run? Or will you get it back in your
25 -- when we do a rate case for you later on or whatever the

1 case is? But just talk in general for me two or three
2 minutes. Okay?

3 A For the -- the cost of the rule?

4 Q Right.

5 A Well, we've -- we've -- we've calculated the
6 cost of the rule in this proceeding at two and a half
7 million dollars. And as we look at the -- the way -- the
8 timing of the way the -- when the rule was come into play
9 and look at intersection of that with our rate case, --

10 Q Right.

11 A -- it's actually somewhat -- we believe it's
12 depressed the rate recovery we're getting out of rate case
13 for bad debts. And the reason for that is that, you know,
14 a rate case, typically, we look at historical period of
15 write-off activity and -- and determine what an
16 appropriate rate recovery amount for write-offs are based
17 on looking at that historical period.

18 And since the -- these changes to the rule
19 occurred, during that historical period in our last rate
20 case where we were looking at these write-offs, the impact
21 of the rule was it actually took a lot of these customers
22 who otherwise probably would have gone to write-off in
23 that period and put them back on, kept them in -- in -- as
24 an active customer.

25 So they're building up arrearages which

1 eventually will probably be written off later on down the
2 line but after that historical period we're using to
3 measure write-offs.

4 So it -- so the impact on the -- the recovery of
5 bad dates in our current rate case was paradoxical. The
6 rule actually probably somewhat depressed that recovery.
7 But the -- we're looking for an offset -- at least some
8 portion of that here through our -- our recovery through
9 the rule for the -- for the specific customers.

10 Q In your last rate case, did you -- do you recall
11 what the bad debt was for the last rate case that we done
12 for Laclede?

13 A I believe the amount we re -- we included in
14 rate -- of course, it was a settled rate case. The
15 parties had a lot of differences.

16 Q Right.

17 A But if I recall, Staff's recommendation was
18 about \$10.8 million. Yeah. And I think probably
19 somewhere in that range is -- is where we ended up.

20 Q Okay.

21 A As far as the amount included in rates. As a
22 reference point, our -- our actual write-offs in fiscal
23 2007 were \$11.4 million, a little bit higher than -- than
24 what may have been in the rate case.

25 Q I'll ask -- I know we try to recover as much of

1 this as we can from the customer. Do you have any -- any
2 sense of out of that \$8 million, how much of it that we
3 recovered from the customers of Laclede? Or did we
4 recover anything?

5 A For the impact of the cold weather rule?

6 Q Right.

7 A Well, the -- what we're seeking in this case is
8 to defer the two and a half million dollars that we've
9 calculated as the cost of the rule for eventual recovery
10 from our customers in our September rate case. But at
11 this point, we haven't collected anything on these dollars
12 from our customers.

13 Q Thank you very much. I -- I'm sure I left you
14 in a place, but that's okay. I've got to do a lot of that
15 sometimes. So thank you.

16 A Well thank you. And one other thing I would
17 mention is just trying to give some historical
18 perspective, I mentioned in our most recent rate case here
19 where the rate just went into effect here at August 1,
20 2007, we had a rate recovery of about maybe 10.8 million.
21 Because we go back to our previous case, which was in
22 effect in 2005, and that's really the period that the case
23 where our rates were -- the rates -- or the rates were in
24 effect during the cold weather rule period here in
25 changing the rule, our recovery out of that case. And,

1 again, a settled case, so we don't have an exact number,
2 it was probably more in the range of 7.4 million or so.

3 COMMISSIONER APPLING: Thank you very much. I
4 appreciate it.

5 MR. FALLERT: You're welcome.

6 JUDGE WOODRUFF: Commissioner Jarrett?

7 CROSS-EXAMINATION

8 BY COMMISSIONER JARRETT:

9 Q Good morning, sir.

10 A Good morning.

11 Q I guess my questions are more at the 35,000 feet
12 level, so pardon the generalities. My understanding is
13 that Staff and Laclede agree that Laclede should be able
14 to defer and recover approximately two and a half million
15 in its next rate case. And the Public Counsel is claiming
16 that the amount is 1.5 million too high because it
17 includes uncollected amounts owed by reconnected customers
18 for service received before they were reconnected under
19 the cold weather rule.

20 And I guess my question is, under what authority
21 or what theory -- why do you believe that you are entitled
22 to collect that 1.5 million that's disputed by Public
23 Counsel?

24 A Well, in -- in the absence of the changes in the
25 rule, we would have an opportunity to collect that money

1 from customers at the point where we're reconnecting them.
2 And that's -- that's really the point where we have the
3 most leverage to collect the money from customers because
4 we've got something they want. They want to reestablish
5 or maintain service.

6 So the relaxation of the rule to -- to not allow
7 us to collect that much money, collect less money, that's
8 a cost to you. And it's really taking our best
9 opportunity to collect those balances and -- and reduce
10 the -- and that increases the chances that that money will
11 eventually be written off, that we only won't be able to
12 collect it in the long run.

13 COMMISSIONER JARRETT: Okay. That's the only
14 question I had. Thank you, Judge.

15 CROSS-EXAMINATION

16 BY JUDGE WOODRUFF:

17 Q I have a little bit more specific question that
18 was in response to something that you mentioned earlier.
19 It's about the write-off policy.

20 And I believe you said that the policy was
21 accounts were written off six months after the account
22 goes final. Can you explain more what that means for an
23 account to go final?

24 A Final is the point where -- where the service
25 has been disconnected. You know, at that point the

1 account is final. And then we start trying to collect the
2 final bill.

3 Our accounting policy is we leave it on the
4 books in accounts receivable for six month after that
5 point. If we haven't collected it after six months, we
6 formally write it off.

7 Q So nothing would be written off while the
8 customer is still receiving gas?

9 A No.

10 JUDGE WOODRUFF: Okay. That answers my
11 question. Thank you.

12 COMMISSIONER MURRAY: I have another question.

13 JUDGE WOODRUFF: Commissioner Murray?

14 RE CROSS EXAMINATION BY COMMISSIONER MURRAY:

15 Q You mentioned earlier that at the end of the
16 calculations there's an additional, I think you said, 60
17 percent reduction --

18 A Yes. About that.

19 Q -- not being claimed. What is that based upon?

20 A Those -- we looked at the language of the rule.
21 It's very clear that we're only -- we should only seek
22 recovery of incremental costs associated with the rule.
23 And as we look at the 60 percent reduction, the additional
24 balances the customers have accumulated after they went on
25 the rule, we -- as we looked at it, we felt that there's

1 -- there's really a level of that activity built into the
2 -- into the current rates in our rate case that was in
3 effect during the case of the rule because there are
4 customers that reconnect under the 80 percent rule.

5 There are customers who are accumulating
6 balances under the -- even under the old rule. So we --
7 we felt that if -- if we really claimed all of those
8 additional balances, we'd probably really be double
9 counting, and it really wouldn't be an incremental
10 increase because there's some activity for that imbedded
11 in our current rates.

12 What that adjustment was doing, we were looking
13 at where is our write-off level today? And it's a lot
14 higher than what was in our current rates because rates
15 are higher, because we've had collection activity running
16 higher.

17 But we compared those two, and we looked and
18 said, Well, what's really the incremental impact of those
19 additional balances? That was really the appropriate
20 amount to calculate under the rule, that if we took the
21 entire additional balances, we'd really be double counting
22 for some that was already counted in our base rates.

23 COMMISSIONER MURRAY: Thank you.

24 MR. FALLERT: You're welcome.

25 JUDGE WOODRUFF: All right. Recross based on

1 questions from the Bench, beginning with Staff?

2 MS. HEINTZ: No thank you, your Honor.

3 JUDGE WOODRUFF: Public Counsel?

4 MR. POSTON: Just a few. Thank you.

5 RE CROSS EXAMINATION

6 BY MR. POSTON:

7 Q Of that 60 percent reduction that you just
8 discussed with Commissioner Murray --

9 A Yes.

10 Q -- is that based on customer specific numbers,
11 or is that just an estimate?

12 A That's based on looking at the entire balance of
13 all of our write-off activity and applying that to each
14 specific customer's additional balance.

15 Q Current balance or -- the write-off activity?

16 A We were looking at where our -- what our -- our
17 write-off activity is currently versus what the amount was
18 that was included in our -- our 2005 rate case, which was
19 the case that was in effect throughout this period where
20 cold weather rule balances were accumulated.

21 Q And so when you look at the 2005, how are you
22 including that into your deduction? I'm -- I'm not
23 following.

24 A Well, we -- we looked at the -- the current
25 balance. We looked at the amount that was in our current

1 rates and came up with that -- that is where we came up
2 with the 60 percent factor was that -- that, really, we
3 look at those additional balances we're accumulating
4 today, and we think 60 percent of those are already
5 imbedded in our current base rates. And so it would be
6 inappropriate to -- to ask for them again.

7 Q Okay. So it's an estimate; is that correct?

8 A It's not a customer specific calculation. It's
9 -- it's a calculation that looks at the entire universe of
10 our bad debts and applies that -- that number to each
11 customer's balance.

12 Q So would you call that an estimate?

13 A You could call it an estimate. I think it's a
14 -- a very good calculation of the appropriate reduction.

15 Q And in response to questions that Commissioner
16 Jarrett asked you, what uniform system of account --
17 expense account do you put a failure to collect in
18 accounts receivable?

19 A Well, we -- we book our accounts receivable
20 according to generally accepted accounting principles.

21 Q In what expense accounts? If you can't collect
22 an accounts receivable, what USOA expense do you put that
23 into? How do you do the accounting for that?

24 A The write-off?

25 Q (Witness nods head.) For failure to collect on

1 accounts receivable. What happens when you can't collect
2 an accounts receivable?

3 A Well, if we can't collect it, we -- well, as we
4 discussed earlier, we have -- six months after it goes
5 final, we will write it off. So it's in the receivables
6 prior to that.

7 And then at the point where we go to the
8 write-off, we'll reduce the receivable balance by that --
9 that amount.

10 Q Are either of those accounts USOA expense
11 accounts?

12 A At the point where we write off that, that
13 doesn't go to an expense account at that point.

14 Q And Commissioner Murray asked you questions
15 about Laclede taking less than the \$500 or 50 percent
16 payment. And has Laclede's decision to do that, to take
17 less, which -- which we commend, but that's a business
18 decision that Laclede makes; is that correct?

19 A Yes.

20 Q And when Public Counsel came in and asked to
21 lower reconnection payments and when the Commission
22 approved lower rate connection payments, isn't the real
23 reason to save lives and prevent suffering?

24 A Well, I -- I'm not sure I would characterize it
25 that way. I -- I think the reason is to allow more

1 customers to maintain service.

2 Q But -- but it's for the safety of those
3 customers, correct, to allow them to have service during
4 the winter?

5 A Well, for their -- their comfort and safety.

6 MR. POSTON: Correct. That's all. Thank you.

7 JUDGE WOODRUFF: Okay. Any redirect?

8 MR. ZUCKER: Yes, your Honor.

9 COMMISSIONER APPLING: Judge, are we going to
10 seize the opportunity to get the news reporters out of
11 here? You can -- Gerald, you can be on your way. We
12 don't want to -- we don't want to --

13 REPORTER: Thank you, Commissioner.

14 JUDGE WOODRUFF: I will tell you, we'll be
15 taking a break as soon as the redirect is over, so --

16 REDIRECT EXAMINATION

17 BY MR. ZUCKER:

18 Q Good morning again, Mr. Fallert.

19 A Good morning.

20 Q Do you have a copy of the permanent amendment to
21 the cold weather rule in front of you?

22 A Yes.

23 Q Would you look at Section F-1? Do you consider
24 that section to give you general instruction or specific
25 instruction?

1 MR. POSTON: Judge, I object. He's asking a
2 non-attorney to interpret a -- to interpret a Commission
3 rule.

4 JUDGE WOODRUFF: How is this witness's
5 interpretation of this rule relevant?

6 MR. ZUCKER: Well, he's the Controller of
7 Laclede. He had to work on calculating the -- or he has a
8 lead role in calculating the cost of compliance. So I'm
9 just exploring what -- what instructions he -- he found
10 relevant to -- to make those -- that allocation.

11 JUDGE WOODRUFF: So you're not asking for his
12 opinion as an attorney because he's not an attorney?

13 MR. ZUCKER: Right.

14 JUDGE WOODRUFF: You're not asking for his --

15 MR. ZUCKER: Correct, your Honor.

16 JUDGE WOODRUFF: I'll overrule the objection.

17 MR. POSTON: I also object that I don't know
18 what question this is responding to.

19 MR. ZUCKER: Commissioner Murray asked a
20 question -- or I'm sorry. Commissioner Appling -- no.
21 One more time. Commissioner Jarrett asked a question
22 about the rule and -- and how -- how Laclede came to its
23 -- its cost of compliance.

24 JUDGE WOODRUFF: All right. Again, I'll
25 overrule the objection. You can go ahead and answer.

1 A As I look at F-1, that's really a general
2 instruction.

3 Q (By Mr. Zucker) How about F-2?

4 A That's a general instruction as well.

5 Q Please -- the same question for G-1.

6 A Well, that -- that's a rather general direction
7 as well.

8 Q Thank you. Last one, Mr. Fallert. F-4?

9 A F-4 is really where the specifics of the
10 calculation are laid out, so I would say that's a -- a
11 very specific about what's included.

12 Q Is that the section that Laclede used in
13 determining the cost of compliance?

14 A Yes.

15 Q And does that section tell you to include the
16 amount between the 80 percent Laclede would otherwise have
17 collected and the 50 percent or \$500?

18 A Yes. It's very clear about that.

19 Q Would you look at Line No. 1 for me on Public
20 Counsel's -- or on Exhibit 3-HC that Public Counsel handed
21 you?

22 A Yes.

23 Q The amount of the initial payment was \$227; is
24 that correct?

25 A That's correct.

1 Q Do you know whether that initial payment is tied
2 to a cold weather -- or a -- I'm sorry -- a LIHEAP grant?

3 A I don't know on this specific case. But it's
4 very possible.

5 Q Okay. And do you know whether or not Laclede
6 actually collected \$500 from -- on behalf of that
7 customer?

8 A That, I -- I don't know that for certain.

9 Q Is it possible that Laclede collected \$500?

10 A Very possible. Yes.

11 Q And so why -- do you know why Laclede would have
12 written down 227 if it actually collected the \$500 under
13 the rule?

14 A I think that -- that was the initial heat grant.
15 If it is a heat grant -- which based on the amount, it'
16 likely it is. I mean, that was the initial heat grant
17 that we took as -- as a payment to allow set-up of the
18 customers. And there may well have been some additional
19 grant money coming in addition to that at a later time.

20 Q So if the customer made, let's say, two separate
21 payments, would Laclede have necessarily captured both of
22 them for purposes of the 8,440 accounts it calculated?

23 A Well, it -- it may not have shown up in the
24 initial payment because we may have accepted that initial
25 payment to put him on. But if there was other payments

1 coming that could have been captured as we looked at where
2 the account balance is, and it would be reflected in the
3 current balance.

4 Q Okay. So is it accurate, then, to say that
5 sometimes Laclede collected the \$500 or 50 percent but
6 didn't reflect it on the -- on the sheet?

7 A That's possible.

8 Q And -- and if you would for a minute, let's look
9 at the consequence of that. Is the -- the third column,
10 the balance, would that column be higher or lower if
11 Laclede had wrote down \$500 instead of 227?

12 A Well, it would be lower.

13 Q Okay. And the fourth -- the fourth column, the
14 current balance, would the difference between the current
15 balance and the beginning balance be higher or lower?

