

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION

3

4

5

## 6 TRANSCRIPT OF PROCEEDINGS

7 Hearing

8 May 23, 2006  
9 Jefferson City, Missouri  
Volume 3

10

11

12 USW Local No. 11-6, )  
 )  
13 Complainant, )  
 )  
14 vs. ) Case No. GC-2006-0060  
 )  
15 Laclede Gas Company, )  
 )  
16 Respondent. )  
 )

17

NANCY M. DIPPELL, Presiding,  
18 SENIOR REGULATORY LAW JUDGE.

19 STEVE GAW,  
LINWARD "LIN" APPLING,  
20 COMMISSIONERS.

21

22 REPORTED BY:

23 KELLENE K. FEDDERSEN, CSR, RPR, CCR  
24 MIDWEST LITIGATION SERVICES

25

26

## 1 APPEARANCES:

2 SHERRIE A. SCHRODER, Attorney at Law  
JANINE M. MARTIN, Attorney at Law  
3 Diekemper, Hammond, Shinnors, Turcotte and Larrew  
7730 Carondelet, Suite 200  
4 St. Louis (Clayton), MO 63105  
(314) 727-1015

5  
FOR: USW 11-6.

6 MICHAEL C. PENDERGAST, Attorney at Law  
RICK E. ZUCKER, Attorney at Law  
7 720 Olive Street  
St. Louis, MO 63101  
8 (314) 342-0532

9 CHARLES S. ELBERT, Attorney at Law  
Kohn, Shands, Elbert, Gianoulakis & Giljum  
10 One US Bank Plaza, Suite 2410  
St. Louis, MO 63101  
11 (314) 241-3963

12 FOR: Laclede Gas Company.

13 MARC POSTON, Assistant Public Counsel  
P.O. Box 2230  
14 200 Madison Street, Suite 650  
Jefferson City, MO 65102-2230  
15 (573) 751-4857

16 FOR: Office of the Public Counsel  
and the Public.

17  
THOMAS R. SCHWARZ, JR., Deputy General Counsel  
18 P.O. Box 360  
200 Madison Street  
19 Jefferson City, MO 65102  
(573) 751-3234

20  
FOR: Staff of the Missouri Public  
21 Service Commission.

22

23

24

25

1 P R O C E E D I N G S

2 JUDGE DIPPELL: Good morning. We're back  
3 on the record in GC-2006-0060. This is Tuesday morning,  
4 and we're going to return to our evidentiary issues, I  
5 think. I'm going to start with, we're going to go back to  
6 the first -- Exhibit No. 8, which was the testimony of  
7 Walter Reitz, Joseph Williams, Mike Sisak and Stephen  
8 Ferris. Ms. Schroder, you included in that the opening  
9 statement of Laclede's attorney.

10 MS. SCHRODER: Yes. And really that --  
11 obviously I didn't even list that as being witness, you  
12 know, being the witness testimony. That was more for  
13 background, to give you some context.

14 JUDGE DIPPELL: Okay. Well, what I've  
15 decided to do with this one is to allow it in, but only  
16 for the limited purpose of showing that there was at least  
17 a position at some time that there were gas safety issues  
18 with turn off/turn on inspections.

19 I'm, however, going to strike that  
20 beginning part from the attorneys since that's not under  
21 oath. So that's page 15, lines 4 through 18. So I'm  
22 going to admit that over the objections that were raised  
23 yesterday.

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

25 JUDGE DIPPELL: I believe since Laclede

1 still has its witnesses coming up, they'll be able to put  
2 on rebuttal if they wish regarding that.

3 Then we were up to Mr. Schulte's testimony.  
4 If, Mr. Schulte, you'd like to return to the stand. Good  
5 morning, Mr. Schulte.

6 MR. SCHULTE: Good morning.

7 JUDGE DIPPELL: I'll just remind you that  
8 you're still under oath from yesterday.

9 MR. SCHULTE: I understand.

10 JUDGE DIPPELL: So I want to begin with the  
11 list, with Exhibit 1 attached to Mr. Schulte's affidavit,  
12 and I'm just going to -- I think I'm just going to ask you  
13 a couple questions about this, Mr. Schulte, just to --

14 MR. SCHULTE: Okay.

15 JOE SCHULTE testified as follows:

16 QUESTIONS BY JUDGE DIPPELL:

17 Q. Tell me again your position with the Union.

18 A. I'm the business representative.

19 Q. And tell me, was that your position when  
20 this list was created?

21 A. Yes.

22 Q. And as the business representative, what  
23 are your duties as the business representative?

24 A. My main function of my job is the political  
25 and all the benefits, and then I assist the business

1 manager.

2 JUDGE DIPPELL: I'm going to give everybody  
3 one last shot to convince me what to do with this list.  
4 Ms. Schroder?

5 MS. SCHRODER: Thank you, your Honor. I  
6 don't know if you got a copy, I think you probably did, of  
7 the statute that counsel for the Staff was passing around  
8 this morning, 537.070 Missouri statutes.

9 JUDGE DIPPELL: I believe it's 536.

10 MS. SCHRODER: I think actually the part  
11 I'm referring to -- oh, no. You're right, 536.070, and  
12 paragraph 11 of that, the results of statistical  
13 examinations or studies or of audits, compilations of  
14 figures or surveys involving interviews with many people  
15 or examination of many records, and that's what this  
16 section pertains to.

17 And I do believe that the survey that the  
18 Union has attached as Exhibit 1 to Mr. Schulte's affidavit  
19 falls within this -- this evidentiary provision. It was  
20 conducted under the supervision of the Union, and  
21 Mr. Schultz as the business representative -- this Union  
22 has a business representative and a business manager.  
23 It's only got two people at the top, and he was one of the  
24 cosponsors, as it were, of the survey, and he is present  
25 at the hearing and he can be cross-examined.

1                   He did review certain of these hazard  
2 tickets as they came in. Obviously he didn't see every  
3 one as they came in. He can't tell you all of the people  
4 that were involved in it. But actually the company can,  
5 which is an interesting little aside here.

6                   The company in both Tom Reitz' testimony  
7 and in their Brief, company Brief, page 12, indicates that  
8 they know that this data came from 57 employees and  
9 primarily from four employees. They know the actual  
10 hazard tickets that this data came from. So they do know  
11 the addresses where each of these hazards were found.  
12 They know the dates on which they were found, which  
13 actually the dates are reflected on the survey.

14                  But they're being disingenuous here in  
15 telling you that they're being prejudiced by this when, in  
16 fact, they have more information about these hazard  
17 tickets than the Union does. They are basically asking  
18 you to take an overly technical application of -- well,  
19 I'm not actually sure of what, but they're trying to put  
20 form over substance here to distract the PSC from  
21 reviewing and weighing this evidence.

22                  And again, our position is that the  
23 questions that they have raised or the issues they've  
24 raised with the survey go to weight.

25                  JUDGE DIPPELL: Okay. Mr. Elbert?

1                   MR. ELBERT: Thank you, your Honor. Good  
2 morning. I'm going to try to be respectful here because  
3 Ms. Schroder has just said things that are false.

4                   No. 1, the rule, the statute 536.070,  
5 subparagraph 11 does apply. We agree with that. And it  
6 specifically says that these statistics shall be  
7 admissible as evidence of such results if it shall appear  
8 that such examination, study, et cetera, was made by or  
9 under the supervision of a witness who is present at the  
10 hearing who testifies to the accuracy of such results.

11                  Now, what Ms. Schroder said that is false  
12 is that Mr. Schulte was a, she called a cosponsor. If it  
13 isn't false, it's certainly misleading because we've given  
14 you the testimony of Mr. Schulte at 189 and 190 of his  
15 deposition where Mr. Schulte said it was neither he nor  
16 the business agent who did it. It was, he claims, the  
17 president of the Union primarily. He said he really  
18 didn't have anything to do with this.

19                  And now Ms. Schroder is making an  
20 allegation that is not supported by the evidence. The  
21 reality is, we've given -- we did the -- went through his  
22 deposition testimony yesterday, and it is abundantly clear  
23 that this witness has no personal knowledge of anything in  
24 Exhibit No. 1, and he was not the person who ran the  
25 survey. He said he didn't have much to do with it if

1 anything at all. We can get the exact language.

2 And, therefore, under the -- under the  
3 statute, this is not permissible testimony.

4 JUDGE DIPPELL: Mr. Poston and Mr. Schwarz,  
5 did you have anything to add?

6 MR. POSTON: No, your Honor.

7 JUDGE DIPPELL: Okay. Because this is an  
8 administrative proceeding, I'm going to let it in. I'm  
9 going to -- I'm obviously going to allow you to  
10 cross-examine him on it, and I will put the -- it will go  
11 toward the weight of the evidence as to Mr. Schulte's  
12 knowledge and how this was compiled.

13 As to the photographs, they're the same in  
14 my estimation, so I'll allow those in. That's Attachments  
15 2 and 3 to his testimony.

16 Attachment No. 4, Ms. Schroder, I don't  
17 even know if this objection came up, but tell me how this  
18 is at all relevant or admissible.

19 MS. SCHRODER: One of the things, I went  
20 back and looked at why we cited it. We cited it solely  
21 for the purpose that -- of the company's statement that  
22 they had installed 210,000 AMRs as of February of 2006.  
23 That is the only line that we used out of that entire  
24 article. And I believe, your Honor, that that is --  
25 unfortunately, I was not able to confirm this last night



1 because I don't have the stuff from other files here with  
2 me, but I believe that was an admission. I think that's  
3 incorporated in one of the pleadings in the variance case.  
4 I think that that's one of the statements right there in  
5 the pleading.

6 JUDGE DIPPELL: I'm not going to allow  
7 Exhibit 4.

8 MS. SCHRODER: That's fine. I can get that  
9 another way.

10 JUDGE DIPPELL: As to the remaining  
11 exhibits, again, can you tell me how those are at all  
12 relevant or admissible?