16 A In that case, it would be higher.

17 Q Okay. So if we assume in this case that Laclede
18 actually collected \$500, it has written down a beginning
19 balance that's artificially high; is that correct?

20 A Yes.

21 Q And -- and, therefore, the amount that was lost
22 after the customer signed on is artificially low; is that
23 correct?

24 A Yes. That would be the other side.

25 Q And so the consequence is that Laclede did not

1 ask for as many dollars as it could have on an account
2 like that; is that correct?

3 A Well, ultimately, all we're asking for is the
4 difference between the 80 percent and the 50 percent.

5 Q Okay. The difference between the 80 and the 50.
6 Well, let's look at that first. Did Laclede look at the
7 difference between 80 percent and this -- and the -- the
8 \$227 number or 80 percent and the \$500 number?

9 A The 80 percent and the \$500 number.

10 Q That's what Laclede asked for?

11 A Right.

12 Q Okay. And did Laclede ask for the difference
13 between the -- the -- what's called the current balance
14 and the beginning balance had the customer paid 500 or the
15 beginning balance if the customer -- if -- given the \$227
16 payment?

17 A As if the customer had paid 500. The difference
18 between the 500 and the 277 amount we are not claiming any
19 recovery on.

20 Q Okay. Okay. So that's the answer on the 80
21 percent versus 50 percent, correct?

22 A Yes.

23 Q And now let's go on to the additional balances
24 column, the second to last column.

25 A Uh-huh.

1 Q Is that column -- if the -- if we had collected
2 \$500 upfront from that customer, is that additional
3 balance column higher or lower than it should be?

4 A It would be higher in that instance.

5 Q The additional balance column?

6 A The additional balance column.

7 Q Well, let me ask that question again because I
8 don't think I agree with your answer.

9 A Well --

10 Q In other words, we --

11 MR. POSTON: Objection. It's been asked and
12 answered.

13 A Well, why don't you ask the question again to
14 make sure I heard it right? Because I may not have. I
15 will --

16 Q (By Mr. Zucker) Okay.

17 JUDGE WOODRUFF: The objection -- I'll overrule
18 it at the moment. If you need to make the objection
19 again, go ahead.

20 Q (By Mr. Zucker) Mr. Fallert, we talked about
21 the beginning balance being higher because the initial
22 payment was lower. Did that make the additional balance
23 -- did -- did the higher beginning balance make the
24 additional balance higher or lower?

25 A Well, if the beginning balance was higher, then

1 the additional balance would be lower.

2 Q And is Laclede asking for the difference between
3 the current balance and what the beginning balance would
4 have been if we had collected -- or if we had written down
5 500 or the difference between the current balance and the
6 beginning balance assuming a \$227 initial payment?

7 A No. We're not asking for that -- that higher
8 amount.

9 Q Okay. Thank you. Okay. Let -- let's look at
10 Line 2. Well, first, let me ask you a few questions. The
11 permanent amendment to the cold weather rule was first
12 applicable during the winter of 2006/2007; is that
13 correct?

14 A Yes.

15 Q And this is a period for which Laclede is
16 seeking recovery?

17 A That's right.

18 Q And did Laclede have a rate case in progress
19 during that time?

20 A Yes.

21 Q Do you remember the date Laclede filed the rate
22 case?

23 A December 2001, 2006.

24 Q And do you remember when the rate case was
25 concluded?

1 A It was concluded August 1, 2007.

2 Q And were bad debt expenses determined as a part
3 of that case?

4 A Yes, they were.

5 Q And how -- do you recall how they were
6 determined?

7 A It was a settled case, so -- black box
8 settlement. There's no specific amount that the
9 Commission decided on. But in the course of that case,
10 the Staff recommended recovery based on the 12 months
11 ending March of 2007, which was about 10.8 million. And
12 we think that's probably somewhere in that range is -- is
13 about where we ended up as we settled on a rate recovery
14 level in the case.

15 Q Okay. So did you say that the date that the
16 line was drawn for bad debt expenses was March 31, 2007?

17 A Yes. That was the update period in that case.

18 Q Okay. So now look at Line 2 with me, if you
19 would. That customer there on Line 2, when that customer
20 got on for less than 80 percent, what happened to the
21 balance listed here, the beginning balance of \$2597?

22 A Well, that -- that balance remained as a current
23 balance on that customer's account.

24 Q And if that customer had been off and signed on
25 for \$297 or even for \$500, what would have happened to the

1 -- the write-off levels, the bad debt levels?

2 A Well, the -- the amount would have been
3 reinstated as accounts receivable and write-offs reduced
4 by that amount.

5 Q So the whole write-off would have gone away?

6 A That's correct.

7 Q And the customer would have been reinstated as
8 an active customer?

9 A Yes.

10 Q Okay. So at March 31, 2007, Laclede didn't get
11 any -- any recovery for this particular customer under bad
12 debt expenses?

13 A That -- there would not have been any write-off
14 associated with that customer included in the historical
15 period we were looking at in order to separate. That's
16 correct.

17 Q And if Laclede had insisted on 80 percent from
18 that customer, which would have been over \$2,000, and the
19 customer couldn't pay it, what would Laclede's -- the
20 customer didn't pay it during the winter of 2006, 2007,
21 how would that have affected Laclede's bad debt expense in
22 their rate case?

23 A Well, to the extent we'd have written that
24 customer off during that period, it would increase the
25 amount of write-offs in the historical period we were

1 looking at for our set rates and would have increased the
2 rate recovery in the rate case by that amount.

3 Q And by that amount, do you mean by the entire
4 amount?

5 A Yes. To the extent that it would fall in the --
6 in the historical period we're looking at, yes.

7 Q So if that customer -- under the old cold
8 weather rule, if that customer couldn't come up with
9 \$2,000 plus, Laclede would be recovering the full amount
10 of \$2,895 under bad debt expenses. Is that your
11 testimony?

12 A As part of our base rates. Yes.

13 Q And how much is Laclede asking to recover in --
14 in this case for -- for that customer?

15 A For that customer? \$249.51.

16 MR. ZUCKER: Thank you, Mr. Fallert.

17 COMMISSIONER MURRAY: May I interject a question
18 here?

19 MR. ZUCKER: Please.

20 COMMISSIONER MURRAY: That would be \$249.51.

21 And then that would also be reduced by the -- the 60
22 percent calculation you talked about earlier, would it
23 not?

24 A Well, for that particular customer, since that
25 customer did not run up any additional balances, the 60

1 percent would not have applied in this particular case.

2 COMMISSIONER MURRAY: Right. Okay. Thank you
3 for clarifying.

4 A You're welcome.

5 Q (By Mr. Zucker) If a customer that's included
6 in -- in our request for determination here as of
7 September 30 to 2007 later paid their balance off, how
8 would that affect Laclede's future rates?

9 A To the extent that they -- can you repeat the
10 question? I'm not sure quite --

11 Q Yes. Let's say that a customer is on this list,
12 Exhibit 3-HC, and Laclede is asking for recovery from that
13 customer -- for that customer of, let's say, \$300. And
14 later the customer pays off their debt after Laclede has
15 -- let's say the Commission approves this request and, in
16 effect, allows us to collect the 300.

17 What happens to Laclede's rates if they later
18 collect the \$300? What happens to future rates?

19 A There's no write-off included in future base
20 rates, so it would have no effect.

21 Q Would Laclede be asking again for any -- any
22 recovery based on that customer?

23 A No.

24 Q Any bad debt expense?

25 A No. If the customer has paid off their balance,

1 there would be no bad debt expense.

2 Q And, in fact, bad debt expense would be reduced
3 by \$300 had that been the -- the bad debt previously?

4 A If there had been one recorded previously, yes.

5 Q Mr. Poston asked you whether the purpose of
6 reducing payments was to save lives. And would you say
7 that -- well, what is your opinion of -- of that answer on
8 a short-term basis versus a long-term basis?

9 A Well, in the short-term, I think that to the
10 extent that there is extenuating circumstances where our
11 customer service people are aware that there is an issue
12 with a particular customer where there really would be a
13 -- a concern about health or safety, we -- we will work
14 with customers in order to ensure that there's -- that
15 there aren't any issues there.

16 Q I guess if we make it more lenient for customers
17 to sign on by having them pay less of their balances, do
18 you have any opinion on what the long-term effect of that
19 would be?

20 A Well, that's going to tend to increase bad debts
21 over the long-term.

22 Q How about for that customer?

23 A For a particular customer, the -- the fact that
24 you let them on with carrying a larger balance means that
25 their -- because their existing balance gets rolled into

1 their future payment requirements, it makes it more
2 difficult for them to keep up with their current bills and
3 -- and increases the likelihood they'll -- they'll run
4 into problems keeping up with their account and then,
5 ultimately, going to bad debts.

6 MR. ZUCKER: One moment, please. Thank you,
7 Mr. Fallert. No further questions.

8 JUDGE WOODRUFF: All right. Thank you.
9 Mr. Fallert, you can step down.

10 MR. FALLERT: Thank you.

11 JUDGE WOODRUFF: And we're due for a break.
12 We'll take a break now and come back at 10:30.

13 (Break in proceedings.)

14 JUDGE WOODRUFF: Welcome back from the break.
15 And before we took our break, Mr. Fallert finished
16 testifying. And I believe that was all the evidence from
17 Laclede.

18 MR. ZUCKER: Yes, your Honor.

19 JUDGE WOODRUFF: All right. And Public Counsel
20 can call its witness.

21 MR. POSTON: Thank you. We call Russell
22 Trippensee.

23 JUDGE WOODRUFF: And if you would please raise
24 your right hand.

25 RUSSELL TRIPPENSEE,

1 being first duly sworn to testify the truth, the whole
2 truth, and nothing but the truth, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. POSTON:

5 JUDGE WOODRUFF: You may be seated. You may
6 inquire.

7 Q (By Mr. Poston) Thank you. Mr. Trippensee,
8 first I'll you what is your name?

9 A Russell Trippensee.

10 Q And what is -- I'm sorry. By whom are you
11 employed and in what capacity?

12 A I'm the Chief Utility Accountant for the
13 Missouri Office of Public Counsel.

14 Q And are you the same Russell Trippensee that
15 caused to be prepared and filed testimony in this
16 proceeding that's been labeled the direct testimony of
17 Russell Trippensee?

18 A Yes, I am.

19 MR. POSTON: And I believe that's been labeled
20 Exhibit 4; is that correct?

21 JUDGE WOODRUFF: That's correct.

22 Q (By Mr. Poston) Do you have any corrections or
23 changes to your testimony?

24 A Not to my knowledge.

25 Q And if I were to ask you the same questions

1 today that appear in your testimony, would your answers be
2 the same?

3 A Yes, they would.

4 MR. POSTON; your Honor, I move to have Exhibit 4
5 entered into the record and tender Mr. Trippensee for
6 cross-examination.

7 JUDGE WOODRUFF: Exhibit 4 has been offered.
8 Any objections to its receipt?

9 MR. ZUCKER: Your Honor, for the record, Laclede
10 objects to the entry of this testimony into the record.
11 This testimony is irrelevant. It is just a -- a lesson in
12 bad debt expense accounting. It has nothing to do with
13 the cost of compliance.

14 And if two things have become clear over the
15 last 20 months, it is that Public Counsel opposed the --
16 the cost calculation provisions of the permanent amendment
17 to the cold weather rule. And, second, that Public
18 Counsel clearly understands how those provisions work.

19 They -- at the time they applied for rehearing
20 of the original order approving the rule, they gave an
21 example of an -- an actual example of how the provision
22 works and why they didn't like it.

23 They didn't contest Laclede's AAO filing after
24 that that specifically referred to paragraph 14(f)(4) in
25 -- in calculating the cost of compliance. They filed

1 testimony in our rate case in May 2007 with a specific
2 number that they calculated to be the cost of compliance.

3 They then took the lead in that rate case in the
4 stipulation and agreement in which their -- their number
5 was -- was put into the stipulation and agreement and was
6 the agreed-upon number. And they -- they also took the
7 lead in representing that position to the Commission.

8 Finally, when Laclede filed this case in October
9 2007, Public Counsel responded in November that they
10 thought there were -- that they had found calculation
11 errors. But there is no mention of an ambiguity at any
12 point along -- along the way over these 20 months since
13 the rule was passed in August 2006.

14 And so this -- this testimony by Mr. Trippensee
15 is nothing more than a pretense to collaterally attack the
16 Commission's order of rule-making and the company's tariff
17 that was filed thereafter.

18 And these collateral attacks are impermissible.
19 An order of rule-making cannot be attacked once the appeal
20 period passes. It is final. And that is established by
21 the Atmos case decided by the Missouri Supreme Court in
22 2003. And Laclede's tariff is also final as determined in
23 the Lakoda case, 1991, I believe. So Laclede objects to
24 this testimony.

25 JUDGE WOODRUFF: All right. Your objection is

1 noted for the record, and it's overruled. The exhibit is
2 received into evidence.

3 (Exhibit No. 4 was offered and admitted into
4 evidence.)

5 JUDGE WOODRUFF: All right. For cross, then,
6 beginning with Staff?

7 MS. HEINTZ: Thank you, Mr. Trippensee. I don't
8 have any questions for you.

9 MR. TRIPPENSEE: Thank you.

10 JUDGE WOODRUFF: For Laclede?

11 MR. PENDERGAST: Thank you, your Honor.

12 CROSS-EXAMINATION

13 BY MR. PENDERGAST:

14 Q I just have a couple questions, Mr. Trippensee.
15 In your testimony, you talk about the difference between
16 cash accounting, I think, and accrual accounting. And you
17 make the statement in your testimony that Laclede
18 basically utilizes accrual accounting for purposes of
19 financial reporting.

20 A I believe I remember making that general
21 statement. Yes.

22 Q And -- and I think you've talked about the fact
23 -- well, part of the rules reference something to be
24 considered accrual accounting, other parts reference what
25 could be considered cash accounting, in particular, those

1 provisions that talk about how to calculate cost based on
2 the difference between the amount collected upfront of the
3 rule versus what you could have collected. Is that
4 basically the tone and tenor of your testimony?

5 A That the use of cash accounting as contained in
6 this calculation creates the potential, the probability of
7 double -- if you wanted to look at it on a recovery basis,
8 it creates the probability of double recovery monies that
9 -- because of using a cash accounting process versus an
10 accrual process.

11 Q Well, let me ask you this: Are you aware of
12 whether or not Laclede accrues for bad debts? Does it
13 have a reserve for bad debt?

14 A To my understanding, they do.

15 Q Okay. When we go into a rate-making process and
16 we have a rate case and we're trying to establish an
17 ongoing level of uncollectible expense, to your knowledge,
18 does the Staff or Public Counsel, for that matter, look at
19 what Laclede has accrued on its books?

20 A The -- the accrual is reviewed. The write-offs
21 are reviewed. The subsequent collections are reviewed all
22 in that process.

23 Q Is it your understanding, Mr. Trippensee, that
24 when an uncollectible level is established, it is based on
25 actual write-offs regardless of what Laclede has accrued

1 on its books?

2 A That's generally the way it's looked at.

3 Q And that would be based on what you would term
4 to be a cash accounting type of calculation; is that
5 correct?

6 A It is part -- it is the collection process
7 through an accrual system. And the problem that occurs is
8 when you go outside of that system as is done here.

9 Q My question to you, again, just so that we're
10 clear, is it your understanding that when uncollectible
11 allowances are established for rate-making purposes that
12 they are based on actual uncollectible historical amounts
13 and not on accruals that the company has made? Yes or no?

14 A Could you repeat your question because I was
15 focusing on your presentation.

16 Q Is it your understanding that for purposes of
17 establishing an allowance for uncollectible expense in a
18 rate case proceeding that historical actual uncollectible
19 amounts are used in calculating that as opposed to
20 accruals that have been made by the company?

21 A Within the accrual accounting system, you look
22 at the -- that activity at that point in time in that
23 account, yes.

24 Q So are you saying that actual uncollectible
25 amounts experienced by the company are used?

1 A They are part of the use -- part of the
2 information that is used. Revenues are also in the
3 calculation.

4 Q Is it your understanding that whatever we've
5 accrued, whatever reserve we have -- is that taken into
6 account?

7 A The level of the reserve?

8 Q The level of the reserve, the amount of the
9 reserve. Is the reserve that we've accrued for taken into
10 account in establishing an uncollectible amount
11 disallowance -- or allowance?

12 A Usually, the Staff or the Public Counsel has --
13 has used the actual write-off review. Several utilities
14 have used the accrual --

15 Q Well --

16 A -- in the presentation.

17 Q I'm talking about Laclede here. As far as you
18 know, they use the actual amounts, the cash amounts,
19 correct?

20 A That is correct. But, again, it's at what point
21 in time you're looking at that.

22 Q Well, let me --

23 A We're not using accounts receivable.

24 Q Well, let me ask you this: In using a cash
25 accounting basis, by looking at the actual amounts, is it

1 your understanding that there has been some significant
2 problem of reconciling that cash amount with what Laclede
3 has accrued?

4 A Well, if you -- you characterize it as a cash
5 accounting process. And with respect, I don't agree with
6 you, as I've tried to say earlier. Because you're looking
7 at the accrual system and the activity within those --
8 that accrual system, Mr. Pendergast.

9 With that caveat to your question, can you ask
10 the last part again?

11 Q Yes. Even though they used the actual
12 uncollectible amounts as opposed to reserves that have
13 been established by Laclede for that purpose or accrued
14 for that purpose, are you aware of any significant problem
15 that's been experienced in rate case about reconciling
16 this actual amount, this cash amount with the accrued
17 amount by Laclede? Has there been a big reconciliation
18 problem?

19 A First off, you don't reconcile with the accrued
20 amount. You're looking at what came into the account.
21 You're looking at the activity within that account. That
22 is not the reconciliation problem I referred to in my
23 testimony.

24 Q Okay. So there's -- so there's -- there's --
25 when it comes to what Laclede has accrued for

1 uncollectibles versus the actual collectibles that are
2 reconciled in rates, there's -- there's no reconciliation
3 problem there?

4 A No, there's not any problem there because it's
5 within the accrual system.

6 Q Okay. Does Laclede accrue for injuries and
7 damages?

8 A Yes.

9 Q Okay. To your knowledge, in establishing
10 allowance for injuries and damages, does Staff use the
11 actual claims that have been paid by Laclede for purposes
12 of establishing that allowance, or does it use Laclede's
13 accrual for injuries and damages?

14 A Again, Mr. Pendergast, you are utilizing the
15 term accrual and cash as if they are separate and distinct
16 within the accrual system, and they are not.

17 Q So you're saying that there isn't a distinction
18 between accrual and cash accounting?

19 A No. That's not what I'm saying, Mr. Pendergast.
20 You're the one making the assertion.

21 Q Well, I'm just trying to find out what -- what
22 you're saying.

23 A I'm talking about the activity within the --
24 under the uniform system of accounts that this Commission
25 has approved for Laclede. Cash collection on accounts

1 receivable does not go into -- touch -- go into the bad
2 debt reserve provision for uncollectible accounts at all,
3 as Mr. Fallert testified earlier. There's no impact that
4 the customer pays subsequent to your measurement
5 calculation. There is zero impact. And therein lies the
6 problem.

7 Q I -- I just simply don't understand what you're
8 saying.

9 A I understand that because we've had the
10 conversation before. When you -- but if you will read my
11 testimony, when a customer pays their accounts receivable,
12 there's no impact on that -- excuse me -- there is no
13 impact on the bad -- the provision for uncollectible
14 accounts.

15 Q So if --

16 A Failure to recognize that impact will make the
17 subsequent rate case calculation -- will not impact the
18 subsequent rate case calculation, but it will affect the
19 amortization that you're going to be collecting in rates.

20 Q Let me -- let me -- let me see if I can break
21 that down a little bit. First of all, is it your
22 testimony that there is no cost impact on Laclede
23 associated with reducing the amount that Laclede can
24 recover upfront from its customers who have broken a
25 previous payment agreement from 80 to 50 percent? Is it

1 your testimony that that doesn't have any cost
2 consequences for Laclede?

3 A The cost consequences in using the term cost --
4 not to represent expense, but the entire cost, the cost
5 consequences to Laclede could be impacted. And that is
6 what the rule is, I understand it, in paragraph G-1 talks
7 about the incremental revenues and incremental expenses.

8 Q So -- so your testimony would be that there are
9 cost consequences associated with doing that?

10 A There are potential cost consequences.

11 Q Great. And I think in your testimony you talked
12 about a situation where a customer who has either already
13 been written off or subject to being written off is now
14 allowed to go ahead and retain service.

15 Under those circumstances, that customer
16 wouldn't go to uncollectibles as long as he's retaining
17 service; is that correct?

18 A If you -- a current customer would not be -- not
19 be -- would not be written off to the provision for
20 uncollectible accounts. That is correct.

21 Q You also indicated in your testimony that you
22 were concerned about subsequent payments not being trued
23 up. Is it true that subsequent increases in arrearage
24 balances that may occur because customers have not paid
25 for additional usage also won't be reflected in any

1 true-up?

2 A Increase in arrearages would not be reflected in
3 true-up.

4 Q Okay. Do you have any reason to dispute Mr.
5 Fallert's testimony that the amount of arrearages are
6 generally at a lower level in September than they are
7 earlier in the year, say, in March?

8 A No. I have no reason to dispute it.

9 Q If you wanted to go ahead and actually true-up
10 what the impact of a customer payments on arrearages with
11 a rule change might be, would a tracker mechanism be one
12 way to do that?

13 A If you're -- if you -- you're wishing to do
14 single issue rate-making, a tracker mechanism could be
15 utilized in every single issue you wish to address.

16 Q So I take it from your answer that because the
17 Public Counsel is generally not fond of single issue
18 rate-making or what they classify as single issue
19 rate-making that you wouldn't be supportive of a tracker?

20 A In general, we are not supportive of trackers.
21 That is correct.

22 Q Okay. Well, if you don't have a tracker,
23 doesn't that mean that you just have to have a cut-off
24 point at some point and whatever happens after that
25 happens? If you're not tracking it, whatever happens

1 after that happens, right?

2 A I believe the last phrase in paragraph F-4
3 doesn't allow -- or provides for the -- the measurement
4 has to follow the customer. A general cut-off like is
5 proposed by Laclede, I do not believe -- and the lawyers
6 can discuss it. This is my opinion. In just in looking
7 at the language, it doesn't allow for just a flat flash
8 cut-off without consideration of subsequent payments.

9 Q Well, how about sub -- consideration of
10 subsequent --

11 A Costs.

12 Q -- arrearage increases?

13 A Subsequent costs that that customer places on
14 the system that ultimately will get written off.

15 Q So you would prefer to go ahead and have those
16 things tracked?

17 A I would prefer -- if you want my -- the bottom
18 line is -- is to allow this to flow through the
19 rate-making process because the accrual accounting system
20 ultimately and the rate-making system ultimately picks it
21 all up.

22 Laclede files about every 30 months. And -- in
23 this century. The -- running through the bad debt reserve
24 provisions for uncollectibles, I think it's actually the
25 USAO title for gas companies, will pick all bad debt costs

1 -- all costs of usage borne by the company as will any
2 costs through payroll, things like that for
3 connections.

4 Q Okay. Well, if that's the case, then I'll ask
5 you again, if it all gets picked up in the rate-making
6 process anyway, what's wrong with the tracker?

7 A Because a tracker is specific to one cost. It
8 is not rate of return, which puts risk and rewards on both
9 parties.

10 Q Oh, I thought we were talking about a cost that,
11 according to you, all gets picked up and recovered anyway,
12 so why not track it?

13 A I did not say picked up and recovered, Mr. --

14 Q Okay.

15 A I said will be given consideration -- or what I
16 meant to say maybe, it will be given consideration in the
17 rate case.

18 Q Okay. Fine.

19 A Along with all other relevant factors.

20 Q So it will be given consideration, but as to
21 whether or not you actually recover those costs, that's a
22 different matter; is that correct?

23 A Mr. Pendergast, I am not aware of any time in
24 Laclede's -- in my tenure that Laclede has not earned a
25 positive rate of return, which means all expenses recorded

1 on their books and records have been covered. We can
2 discuss, as we do, about the appropriate rate of return
3 component of costs, but every other cost has always been
4 paid to Laclede. So --

5 Q So, in your view, as long as Laclede is earning
6 \$1 above no net income, its uncollectible costs have been
7 recovered?

8 A Mr. Pendergast, by def -- accounting definition,
9 that is correct.

10 Q Okay.

11 A You are not guaranteed a rate of return.

12 Q I'm not asking you for a guarantee.

13 A I'm not advocating that you have a minimum --
14 that you aren't allowed to earn a reasonable rate of
15 return. But a cost tracking mechanism is not, in general,
16 something that is in conformance with rate of return
17 regulation.

18 Q Okay. So, once again, just to clarify, by
19 saying that these will all be addressed in the rate-making
20 process, you are not indicating that the costs will
21 necessarily be recovered in full by Laclede?

22 A I think I just said unless Laclede is not
23 earning a positive rate of return, the rate-making process
24 has ensured that all expenses of Laclede with the -- all
25 costs, with the exception of rate of return that Laclede

1 felt adequate have been recovered.

2 Q Okay. So your standard is, once again -- I'm
3 not trying to be argumentative. I'm just trying to
4 understand what your standard is. Your view is that the
5 rate-making process will ensure that Laclede recovers
6 those costs as long as the rate-making process is not
7 putting Laclede in a situation where its earning less than
8 no return?

9 A The rate-making process puts into there an
10 authorized rate of return that this Commission finds
11 reasonable. Part of that return is a risk of business
12 post rate case.

13 Q Are you aware of anything in the rate-making
14 process where we're trying to determine allowances for
15 various expense levels where we use the amounts that the
16 company has reserved or accrued?

17 A I'm not an expert on the calculations, but I
18 believe pensions are based on forecast of actuarial
19 studies and market returns and a number of factors.

20 Q Do you -- do you know if it uses cash payments
21 that have been made by Laclede? Or does it utilize the
22 contribution levels that Laclede has accrued for?

23 A The -- off the top of my head, I'm not sure. As
24 I said, it is a complicated factor, and I have not dealt
25 with it in a few years.

1 Q Okay. Well, let me just ask this generally,
2 then. To the extent that Laclede accrues for bad debts,
3 to the extent that Laclede accrues to injuries and
4 damages, to the extent that Laclede accrues for other
5 expenses, and to the extent that in the rate-making
6 process they utilize cash outlays and receipts to
7 establish those instead, you're not aware of there ever
8 having been some significant problem with reconciling
9 those two methods, are you?

10 A Again, you're talking about a reconciliation.
11 I'm not sure what you're reconciling.

12 Q Well, I'm just trying to figure out what you
13 think needs to be reconciled, Mr. Trippensee.

14 A What I'm talking about reconciling is an accrual
15 system of a bad debt reserve that -- to a cash collection
16 of your receivables when the cash collection of the
17 receivable will have zero impact on the bad debt reserve
18 calculation.

19 You're measuring accrual system at a point in
20 time, the cash collections within that receivable, and
21 then saying that's my bad debt reserve activity. They're
22 not the same thing.

23 Q Let me ask you this: Have you ever filed
24 testimony on uncollectibles on a Laclede rate case before?

25 A I would imagine -- I don't know. I'd have to go

1 back. I haven't handled Laclede recent case activity.

2 Q Do you know who did file testimony on Laclede's
3 uncollectible levels in the last -- in Laclede's last rate
4 case?

5 A On behalf of Staff, I do not know.

6 Q No. Not on behalf of Staff. On behalf of the
7 Office of Public Counsel.

8 A I'm just trying to fully answer your question,
9 sir. I believe Mr. Robertson did.

10 Q Mr. Robertson did. And did Mr. Robertson also
11 file testimony on the cost of complying with the
12 Commission's emergency amendment to the rule?

13 A Yes, he did.

14 Q Did you review his testimony before he filed it?

15 A No, I did not.

16 Q Do you ever review his testimony before he files
17 it?

18 A As time permits.

19 Q Okay. Did you review the stipulation and
20 agreement that was filed in that rate case?

21 A I did an exhaustive search of my e-mail, and I
22 have no reference to any of the Laclede documents from
23 that case.

24 Q What is your position with the Office of Public
25 Counsel?

1 A I'm the Chief Utility Accountant.

2 Q Okay. And does Mr. Robertson report to you?

3 A Yes, he does.

4 Q Okay. Have you talked to Mr. Robertson about

5 the errors he made in your view?

6 A Have I spoken to Mr. Robertson about this?

7 Q Yes.

8 A Yes, I have.

9 Q Okay.

10 A He pointed out that, in his testimony, he

11 brought out the fact that subsequent payments should be

12 taken into consideration.

13 Q And --

14 A The rate case -- that rate case was settled as

15 part of a total settlement.

16 Q The rate case was settled. But what it was

17 settled on was cost calculations that were set forth in

18 Mr. Robertson's testimony before the settlement ever

19 occurred, right?

20 A The settlement contains a dollar amount that is

21 the same as in Mr. Robertson's testimony. The settlement

22 also contains language that says there is no rate-making

23 -- or that's the standard boilerplate, Mr. Pendergast.

24 There are lots of give and takes within a rate case.

25 Q Well, the give and take in this rate case is --

1 A And the settlement.

2 Q The give and take in this rate case is we all
3 agreed with Public Counsel's approach, wasn't it? Public
4 Counsel didn't give anything, did they?

5 A Mr. Robertson's testimony specifically talks
6 about subsequent activity shall -- needs to be considered.
7 That has not been done.

8 Q Well --

9 A You may disagree with that, but --

10 Q Did Mr. Robertson sign off on the fact that
11 there should be recognition of the difference between 80
12 percent and 50 percent? Did he sign off on that?

13 A He signed off on a dollar amount in a settlement
14 document, Mr. Pendergast.

15 Q Did -- was that imbedded in the numbers that he
16 recommended in his direct testimony before a settlement
17 was ever reached? Yes or no, if you know.

18 A I cannot answer yes without the caveat that his
19 testimony said subsequent adjustments shall be made.

20 Q Fine. Subsequent adjustments shall be made. My
21 question to you is, did his number that was filed in his
22 testimony that he swore was true and correct to the best
23 of his knowledge and belief have an amount to reflect the
24 difference between the 50 percent and the 80 percent? Yes
25 or no?

1 A Yes, with the same caveat.

2 Q Okay. And you're aware, are you not, that
3 Laclede had proposed when it made its request for
4 determination to -- as Mr. Fallert said earlier today,
5 have these matters considered in its next general rate
6 case so that various factors like that could be taken into
7 consideration?

8 A Var -- what type of various factors?

9 Q well, you know, if you wanted to go ahead and do
10 a true-up, do a true-up.

11 A I believe Mr. Fallert testified there would be
12 no true-up.

13 Q Well, there would be no true-up because when the
14 company proposed to defer this matter to a rate case,
15 Public Counsel objected, did they not?