13 MS. SCHRODER: Yes. I think the remaining  
14 exhibits are these political subdivision resolutions; is  
15 that correct?

16 JUDGE DIPPELL: Yes. Well, except for I  
17 guess No. 9 also has a press release attached to it.

18 MS. SCHRODER: All right. And it was  
19 submitted as part of the resolution. But basically, each  
20 of these political subdivision resolutions are --  
21 Mr. Schulte was present at the public meetings where these  
22 were discussed. When the resolutions were finalized, for  
23 some reason these people actually mailed them to Joe  
24 Schulte or hand delivered them to him. He filed them so  
25 that they would be out in the open, there wouldn't be

1 anything -- you know, it wouldn't be an ex parte contact  
2 sort of situation.

3                   Obviously these political subdivisions have  
4 the absolute right to notify the PSC of their positions on  
5 various matters, and they did that. And the ex parte rule  
6 that Mr. Elbert cited yesterday to say that -- I think it  
7 was Mr. Elbert or Mr. Zucker, one of the two -- that this  
8 was improper, I'm not sure what they're referring to  
9 there, because as I understand it, the idea there is that  
10 everybody be advised of what's going to the Commission,  
11 and certainly that's exactly what the Union did in this  
12 case. We filed these right out in the open and we  
13 followed that.

14                   Also, company counsel, whichever one it  
15 was, argued that there was something improper about the  
16 Union contacting these political subdivisions to raise the  
17 safety concern and let them know that we had some matters  
18 pending before the PSC. And again, we have an absolute  
19 First Amendment right to do that, and safety is a very  
20 serious matter and we take it seriously, and these cities  
21 did as well.

22                   I do not -- I don't believe that these  
23 resolutions are evidence in the way that they're not  
24 testimony, they're not -- but they're an expression of  
25 the -- these political subdivisions' concern about this

1 issue and their desire that the PSC look at it seriously.  
2 And that's why I didn't ask that the ex parte contacts be  
3 transferred from sort of being in the record to being  
4 evidence in this matter.

5 But that's our position as to these  
6 political resolutions -- sorry -- the resolutions of the  
7 political subdivisions.

8 JUDGE DIPPELL: Mr. Elbert?

9 MR. ZUCKER: I'd like to speak to this.  
10 First of all, to address the ex parte issue, I would  
11 disagree with Ms. Schroder's characterization. The  
12 resolutions apparently were sent to Mr. Schulte, who then  
13 sent them in to the Commission.

14 We did not get a copy of them, and the  
15 Commission was good enough under the incidental hearsay or  
16 incidental ex parte rule to go ahead and post them. So  
17 that's how we found out about them when they got posted on  
18 the Commission's electronic filing system by you, Judge  
19 Dippell.

20 JUDGE DIPPELL: I will say, those came  
21 directly to the Commissioners or myself, the ones that  
22 were posted on -- that are in the case file.

23 MS. SCHRODER: That's correct, your Honor.  
24 The ones that I was talking about were filed are the only  
25 ones that came to the Union.

1                   MR. ZUCKER: So this was clearly from an  
2 ex parte standpoint an attempt to sway the judgment of the  
3 Commission or to bring some kind of pressure or influence  
4 on the Commission. So there's no question that from the  
5 ex parte policy, it was not either handled correctly or  
6 substantively.

7                   However, what I think is more important in  
8 this case is that this is clearly hearsay. These -- all  
9 of these resolutions are out-of-court statements made in  
10 an attempt to prove the truth of the matter asserted. We  
11 do not have the council people here to cross-examine them.  
12 We do not know what information they received, I assume it  
13 was from the Union, that caused them to pass these  
14 resolutions.

15                   The resolutions are full of errors in  
16 their -- in all of their whereas paragraphs. So that  
17 whatever information that they were given is to a great  
18 extent false, and this is simply not evidence that should  
19 be in the record.

20                   JUDGE DIPPELL: Mr. Schwarz, did you want  
21 to say something?

22                   MR. SCHWARZ: Well, I would -- I have  
23 several comments to make. First of all, Ms. Schroder  
24 suggested that the municipalities are entitled to inform  
25 the Commission of their views, and that's quite true. But

1   that does not -- it's certainly true in noncontested  
2   cases. In contested cases, there are limits on the way  
3   that that -- those views can be communicated. They can  
4   intervene as parties or they can appear as witnesses.

5                   So I think that in the circumstances of  
6   this contested case, that the Local 11-6 is, in fact,  
7   seeking to get these into evidence, to be considered by  
8   the Commission. The question then becomes, to what  
9   purpose should the Commission consider them? I think that  
10   I personally don't have any particular problem with the  
11   authenticity of the records. Mr. Schulte vouches for  
12   them. They took to be in proper form. So as far as  
13   authenticity, I don't have any problems with that.

14                  I concur, however, with Mr. Zucker that the  
15   underlying statements are certainly hearsay, that the  
16   Commission could consider these for the limited purpose, I  
17   think, of -- as expressions of concern by the various  
18   municipalities for safe practices and so forth. To the  
19   extent that they focus on the responsibilities of Laclede,  
20   I think as I mentioned in my opening, that the focus of  
21   this case should be on the safety of customer property,  
22   customer appliances, and the customers' operation.

23                  So I think that they may be -- again, I  
24   think that's a limiting factor to the evidentiary value  
25   that they would have for the Commission. I certainly

1 think that, you know, four of the Commissioners are former  
2 members of the Legislature, worked in the Legislature, and  
3 the fifth member is a long-time state government employee.  
4 They are certainly aware of the political operations that  
5 go on to affect state government. That is, the ex parte  
6 contacts are clearly form letters that have been generated  
7 in an effort to influence the Commission to the extent  
8 than it's letting the Commission know that some members of  
9 the Legislature are responsive to the Local 11-6's  
10 concerns and issues, whatever they are.

11                   So I think that for the limited purpose of  
12 evidencing the concern of municipalities for gas safety,  
13 that they are probably admissible. As to the substantive  
14 statements in them, I think that they're probably -- I  
15 think they're hearsay, and I think that there's certainly  
16 no foundation established for them.

17                   MS. SCHRODER: Your Honor, if I might, we  
18 aren't asserting them for the truth of the matters  
19 asserted. We are simply asserting them for the purpose  
20 that Mr. Schwarz said, which is the limited purpose of  
21 expressions of concern. And they are public records,  
22 which I think would also get them around the hearsay  
23 exception. But again, that's the only purpose we're  
24 bringing them in for is the expressions of concern.

25                   JUDGE DIPPELL: Mr. Zucker, you had one

1 more thing to say?

2 MR. ZUCKER: Yes. I think that it would  
3 have been nice had the -- had the municipalities simply  
4 expressed concern for safe practices. However, given the  
5 false statements that were obviously given to them and  
6 recited in their whereas paragraphs, they then came to a  
7 conclusion, also probably given to them by the Union, that  
8 the Commission should reject what is called the request  
9 for relief by Laclede, which of course is false. We're  
10 not requesting relief. The Union has filed the complaint  
11 here.

12 So the -- I think otherwise I would agree  
13 with Mr. Schwarz, but the number of misstatements -- and I  
14 can go over them if you like -- in these resolutions and  
15 the conclusion they come to make the resolutions very  
16 prejudicial in our view and not -- I think it would be  
17 hard to allow them into the record, read them and then  
18 consider them to just be expressions of concern.

19 JUDGE DIPPELL: Okay. But that's exactly  
20 what we're going to do, because I'm going to allow them in  
21 for that particular limited purpose. These are not  
22 evidence as such shown for the truth of the matters  
23 asserted therein. They are, as you said, expressions of  
24 concern from the communities. I believe these are the  
25 kinds of things that the Commission could take official

1 notice of, and for that limited purpose, with the  
2 exception of the press release from the mayor of  
3 Florissant, which is attached to Exhibit 9, I don't see --  
4 I don't see that in the same vein as the official  
5 proclamations from the city council.

6 MR. ZUCKER: Judge Dippell, I left out one  
7 thing, if I may add. On Exhibit 6, the St. Louis County  
8 resolution, they originally passed this resolution, I  
9 believe, in October of 2005. In December of 2005, four of  
10 the seven county councilmen issued a letter basically  
11 withdrawing the -- the position taken in the resolution  
12 and stating that had they known the facts, they would not  
13 have passed -- they would not have intended the resolution  
14 as it is written. And I have that letter, which I guess  
15 if this is going to go into evidence for that purpose, the  
16 letter should go in also.

17 MS. SCHRODER: Your Honor, the Union has  
18 no -- I have not seen such a letter, but if there is such  
19 one, obviously I would think that that was admissible in  
20 the same manner that these are.

21 JUDGE DIPPELL: All right. I will allow  
22 Laclede to present that as an exhibit, as a rebuttal  
23 exhibit also. Do you have a copy of that now, Mr. Zucker?

24 MR. ZUCKER: Yes.

25 MS. SCHRODER: And, your Honor, I think I



1 had originally -- or maybe you did. I don't know. We've  
2 characterized this as Exhibits 5 through 9. The other  
3 exhibits to Mr. Schulte's other two affidavits are the  
4 same sorts of resolutions. Are you making that ruling  
5 extend to all of those?

6 JUDGE DIPPELL: Let me get to those.

7 MS. SCHRODER: Okay.

8 MR. ZUCKER: Do you want this to be  
9 Exhibit 23?

10 JUDGE DIPPELL: Yes. I'll mark that letter  
11 as Exhibit 23.

12 (EXHIBIT NO. 23 WAS MARKED FOR  
13 IDENTIFICATION BY THE REPORTER.)