16 A That's my understanding. Public Counsel
17 objected.

18 Q Okay.

19 A Does that -- does Public Counsel's position mean
20 the company can propose -- fail to propose the necessary
21 true-up?

22 Q Well, let me ask you this as far as the
23 necessary true-up. Your bottom line is that you want bad
24 debts to be handled and handled exclusively in a rate case
25 with an allowance established for it, right?

1 A If -- in a perfect world, that would be the
2 case.

3 Q Okay.

4 A The Commission rule has the proposal for an
5 accounting authority order.

6 Q And let -- I'm asking for your opinion. And if
7 you do it in a rate case, under those circumstances, do
8 you draw a line and say, this is what it is as of a
9 certain date?

10 A In -- no, sir. It's in relation to other
11 revenues, expenses and investments.

12 Q And in relation --

13 A And your sales change in the future. All kinds
14 of things change.

15 Q So your testimony is you don't go ahead and
16 figure it as of a certain date? Is that what you're
17 saying?

18 A It is not a nominal dollar amount as you
19 insinuate it is, Mr. Pendergast.

20 Q Let me ask the question again. I'm going to
21 keep on asking it until I get an answer. When you
22 establish an uncollectible allowance in a rate case under
23 what you view as the traditional and preferred method, do
24 you determine -- determine what that level of
25 uncollectibles is based on some historical set of data

1 that has an ending date?

2 A When you say level, Mr. Pendergast, are you
3 talking about a nominal dollar amount?

4 Q I'm talking about the \$11 million that we had,
5 or 10.8, whatever it was in the last case, the 7.4 million
6 that we had in the case before that. Do you go ahead and
7 use a set of data that has an ending point?

8 A Again -- so you're saying it was a nominal
9 dollar amount that's built into the rates?

10 Q I'm saying the allowance for uncollectible
11 expense. Do you determine that based on a set of data
12 that has an ending date?

13 A I hate to be difficult, but part of the problem
14 is if it's a nominal dollar amount, that is different than
15 the regulatory theory where you're looking at an -- you
16 put in that -- an amount, but it is in relation to a level
17 of revenues, a level of expense, a level of sales.

18 Q As of a particular date?

19 A As of how that calculation -- through -- through
20 some period of time. But it's a balance. It's not --

21 Q That -- that's fine. My question to you,
22 Mr. Trippensee, is do you have a cut-off point?

23 A There are specific true-up test year end --
24 non-immeasurable dates and a true-up date.

25 Q And do those all represent cut-off points?

1 A In your terminology, I would -- that would be
2 what you would refer to as cut-off point.

3 Q Okay. Great. And that was -- after that
4 cut-off point, if there are changes and something goes up
5 or something goes down, too bad, we've got our cut-off
6 point and we're done, is that right, under traditional
7 rate-making?

8 A You've established the rate expense investment
9 relationship.

10 Q At a point in time that you don't look any
11 further after that point in time; is that correct? It is
12 what it is? You imbedded it in your rates and you go on?

13 A At that point -- in that case, yes.

14 Q And you're not only fine with having that kind
15 of a cut-off point and having whatever happens happen
16 after that and have it not be recognized or what have you
17 when it comes to traditional rate-making; is that correct?

18 A Yes.

19 MR. PENDERGAST: Okay. Just a moment, please.

20 JUDGE WOODRUFF: Sure.

21 Q (By Mr. Pendergast) You -- do you have a copy
22 of Mr. Robertson's testimony from the last rate case?

23 A I believe I do.

24 Q Did he base his uncollectible recommendations on
25 actual write-offs that had been experienced by Laclede?

1 A I believe his testimony says he looked at a
2 three year average of the prior three years.

3 Q Actual write-offs over the prior three years?

4 A The net uncollectible write-off is how he
5 referred to it.

6 Q Would that have been an actual net write-off or
7 an amount that had been accrued by the company?

8 A That would have been in the activity in the --
9 part of the activity in the provision for uncollectible
10 accounts.

11 Q So it is an actual write-off amount?

12 A I would -- you could characterize it that way,
13 yes.

14 MR. PENDERGAST: Okay. Thank you,
15 Mr. Trippensee.

16 MR. TRIPPENSEE: Thank you, Mr. Pendergast.
17 It's always a pleasure.

18 JUDGE WOODRUFF: All right. Come up for
19 questions from the Bench from Commissioner Murray.

20 CROSS-EXAMINATION

21 BY COMMISSIONER MURRAY:

22 Q Good morning, Mr. Trippensee.

23 A Good morning, Commissioner.

24 Q I was trying to follow some of your -- some of
25 your answers earlier, and I -- you were asked at one point

1 what would you prefer. And you indicated you would prefer
2 to have -- you -- you said, I would prefer to have it flow
3 through the rate-making process. The rate-making process
4 takes the risk of business post rate case into account.

5 Now, are you saying you do not like the
6 mechanism that was set out in the cold weather rule and
7 rather than apply that mechanism, you want to do a
8 traditional rate-making process? You think that is the
9 appropriate method? Is that your testimony?

10 A Yes, Commissioner. Could I explain why, again,
11 maybe a little clearer than when I was talking to
12 Mr. Pendergast?

13 Q Well, before you do that, it appears that you're
14 not really here for the purpose of contesting what Laclede
15 has claimed under the cold weather rule, but, rather,
16 you're still here arguing about the fact that we shouldn't
17 be doing it the way the Commission set it out to be done
18 in the cold weather rule.

19 A No. Commissioner, I think my response was in --
20 in regard to a question from Mr. Pendergast with regard to
21 my personal preference. That is not what the purpose of
22 my testimony is.

23 The purpose of my testimony is to indicate that
24 the method that Laclede has filed has problems and will
25 result in over-collections under this tracker -- or type

1 of mechanism. And I use that as a very broad sense when I
2 use the word tracker that Laclede has proposed because
3 what they're doing is they're not measuring cash
4 collections -- they're measuring cash collections in the
5 accounts receivable portion of their books and records.

6 They're not measuring subsequent cash receipt
7 collections in that receivable. And that because they're
8 under an accrual basis system, trying to recognize --
9 reconcile that cash collection in a receivable account
10 will never be reconciled to an accrual basis system with
11 the provision for uncollectible accounts, which is what
12 the rate case utilizes.

13 Q Okay. Let me see if I can try to zero in on
14 what you're trying to focus on here. Are you focusing on
15 the fact that the bad debt in the reserve account is not
16 being reduced when the write-offs are occurring under this
17 mechanism in the cold weather rule?

18 A The cold weather rule, as has been measured by
19 Laclede, is using a measurement of the accounts receivable
20 account -- account. Excuse me. Because that system has
21 cash payments in it that occur post their measurement
22 period are not being picked up, assuming a customer pays
23 partial or income, the in total, the balance that's picked
24 up in their calculation, subsequent to their calculation,
25 because of the way they maintain their financial records,

1 if that payment will never be reflected in the bad debt
2 reserve provision for uncollectible accounts, excuse me,
3 is the proper term, it will never be reflected there. The
4 rate case doesn't go back and look at accounts receivable.

5 I would also point out that if the rate case --
6 the rate case does look at the time lag in money of
7 customer payment history, and that's included in rate base
8 as a cost the company has to provide for -- has to be
9 compensated for through the cost of money.

10 Q But this is -- the accounts receivable that
11 becomes non -- uncollectible, under the mechanism that was
12 set up under the cold weather rule?

13 A That -- that ultimately gets written off to
14 uncollectibles.

15 Q Right. They get written off to uncollectibles.

16 A There will have to be some adjustment to that
17 analysis of the uncollectible account, bad debt reserve
18 account that net write-off Mr. Pendergast and I discussed
19 to reflect this amortization.

20 This does -- if nothing else, it creates
21 additional audit work -- even if done right, it takes
22 additional audit work because some of these monies are
23 going to be ultimately be written off.

24 Q Okay. Mr. Pendergast -- Mr. Trippensee, what --
25 what are you proposing in terms of the way accounts

1 receivable written off be handled? What is your proposal
2 to comply with the rule?

3 A Well, part of the -- a concern -- and I'll leave
4 to my counsel to talk about -- to address this concern as
5 far as legally. But part of the concern is paragraph F-4
6 of the rule has this accounts receivable -- or this unpaid
7 charges language.

8 Paragraph G-1, I would -- I would not agree with
9 Mr. Fallert's assertion earlier on the stand that it's
10 general in nature. In fact, it's very specific. It's
11 setting up the accounting authority order to -- to Account
12 186. And then it states, For review, audit and recovery,
13 incremental expenses and incremental revenues.

14 If you are going to implement this rule, I would
15 suggest as an accountant, as a CPA, that you do it in
16 conformance with your own uniform system of accounts,
17 which when you set up a regulatory asset, which an AAO is
18 for future recovery, that expenses or USOA expenses or
19 USOA revenues are adjusted accordingly in that current
20 period.

21 There is no impact on USOA expenses or revenue
22 from the cash collections through the accounts receivable.

23 Q All right. Let me ask you this: This rule has
24 been implemented previously for Laclede in the case from
25 which Mr. Robertson's testimony was put into evidence; is

1 that correct? There was a stipulation and agreement?

2 A There was a stipulation and agreement, yes.

3 On --

4 Q And that method that you are talking about right
5 now was not employed; is that correct?

6 A Laclede filed in that case under the paragraph
7 F-4. Mr. Robertson adjusted that calculation. He did not
8 look at, and to my knowledge, was not aware of the other
9 paragraph. I mean, as accountant, we don't normally --.

10 Q A paragraph of a rule -- in the rule that --

11 A We don't normally look at the -- extensively at
12 those type -- through the entire document. And whether
13 that was an error on Mr. Robertson's part or not, I will
14 discuss that with him. But --

15 Q And you are his supervisor?

16 A Yes, I am.

17 Q And you were his supervisor at the time?

18 A Yes, I was.

19 Q So does the buck stop with you if there was an
20 error?

21 A Yes. The buck stops with me. There are -- on
22 my part, there was only 24 hours in the day. And I think
23 you, as a Commissioner, you've been here for two terms.
24 You know the work load that has been going on. And you
25 simply cannot review each and every thing when there's ten

1 -- seven to ten cases going on at one point in time.

2 Q Okay. But it's your testimony here that Office
3 of Public Counsel did not apply the methodology of the
4 rule correctly in that last case; is that right?

5 A We would have applied -- had I reviewed this or
6 had I filed testimony, or had I reviewed it, we would have
7 applied G-1, which is where the accounting authority order
8 is set up.

9 Q So your testimony is that Mr. Robertson was
10 wrong?

11 A Yes. Or I -- more so, I was wrong for not
12 having adequate opportunity to review it.

13 Q And let's pursue a little bit the bottom line of
14 what it is you're saying is the problem here. It seems to
15 me that you're focusing only on one issue, and that is the
16 amounts of the accounts receivable that get written off.
17 Is that -- is that the -- the problem with what you see as
18 Laclede's claim?

19 A Actually, it would be the parts of the accounts
20 receivable that is used in the determination of this
21 amount to be recovered in a future rate case and, until
22 that time, deferred through an AAO. And the portion that
23 a specific customer who owe those -- a portion of that
24 amount actually end up paying the customer. That amount
25 will not be recognized in any way, shape or form in the

1 subsequent rate case ab -- absent a lot of work.

2 Q Mr. Trippensee, let's take one thing at a time,
3 please.

4 A Okay. I was trying to --

5 Q One -- one thing -- I'm going to go back a
6 minute because you apparently are claiming that the intent
7 of the rule -- and I -- for the life of me, I can't see
8 where you're coming up with this.

9 But you apparently are claiming that the rule
10 did not intend to allow the utilities to recover the
11 difference between what they would have collected under
12 the old rule for reconnection versus what they were able
13 to collect under the new rule for reconnection. Is that
14 an accurate portrayal of what you're claiming?

15 A I guess the -- yes. That is -- because of the
16 language in the -- in the rule that refers to how the
17 deferral is calculated in incremental expenses and
18 revenue.

19 Q Okay. And if you --

20 A Collections are not an expense.

21 Q And if you're not allowed to claim that
22 difference -- is it your testimony that they're still
23 allowed to recover everything -- every cost that was
24 incurred as a result of the cold weather rule amendments?
25 In other words, are you claiming that the difference that

1 they can collect, the lower amount that they can now
2 collect before they have to reconnect somebody is not a
3 cost?

4 A In accounting terms, it is not a cost. Within
5 your USOA, it is not a cost.

6 Q All right. Now, I want to refer you to
7 something in Public Counsel's position statement. Do you
8 have that before you?

9 A What's the title of it? I'm not sure if I do.

10 Q It just says Public Counsel's Position Regarding
11 Laclede's Request for Determination of Cost. And it was
12 filed on the 28th day of February.

13 A Yes, I do, Commissioner.

14 Q And on page 8, there is an example there, the
15 first example, Customer's balance before reconnection,
16 \$280.89. Customer's initial 50 percent payment, this
17 would be under the new cold weather rule amendment, \$140.
18 Total balance when reconnected, \$140.

19 Then this statement goes on to say the remaining
20 \$140 balance after the initial payment would have existed
21 in the absence of the cold weather rule amendment. Now,
22 that balance absent the cold weather rule amendment, as I
23 see it, would have been \$56.18 instead of \$140. And I did
24 this math some time ago, so I'm not sure that was correct.
25 But I think what I did was 80 percent of -- actually, it

1 would be 20 percent of the --

2 A I think you're -- I think you're close.

3 Q -- the remaining. So it would be about \$56
4 would be the remaining balance, not a \$140 remaining
5 balance. How can you say the balance would have been the
6 same if the customer pays 50 percent or if the customer
7 pays 80 percent?

8 A I -- I believe -- and it may be better directed
9 at Mr. Poston, but I believe the answer to your question
10 is the assumption the customer would not have hooked up
11 absent a cold weather rule.

12 Q So there would have been \$280 balance?

13 A It would have -- it would have been written off.
14 That amount would have already -- well, Laclede takes
15 about six months to write an account off. But the bottom
16 line is that amount would have flowed through the
17 provision for uncollectible accounts.

18 Q All right. And that would have allowed -- that
19 would have allowed Laclede actually faster recovery of the
20 full amount. So if that, in fact, were the scenario that
21 the customer would not have reconnected and bad debt would
22 have been written off, Laclede would have claimed 100
23 percent of the bad debt in the rate case, they would have
24 recovered even more than, more difference than they're
25 claiming here, would they not, under the other rule?

1 A Excuse me for my delay. I'm trying to -- I
2 heard Mr. Pendergast talking about that in his question --
3 or Mr. Zucker's questioning of Mr. Fallert. And I didn't
4 totally follow it then, and I'm still having difficulty
5 following that faster recovery cost. And I'm sorry,
6 Commissioner. I -- I'm just having great difficulty --

7 Q Okay. Well, that's the issue.

8 A -- with that.

9 Q That's bad debt recovery. That's when
10 something's written off we're talking about, correct?

11 A Correct.

12 Q And that's another area in which you are
13 claiming that what Laclede is asking for here is improper
14 in that you're saying that because they're going to take a
15 write-off for certain amounts of bad debt. And then
16 there's no, what I would call it, I suppose, a tracking
17 mechanism to see if the customer actually pays that debt
18 later and -- and some adjustment being made there, you're
19 saying that's improper. But you're also saying you don't
20 want any kind of a tracking mechanism?