14 JUDGE DIPPELL: And was there any objection  
15 to Exhibit 23? I'll let you get a chance to look at it if  
16 you'd like, Ms. Schroder.

17 MS. SCHRODER: Your Honor, the only  
18 objection I have to make is to the characterization that  
19 Mr. Zucker gave this, because the retraction of sorts that  
20 the county council is making is about any opposition to an  
21 automated meter reading program, which is not even  
22 reflected in the resolution. No, I have no objection to  
23 this exhibit being entered.

24 JUDGE DIPPELL: All right. I'll accept  
25 Exhibit No. 23 into the record, into evidence.

1 (EXHIBIT NO. 23 WAS RECEIVED INTO  
2 EVIDENCE.)

3 JUDGE DIPPELL: Now let's move to the  
4 Exhibit No. 5, which was the supplemental affidavit of  
5 Joseph Schulte. Mr. Zucker, did you have the same  
6 objection to that? Let me just ask, are there any  
7 objections to Exhibit No. 5?

8 MR. ZUCKER: Yes, same objection from us,  
9 your Honor.

10 JUDGE DIPPELL: All right. I will overrule  
11 the objection and receive that also for the limited  
12 purposes that we stated.

13 (EXHIBIT NO. 5 WAS RECEIVED INTO EVIDENCE.)

14 JUDGE DIPPELL: And Exhibit No. 6 is the  
15 second supplemental affidavit of Joseph Schulte. Is there  
16 objection to that?

17 MR. ZUCKER: Same objection, your Honor.

18 JUDGE DIPPELL: I'll overrule that  
19 objection and allow that for that limited purpose as well.

20 (EXHIBIT NO. 6 WAS RECEIVED INTO EVIDENCE.)

21 JUDGE DIPPELL: Ms. Schroder, I've  
22 forgotten how far we got. Did we tender the witness for  
23 cross-examination? Did you have something further?

24 MS. SCHRODER: I'm not sure, your Honor. I  
25 do know that -- I don't know if -- to tell you the truth,

1 I don't know if I went through the process of asking him  
2 to verify his affidavit. I do know that he does have one  
3 correction to it.

4 JUDGE DIPPELL: Okay.

5 MS. SCHRODER: Do you want me to go ahead  
6 and go through that process again and ask him for that  
7 correction at this time? That's what I would like to do.

8 JUDGE DIPPELL: Yes.

9 MS. SCHRODER: Thank you.

10 DIRECT EXAMINATION (RESUMED) BY MS. SCHRODER:

11 Q. Mr. Schulte, are you the same Joe Schulte  
12 that submitted three affidavits in this matter?

13 A. Yes, I am.

14 Q. All right. Is there anything in any of  
15 these affidavits that you wanted to correct?

16 A. Yes. There was one line in there where it  
17 was something about gas mitigating from the outside and it  
18 listed carbon monoxide in there. That would not -- the  
19 carbon monoxide would not -- should not be true. It  
20 should not be in there.

21 Q. I'm going to direct you to paragraph 19 of  
22 your initial affidavit. I'll bring that to you, if  
23 your Honor would let me approach.

24 JUDGE DIPPELL: Yes.

25 BY MS. SCHRODER:

1 Q. Mr. Schulte?

2 A. Yes.

3 Q. When you have had an opportunity to read  
4 paragraph 19, would you please explain for the PSC the  
5 portion of paragraph 19 that you're wanting to correct?

6 A. I'll go down to the last sentences, and it  
7 says, leaks of this sort result in gas seeping through the  
8 wall into the residence, another prime source of carbon  
9 monoxide poisoning and explosion. Carbon monoxide  
10 poisoning should not have been in there.

11 MS. SCHRODER: All right. Thank you. With  
12 that, I would ask that the supplemental affidavits, which  
13 are exhibit -- or the affidavit and supplemental  
14 affidavits, which are Exhibits 4, 5 and 6, be admitted.

15 JUDGE DIPPELL: And I actually already  
16 admitted 5 and 6, but I don't think I officially admitted  
17 all of 4. So with the objections so noted and the  
18 clarifications that I made in my rulings for what was  
19 admitted and not, Exhibit 4 is received into the record in  
20 part.

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

22 JUDGE DIPPELL: All right. Is there  
23 cross-examination from Public Counsel?

24 MR. POSTON: No, your Honor.

25 JUDGE DIPPELL: Staff?

1 MR. SCHWARZ: Yes.

2 CROSS-EXAMINATION BY MR. SCHWARZ:

3 Q. Good morning, Mr. Schulte.

4 A. Good morning.

5 Q. And does Local 11-6 have members who are  
6 still working as well as -- and retired members as well?

7 A. Yes, we do.

8 Q. How many members are active and how many  
9 are retired?

10 A. I would say, and on any given day it could  
11 change, but we're roughly around a thousand.

12 Q. And how many of those active workers work  
13 for Laclede Gas Company?

14 A. The whole thousand.

15 Q. And do they work for different -- again,  
16 I'm not as familiar as I should be with Laclede's  
17 operations -- different divisions or departments?

18 A. Yes, they do.

19 Q. What departments or divisions do they work  
20 for?

21 A. Okay. You have the street department. You  
22 have the service department. That's that CID. You have  
23 underground storage. You have the meter readers. You  
24 have facilities management. Then you have the meter shop.  
25 That's -- I think that's all the different departments.

1           Q.     Do other unions represent other employee  
2 groups at Laclede?

3           A.     We have another local that represents the  
4 office workers.

5           Q.     Clerical types?

6           A.     Correct. And that local would be 11-194.

7           Q.     Thank you. And has union membership been  
8 increasing in, say, the last two years or decreasing?

9           A.     Decreasing.

10          Q.     By how many?

11          A.     I'm just guessing. It's pretty close, I  
12 guess. Service department used to have around 350  
13 members. I think we're down to about 255 members,  
14 somewhere in that area. Any given day that could change.  
15 The meter readers, at one time I think we had anywhere  
16 from 90 to over 100, and I'm guessing that's probably  
17 around down to 50 or 60, somewhere in that area.

18          Q.     And the balance of them, I mean, that's  
19 400, 500 people, so you've got another 500, and that's  
20 been pretty steady --

21          A.     Yes.

22          Q.     -- in the other departments?

23          A.     Well, more than 500, you know, if you  
24 counted all the other departments together.

25          Q.     Right. Okay. And that's been in the last

1 two or three years, you think?

2 A. Yes.

3 Q. Does Local 11-6 have gas safety training  
4 programs for its members?

5 A. No. That is all done by Laclede Gas.

6 Q. Does Local 11-6 have disciplinary  
7 procedures for its members?

8 A. No. That is done by Laclede Gas.

9 Q. Would Local 11-6 consider that workers who  
10 report to the job impaired for one reason or another,  
11 drugs, alcohol, lack of sleep, pose a threat to customer  
12 safety?

13 A. Could you ask that again?

14 Q. Does Local 11-6 consider that if workers  
15 whether union members or not, show up for work impaired by  
16 alcohol or drugs or for any other reason, that that poses  
17 a threat to public safety?

18 A. Well, we're in the business of representing  
19 the employee, so I can't sit here right now and say, yeah,  
20 we would condone a suspension or discipline for the  
21 employee. So I would be negligent in my duty if I said  
22 yeah, they should be disciplined, because there's all  
23 kinds of different situations. And I'll just give you one  
24 for instance. You're saying impaired by drugs or have  
25 drugs in their system. Marijuana stays in your system, my

1 understanding, five to six months, and if somebody had  
2 smoked marijuana five months ago, does that mean they're  
3 impaired five months later when they test them? I'm not  
4 an expert on that, so I couldn't -- I couldn't justify  
5 saying yes.

6 Q. Well, by impaired I mean they're affected,  
7 the effects are still present. I mean, if there's no  
8 physical symptoms, I wouldn't consider them impaired, but  
9 I'm talking about somebody who's impaired.

10 A. Well, if they're impaired, no, they should  
11 not be working on the gas.

12 Q. Does Local 11-6 have regular safety  
13 programs for natural gas customers?

14 A. No. That is all -- whatever for the  
15 customers is sent by Laclede through the mail, and it's  
16 mostly in a pamphlet form explaining certain things that  
17 if they smell gas.

18 Q. To your knowledge, does Laclede still  
19 employ personnel to maintain and light gas street lamps?

20 A. Are you -- yeah. That's mostly done by the  
21 service department.

22 Q. How many people do you think Laclede has  
23 doing that now?

24 A. I have no idea.

25 Q. Do you think it's as many as they did when



1 streetlights were all gas fired?

2 A. No, because like I said, the reason I'm  
3 saying we're down probably 100 employees, and I don't  
4 really know the exact figures. On any given day, somebody  
5 could be suspended, terminated or whatever. That's just a  
6 rough estimate.

7 Q. Are you aware that Missouri Gas Energy uses  
8 AMR to read the meters of some 400,000 customers?

9 A. No, I'm not aware of that.

10 Q. Are you aware that AmerenUE uses AMR to  
11 read the meters of some 100,000 customers?

12 A. I am aware that they have on electric end  
13 that they're reading the meters. How they're reading or  
14 if they're reading accurately, I don't know. I have  
15 nothing to do with the electric part of them.

16 Q. But I'm talk-- they have 100,000 gas  
17 customers. They've got millions of electric customers.  
18 But the gas customers, are you aware they're using AMR?

19 A. No, I'm not aware that they were using them  
20 on the gas meters.

21 Q. Did Local 11-6 inquire of MGE or AmerenUE  
22 if the number of safety incidents had increased since the  
23 installation of AMR?

24 A. No.

25 Q. Did Local 11-6 urge or suggest to any of

1 the municipalities that provided the resolutions that they  
2 adopt their own ordinances requiring annual inspections of  
3 gas safety -- of gas appliances or gas piping inside  
4 customer premises?

5 A. No. All we did was talked to them about  
6 the resolution and told them what Laclede was doing, and  
7 they had every right to change the resolution to whatever  
8 they wanted to.

9 MR. SCHWARZ: Thank you.

10 JUDGE DIPPELL: Thank you. Is there  
11 cross-examination from Laclede?

12 MR. ELBERT: Yes, your Honor.

13 CROSS-EXAMINATION BY MR. ELBERT:

14 Q. Good morning, Mr. Schultz.

15 A. Good morning.

16 Q. As you know, my name is Charles Elbert. I  
17 represent Laclede Gas Company.

18 How long have you been employed by -- how  
19 long were you employed by Laclede Gas?

20 A. As a worker, I guess -- let's see. I've  
21 been in this job 15, close to 15 years. My total time  
22 there is 38 years, so probably 23 years.

23 Q. So you last performed services for Laclede  
24 Gas about 15 years ago?

25 A. I think it was '93 or something like that

1     when I took the full-time position in the Union.

2             Q.       And you officially retired from Laclede  
3     about two years ago, didn't you?

4             A.       Yes, I did.

5             Q.       And when you were employed by Laclede, what  
6     position did you hold, when you were last employed there?

7             A.       I was a fitter in the service department.

8             Q.       What were your duties as a fitter in the  
9     service department?

10            A.       Just to do anything on the customer's line,  
11    Laclede's system, and big commercial meters.

12            Q.       So did you repair appliances, for example?

13            A.       Yes, I did.

14            Q.       And did you repair customer fuel runs?

15            A.       Yes, I did.

16            Q.       Have you taken any courses on industrial  
17    safety?

18            A.       No.

19            Q.       Have you written anything about industrial  
20    safety?

21            A.       No.

22            Q.       Have you taken any courses on natural gas  
23    safety?

24            A.       No.

25            Q.       Have you written any articles on natural

1 gas safety?

2 A. No.

3 Q. Have you taken any courses regarding the  
4 minimum federal safety standards for the transportation of  
5 natural and other gas --

6 A. No.

7 Q. -- by pipeline?

8 A. No.

9 Q. Have you taken any courses regarding the  
10 state standards for the transportation of natural gas?

11 A. No.

12 Q. Have you taken any courses regarding  
13 natural gas incident investigation?

14 A. No.

15 Q. Have you performed any studies on natural  
16 gas safety?

17 A. No.

18 Q. Have you performed any studies on the  
19 effect of AMR on natural gas safety?

20 A. No.

21 Q. Has the Union, to your knowledge, performed  
22 any studies on the effect of AMR on natural gas safety?

23 A. No.

24 Q. Do you have any statistics to show that AMR  
25 creates a greater hazard to customers or the general

1 public than manual meter reading?

2 A. No.

3 Q. Does the Union have a duty to protect  
4 public safety?

5 A. Does the Union have a duty? I think we  
6 have an obligation to make sure that the public is  
7 protected in any way we can, if you're referring to gas.

8 Q. My question is, does the Union have a duty  
9 to protect public safety?

10 A. No, we don't have a duty.

11 Q. Thank you. Is the Union's main duty to  
12 represent its employees?

13 A. That's the main function, yes.

14 Q. And that's your main function, isn't it?

15 A. That's correct.

16 Q. Hasn't the Union taken the position  
17 repeatedly over the years that its members should not be  
18 disciplined where they fail to find gas leaks or migrating  
19 gas?

20 A. We've taken the position -- not what you're  
21 saying. We've taken the position when a member tells us  
22 that they done their checks and they done everything  
23 according to what they were taught, we're going to take  
24 the position of the member's telling us the truth and  
25 we're obligated to represent them. That's what we're

1 going to do.

2 Q. Well, let's talk a minute about the Gary  
3 Boschert case. Do you remember that case?

4 A. I remember that case.

5 Q. And do you remember why Mr. Boschert was  
6 disciplined?

7 A. I remember.

8 Q. Can you please tell the Commission why  
9 Mr. Boschert was disciplined?

10 MS. SCHRODER: Objection. Your Honor, this  
11 is going pretty far afield. I don't see the relevance to  
12 this matter.

13 JUDGE DIPPELL: Mr. Elbert, where are you  
14 headed?

15 MR. ELBERT: The relevance to this matter,  
16 your Honor, is that the real issue here is one of jobs,  
17 and when safety is a factor for their benefit, they are  
18 trying to use it here and trying to broaden safety rules  
19 to protect jobs.

20 By the same token, when the safety issues  
21 go against them, they try to protect and try to restrict  
22 the safety rules, and that's precisely what they did in  
23 the Boschert case. They tried to argue in the Boschert  
24 case that the member had no obligation to check a sewer  
25 when he was called out on a gas leak and no obligation to

1 go in the customer's house. In fact, our rules provided  
2 for that, and they tried to argue that our rules weren't  
3 clear.

4 JUDGE DIPPELL: Okay. I'm going to  
5 overrule your objection. Just like I let in your  
6 testimony to show Laclede's position, I'm going to allow  
7 this.

8 MS. SCHRODER: Thank you.

9 BY MR. ELBERT:

10 Q. Mr. Boschert -- do you recall that  
11 Mr. Boschert was suspended for 15 days because he failed  
12 to go in a customer's house and check for a leak when the  
13 customer reported the leak and he failed to look for the  
14 sewer?

15 A. I think you're misleading the Commission  
16 here. He did not fail to look, and that's what he told  
17 us. He looked but he did not find it, the sewer.

18 Q. Wasn't the issue in the case whether he had  
19 to look further for the sewer than he did? In other  
20 words, he contended that the perimeter of the leak was  
21 much narrower than we contended it was; wasn't that the  
22 issue?

23 A. I don't know those specific issues, but the  
24 company is saying that he did not make an attempt to look  
25 for the leak and we're saying he did. It was a fall day.

1 It was rainy and there was leaves all over the place.  
2 When the company took a picture of it, the sewer, they  
3 took a picture on a clear day with everything clear, not  
4 one leaf around.

5 Q. Do you remember what the arbitrator found,  
6 Mr. Schulte?

7 A. I don't recall what the arbitrator found.

8 Q. Would it help you if I got you the -- do we  
9 need to get out the arbitrator award?

10 A. You can get out what you want.

11 MS. SCHRODER: Objection. Your Honor,  
12 again, this is even further afield because just because  
13 the arbitrator found something one way or the other, does  
14 that prove the Union's motivation? I think motivation is  
15 what he's been arguing is the reason for the relevance of  
16 this line of questioning.

17 JUDGE DIPPELL: I don't think he can ask  
18 Mr. Schulte questions about it unless he knows Mr. Schulte  
19 is aware of what happened. So I'm going to allow him to  
20 ask.

21 BY MR. ELBERT:

22 Q. Did you sit through the entire hearing of  
23 the Boschert case?

24 A. Probably not. I was in and out. As I've  
25 stated before, I never sit there strictly on every



1 arbitration case.

2 Q. You don't sit through the entire hearings,  
3 do you?

4 A. Sometimes no. I think very rarely I might  
5 be out of the room for ten minutes or I get a phone call  
6 that I have to answer from the union hall or I have to go  
7 to the bathroom. No, I don't sit through the -- say I'm  
8 there for the whole case.

9 Q. Don't you sometimes sit out and talk to  
10 Union members who sequestered?

11 A. If that's the case, yes, sometimes I will.

12 Q. In the Boschert case, did the Union take  
13 the position that Mr. Boschert satisfied his obligation  
14 because the perimeter of the leak did not require him to  
15 go look for the sewer?

16 A. I think we took the position that he looked  
17 and he did not find because of the obstruction that was  
18 there.

19 Q. And so there's no misunderstanding, that  
20 was a case where Mr. Boschert was called out because the  
21 customer reported a leak, correct?

22 A. That was a leak that the company knew about  
23 that had been there for a couple years.

24 Q. Do you remember what happened as a result  
25 of that leak?

1           A.       There was a minor explosion to the house,  
2   the next day.

3           Q.       A minor explosion?

4           A.       It did not -- yeah. I consider it a minor  
5   explosion when you see a house completely leveled, and on  
6   this one here it was just some damage to the garage and I  
7   think it was an area where they done the wash and that. I  
8   was not allowed in the house, so I don't have the full  
9   extent of what was in there.

10          Q.       And how many people were injured as a  
11   result of that explosion?

12          A.       I think -- I think the woman's  
13   granddaughter or something was hurt. I'm not sure if the  
14   woman was hurt.

15          Q.       You don't recall?

16          A.       No.

17          Q.       You do know that the child was hospitalized  
18   in serious condition, don't you?

19          A.       No, I don't.

20          Q.       And the Union fought a 15-day suspension,  
21   correct?

22          A.       We fought the suspension on the grounds  
23   that he -- the employee told us he made an attempt to find  
24   the sewer.

25          Q.       Isn't it the Union's position that the

1 company must prove safety infractions beyond a reasonable  
2 doubt to discipline an employee?

3 A. Sure. That's always been our position. I  
4 mean, we're in the job of representing employees, and if  
5 they tell us that they done their job, they looked, then  
6 we have to assume that they're telling us the truth.

7 Q. And the Union even fights discipline when  
8 an employee violates the federal pipeline safety  
9 regulations and gets caught under the influence of drugs,  
10 correct?

11 A. We take a position where we fight the  
12 amount of discipline. Not that they should be  
13 disciplined, but the amount of discipline that is handed  
14 out.

15 Q. Haven't you sometimes tried to argue that  
16 they shouldn't be disciplined at all when they've tested  
17 positive for drugs?

18 A. I've never argued that.

19 Q. I'm sorry, Mr. Schulte. I know you haven't  
20 argued that. Has the Union argued that?

21 A. Not to my knowledge.

22 Q. Has the Union -- in fact, isn't it the  
23 case, Mr. Schultz, that the Union never has argued that an  
24 employee should be discharged for not following safety  
25 procedures?