21 A When I was talking about tracking following a
22 customer who was in receivables.

23 Q Okay. But these customers aren't under this
24 scenario. They're --

25 A The --

1 Q These calculations are to determine what is the
2 cost to Laclede of the cold weather rule amendments.

3 A And that's correct. But the problem,
4 Commissioner, is they are using the accounts receivable to
5 make that determination of cost, an account that is not
6 used in the regular rate-making process.

7 It is simply an asset account on their books and
8 records that reflect that they have earned revenue via a
9 sale of some sort. They are measuring the change in that
10 receivable account and calling that a cost of
11 uncollectible, and, therefore, deferring it.

12 Unfortunately -- or the problem is, the
13 rate-making process doesn't look at that. So there's
14 going to have to be that recognition or reconciliation
15 between the bad debt reserve and this accounts receivable.

16 The other concern we had is that the receivable
17 continue to, hopefully, get collections. It may continue
18 to grow with a certain customer.

19 Q And how would you recommend following that for
20 the rate case? What is your recommendation?

21 A If they're going to do this through the
22 receivables, and I think there is a dispute with regard to
23 the 850 between -- the Public Counsel does have a concern
24 within this proceeding because it -- it deals with service
25 prior to the date -- off the date of when this customer

1 comes back online. But if they're going to do it on
2 receivables, and let's just talk only about the -- they
3 sign their agreement and they go forward.

4 For any revenues -- or any expenses -- any
5 revenues that the customer provides to the company, those
6 dollars are going to have to be tracked, and I hate to use
7 that word, but on an individual customer basis.

8 Q And, also, the additional expenses that the
9 company would incur between the time of this calculation
10 and the rate case?

11 A Well, the --

12 Q Or should there just be a cut-off date like this
13 is proposing?

14 A If there is a cut-off date in the -- the actual
15 customer experiences is not tracked, then when their
16 normal accounting system writes that customer off to the
17 bad debt reserve, the -- a future analysis of that reserve
18 will take that write-off into consideration in setting
19 future rates that will be paid by customers.

20 Those same customers will also be paying the
21 deferral that occurred in the AAO associated with some
22 portion of that write-off.

23 Q Stop --

24 A There's the double --

25 Q Okay. Stop there for a minute. With -- if we

1 were just in a rate case and we were looking at -- at bad
2 debts --

3 A Uh-huh.

4 Q -- write-offs for bad debts --

5 A Yes, ma'am.

6 Q -- there is a -- what is it called? A bad debt
7 reserve account?

8 A I think the USOA name is provision for
9 uncollectible accounts. But most people refer to it as
10 bad debt reserve as I've been having trouble throughout
11 the testimony.

12 Q And at the time a write-off were taken, that
13 reserve would be reduced by that amount; is that correct?

14 A That is correct.

15 Q And if that customer subsequent to that rate
16 case paid that amount that had been written off, then what
17 happens?

18 A The reserve would be increased and --

19 Q In a rate case? This is just an accounting
20 mechanism?

21 A This is an accounting mechanism. The reserve
22 would be increased, and a subsequent analysis of the -- of
23 the bad debt reserve would reflect that payment in
24 determining the appropriate level of bad debt expense to
25 put into a rate case. So it all -- that testimony always

1 picked everything up. That's why it's my preference
2 personally. It's not the Commission Rule.

3 Q And with the case that is before us, the bad
4 debt amount, will be considered in the -- it will be
5 included in the AAO for recovery at the next rate case?

6 A You'll have two components in the next rate
7 case. You'll have the analysis of the bad debt reserve
8 component, and you will have the amortization of whatever
9 amount this Commission creates through the AAO process.
10 Those two added together will be the total bad debt
11 expense in the next rate case.

12 Q All right. But you're not saying that -- or are
13 you claiming that the amount being included in the AAO for
14 bad debt is also going to be recovered in a rate case
15 through bad debt reserve component?

16 A I'm not claiming that -- that is a potential
17 because of the fact that the AAO is being set up on an
18 accounts receivable at a point in time under Laclede's
19 calculation.

20 And then their books and records subsequently
21 may write off a portion of that bad debt, that accounts
22 receivable to the bad debt reserve. I'm going to have --
23 the auditors are going to have to reconcile all those
24 write-offs that occur that were in the AAO calculation.

25 They're going to have to track them through to

1 the -- the bad debt reserve if they want to ensure that
2 that double recovery does not happen. That is a process
3 that definitely is not there today and is going to greatly
4 increase your Staff's work load and potentially mine.

5 Q All right. So you're not in favor of tracking
6 it as -- and that's what Laclede is proposing, is that
7 correct, that it be tracked?

8 A No. Laclede is proposing they take a snapshot,
9 a point in time, compare balances and walk away, call it
10 good.

11 Q All right. And that's -- that is done in some
12 instances, is it not, like -- I mean, like Mr. Pendergast
13 was questioning you about a rate case. We take a snapshot
14 of a point in time and establish rates base on that, do we
15 not?

16 A We take a snapshot at a point in time. But in
17 this instance, that snapshot is -- if you want to view it
18 that way, it still is looking at the bad debt reserve,
19 which contains all activity from the day the customer
20 became obligated to pay the company until the
21 determination was made whether they made them or not.

22 What happens when you take a snapshot of a -- of
23 an account somewhere in the process, you're going to get
24 an incomplete picture because the process is going to
25 continue going on on a daily basis.

1 Q And I think I see what you're saying there. But
2 -- so -- so long as there is the tracking, it is -- you're
3 objecting to it because it causes more work --

4 A No.

5 Q -- for the counsel of the Staff?

6 A It -- I'm not -- that's just a side bar that it
7 does -- it will create a lot of effort to -- to track
8 individual customers. But the problem I have with -- with
9 tracking in general, it's isolating one cost, one expense
10 out of the entire realm.

11 And these things are recovered within rates.
12 That cost is built into a rate relationship. The day
13 after you change rates, the level of sales is not the same
14 as was assumed. So they are either going to have more
15 money in that -- as a result of that rate for that rate
16 component of uncollectible than was in the rate case, but
17 they're also going to have more other expenses covered
18 that may be -- I mean, it's -

19 Q I understand how rate cases are, Mr. Trippensee,
20 I'll ask you again. I don't recall if you answered my
21 question earlier. How do you propose these additional
22 costs be handled even -- assuming that you agreed with the
23 costs as calculated, how do you propose they be recovered?

24 A Be recovered? Given the Commission's rule
25 setting up an AA -- an accounting authority order, the

1 costs should be calculated consistent with the incremental
2 revenues and expenses that the company incurs post signing
3 of the -- of the cold weather rule agreement.

4 Those monies would be deferred, which would then
5 mean an adjustment to the expenses and revenues on the
6 company's records, financial records. And those costs
7 would then be built into subsequent rate case, be in an
8 AAO.

9 Q All right.

10 A Which then -- and the other problem with
11 trackers, when you set it -- an AAO into a rate case, it's
12 assuming that the financial amortization on their books
13 will continue for -- in synchronization with the time the
14 rates are in effect. As the amortization ends and the
15 rates continue, they're continuing to collect that
16 incremental amount for the AAO.

17 Q I'm going beyond your recommendation at this
18 point. I want to stick with what it is you're saying you
19 would recommend. And I -- I understand you disagree with
20 the calculation. Incremental revenues and -- and the
21 costs.

22 But let's take that disagreement out of the
23 picture for right now and say there is an agreement that
24 there is X dollars of additional costs that have been
25 incurred, including X dollars of bad debts that would be

1 written off. And --

2 A Commissioner, I'm not sure I can have an
3 agreement on how much is going to be written off if you're
4 talking about the portion of how they calculate their
5 costs, how much of that will ultimately be written off.

6 Q Okay. I'm just saying, for hypothetical
7 purposes, assume you've agreed on amounts. Now, how would
8 -- how would this AAO be structured differently than what
9 is being proposed here if you were structuring it?

10 A Well, I think the -- the concern I have -- and
11 I'm trying to answer your question if you don't feel I did
12 earlier. But I'm not sure how I could agree -- there
13 wouldn't be any difference in the implement of an AAO if
14 all the inputs into the AAO are agreed to.

15 And we -- and I come back to the -- the amount
16 that's going to be written off, that's not going to be
17 known until -- they're measuring at a point in time of
18 their receivables. I don't know how anyone could agree
19 how much of that ultimately will be written off.

20 Q All right. But you have to arrive at something
21 to include in your cost recovery. What are you going to
22 arrive at? And if you need to make an adjustment later,
23 how are you going to make the adjustment? Or are you just
24 going to continue to say, We can't get there?

25 A No. I think what I said was Public Counsel

1 would recommend that you follow paragraph G-1. And to the
2 extent the company incurs revenues, post cold weather
3 rule, that those revenues, to the extent they have to be
4 written off and are not collected, that they have to be
5 written off, that those are what get deferred.

6 I believe even the last phrase of -- of
7 paragraph F-4 talks about as measured at the time of
8 subsequent disconnection for non-payment or expiration of
9 the customer's payment plan.

10 That's not a snapshot point in time in the total
11 company. That's customer specific. That's how I would
12 measure it.

13 Q So for the accounting authority order, what's
14 going to be included?

15 A For the accounting authority order? They would
16 be looking at customers. And to the extent the customer
17 put additional -- came on the system and then put
18 additional strain, using that term kind of -- on the bad
19 debt -- future bad debt write-off from the time they filed
20 or signed the agreement forward, those monies would be
21 measured and would be deferred for subsequent collection
22 and be taken out of the normal analysis of the bad debt
23 reserve when the -- because they would also be written
24 off.

25 Q Okay. You say they would be measured. But if

1 the -- you're saying you can't even have any measurement
2 until the customer is actually written off?

3 A Well, in Laclede's case, a customer is
4 disconnected from the system, and they wait six months to
5 physically write them off. So that determination -- let's
6 say a rate case occurs in that six month determination.
7 You would meet -- need to make that determination if that
8 individual customer had been written off, in which case
9 you'd have to make an adjustment to the bad debt reserve
10 analysis. Or if that customer had not been written off,
11 then there would be no adjustment for that customer.

12 Q But because we have the new cold weather rule
13 amendments, the customer that would have probably been
14 written off subsequently reconnects because they only have
15 to come up with 50 percent now to reconnect, so the delay
16 in that customer being disconnected permanently enough to
17 be written off is, in the meantime, going on and there are
18 costs being incurred as a result of the new amendments to
19 the cold weather rule that wouldn't have otherwise been
20 incurred.

21 A The customer may have actually also -- I hate to
22 throw another little problem in here. But that customer
23 had actually been written off. And then when they sign a
24 cold weather rule, that write-off is reversed. The timing
25 of that could come into play, whether it was considered in

1 the rate case analysis or not.

2 Q So it sounds to me like --

3 A On the front end.

4 Q It sounds to me as if you're saying there's
5 really no way to tell what the additional costs were.

6 A No. I don't believe so, Commissioner. I
7 believe I said that if you measure it in conformance with
8 paragraph G-1 and look at what the costs, if you want to
9 use that phrase, is the incremental revenues that that
10 customer creates post cold weather rule agreement, under
11 the new one, that the customer ultimately does not pay.
12 That's the -- that's the --

13 Q That's Public Counsel's interpretation that it
14 has to be post cold weather rule, that the bad debt that
15 is pending at the time they get reconnected and the amount
16 of that bad debt that actually gets delayed because they
17 have to come up with less to be reconnected under the cold
18 weather rule. You're not wanting to include that, are
19 you?

20 A Well, I think we have maybe an account --
21 accountant and a lawyer's difference on what cost is. An
22 accounting cost is an expense. There is no expense for
23 the failure to pay a bill, per se. There is no cost
24 there. The cost is an accrual -- the cost is through the
25 bad debt expense which is a different measurement.

1 Q Okay. Perhaps we lawyers, when we end up
2 promulgating these rules, intend something different than
3 what -- what you're intending as an accountant. Because
4 my intent in allowing recovery would certainly be cost, as
5 I'm determining what it is, which is an additional cost of
6 doing business, an additional cost, as I see cost as a
7 lawyer, rather than an accountant --

8 A Uh-huh.

9 Q -- created by a rule that we passed.

10 A And I -- I appreciate that. But the problem is
11 I've also got paragraph G-1 where you talk about the
12 specific AAO and you use the specific terms expense and
13 revenue.

14 And so I can only go with -- that's -- and that
15 was the rule that came before this Commission that people
16 had discussed. The language I think that Mr. Poston
17 pointed out in paragraph F-4 came after the public comment
18 period. And I can -- we would have commented to point out
19 that inconsistency.

20 Q And I know that Public Counsel was very opposed
21 to the recovery mechanisms within the rule, as I recall
22 certainly opposed to the AAO.

23 A Public Counsel, as I probably said too many
24 times this morning, we think the basic rate-making system
25 works. When you create an AAO, you create problems with

1 ensuring that there is not an over-recovery situation
2 because the AAO by its nature, one, it's put into rates
3 through an amortization, that amortization period will not
4 end on the financial system at the same time that new
5 rates do. The probability is highly unlikely.

6 Q And in spite of the fact that the Commission has
7 approved the AAOs in many instances, Public Counsel is, if
8 not uniformly, almost uniformly opposed to AAOs, is it
9 not?

10 A Public Counsel does not believe AAOs should be
11 utilized outside of extreme extraordinary events that
12 affect the provision of service.

13 Q And when was the last time Public Counsel
14 recommended an AAO?

15 A I believe you may have one pending that we are
16 not opposing.

17 Q And do you recall any time before that?

18 A Kansas City Power & Light, ice storms. Kansas
19 City Power & Lights, Empire District.

20 Q Ice storms?

21 A Things that affect service. Balance of AAOs are
22 dealing with often deferrals of routine expenses that the
23 -- that somebody has asserted they need -- and I mean,
24 probably the worst one I can think of is the St. Joe Light
25 & Power case where a Commission approved an accounting

1 authority order for a new system the company was
2 developing. The costs that were deferred were payroll
3 costs related to people who were built -- who were
4 employed in the prior rate case.

5 Q And let's get back --

6 A And that's --

7 Q -- to the rule-making here and the case that's
8 before us. Do you recall when we initially passed a set
9 of amendments to the cold weather rule and that was
10 appealed because we did not appropriately allow or
11 sufficiently allow for recovery of the costs that the rule
12 was created, and it was --

13 A That was the first part of 2001, 2002, I
14 believe.

15 Q I can't remember the years. But I do recall
16 that we -- we had to allow the company recovery. When we
17 were creating -- when we were imposing the rule that
18 created costs, additional costs, that we couldn't make it
19 -- that they could seek recovery in a rate case because
20 rate cases are too indefinite.

21 Commissions can disallow things for various
22 reasons. And there's no -- there is no guarantee that the
23 company could recover the costs that were incurred as a
24 result of the rule-making.

25 A I -- I remember the general case. I do not

1 remember the -- the Court's ruling, precisely. And
2 obviously, I'm sure, Mr. Pendergast or Mr. Zucker would
3 object if I started to give you legal analysis of it. But
4 -- so with that, I'm going to have to go with you and not
5 totally remember.

6 COMMISSIONER MURRAY: All right. And I think
7 I'll stop and give somebody else a chance. Thank you.

8 MR. TRIPPENSEE: Thank you for your indulgence,
9 Commissioner.

10 JUDGE WOODRUFF: Commissioner Clayton?

11 COMMISSIONER CLAYTON: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY COMMISSIONER CLAYTON:

14 Q Mr. Trippensee, I just want to ask a couple of
15 clarifying questions, and I apologize for coming in now
16 during your testimony here.