1 MS. SCHRODER: Objection. I don't  
2 understand the question.

3 MR. ELBERT: I'll try it again.

4 BY MR. ELBERT:

5 Q. Isn't it true, Mr. Schulte, that the Union  
6 never has taken the position that an employee should be  
7 discharged for not following safety procedures?

8 A. I don't -- I don't think an employee should  
9 be disciplined if he -- discharged if he's missed  
10 something on safety. We're not 100 percent perfect.  
11 People are infallible.

12 Q. Well, I'm talking about people,  
13 Mr. Schulte, who intentionally have violated safety  
14 procedures. Doesn't the Union always take the position  
15 that the employee should not be discharged?

16 A. Discharge is the ultimate crime, and we've  
17 always taken a position that an employee can be  
18 rehabilitated. But you're sitting here saying the Union  
19 knows this and it knows that. We do not know. We've got  
20 to contend on what the employee tells us or your employee  
21 tells us.

22 Q. Mr. Schulte, I've handed you a copy of the  
23 deposition that you gave on May 8, 2006. Have you  
24 reviewed that deposition transcript?

25 A. Yes, but it's quite long. It's hard to

1 remember everything I said.

2 Q. Okay. But did you agree that the  
3 transcript accurately represented what you said on May 8,  
4 2006?

5 A. Well, basic, to an extent. I was in Jeff  
6 City when I signed the last page of this, so I didn't get  
7 to review the whole thing when that happened because this  
8 was a hurry-up deposition.

9 Q. I see. So you signed an affidavit stating  
10 that you had read your deposition when, in fact, you  
11 hadn't read it?

12 A. I never got to read the whole thing, like I  
13 told you. I was in Jefferson City, and this was a last  
14 minute deal where we needed it all in, and I signed it  
15 with the stipulation that I will go through it, and since  
16 then I have went through it and everything looks correct  
17 to me.

18 Q. And did you sign that affidavit that it was  
19 true and correct without reading the transcript?

20 MS. SCHRODER: Your Honor, I would just  
21 object to this line of questioning on the grounds that  
22 the -- at counsel's, company counsel's insistence, we were  
23 to turn this deposition signature around in 24 hours, and  
24 he knew that Mr. Schulte was, in fact, going to be in  
25 Jeff City. The only corrections made to this deposition

1     were some typographical errors, and Mr. Schulte is not  
2     saying anything other than that.

3                   MR. ELBERT:   In fact, your Honor, I had a  
4     conversation with Ms. Schroder.   She called me and asked  
5     me about this, and I told her I didn't understand how  
6     Mr. Schulte -- she was -- how Mr. Schulte could sign off  
7     on a deposition that he hadn't seen.

8                   I mean, this is -- I'm entitled, I believe,  
9     your Honor, for a commitment from this gentleman that this  
10    deposition accurately represents what he said.   Now, I  
11    think it goes to his credibility that he signs an  
12    affidavit saying it is true when, in fact, he hasn't read  
13    it.

14                  JUDGE DIPPELL:   Okay.   And that's on the  
15    record.   He's not saying -- as of yet he hasn't said that  
16    anything he said in there was incorrect.   So --

17                  MR. ELBERT:   Okay.   Well, I've tried to get  
18    him to answer that question.   He wouldn't give me a  
19    straight answer.

20                  JUDGE DIPPELL:   He just said that he read  
21    it and everything looks fine.

22    BY MR. ELBERT:

23                  Q.     Everything looks fine in this deposition?

24                  A.     As far as I can see, yes.

25                  Q.     Okay.   Then I would like to refer you to

1 page 114, line 14. Are you there?

2 A. I'm getting there. All right. I'm there.

3 Q. And question: Has the Union ever taken the  
4 position that an employee should be discharged for not  
5 following safety procedures?

6 Answer: No.

7 A. That's correct.

8 Q. Is that a true and accurate statement?

9 A. Yes, we've never taken the position an  
10 employee should be discharged.

11 MS. SCHRODER: And, your Honor, I would  
12 just object that this is improper cross because  
13 Mr. Schulte has answered today perfectly consistently with  
14 this deposition testimony.

15 JUDGE DIPPELL: I think he's trying to get  
16 to his point, and he's going to hurry up and get there.

17 MR. ELBERT: I mean, he didn't -- we can  
18 get the record out, Ms. Schroder. Your Honor, he  
19 didn't -- he wouldn't answer the question before. It's  
20 perfectly proper cross.

21 JUDGE DIPPELL: Okay. Objection is  
22 overruled, but go ahead and let's keep moving.

23 BY MR. ELBERT:

24 Q. Isn't it fair to say, Mr. Schulte, that the  
25 reason the Union now is raising this issue, this safety

1 issue is because Laclede is going to eliminate a bunch of  
2 employees who are reading meters?

3 A. That's not true.

4 Q. Okay. I'd like to refer you to page 158 of  
5 your transcript, line 9. Are you there?

6 A. I'm there.

7 Q. Question: I'm just trying to understand  
8 why the Union did not believe that was a safety problem  
9 when they were using the tracer method, but now with the  
10 AMR method it is a safety problem. What is the difference  
11 between those two methods from the Union's standpoint?

12 Answer: You know, I don't really know to  
13 try and answer. You're trying to trap me into a situation  
14 here where we've been doing stuff for years. Now you're  
15 going to eliminate a bunch of employees that probably went  
16 into 80 percent to 85 percent of the buildings to read  
17 meters. We kind of never, what you want to say, bring it  
18 all to a head or gripe about it because you were doing the  
19 bulk of them then. Now you're wanting to eliminate going  
20 into any customer's house for the purpose of reading a  
21 meter.

22 Does that accurately represent your  
23 testimony that was given on May 8, 2006?

24 A. Yes, it does.

25 Q. Thank you.



1                   Isn't it fair to say, Mr. Schulte, that the  
2   Union is more interested in protecting the employees' jobs  
3   than in public safety?

4           A.       I think that's a false statement on your  
5   part.

6           Q.       Okay. Let's refer you to page 124 of your  
7   transcript.

8           A.       1 what?

9           Q.       124. Line 6, Mr. Schulte. Question:  
10   Okay. From your perspective as a Union officer, what is  
11   more important to you, public safety or an employee's job?

12                   Answer: You're asking me to speculate on  
13   something here. Public safety is always important. My  
14   job, my main function of my job is to represent my  
15   members, your employees, my members.

16                   Is that a correct statement?

17           A.       That's a correct statement.

18           Q.       And isn't it true, Mr. Schulte, that the  
19   Union filed a grievance in this -- over automatic meter  
20   reading?

21           A.       Yes, we did.

22                   MR. ELBERT: I don't know what exhibit  
23   number.

24                   MR. ZUCKER: 18.

25   BY MR. ELBERT:

1           Q.       Mr. Schulte, I'm handing you what's been  
2 marked for identification as Exhibit 18, which is a  
3 May 17, 2005 grievance. Have you ever seen that document  
4 before?

5           A.       Yes, I have.

6           Q.       Is that your signature on the bottom of the  
7 page?

8           A.       Yes, it is.

9           Q.       Is that a true and accurate copy of this  
10 grievance?

11          A.       Yes, it is.

12                   MR. ELBERT: I request that Exhibit 18 be  
13 admitted into evidence, please.

14                   MS. SCHRODER: No objection from the Union.

15                   JUDGE DIPPELL: Is there any other  
16 objection to Exhibit 18?

17                   (No response.)

18                   JUDGE DIPPELL: Then I will admit it into  
19 evidence.

20                   (EXHIBIT NO. 18 WAS RECEIVED INTO  
21 EVIDENCE.)

22                   MR. ELBERT: Thank you, your Honor,  
23 BY MR. ELBERT:

24           Q.       Would you agree, Mr. Schulte, that the  
25 customer's responsible for the customer's pipes and

1 appliances?

2 A. Yes.

3 Q. Laclede is not responsible to inspect,  
4 maintain, repair customer fuel lines or appliances, to  
5 your knowledge, is it?

6 A. Not to my knowledge.

7 Q. Do you know whether there's any law,  
8 regulation, rule or decision that requires Laclede or any  
9 other gas utility to perform TFTOs?

10 A. I always thought it was in Laclede's tariff  
11 to do that. As far as the other utilities, no, I know  
12 nothing about them.

13 Q. Let me try the question again. Maybe you  
14 didn't understand it. Do you know of any law, regulation,  
15 rule or Commission decision that requires Laclede or any  
16 other gas utility to perform TFTOs?

17 A. No.

18 Q. Are you aware of any law or regulation that  
19 makes Laclede or any other gas utility in the United  
20 States responsible for safety hazards created by its  
21 customers?

22 A. No.

23 Q. Is it fair to say that if a customer fails  
24 to cap a live gas run after disconnecting an appliance,  
25 the customer created the safety hazard?

1 A. Yes.

2 Q. Is that also true if the customer fails to  
3 properly disconnect any other -- any gas appliance?

4 A. That's true.

5 Q. Or if the customer fails to properly  
6 connect a gas appliance, that can create a safety hazard,  
7 can't it?

8 A. That's correct.

9 Q. You've never been assigned meter reading on  
10 a route, have you?

11 A. No, I haven't.

12 Q. And you would agree, wouldn't you,  
13 Mr. Schulte, that the purpose of meter reading is billing?

14 A. I would say that's the main purpose.

15 Q. Well, isn't that the only purpose, to your  
16 knowledge?

17 MS. SCHRODER: Objection, lack of  
18 foundation.

19 JUDGE DIPPELL: Overruled.

20 BY MR. ELBERT:

21 Q. Isn't the only purpose of meter reading, to  
22 your knowledge, billing?

23 A. No.

24 Q. Okay. Let's go to page 26 of your  
25 deposition, starting at line 18, Mr. Schulte. Are you

1     there?

2             A.       126?

3             Q.       Page 26.

4             A.       All right. I'm there.

5             Q.       Question: Do you know what the purpose is

6     of reading meters?

7                     Answer: Make sure the customer gets an

8     accurate billing, I assume.

9                     Question: Is there any other purpose, to

10    your knowledge, of reading a meter?

11                    Answer: Not to my knowledge.

12                    Is that a true -- is that true testimony

13    that you gave on May 8?

14             A.       That's correct.

15             Q.       And so are you telling us today that now

16    there is a different purpose for reading a meter than

17    billing?

18             A.       The main purpose of reading the meter is

19    for billing purposes, but my understanding is the meter

20    readers are out there and if they smell leaks, which has

21    been alluded to in other people's testimony, or they see a

22    meter laying over that's fallen loose from the wall, they

23    have to report that. But the main, the very main function

24    of their job is to read meters.

25             Q.       Well, when I asked you whether there was

1 any purpose on May 8, you told me there was no other  
2 purpose, to your knowledge.

3 A. At that time, Charles, I did tell you that,  
4 but listening to everything that's went on in these  
5 hearings, I'm understanding now that there is other  
6 purposes of a meter reader.

7 Q. I see.

8 MS. SCHRODER: Your Honor, I would just  
9 renew my objection about lack of foundation. It's clear  
10 that this witness is not a meter reader, has never been a  
11 meter reader, and has indicated both in his deposition  
12 testimony and here today that he doesn't know personally  
13 what meter readers do. So it's lack of foundation.

14 JUDGE DIPPELL: It's overruled. He's  
15 asking what his knowledge is about meter readers. He's  
16 here testifying on behalf of the Union as a whole. I'm  
17 assuming the meter readers are part of that union. I'm  
18 going to allow him to ask.

19 MR. ELBERT: Thank you, your Honor. I do  
20 believe that in his direct testimony --

21 JUDGE DIPPELL: Okay, Mr. Elbert. You won.

22 MR. ELBERT: I understand.

23 JUDGE DIPPELL: Ask your questions.

24 MR. ELBERT: I understand, but...

25 Can you read back the question, please?

1                   THE REPORTER: Sure. "Question: Well,  
2   when I asked you whether there was any purpose on May 8,  
3   you told me there was no other purpose, to your  
4   knowledge."

5                   THE WITNESS: That's right, on May 8, that  
6   was my opinion then.

7   BY MR. ELBERT:

8               Q.     So in your 15 years of representing meter  
9   readers prior to this hearing, you had no knowledge that  
10  meter reading was a safety function; is that what you're  
11  telling the Commission?

12            A.     That's what I'm telling you, to the best of  
13  my knowledge.

14            Q.     You certainly prior to this hearing didn't  
15  know that meter reading was a safety inspection, did you?

16            A.     No. I knew they done annual inspections  
17  and corrosion inspections.

18            Q.     Do you have any personal knowledge that a  
19  meter reader has ever discovered a hazardous condition  
20  while reading meters on a route?

21            A.     No.

22            Q.     Is it fair to say that you have no  
23  knowledge of any injury to or damage -- injury to person  
24  or damage to property that resulted from a condition that  
25  might be found by a meter reader inside or outside?

1           A.       No, I have no knowledge of that.

2           Q.       Is it fair to say that the Union's position  
3   is that a meter reader should never be disciplined for  
4   failing to read a meter?

5           A.       Could you tell me that again?

6           Q.       Sure. Is it fair to say that it is the  
7   Union's position that a meter reader should not be  
8   disciplined for failing to read a meter?

9           A.       No. We said they should -- if an employee  
10   does something, infraction of company rules, we're saying  
11   they should not be discharged.

12          Q.       I'm going to refer you to page 118 of your  
13   deposition, starting with line 4, question: Now, if the  
14   meter readers weren't read, is it the Union's position  
15   that that created a potential for a safety hazard?

16                    Answer: We're not determining that.  
17   That's the company's position.

18                    So what I'm asking is, what is -- is what  
19   the Union's position is. Does the Union believe that if  
20   an employee doesn't read meters, that he creates safety  
21   hazard?

22                    Answer: I'm not going to say that.

23                    Question: You are not going to say that?

24                    Answer: Well, you're trying to put words  
25   in my mouth that you can come back later when I have an



1 obligation to represent my members. Each case is  
2 different.

3 Question: What I'm asking you is, if an  
4 employee doesn't read a meter, does that create a  
5 potential safety hazard?

6 Answer: Not necessarily.

7 Question: Okay. If an employee doesn't  
8 read a meter, that could create a potential safety hazard?

9 Answer: Not necessarily.

10 Question: Is there any circumstance that  
11 you can think of where an employee doesn't read a meter  
12 that it might create a potential safety hazard?

13 Answer: Not offhand.

14 Does that accurately reflect your testimony  
15 that was given on May 8, 2006?

16 A. That's correct.

17 Q. Isn't it fair to say that a customer could  
18 find a leak from a meter?

19 A. Yes, they can.

20 Q. And the Union doesn't have any documents to  
21 show that actual meter readings or the absence thereof  
22 adversely impacts public safety, does it?

23 A. No.

24 MR. ELBERT: Your Honor, I would like to  
25 request at this time that DRs -- and I don't know the -- I

1 think the exhibit numbers I'll have to get -- 14 and 15,  
2 DRs -- the Union's responses to DRs 1 and 2 be admitted  
3 into evidence. I don't know that there's any point --

4 JUDGE DIPPELL: Those are premarked as  
5 Exhibits 14 and 15.

6 MR. ELBERT: They're premarked. I would  
7 just like them admitted into evidence at this time.

8 JUDGE DIPPELL: Would there be any  
9 objection to Exhibit 14?

10 MS. SCHRODER: Your Honor, the Data Request  
11 packets that are submitted as Exhibits 14 and 15 don't  
12 have the attachments to them. I'm not certain at this  
13 point whether that's necessary because I don't know the  
14 purpose for which they're submitting them, if there's a  
15 particular DR request that they're looking at on each of  
16 these. So I can't tell you whether I have an objection  
17 until I know that.

18 JUDGE DIPPELL: I'm sorry. Mr. Elbert, you  
19 were wanting the entire packet?

20 MR. ELBERT: I was wanting the responses  
21 that they gave admitted into evidence, your Honor, and I  
22 apologize if there were some exhibits that were attached,  
23 but all I wanted was to get the responses into evidence.  
24 I don't know -- if we want to supplement the record and  
25 attach the exhibits, I certainly have no objection to

1     that, but I'm really interested in the responses that  
2     they -- the typewritten responses that they gave. That's  
3     why I'm putting them into evidence.

4                   JUDGE DIPPELL: Ms. Schroder, do you know  
5     the extent of the attachments?

6                   MS. MARTIN: There were attachments to  
7     both. I think the attachments to the first set of Data  
8     Requests were pretty extensive because that's when we  
9     attached all the records that the members had turned in  
10    reflecting hazards.

11                   The response to the second set weren't as  
12    extensive, a couple documents, I think. And I think, you  
13    know, maybe what could resolve it is they could go ahead  
14    and ask their questions, and if we think it needs to be  
15    supplemented with the actual attachments, we could request  
16    that.

17                   JUDGE DIPPELL: Okay.

18                   MR. ELBERT: Just to clarify, I'm not  
19    actually going to ask this witness any questions about the  
20    Data Requests.

21                   MS. MARTIN: There you go.

22                   MR. ELBERT: Right. I just want them  
23    admitted in, as they are admissions by the Union that they  
24    have no studies. I mean, that's primarily what they're  
25    being put in for, and that's really the only purpose. I'm

1 not going to --

2 MS. SCHRODER: And we stipulate to that.

3 So whether you want to let these in or not, that's up to  
4 you.

5 JUDGE DIPPELL: Well, if you don't have any  
6 objection to it, I'll let them in, noting that this is not  
7 a complete response, that there were attachments.

8 MS. SCHRODER: That's correct. Thank you.

9 MR. ELBERT: Thank you, your Honor.

10 JUDGE DIPPELL: I will admit Exhibit 14.  
11 And is that the same for Exhibit 15, Ms. Schroder?

12 MS. SCHRODER: I'm sorry. Yes. That's  
13 fine.

14 JUDGE DIPPELL: Okay. Then I will also  
15 admit Exhibit 15.

16 (EXHIBIT NOS. 14 AND 15 WERE RECEIVED INTO  
17 EVIDENCE.)

18 MR. ELBERT: Thank you, your Honor.

19 BY MR. ELBERT:

20 Q. Mr. Schulte, are you aware that Laclede has  
21 used remote reading devices for your entire -- let me  
22 start over.

23 Are you aware that Laclede Gas Company has  
24 used remote reading devices for inside meters during your  
25 entire employment by Laclede Gas Company?



1 (indicating)?

2 MR. ELBERT: No. I'll see if I can help  
3 you.

4 BY MR. ELBERT:

5 Q. Let's look first -- I'm sorry. Let's look  
6 first at -- we're looking at what is Exhibit 4, which is  
7 the affidavit of Joseph Schulte, and is that your  
8 affidavit, Mr. Schulte, that you previously testified to?

9 A. Yes, I think it is.

10 Q. If you look at paragraph 5, it says,  
11 Laclede also has a longstanding practice of having meter  
12 readers conduct visual inspections and be cognizant of gas  
13 odors when conducting an annual meter reading. Do you see  
14 that?

15 A. Yes.

16 Q. Was that a true statement when you made it?

17 A. Best of my knowledge, yes.

18 Q. Then if you go down to paragraph 7, it  
19 says, these longstanding practices. When you say  
20 practices, is that referring to, among other things, the  
21 practice that you're referring to in paragraph 5?