17 I want to make sure that I understand Public
18 Counsel's position specifically. Is -- is Public Counsel
19 -- does Public Counsel believe that there is any amount at
20 this time that is appropriate for an AAO under the -- the
21 amended cold weather rule?

22 A Yes.

23 Q And is that amount public? Can you tell me what
24 that amount is? Do you know what it is?

25 A I believe --

1 Q Well, go ahead.

2 A I believe Mr. Poston may be able to correct me,
3 but it is approximately 1.5 million less than what the --

4 Q Okay.

5 A -- company has calculated.

6 Q So if I read the Public Counsel's statement of
7 position and I guess in the prayer section, it says
8 disallow -- and if -- none of these numbers are HC, are
9 they? No? So disallow the approximately 1.5 million, we
10 deduct that from the 2.4 million in the non-unanimous
11 stipulation and the difference is what Public Counsel
12 believes is appropriate in the form of an AAO for Laclede?

13 A At this point in time. Because what that does
14 is --

15 Q Yes or no?

16 A Yes.

17 Q Yes. Okay. So -- so roughly 964,000 is the
18 difference. So would you agree with me that Public
19 Counsel believes that that amount would be appropriate for
20 an AAO for Laclede?

21 A Yes.

22 Q I mean, assuming that my long hand subtraction
23 is accurate?

24 A Assuming that and assuming that you don't want
25 to hear a lot longer answer from me, subsequent things

1 that will have to be done to ensure ratepayers are
2 protected.

3 Q Is the answer no?

4 A The answer is yes. But that will still entail
5 additional work down the line to make sure that there
6 isn't a double counting.

7 Q In a rate case, you mean?

8 A Yes.

9 Q But we're not -- we're not deciding whether this
10 amount is going to be recovered or not. We're only
11 identifying an amount that would be placed in a separate
12 accounting classification or a separate account and that
13 will then come up in a rate case for consideration by the
14 Commission?

15 A Yes. But in general, an accounting authority
16 order creates an asset, which presumes future ability to
17 get another asset, i.e., cash, from the -- some set of
18 customers to pay that.

19 Q Okay. But -- but for the case today, aside from
20 future rate-making treatment, if -- if Staff and Laclede
21 came in with a number that said, you know, 964,000 and
22 change, potentially, there would be a general agreement
23 about the AAO in this case?

24 A Yes.

25 Q Okay. So -- so you're not opposed to AAOs under

1 the -- the amended cold weather rule in general. You just
2 disagree as to the amount?

3 A Given the rule, we dis -- we are just
4 disagreeing with the amount.

5 Q Okay. So the amount is in dispute, not the
6 availability of an AAO for Laclede?

7 A I believe the rule prescribes that there is one
8 available.

9 Q Okay.

10 A We want to re-address the rule. That's another
11 proceeding.

12 Q Now, reading through the material here and
13 looking through the examples, and it does get quite
14 complicated, can I suggest a summary of your position, and
15 I want to you agree or disagree, that -- that under
16 Laclede and Staff's analysis, there will be potentially a
17 double recovery for bad debt expense?

18 A On a customer specific basis, yes.

19 Q Okay. So if we look forward to a future case,
20 future rate case, say, three years from now, and the rate
21 case is going to be looking at all relevant factors and
22 it's going to be looking at all of these accounts,
23 potentially, you could have a dollar that could show up in
24 both the bad debt reserve and that same dollar appearing
25 in this AAO? Is that your concern that --

1 A That's a primary concern, yes.

2 Q Okay. So explain to me how Public Counsel is
3 able -- is able to satisfactorily determine that the
4 difference, the 964,000 and change, how do you ensure that
5 that does not have a dollar that would not also appear in
6 a bad debt reserve?

7 A I tried to avoid the long -- the long additional
8 response answer earlier.

9 Q Give it to me now.

10 A In that you still have that situation when
11 measuring, using the accounts receivable at a point in
12 time. You still have the problem of post measurement
13 activity that could reduce that account receivable
14 associated with that customer because -- then that
15 customer subsequently is disconnected and written off, in
16 which case their write-off would go to the bad debt
17 reserve. And they would also then be collecting through
18 this AAO for that same customer.

19 Q Now, when -- if something gets written off, it
20 goes to the bad debt reserve. In a rate case setting,
21 does that dollar -- does every dollar in that account
22 automatically go into rates if it's within the test year?
23 I mean, is that an automatic where all that bad debt
24 reserve thing gets folded into rates?

25 A That bad debt reserve, I believe, in the last

1 case Mr. Robertson looked at a six-year period and looked
2 at the nominal dollars in that period. I would hope he
3 looked at nominal dollars in relation to a time lagged
4 revenue that those dollars would have been related to.
5 Revenue dollars, that is. Excuse me.

6 And you make an objective determination whether
7 to use nominal dollars, make a percentage of revenue. You
8 have to look at growth, economic conditions. There's
9 usually not a -- a relationship between uncollectible
10 nominal dollars and level of revenue.

11 So it would be taken into the -- into the
12 determination of the recommendation that is provided to
13 the Commission. But -- and that's -- but there isn't
14 absolute dollar for dollar recovery of virtually 90
15 percent of -- of expenses put into a test year.

16 This Commission ultimately adjusted to what they
17 think reflects the future relationship between expenses,
18 investment and sales.

19 Q I think that's -- that answer has some
20 controversy built into it there.

21 A Potentially. But that is the regulatory theory
22 that this Commission has operated under for, I'm probably
23 going to blow this, 80-some years. I forgot when the
24 anniversary was.

25 Q Is it Public Counsel's position that this AAO

1 case, this calculation, converts bad debt potentially from
2 one account into other accounts?

3 A It definitely uses two separate ways to measure
4 bad debt expense that will be included in the subsequent
5 rate case.

6 Q I was trying to read through your example in
7 here, and -- and I'm -- I want to make sure that I'm
8 clear. If you have a situation where someone has a
9 significant arrearage, and that -- let's say they climb
10 back into the system with the 50 percent payment --

11 A Uh-huh.

12 Q -- and then, potentially, they go through the
13 winter, and let's say they default May 15th or May 31st,
14 whatever it is. You would agree that we could identify,
15 at the very least, some incremental costs that the cold
16 weather rule has incurred for Laclede?

17 A Yes.

18 Q Absent some -- I mean, if there weren't any
19 payments. Let's assume default, same -- so for sure,
20 Public Counsel would agree that the amount of service that
21 Laclede gave that customer during -- from the moment that
22 they signed up with that 50 percent payment to the time
23 they were disconnected under the cold weather rule, Public
24 Counsel would agree that that added expense would be
25 appropriate under the AAO?

1 A Yes.

2 Q Yes?

3 A (Witness nods head.)

4 Q Now, the debt -- the 50 percent that went

5 unpaid, the old debt, does Public Counsel believe that it

6 is appropriate or inappropriate for that amount to be

7 included in the bad debt reserve account and not be in the

8 AAO? Do you believe there's a place for it somewhere as

9 an asset on the company's books?

10 A The 50 percent --

11 Q The unpaid remaining 50 percent balance --

12 A 50 percent.

13 Q -- that preceded the 50 percent payment.

14 A It -- it will remain -- it will be on the

15 company's books as a receivable. And if it's not paid, it

16 will flow through the bad debt reserve.

17 Q It will go into the bad debt reserve?

18 A (Witness nods head.)

19 Q Now, under Laclede's analysis, does that amount

20 go into the AAO calculation?

21 A Yes. That's my understanding.

22 Q And is there any offset in the bad debt reserve?

23 Is there -- is it even recognized in the traditional bad

24 debt reserve?

25 A The accounting system of the company will flow

1 through their uncollected accounts receivable when they're
2 written off to the bad debt reserve.

3 So absent a proposal to make some sort of
4 reconciliation, it will be picked up in the bad debt
5 reserve. It would also be picked up in the -- in the AAO.

6 Q So I suppose it depends on how old the debt is
7 for a given customer. If a debt is within, did you say,
8 six months, maybe the write-off period or outside of six
9 months?

10 A From the time they disconnect to the time they
11 write-off, it would be six months. If that person is
12 written off and then subsequently comes back on, they
13 actually go in and reverse the write-off so it comes back
14 to receivables.

15 Q Okay. Work -- let's work through an example
16 with both circumstances. Let's say that you've got an
17 older debt, make it an easy number, say a thousand
18 dollars. You've got an older debt that has been written
19 off.

20 A Yes.

21 Q And they come in with a -- is it \$500 payment to
22 get back into the system?

23 A In the -- in that instance --

24 Q So -- so you'd have that -- that old -- that old
25 thousand dollars would have been written off at some point

1 and would have gone from accounts receivable into bad debt
2 reserve --

3 A Right.

4 Q -- is that correct?

5 A That is correct.

6 Q Okay?

7 A At that point in history.

8 Q And then at the time they make the 50 percent
9 payment, is the bad debt reserve reduced by any amount?

10 A No. When they -- when they come in and sign
11 their cold weather agreement and make the payment, the
12 first step Laclede does on their financial records is to
13 reverse the \$1,000 write-off and create a new accounts
14 receivable.

15 And that would actually effectively increase the
16 uncollectible reserve by \$1,000. They then would reduce
17 their accounts receivable by 500 and put \$500 in their
18 cash account. And that -- at that point in time, they
19 have a thousand dollars higher uncollectible reserve and
20 \$500 of cash and \$500 of their sales. And I just --

21 Q People complain about lawyers. I'll tell you,
22 this just cracks me up. So -- so you'd have a reduction
23 of that thousand dollars in your bad debt reserve. You
24 have an increase of the uncollectible accounts receivable
25 account, which will now recognize that account as being

1 live and not written off by a thousand dollars?

2 A Right.

3 Q And then it would be reduced by 500 recognizing
4 the \$500 payment, and you get this \$500 in -- in revenue?

5 A No. In cash. The revenues has already been
6 recorded back in the period it was -- the sale occurred.
7 Revenue is not -- revenue is not impacted by the payment
8 whatsoever under accrual accounting.

9 Q Okay. So 500 would go into cash, then?

10 A Correct.

11 Q That would just be cash. So under -- under that
12 scenario, Public Counsel believes -- and then -- and then
13 let's assume another -- they fired -- they're fired up for
14 the winter. And March 31st, they're turned off with
15 another in used gas. So Public Counsel believes what
16 dollar amount can go in an AAO for Laclede?

17 A In that instance, it would be the \$300
18 additional revenue that the company did not -- the
19 customer failed to pay. The other amount -- that would
20 then result in that customer having \$800 of accounts
21 receivable written off to the bad debt reserve.

22 Q Now, wait a minute. Now -- no. I lost you.
23 500 would go back to the bad debt reserve. The original
24 -- the 50 percent or half of the old debt, 500, would go
25 back to the bad debt reserve?

1 A Right.

2 Q And then you'd have 300 in this AAO account as
3 -- as basically new -- new bad debt, basically. So you
4 have a total of 800 that would be an asset somewhere, 500
5 in bad debt reserve, 300 in the AAO. Isn't that what --
6 what you're saying?

7 A When the customer incurred the \$300 and you --
8 before I start, you may regret asking that question
9 because it is accounting.

10 The cust -- the company will record \$300 of
11 revenue and record a bad -- or accounts receivable of
12 \$300. To set up the AAO, they are going to, also, then,
13 record \$300 of an accounting authority order asset, and
14 they will record some amount -- or not some amount.
15 They'll record \$300 to some account that will reduce
16 expenses in that period so that their earnings are not
17 impacted negatively and actually increased. But the
18 actual cash collection of that earnings will be in a
19 subsequent period.

20 Q Okay. Before we get too far down that road --

21 A I tried to stay out of debits and credits there.

22 Q For this AAO, we make an assumption that if
23 someone signs up under the provisions of the AAO and this
24 additional \$300 of service is provided that they would not
25 have signed up or been able to receive service otherwise

1 but for the amended cold weather rule. Don't we have to
2 make that assumption?

3 A That they would not have signed up otherwise?

4 Q Yes.

5 A No. I think you're making the assumption that
6 while some customers would have not been able to sign up
7 absent the 50 percent -- which gets the company whatever
8 amount of cash that is that they would not have gotten.

9 Q I'm going to get to that.

10 A Okay.

11 Q I'm going to get to that. But don't we have to
12 make an assumption --

13 A That is one of the assumptions, yes.

14 Q That this new \$300 that's incurred in expense
15 under the cold weather rule is -- is occurring because of
16 the amended cold weather rule if we're talking on a
17 customer specific case basis?

18 A Yes.

19 Q So if they would not have signed up otherwise,
20 then isn't there an argument that because Laclede received
21 the initial \$500 when they wouldn't have received any but
22 for the cold weather rule that Laclede is actually
23 receiving more revenue than what they would have without
24 the amended cold weather rule?

25 A They are receiving more assets, i.e., cash. The

1 revenue -- again, in that -- the revenue for that customer
2 that the \$500 came from is in a prior period. The company
3 is getting a \$500 asset that they otherwise would not
4 have.

5 Q How does Public Counsel believe is -- is there
6 any separate accounting treatment that recognizes a
7 potential benefit, I guess, in that circumstance? And I
8 know we're making a lot of assumptions here. But --

9 A Is there any -- this gets back, I guess, to --
10 you could track all of that. The question is how big do
11 you want this monster to become?

12 Q Well, if you -- it's easy, I think, if you look
13 at a customer specific basis. If you can monitor one
14 person, understand their behavior, then it all works out.

15 But it is very impractical because at some point
16 you have to start running some averages or some
17 statistical analysis for system-wide, don't you? I mean,
18 it just becomes impossible to track every single bad debt
19 expense, doesn't it?

20 A It would become difficult. But I'm not a
21 computer programmer. But, yes, it does become difficult
22 and it becomes difficult to ensure in the rate-making
23 process that everything accrue -- is appropriate.
24 Because, I mean, all of that ultimately will affect the
25 rates.

1 Q Okay. So to -- to kind of finish the thought on
2 this example, even with that potential benefit where --
3 where the company would be receiving the \$500 that it
4 would not have received otherwise, Public Counsel still
5 believes that they would be able to place the unpaid 50
6 percent prior balance in bad debt reserve and they'd still
7 be able to seek the \$300 in --

8 A The --

9 Q -- the ongoing cold weather rule expense, which
10 would be the ongoing expense of serving the customer and
11 place that in an AAO?

12 A Yes. I believe that is correct.

13 Q Okay. Now, can you compare in that example
14 where that's an old debt, older than six months? Let's
15 say it's -- say you've got a debt that is run up over, you
16 know -- I don't know how likely this is because most gas
17 bills are going to go up during the winter, not during the
18 summer. But assume you've got a short-term bad debt of
19 \$1,000.

20 A That has not been written off?

21 Q That has not been written off.

22 A In that instance --

23 Q Is there anything difference?

24 A The only difference is you don't have to reverse
25 the initial write-off because it hasn't yet occurred. And

1 in that instance, the company will get \$500. To reduce --
2 of cash. They'll have an accounts receivable of \$500 if
3 the customer incurs another \$300 of liability to the
4 company.

5 The company, under the proposal that we were
6 discussing, would be able to run \$300 through the
7 accounting authority order. And the other 500 would --
8 well, the other 500 would be given consideration in the
9 analysis of the bad debt reserve and in the subsequent
10 rate case statement. The accounting authority order
11 amortization would be included in -- in the overall cost
12 of service.

13 Q Did Public Counsel identify the total amount of
14 revenue that was received by the utility upon the payment
15 of the -- the required initial payment under the amended
16 cold weather rule, the 50 percent or \$500 of pre-existing
17 arrears?