22 A. Yeah, to the best of my knowledge.

23 Q. Okay. So you say, these longstanding  
24 practices in association with the addition of pocket leak  
25 detectors created a low rate of unintentional carbon

1   monoxide poisoning, gas fires and gas explosions. Do you  
2   see that?

3           A.       I see it.

4           Q.       What is your factual basis, Mr. Schulte,  
5   for stating that the meter reading created a low rate of  
6   unintentional carbon monoxide poisoning, gas fires and gas  
7   explosions?

8           A.       My opinion at that time is because of the  
9   employees going into the house. No doubt that they have  
10  turned stuff in. As far as anything factual, I don't have  
11  anything factual.

12          Q.       Is it fair to say that Laclede cannot  
13  predict when leaks may occur in its own facilities or  
14  customer facilities?

15          A.       Yes.

16          Q.       Does the -- the Union doesn't have any  
17  facts to show that people could be safer if inspections  
18  were done once a year versus every ten years, do they?

19          A.       No, we don't.

20          Q.       Does the Union have any idea how long a  
21  safety hazard existed on customer appliances or customer  
22  fuel runs at the time the hazard is found?

23          A.       No.

24          Q.       Isn't it fair to say that hazards that are  
25  found could have been there for months or years before

1 they're found?

2 A. I'm not going to speculate on there. I  
3 have no idea when they -- when they would arise or when  
4 they would be generated. I don't know.

5 Q. Right. What I'm asking you, isn't it fair  
6 to say, Mr. Schulte, that when Laclede's service person  
7 finds a safety hazard, that safety hazard could have been  
8 there for days, months or years before it is actually  
9 found?

10 A. It's possible, yes.

11 Q. And isn't it also fair to say that a safety  
12 hazard can occur within 30 days after the Laclede person  
13 was there?

14 A. It could occur two days after or one day  
15 after.

16 Q. Could occur one hour after, couldn't it?

17 A. It could.

18 Q. Isn't it isn't fair to say that most  
19 hazards are discovered through smell? Isn't it fair to  
20 say that most gas safety hazards are discovered through  
21 smell?

22 A. Yeah. Possibly, yes.

23 Q. And customers can smell gas also, can't  
24 they?

25 A. Most of them can, I would assume.



1           Q.       Now, with respect to TFTOs, can you briefly  
2 describe that procedure?

3           A.       TFTOs?

4           Q.       Yes, sir.

5           A.       I can describe it from when I was on the  
6 street, if that's what you want.

7           Q.       That would be fine.

8           A.       When I went in on a TFTO, I would first ask  
9 the customer if she'd ever smelled gas or anything, he or  
10 she. Then I would go to the thermostat and turn the  
11 thermostat up and -- on the furnace. Then I would proceed  
12 to the basement, and I would check that furnace to make  
13 sure that there was no carbon monoxide spillage or coming  
14 out the diverter of the furnace, and when the blower come  
15 on, I would observe the flame to make sure there was no  
16 disturbance in the flame so there would not be a crack in  
17 the heat exchanger.

18                   Then if they had a water heater, and  
19 normally they're right close together, I would turn the  
20 valve on the water heater, the temperature knob, turn it  
21 up, and I would check that flue, make sure there was no  
22 spillage there. Also, I would observe the pipe, the water  
23 heater. You'd make sure they had a pressure relieve valve  
24 and it was vented down within six inches of the floor.

25                   Then after that, I would kind of watch the

1 pipe as I went back to the furnace -- I mean to the gas  
2 meter and make sure there was nothing, that it was stapled  
3 properly to the ceiling and everything. Then I would go  
4 read the meter, and then put everything back the way it  
5 was. If they had a gas range, I would also check the gas  
6 range. Not every house had gas ranges.

7 Q. Okay. Would you do anything else?

8 A. Well, I'd do my leak with the JW, check the  
9 sewer and the -- as the gas pipe comes through the wall.

10 Q. Did you check the sewer on a TFTO?

11 A. Yes, I did.

12 Q. Do you know whether that was a required  
13 procedure?

14 A. I think it was. Any time we go into a  
15 house, I think we're supposed to check the sewer and the  
16 entrance where the gas comes in through the wall.

17 Q. Well, you went into houses for a lot of  
18 other purposes besides TFTOs, didn't you?

19 A. Yes.

20 Q. And with regard to other inspections, you  
21 do have to do a JW at the sewer, the curb, right?

22 A. Yes.

23 MR. SCHWARZ: Could I have a -- JW?

24 THE WITNESS: It's a combustible gas  
25 indicator, check for gas leaks.

1 BY MR. ELBERT:

2 Q. That was the, I guess the trade name at one  
3 time of the combustible gas indicator?

4 A. That was a trade name, JW.

5 Q. Okay. Would you agree that Laclede cannot  
6 predict when a customer may change at a particular  
7 address?

8 A. Yeah, I'd agree with that.

9 Q. That's a random event, isn't it?

10 A. Yeah. It's up to the customer when they  
11 move, when they don't move.

12 Q. And the same address could have multiple  
13 customers during the year, correct?

14 A. That's correct.

15 Q. And the Union -- as I understand the  
16 Union's response in its Data Requests, but maybe your  
17 opinion is different. What I'm asking you is, would the  
18 Union recommend a TFTO every month if the tenant at a  
19 particular address changed every month?

20 A. Would we recommend it if they changed every  
21 month?

22 Q. If the tenant changed every month, would  
23 you recommend a TFTO every time the tenant changed?

24 A. Yes.

25 Q. And you would agree, wouldn't you,

1 Mr. Schulte, that other addresses could go years or  
2 decades without the tenant changing, right?

3 A. Yeah.

4 Q. So there would be no TFTO at any of those  
5 residences or addresses, correct?

6 A. That's correct.

7 Q. And wouldn't you agree that the same  
8 problems that exist that may be found on a TFTO could also  
9 exist in those -- in the residences where there's no  
10 change of tenant for months, years or decades?

11 A. Some of the problems. The main function  
12 that -- the reason why you see a TFTO every time a  
13 customer moves, because I've been there. I've seen too  
14 many of them disconnecting their stoves and ranges, not  
15 capping the lines, just a number of things.

16 Q. Well, that could happen even if somebody  
17 continues to live in the residence, couldn't it?

18 A. Yes. That's possible.

19 Q. So, in fact, isn't it true that the exact  
20 same problems that exist or may exist when you do a TFTO  
21 also can exist in residences where there is no change of  
22 tenant and no TFTO?

23 A. No, I would not agree with you, because  
24 most people don't disconnect their stoves every month.

25 Q. Okay. I'm going to refer you to page 199

1 of your deposition. Line No. 1, question: Now, some of  
2 these very same problems that you described in paragraphs  
3 15 and 16 can also occur when a person is living in a  
4 residence, can't they?

5 Answer: Yes, they can.

6 Are you aware of these types of problems  
7 that you refer to in paragraphs 15 and 16 resulting in gas  
8 leaks and subsequent fires or explosions?

9 Answer: No, I'm not.

10 Do you see that?

11 A. I see that.

12 Q. Is that true and accurate?

13 A. Yes, to the best of my knowledge.

14 Q. Do you have any idea when you were in  
15 the -- when you did TFTOs what percentage of the time you  
16 found safety problems when you did TFTOs?

17 A. I think I made a guess at it, because I  
18 told you it's been -- I've been in this job for 15 years,  
19 and going back and trying to remember what I did at that  
20 time, and I think I gave you an estimate at maybe 10 to  
21 15.

22 Q. I think -- well, you gave a couple  
23 different estimates. We can look, if you want, at page 37  
24 of your deposition.

25 A. And I told you at that time I was guessing,

1 I couldn't confirm anything.

2 MS. SCHRODER: I'm sorry, Charles. What  
3 page?

4 MR. ELBERT: Page 37, Sherrie.

5 BY MR. ELBERT:

6 Q. It's line 16, Mr. Schulte.

7 A. All right.

8 Q. Question: So I'm trying to understand, is  
9 it 3 percent of say the 1,000 TFTOs that you did or is  
10 that 3 percent of the 5,000 times that you were on  
11 customer property?

12 Answer: I would say 3 percent of the 5,000  
13 times I was on.

14 Question: So a lot of those -- most of  
15 those would not be in connection with TFTOs, right?

16 Answer: Correct.

17 Does that refresh your memory as to what  
18 your testimony was?

19 A. Yes. And I told you at that time, and I'm  
20 telling you right now, that I don't have an accurate  
21 count. I'm guessing.

22 Q. Yeah. You said it was a wild guess, right?

23 A. And these were hazard tickets. I'm not  
24 talking about the hazards that were found that was  
25 corrected without a hazard ticket being wrote out. You

1 have uncapped lines, which is a potential hazard. You  
2 have valves that are shut off with no plugs in them.  
3 That's a potential hazard.

4 Q. Well, I don't think in your testimony you  
5 said anything about distinguishing between hazard tickets.  
6 You just were talking about safety hazards.

7 A. Well, that's the hazard tickets that I'm  
8 referring to, and I'm still saying right here, I don't  
9 know. I don't remember.

10 Q. That's fine. And you would agree that  
11 anything could happen, any kind of safety hazard could  
12 develop between inspections, correct?

13 A. That's correct.

14 Q. Let's go back to your affidavit, if we may,  
15 again to paragraph No. 7. That's Exhibit 4, Mr. Schulte.

16 A. Well, you've got them marked different.

17 Q. That was the deposition. It says  
18 Deposition Exhibit 10. I don't know why it hasn't been  
19 marked Exhibit 4, but whoever gave that to you --

20 A. You gave to me.

21 MS. SCHRODER: No. I did. Sorry. My  
22 fault.

23 MR. ELBERT: It's not a problem.

24 BY MR. ELBERT:

25 Q. Now, you say in paragraph 7 again that

1 these longstanding practices, and that's referring both to  
2 meter reading and TFTOs, in association with the addition  
3 of pocket leak detectors, created a low rate of  
4 unintentional carbon monoxide poisoning, gas fires and gas  
5 explosions, correct?