18 A All the cash payments?

19 Q Yes.

20 A And I say that instead of revenue.

21 Q Excuse me. Sorry about that.

22 A That's okay. No. I -- I did not personally
23 look at -- have not done that analysis. I can't speak for
24 anyone else in the office. I'm not aware that we have.

25 THE COURT REPORTER: I need to change paper.

1 JUDGE WOODRUFF: All right. We'll take a short
2 break while the reporter changes her paper.

3 (Break in proceedings.)

4 JUDGE WOODRUFF: All right. We're back on the
5 record.

6 Q (By Commissioner Clayton) Mr. Trippensee, are
7 you aware of the number of customers that participate or
8 did participate for this time period in the amended cold
9 weather rule or the number of accounts, whatever would be
10 the appropriate --

11 A The number of accounts that Laclede and Staff
12 tracked was approximately 8400, I believe, looking at the
13 line numbers on the Excel spreadsheet.

14 Q Now, those 8400 only receive gas service but for
15 the amended cold weather rule?

16 A I believe those -- those customers who were
17 under the cold weather rule, that determination of but for
18 is -- I think Mr. Fallert I'd agree with it's virtually
19 impossible to determine whether they came on because of
20 the 50 percent or took advantage of the 50 versus 80
21 percent.

22 Q Okay. So -- so we're really not sure. This
23 8400 means prior cold weather rule participation and then
24 going into the new cold weather rule? And, really, you
25 can't identify a number that -- that participated or would

1 not have been able to participate?

2 A No.

3 Q Okay.

4 A Your statement was affirmative, so my answer
5 should be affirmative, too. I'm not sure -- I was not
6 disagreeing with you.

7 Q I asked a lousy question.

8 COMMISSIONER CLAYTON: I think I'm going to stop
9 there. Thank you very much, Mr. Trippensee.

10 MR. TRIPPENSEE: Thank you, Commissioner.

11 JUDGE WOODRUFF: Commissioner Jarrett?

12 COMMISSIONER JARRETT: I have no further
13 questions, Mr. Trippensee. Thank you for your testimony.

14 MR. TRIPPENSEE: Thank you.

15 JUDGE WOODRUFF: And I don't have any questions
16 either. So we'll go to recross. Staff?

17 MS. HEINTZ: No questions. Thank you.

18 JUDGE WOODRUFF: For Laclede?

19 RECROSS EXAMINATION

20 BY MR. PENDERGAST:

21 Q You were asked a number of questions by
22 Commissioner Murray about what Public Counsel's
23 alternative in this case is.

24 And I just had a difficult time figuring out
25 what your answer was, so I'd like to just ask you upfront,

1 if the company had a tracking mechanism that basically
2 took these 800 -- or 8,000 accounts, looked at what they
3 did between now and the effective date with the true-up
4 date in the company's next rate case and said if the
5 arrearages go up, we recognize that, if the arrearages go
6 down because of additional payments, we recognize that,
7 would that be acceptable to Public Counsel?

8 A Well, I'm sorry, Mr. Pendergast, but in enough
9 conversations with you, your use of the term tracking
10 mechanism is different than my use of the term tracking a
11 customer.

12 Q Well, let me be very specific, then, about what
13 I mean. We have 8,000 customers or thereabouts who
14 balances. We went ahead and tracked and we know what they
15 were as of September 30th. We know where they started.

16 And what I'm asking you is, if we can continue
17 to track those balances of those particular customers and
18 we keep track of what payments they made and we keep track
19 of whether those balances went up or down because some
20 customers didn't make payments and then we get to the rate
21 case and we say, Okay, what we're going to recognize in
22 the rate case is what those balances are as of the update
23 period in the rate case, you know, up or down, doesn't
24 matter, taking everything into consideration, would that
25 be okay with Public Counsel?

1 A I believe that would go a long way toward
2 solving our concerns as far as the problem of tracking
3 these customers. And then I would add reconciling it with
4 the bad debt write-offs depending on how these customers
5 are treated.

6 Q I appreciate that answer. So having a tracking
7 mechanism up or down would go a long way to addressing
8 your concerns?

9 A Using the term tracking mechanism in a customer
10 specific basis, not only a tracking mechanism as you have
11 used it in the past.

12 Q On a customer specific basis. Okay. And just
13 real quickly, you -- Commissioner Clayton asked you a
14 couple of questions about what assumptions we make and --
15 and do we assume that these customers wouldn't have gotten
16 on but for the cold weather rule.

17 And I think that inherent in one of those
18 questions was the assumption if they did pay 50 percent,
19 they wouldn't have gotten on but for the cold weather
20 rule. Is that, you know, sort of an additional plus for
21 the company? Do you recall those questions?

22 A Yes, I do.

23 Q Okay. And we had a discussion earlier about the
24 fact that a lot of these customers receive assistance from
25 Social Service agencies like the one Jackie Hutchinson

1 works at. Is that correct? Do you recall that?

2 A I recall that being discussed earlier today.

3 Yes.

4 Q Okay. And -- and those folks have a finite
5 amount of money to go ahead and give out each year; isn't
6 that correct?

7 A I'm not totally privy to how Ms. Hutchinson
8 receives all her money. I would assume it's not
9 unlimited.

10 Q Okay.

11 A If it is, I --

12 Q Thank you. Thank you. And if you're dealing
13 with a finite -- not unlimited amount of money, okay, and
14 that money is going to be distributed to a certain number
15 of customers and that number of customers is now expanded
16 because they're being led on for 50 percent and,
17 therefore, her funds go further because, you know, she
18 doesn't have to pay more or she gets to pay less per
19 customer than she would if it was 80 percent because the
20 company is getting that 50 percent where it would have
21 gotten 80 percent on a smaller group of customers, is it
22 really getting anymore money up front?

23 A If you're referring only to the customers Ms.
24 Hutchinson assists, you possibly could make that argument.
25 But I do not believe that every customer that hooks up

1 under the cold weather rule comes through Ms. Hutchinson.

2 Q Well, maybe not every customer. But, certainly,
3 a substantial majority of the 8,000 customers do, do they
4 not?

5 A Are -- I don't --

6 Q Or do you not know?

7 A I do not know.

8 Q Okay.

9 A There's several other agencies that help.

10 Q Okay. Assume, if you will, that the vast
11 majority of them or are or a lot them are, under those
12 circumstances, whatever we get by way of a 50 percent
13 payment is money we're going to get anyway, only it would
14 have been as part of an 80 percent payment and we would
15 have gone ahead and had a few -- one fewer customer to add
16 on as a high risk customer, right?

17 A I don't know how Ms. Hutchinson appropriates her
18 money, Mr. Pendergast, when she makes a determination --
19 what determination she makes.

20 Q So you wouldn't know whether Ms. Hutchinson in,
21 dispensing LIHEAP money and Utilicare money, dispenses the
22 least amount she needs to get the customer on? You
23 wouldn't know that?

24 A I don't know what her criteria are, period, for
25 better or for worse.

1 Q Okay. That's fine. And looking at that same
2 customer that we talked about, the 50 percent may or may
3 not be any new money, if that customer can't get on
4 because we're assuming these customers wouldn't have
5 gotten on per the rule, and let's say that customer had a
6 \$1,000 arrearage, would Laclede be entitled and would
7 Laclede write that customer off?

8 A If they did not collect the thousand dollars of
9 their receivable?

10 Q Yeah. If a customer --

11 A You mean they would write it off?

12 Q Yeah. They would write it off. And they very
13 well could have written it off before the March 31st
14 true-up period in our last rate case, could they not?

15 A Depend on the timing of how the system works.
16 I'm -- that specific customer, it's difficult to
17 determine.

18 Q Okay. Well, let's just assume that it was a
19 customer that owed us a thousand dollars because of the
20 rule wasn't changed, the customer couldn't afford to get
21 on for 80 percent. We've got a thousand dollars in
22 arrears.

23 We write that customer off, say, in November,
24 December because it's been at least six months since the
25 customer bill got final. Now we roll around to August --

1 or March 31st, and it's time to establish a bad debt
2 allowance. And nobody's said there's anything strange or
3 mysterious about this uncollectible amount.

4 Isn't that a thousand dollars that would have
5 been added to the bad debt allowance that come August 1st
6 when Laclede's new rates went into effect, Laclede would
7 have been able to go ahead and recover?

8 A Under your scenario?

9 Q Yes.

10 A There would have been a -- it would have been
11 taken into consideration and the determination of the bad
12 debt level.

13 Q Okay.

14 A Your scenario -- I am not aware, either pro or
15 con, whether the bad debt was an amount considered in the
16 true-up as something that was adjusted.

17 Q Okay. That's fine. Assume for me that it was
18 and assume for me that Laclede was able to go ahead and
19 increase its uncollectible allowance in its rates by a
20 thousand dollars.

21 Now, knowing how uncollectibles work, once you
22 establish an allowance, you only get that allowance in
23 rates for one year, or does it continue in rates year
24 after year until you file a new rate case?

25 A Uncollectible expense is a reflection of the

1 current level of revenues the company does not expect to
2 collect cash for. You are not collecting an individual
3 write-off, Mr. Pendergast.

4 Q Let me -- let me put it this way: If we agree
5 on an uncollectible level of ten million dollars, that's
6 comprised of many, many, many customers uncollectible
7 levels, like the thousand dollars one I just mentioned,
8 and that is included in rates and that's included in your
9 revenue requirement, will you continue to collect a
10 revenue requirement that's designed to collect that amount
11 until you have another rate case?

12 A You will collect rate that were based on -- did
13 you say \$10 million?

14 Q Yeah. 10 million.

15 A You will collect the level of sales times the
16 rate component associated with that \$10 million.

17 Q Right. You will --

18 A As -- may I finish?

19 Q Sure.

20 A Because you -- I heard this the other day from
21 you with regard to the -- or maybe it was this morning,
22 it's getting to be a long day -- about the collect
23 multiple years. Uncollectibles are to reflect what
24 current revenues you cannot expect to collect.

25 You will have sales in the first year of another

1 hundred million dollars or whatever it is, and you do not
2 expect to collect that. If your viewpoint or what you
3 just insinuated is that we're collecting past expense --
4 and I'll let my lawyer discuss retroactive rate-making.
5 We're setting rates for the future. And the level of
6 those revenues, we do not expect you to collect.

7 Q You know, I'm -- I'm not arguing with you here,
8 Mr. Trippensee. I'm just trying to find out the answer to
9 a very basic question.

10 If my level of uncollectible expense, the amount
11 that they cobbled together the rate design with includes
12 an allowance of \$10,001,000, okay, rather than \$10 million
13 dollars and because of that, instead of getting
14 \$38.6 million in the rate increase, I get \$38.6 million
15 dollars plus 1,000, do I go ahead and get to continue to
16 collect rates that are designed to produce that amount
17 until I have another rate case?

18 A All things else being equal, yes.

19 Q So if that's the case, and we had an example
20 today, maybe you were in the room where you heard it from
21 Mr. Fallert where we collected \$267 from a customer and
22 that customer had a total arrearage of \$1,000, and because
23 they got back on the rule, we didn't take that \$1,000 to
24 bad debt. If we had taken that thousand dollars to bad
25 debt and it had been reflected in the allowance and say

1 they stayed out for three years, would we have collected
2 \$3,000 for that customer instead of 267?

3 A No. Mr. Pendergast --

4 Q No?

5 A Because, like I said -- and this is where we
6 come it a major difference. You look at it, and your
7 questions are premised on your collecting past expenses.

8 The rate-making process is -- and you can shake
9 your head forever. But the rate-making process in this
10 state does not provide for retroactive rate-making, the
11 collection of past expenses.

12 We are looking at what level of revenues you do
13 not expect to collect on a going forward basis. That is
14 the purpose. We don't set the level of revenues based on
15 sales that are historic. We annualize everything.

16 We -- Mr. Pendergast, your theatrics with your
17 head are a little disconcerting when I'm trying to give
18 you an honest answer. So now, if you want to continue
19 premising your questions on retroactive rate-making, I
20 will continue to answer the way I am because uncollectible
21 expense is the portion you did not expect on a forward
22 looking basis.

23 It is not a collection of a past write-off.
24 That's the difference -- that's why an accounting
25 authority order is entirely outside -- and I think the

1 Commission language in the past has said it's an
2 extraordinary measure because this past expense for some
3 reason needs to be collected from future ratepayers.

4 Q Are you finished?

5 A Yes, I am, sir.

6 Q First of all, thank you for clarifying that my
7 question was based on a premise that assumed retroactive
8 rate-making. I didn't realize it was.

9 But leaving that aside, my question is really
10 very simple. Under the scenario I gave you, regardless of
11 what the purpose of rate-making is or isn't or what you
12 look at and what you do, if the fact of the matter is that
13 I get another thousand dollars in my uncollectible expense
14 that's included in my revenue requirement, does that give
15 me the opportunity to charge rates that are designed to
16 collect an extra thousand dollars for whatever period of
17 time my rates are in effect?

18 A If that thousand dollars was included in a
19 five-year average calculation or a three-year average
20 calculation, the answer to your question mathematically
21 would also be not given your assumptions.

22 Q Okay. Say it is a one year.

23 A If that -- again, you're going to set a level of
24 rates that you expect will include the level of
25 uncollectibles in the future.

1 Q And let's -- let's -- let's simplify it even
2 more. Let's assume my rates are designed to re -- recover
3 an overall revenue requirement. For whatever reason, it's
4 a thousand dollars higher than it otherwise would be. Are
5 those rates designed to allow me to recover that extra
6 thousand dollars for whatever period those rates are in
7 effect?

8 A Mr. Pendergast, you're going to be allowed the
9 opportunity to have rates in the future that will generate
10 whatever revenue they collect.

11 Q And that's going to give me an opportunity to
12 collect that extra thousand dollars; is that right?

13 A That is correct.

14 Q Okay. Let me ask you a question about the
15 amount that you're recommending in this case. And are you
16 aware of whether Public Counsel had an obligation to come
17 in and say what its amount was that it thought in this
18 case should be?

19 A I'm not aware.

20 Q You're not aware of that. Okay. And is the
21 amount that you're recommending a final amount, or is it
22 an amount that you think needs to be adjusted at some
23 point in the future?

24 A I believe I answered in response to the
25 Commission's questions that it will be something that

1 needs to be adjusted for subsequent payments.

2 Q Okay. So for purposes of this proceeding,
3 Public Counsel is not proposing any final amount for the
4 Commission to act upon; is that correct?

5 A They are -- I think this proceeding is to set up
6 an accounting authority order amount that will be subject
7 to change.

8 Q Okay. So it's your understanding that you're
9 under no obligation at this point in time to go ahead and
10 advise the Commission of what final amount you believe
11 should be recovered in Laclede's rate case?

12 A If I knew how much the customers were going to
13 pay you for this amount over the next -- until your next
14 rate case, then I'd be able to give them an answer. But
15 I'm not privy to what 8400 people are going to pay.

16 Q So is your answer to that question no?

17 A I thought the answer -- can you repeat your
18 question?

19 Q So the answer to my question on whether or not
20 you -- it was your understanding that you had to advise
21 the Commission at this point in time in this proceeding of
22 what final amount should be included in Laclede's next
23 rate case for recovery is compliance costs, your answer
24 would be no?

25 A I was not under any understanding as to our

1 obligation. I'll answer it two ways because I think you
2 asked a two part question. The second thing I will say is
3 whatever number is deferred right now under the AAO will
4 need to be adjusted to reflect subsequent payments by
5 customers that reduce that amount.

6 Q Okay. And -- and is --

7 A Or increase it.

8 Q Fine. Okay. Okay. Well, I appreciate that
9 qualification. And did you base that on language in the
10 rule?

11 A I believe the rule does provide for subsequent
12 disconnection of payment or expiration of the payment
13 plan. That's not a point in time on a total system basis.

14 Q Okay. But as far as -- maybe we can call it
15 your preliminary number that you're recommending. That
16 preliminary number is based on the analysis that Laclede
17 furnished, is it not, that showed how balances increased
18 over the period of time that the permanent amendment was
19 in effect?

20 A The balances that -- which would reflect the
21 revenues subsequent to connection and payments subsequent
22 to connection.

23 Q And that also reflects the additional payment
24 arrearage work-down that Mr. Robertson had proposed in the
25 last rate case; is that correct?

1 A Arrearage work-down?

2 Q From additional payments to the extent they
3 reduce the arrearages. Are you familiar with that?

4 A That would be a benefit under the rule. Yes.

5 Q And that number that Laclede and Staff have
6 recommended and that you at least are saying should be
7 recovered, does that reflect that?

8 A That's my understanding. Yes.

9 Q Okay. And, really, the only major part of the
10 component that isn't being reflected is you're
11 recommending -- and is this a preliminary recommendation
12 or a final recommendation that all of the costs that have
13 been accumulated that represent the difference between the
14 upfront payment that was required and that could have been
15 required under the pre-existing rule be disallowed, is
16 that -- are you saying that should be zero, period?

17 A For the accounting authority order, yes. Not
18 for the ultimate determination of bad debts in future rate
19 cases.

20 Q Okay.

21 A Because it will be part of the review.

22 Q Okay. And to the extent that Laclede could
23 demonstrate that there were customers that weren't taken
24 to bad debt and we didn't have an opportunity to go ahead
25 and recover bad debts associated with them in rates

1 because of that, that would be a cost you'd be willing to
2 take into account?

3 A Mr. Pendergast, as I indicated, anything that
4 flows through your accrual system will hit the bad debt
5 reserve when they are written off and will be considered
6 at that point in time. If you -- the deferral through an
7 accounting authority order creates a situation that some
8 of those costs that ultimately will be written off and not
9 considered, and, therefore, should not be considered in a
10 future rate case.

11 You're taking a consider -- a number that will
12 be considered in a future rate case and splitting it in
13 into two parts by following your normal accrual basis and
14 then splitting another part out and -- and deferring it.

15 The problem exists is that once you defer it,
16 you then have to reconcile the amount deferred to what is
17 written off because the write-off will also include that
18 amount deferred.

19 Q Well, I guess just to simplify my question a
20 little bit, if we can go ahead and demonstrate, let's say
21 Laclede had \$1.5 million worth of reinstatements. These
22 were customers that were on track to going to bad debts.

23 But because they got on the rule because they
24 could pay 50 percent rather than 80 percent, that \$1.5
25 million of reinstatements took place and they didn't go to

1 bad debt, if we can establish to your satisfaction that
2 they didn't go to bad debts because of the rule, should we
3 be able to go ahead and recoup \$1.5 million for each year
4 that our rates were made into effect because we didn't get
5 it upfront?

6 A Again, you're assuming that you're recouping
7 past expenses -- or past things that you asserted costs.
8 You have no -- there's no proposal out there as to how the
9 bad debts were calculated in the last case. And, again,
10 that analysis has to take place to determine what level of
11 bad debts is assumed to be incurred in the future with
12 regard to revenues that will not be collected, future
13 revenues that wouldn't be collected if we -- you
14 continually talk about recouping and going backward.

15 And it just makes it extremely difficult to talk
16 about how rates are set in this state when you keep
17 wanting to recoup past expenses.

18 Q So would the answer be no?

19 A Mr. Pendergast, I gave you my answer. I know
20 you don't like it. But we've had -- you do -- we just
21 have a problem.

22 Q I'm just trying to understand it and understand
23 whether that's a no. Is it?

24 A I don't know -- you didn't give me enough
25 information to say how we're going to look at bad debt in

1 that case, sir.

2 Q Okay.

3 A Because, as I gave you the example, was it done
4 a three-year average? Was it done on five-year? Was it
5 done on percentage of revenue? You know, you can sit here
6 and assume, but we don't know --

7 Q Let's -- let's --

8 A May I finish?

9 Q Sure.

10 JUDGE WOODRUFF: Do you want to let him finish?

11 Q (By Mr Pendergast) Sure.

12 JUDGE WOODRUFF: All right.

13 A Whether it was done on percentage of revenue, I
14 don't know. It was a stipulated case. There was no
15 agreement on how it was set.

16 Q (By Mr. Pendergast) Let's say that there is
17 information that shows how it was done. And you didn't
18 testify on bad debts in our rate case, did you?

19 A No, I did not.

20 Q That was Mr. Robertson, wasn't it?

21 A That was Mr. Robertson. It was a stipulated
22 case.

23 Q Yeah. But let's say that you can make that
24 determination.

25 A I think our office agreed not to make any

1 rate-making determination. If Laclede wants to break that
2 violation, please go ahead.

3 Q Let's say that you can make that determination
4 and that it's lawful to go ahead and make that
5 determination if it can be established that our bad debt
6 allowance was suppressed and was artificially low because
7 of the cold weather rule. And that's all I'm asking.
8 Would you be supportive of allowing us to recover the
9 difference between that suppressed amount and what would
10 have otherwise been a higher amount because a bunch of
11 customers, instead of going to bad debt, took advantage of
12 the cold weather rule?

13 A Mr. Pendergast, you have not given me sufficient
14 information to make that determination.

15 MR. PENDERGAST: Okay. Well, I'll just leave it
16 there. Thank you very much, Mr. Trippensee.

17 COMMISSIONER CLAYTON: Before you let him go,
18 can I ask Mr. Pendergast something?

19 JUDGE WOODRUFF: We've got redirect first.

20 COMMISSIONER CLAYTON: Okay.

21 REDIRECT EXAMINATION

22 BY MR. POSTON:

23 Q I'd like to go back to -- I'd like to go back to
24 some of Mr. Pendergast's original cross-examination. And
25 there was a lengthy line of questioning about selecting a

1 point in time and how that's used in setting rates. Do
2 you recall?

3 A Yes, I do.

4 Q Okay. And you were kind of hesitant to answer
5 his question. Can you please explain your hesitation,
6 please?

7 A I -- I was hesitant because the premise of the
8 question is that rate-making is rear-looking and that
9 you're collecting past expenses.

10 In 30 years of my experience, training,
11 Commission orders, court cases, to the extent I can
12 evaluate court cases, rate-making is a forward-looking
13 exercise.

14 We use end of year test years in this state. We
15 use annualizations and normalizations. It is not a
16 collection of past expenses. It is what -- the
17 relationship we expect to happen in the future based on a
18 expected level of sales, an expected level of investment,
19 an expected level of expenses, payroll, employees at a
20 point in time that we know those items with what this
21 Commission has called known and measurable criteria.

22 It is -- Mr. Pendergast's entire line of -- most
23 of his line of questioning is premised on the collection
24 of something that has occurred in the past. And it just
25 makes it -- it is not reconcilable with a forward-looking

1 test year. Test period.

2 The literature requires -- refers to a test year
3 as the base information. But then the Commission sets
4 rates on what they call a test period because the test
5 year information is updated, annualized, massaged.

6 Virtually, I've found through my experience,
7 over 85 percent of every dollar of actual during the test
8 year is reworked to set the test period.

9 Q Okay. And Mr. Pendergast asked you questions
10 about Mr. Robertson's testimony in Laclede's last rate
11 case about his uncollectible levels and his testimony
12 about cold weather rule calculations. In that case, did
13 -- that's stipulated, did we agree to use any particular
14 cost determination or methodology in future cases?

15 A The -- there is a specific paragraph that says
16 there is no determination for the future within the
17 paragraph that contains the deferred amounts. There is an
18 amount. There is no methodology discussed.

19 Q Does it surprise you to see Mr. Pendergast here
20 now arguing to hold us to this cost methodology that the
21 stipulation clearly says no party is agreeing to this
22 methodology?

23 A It's disappointing.

24 Q And Commissioner Murray asked you questions
25 about whether you wanted to handle this -- this case using

1 late case procedures. Can you please further explain your
2 answer? I wasn't really -- what was your answer? I don't
3 really recall what your answer was.

4 A I believe Commissioner Murray and I discussed
5 what might be -- I would phrase the way I think that would
6 best serve all parties, which would be to limit the use of
7 AAOs.

8 However, the Commission rules have provided for
9 an AAO for a portion of their -- of uncollectible expense
10 that is associated with what has been determined the cost
11 of the cold weather rule. And, therefore, Public Counsel
12 or I would recommend that that AAO be utilized in
13 conformance with those rules, and, specifically, in
14 conformance with paragraph G-1 of those rules which refer
15 to incremental expenses and incremental revenues and also
16 refer to paragraph F-2, which talks about no prior
17 arrearage -- no prior activity shall be considered.

18 Q Commissioner Murray also asked you questions
19 about an appeal in a court decision regarding cost
20 recovery. Are you aware of the Western District's
21 decision in WD66666 finding there's no requirement for
22 revenue neutrality?

23 A I believe I'll let you take care of that in the
24 brief because I'm not totally aware of it.

25 Q And Commissioner Clayton asked you about an

1 appropriate amount and whether if we take out the 1.5
2 million which is the 80 to 50 percent or \$500 difference,
3 whether we would be -- we would accept that difference as
4 what Laclede should -- should recover. And are there
5 other offsets that we also believe should be made in
6 addition to that 1.5 million?

7 A Well, I believe -- I think -- I don't think
8 Commissioner Clayton said recover. I think he used the
9 term defer because, as he indicated, the recovery of a
10 deferral would be considered in the subsequent rate case.

11 That being said, I think the problem -- the
12 other offsets are additional payments that would occur
13 between now and the next rate case, additional revenues
14 that the customers incur that do not get paid.

15 The status of those at that point in time, which
16 would be a -- upward in -- upward adjustment in the amount
17 to be considered in the subsequent rate case. And then
18 the reconciliation between this snapshot of an accounts
19 receivable, an account that does not normally get reviewed
20 in the rate case and then how the company's actual
21 financial records record customer bills, customer payments
22 and how they ultimately flow through to the bad debt
23 reserve.

24 It's -- there's -- it's two different systems in
25 that reconciliation is going to have to occur to ensure

1 that ratepayers do not end up paying a deferral of an AAO
2 that is -- those amounts are also reflected in the bad
3 debt reserve.

4 Q Do you have a copy of the issues list and
5 statements of position the parties filed in this case?

6 A No, I don't.

7 Q Well, I'm going to read part of that for you.
8 And under Public Counsel's Position F, we state that
9 Laclede's cost calculation is not offset for the number of
10 customers that Laclede would have reconnected or retained
11 under the cold weather rule.

12 MS. HEINTZ: Your Honor, I'm going to object
13 here. I think this is outside the scope of the questions
14 that were asked from the Bench, and I don't think this is
15 proper for redirect.

16 MR. PENDERGAST: I join in that objection.

17 MR. POSTON: Commissioner Clayton asked
18 questions about what our bottom line number would be. And
19 I'm --

20 JUDGE WOODRUFF: This is getting to that?

21 MR. POSTON: Right. This is getting to that.
22 I'm talking about what --

23 JUDGE WOODRUFF: I'll overrule the objection.

24 Q (By Mr. Poston) Let me repeat that. It says
25 Laclede's cost calculation is not offset from the number

1 of customers that Laclede would have recovered or retained
2 under the old cold weather rule. And do you believe that
3 the ultimate number should include that consideration?

4 A Theoretically, that would be something that
5 should be included. I think there was discussion that the
6 determination whether a customer came on or did not come
7 on because of this. It would be very delve to determine,
8 but that is -- which is -- that would be difficult to
9 determine. But, yes, it's theoretically something that
10 should be considered.

11 Q And one of the other positions that we put
12 forward was that Laclede's cost calculation includes
13 account arrearages that were incurred after Laclede could
14 have disconnected the account and, therefore, includes
15 arrearages not caused by the cold weather rule amendment.
16 Would that be another one that you would -- that we
17 believe should be offset?

18 A Again, that comes in, something that you would
19 have to analyze and do this reconcil -- and as part of
20 this reconciliation I've referred to between --

21 MR. PENDERGAST: Your Honor, I'm going to object
22 again. And the reason I'm going to object is because they
23 haven't offered any analysis in testimony assuming that
24 they think that's something that should be taken into
25 consideration to go ahead and demonstrate what that would

1 be. This proceeding is supposed to be set up so they can
2 come forward and say what portion of the costs that we've
3 set should be recovered ought to be disallowed.

4 And rather than just give generics about you
5 might want to disallow these costs or disallow these costs
6 like Mr. Robertson in the previous case, they should be
7 required to come up with some numbers and not just talk in
8 these general theories. So I object on that ground.

9 MR. POSTON: Well, Laclede has the burden of
10 proof in this case. And one of our points is that they
11 have not met their burden.

12 And to the extent that these are offsets that
13 they have not provided the Commission with calculations to
14 show, we think their numbers should be disallowed. And
15 that's the point of my questions is that they have not
16 proved, met their burden of proof.

17 I don't see anywhere where there's a burden --
18 where Public Counsel has the burden to come in and provide
19 Laclede's spreadsheets with every single deduction that we
20 think should be made off of it.

21 We think Laclede should have made those
22 deductions before they brought the case.

23 MR. PENDERGAST: Your Honor, under the rule, it
24 says a party shall come in and say what part of the amount
25 should be disallowed. To me, that means the party has to

1 come in and if it doesn't think there's a particular
2 category of costs that should be included, it needs to
3 offer a quantification and say, I think you ought to knock
4 off another 500 or knock or another thousand or whatever
5 it might be, not, Well, here's a laundry list of things I
6 think you might want to go ahead and look at disallowing
7 at some point in future, but I've got no idea of what they
8 are.

9 JUDGE WOODRUFF: I think this is also getting
10 into the area of the previous objection, getting beyond
11 what the commissioner asked.

12 MR. POSTON: I'm just going through the offsets
13 that would be an addition to that 1.5 million and --
14 that's all I'm doing.

15 JUDGE WOODRUFF: I'm going to sustain the
16 objection.

17 MR. POSTON: Okay. That's all I have. Thank
18 you.

19 JUDGE WOODRUFF: All right.

20 MR. TRIPPENSEE: Thank you.

21 JUDGE WOODRUFF: Thank you. All right. And
22 then can you step down. Thank you, Mr. Trippensee. And I
23 believe that concludes all the evidence for today. By the
24 previous order of the Commission, the transcript is to be
25 expedited and due on April 2nd. And the parties are to

1 file briefs on April 7th.

2 Anything else anyone wants to bring up while
3 we're still on the record? All right. With that, then,
4 we are adjourned. Thank you.

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1 REPORTER'S CERTIFICATE

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3 STATE OF MISSOURI)
) ss.
4 COUNTY OF OSAGE)

5

6 I, Monnie S. VanZant, Certified Shorthand Reporter,
7 Certified Court Reporter #0538, and Registered
8 Professional Reporter, and Notary Public, within and for
9 the State of Missouri, do hereby certify that I was
10 personally present at the proceedings as set forth in the
11 caption sheet hereof; that I then and there took down in
12 stenotype the proceedings had at said time and was
13 thereafter transcribed by me, and is fully and accurately
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal on March 31, 2008.

18

19

20

21 Monnie S. VanZant, CSR, CCR #0539

22

Registered Professional Reporter

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