6 A. Yes.

7 Q. How do you know they created a low rate?

8 A. I don't have any factual knowledge.

9 Q. Okay. The Union hasn't performed any  
10 studies to show that it's safer to perform meter readings  
11 every month rather than every three years, has it?

12 A. No.

13 Q. The Union never previously has taken the  
14 position that remote reading devices create a safety  
15 hazard, has it?

16 A. No.

17 Q. You don't know -- as the officer of the  
18 Union, you don't know whether gas utilities in Missouri  
19 that do not perform TFTOs have a higher incidence of  
20 safety hazard than Laclede did when it did TFTOs, do you?

21 MS. SCHRODER: Objection, lack of  
22 foundation. I think he's also said that he doesn't have  
23 any knowledge about who does these and who doesn't.

24 MR. ELBERT: Your Honor, he is testifying  
25 in his affidavit, he uses the terminology low rate. I'm



1     trying to determine how he -- what his foundation is for  
2     saying low rate. He has to compare it to something.

3                   JUDGE DIPPELL: I'll overrule the  
4     objection, allow the question on that basis.

5                   MR. ELBERT: Could you read back the  
6     question, please?

7                   THE REPORTER: "Question: You don't  
8     know -- as the officer of the Union, you don't know  
9     whether gas utilities in Missouri that do not perform  
10    TFTOs have a higher incidence of safety hazard than  
11    Laclede did when it did TFTOs, do you?"

12                  THE WITNESS: No.

13    BY MR. ELBERT:

14                  Q.     And as an officer of the Union, you don't  
15     know whether gas utilities in the United States that do  
16     not perform TFTOs have a higher incidence of safety  
17     hazards than does Laclede, do you?

18                  A.     No, I don't.

19                  Q.     Has the Union engaged anyone to perform any  
20     safety studies?

21                  A.     No, we haven't.

22                  Q.     Have you made any attempt to determine  
23     whether, in fact, gas utilities have a higher incidence of  
24     safety hazards when TFTOs are not performed or meter  
25     reading is not performed?

1           A.       No, we've done no studies.

2           Q.       Now, let's go to paragraph 12 of your  
3 affidavit. Are you there?

4           A.       Yes.

5           Q.       And you say there that the -- we further  
6 conducted sampling of Laclede hazard tickets over a  
7 five-month period. Do you see that?

8           A.       Yes.

9           Q.       You were not involved in that sampling  
10 process, were you?

11          A.       No. By we, I meant the members of the  
12 Union in general.

13          Q.       But I'm asking, you personally were not  
14 involved, were you?

15          A.       No.

16          Q.       And the entire Union didn't participate in  
17 that sampling, did it?

18          A.       No. My understanding was just the service  
19 men.

20          Q.       Well, just the service men?

21          A.       The service men and the meter readers if  
22 they would happen to see something.

23          Q.       And do you know about how many meter  
24 readers there were at the time that the sampling was done?

25          A.       No, I don't.

1           Q.       Well, I think you testified earlier in  
2     response to Mr. Schwarz, correct me if I'm wrong, that  
3     there were like 50 to 60 meter readers?

4           A.       Yeah, but you keep -- the company keeps  
5     eliminating as they get these AMR routes on. So at any  
6     given time, I could not tell you how many was there.

7           Q.       And do you have any knowledge of how many  
8     meter readers actually participated in this sampling?

9           A.       No.

10          Q.       Do you have any knowledge of who actually  
11     submitted any alleged safety hazards?

12          A.       The only thing I have is the tickets that  
13     they turned in or the Union has is the tickets that were  
14     turned in by the employees.

15          Q.       And you didn't confirm whether the sampling  
16     information was accurate or personally review any of the  
17     hazard tickets, did you?

18          A.       I reviewed a few.

19          Q.       Just a few of them?

20          A.       As they came in and were thrown in, they  
21     were put in a box. I seen them. I didn't -- I didn't  
22     have charge of this thing. I just reviewed a few of them  
23     that I seen.

24          Q.       Right. You didn't have charge of it.

25     Okay. Do you know whether there are a bunch of duplicate

1 entries on the hazards that are attached on Exhibit 1?

2 A. No, I don't.

3 Q. Do you know whether the hazards that are  
4 attached on Exhibit 1 were even found on TFTOs?

5 A. I don't know, no.

6 Q. Do you know whether there were some  
7 instances on the hazards that are reflected on Exhibit 1  
8 where there had been a home sale inspection shortly before  
9 the TFTO was performed?

10 A. I have no idea knowing that.

11 Q. Would you agree that many of the alleged  
12 safety hazards that you've attached on Exhibit 1 to your  
13 affidavit are very minor technical safety hazards?

14 A. A hazard is a hazard.

15 Q. So, for example, if a stove is missing an  
16 anti-tipping device which prevents the stove from tipping  
17 over when somebody stands on the oven door, you would  
18 consider that to be a safety hazard, right?

19 A. Laclede considers it to be a safety hazard,  
20 not I.

21 Q. Okay. And would you agree that that's a  
22 fairly technical safety hazard?

23 A. Probably I would say, unless somebody  
24 got -- you're saying if somebody's standing on the door.  
25 I mean, I've run emergencies when I was on the street

1     where you have people get in a fight and knock stuff over  
2     and pull the flex connector from the pipe. I assume  
3     that's the reason it's there for. When I was on the  
4     street, that was not considered a hazard not to have an  
5     anti-tipping device.

6             Q.       So that's changed?

7             A.       That is new to me, yes. I understand the  
8     reason for it, but it's new to me.

9             Q.       And by the way, if you look at Exhibit 1,  
10    to your knowledge, are all of the items that are referred  
11    to as safety hazards on Exhibit 1 either customer  
12    appliances or customer fuel runs?

13            A.       Are you talking about this (indicating)?

14            Q.       No. Exhibit 1 to your -- I'm sorry, your  
15    Honor. Exhibit 1 to your affidavit.

16            A.       Oh, okay. Okay.

17            Q.       I'll try the question again. Have you  
18    looked at Exhibit 1 to your affidavit?

19            A.       I've just skimmed over it. I haven't read  
20    everything in there.

21            Q.       Have you ever read everything in there?

22            A.       I know they were hazard tickets. I said I  
23    skimmed over it. I can't remember everything that I read  
24    in here.

25            Q.       Well, I'm asking you, have you ever read

1 Exhibit 1 in its entirety?

2 A. Like I said, I've went over it and I've  
3 looked at everything in there.

4 Q. Okay. With respect to Exhibit 1, is it  
5 fair to say that everything that's listed on Exhibit 1  
6 relates to a customer appliance or a customer fuel run?

7 MS. SCHRODER: Your Honor, the witness may  
8 need some time to look at this document to determine that.

9 JUDGE DIPPELL: I'll tell you what, we can  
10 give him some time because it's time for us to take a  
11 break. And so we will take a 15-minute break, by that  
12 clock back there, come back at 20 after 10. We can go off  
13 the record.

14 (A BREAK WAS TAKEN.)

15 JUDGE DIPPELL: We've returned after our  
16 break. Mr. Schulte, did we give you enough time to review  
17 that?

18 THE WITNESS: Yes.

19 JUDGE DIPPELL: Mr. Elbert?

20 MR. ELBERT: Thank you, your Honor.

21 BY MR. ELBERT:

22 Q. Do you recall my question, Mr. Schulte?

23 A. No, I don't.

24 Q. I'll try it again. Is it fair to say that  
25 all of the items listed, the alleged hazards listed on

1 Exhibit 1 to your affidavit are hazards relating to  
2 customer appliances or customer fuel runs?

3 A. Yes.

4 Q. Let's look at paragraph 13 of your  
5 affidavit. And it says, Exhibit 1 lists numerous  
6 residences in which the heat exchanger of a furnace  
7 carbonized, correct?

8 A. Correct.

9 Q. Let's go to paragraph 14. Says, Exhibit 1  
10 also lists numerous residences in which there was a hole  
11 in a vent pipe or an improperly fitted vent or flue pipe,  
12 correct?

13 A. Correct.

14 Q. And Exhibit 15 -- I mean paragraph 15 says,  
15 Exhibit 1 further reflects appliance connector hazards  
16 detected on turn off/turn ons, correct?

17 A. Correct.

18 Q. And then paragraph 16 apparently refers to  
19 Exhibit 3, which is a busted connector for a range or a  
20 clothes dryer that probably occurred when the former  
21 resident removed the appliance while transferring  
22 residences. Do you see that?

23 A. Yes.

24 Q. Now, with respect to each of those items in  
25 paragraphs 13, 14, 15 and 16, isn't it true that those

1 very same problems can exist where there is no change of  
2 customer?

3 A. Yes.

4 Q. And isn't it true, Mr. Schulte, that the  
5 Union would not be satisfied if the Public Service  
6 Commission adopted a rule requiring customers to have a  
7 contractor verify that customers' appliances are properly  
8 disconnected?

9 A. The Union always takes the contention that  
10 Laclede Gas employees are the most well-trained employees  
11 when it comes to working on this stuff, and we would like  
12 to make sure that we continue to do the work to make sure  
13 that the public is safe and they've got the most safe  
14 employees and knowledgeable employees to do the work.

15 Q. Well, you would agree, wouldn't you,  
16 Mr. Schulte, that contractors install most appliances for  
17 customers, don't they?

18 A. Yes, they do.

19 Q. In fact, Laclede doesn't even install  
20 furnaces, does it?

21 A. They have.

22 Q. When was the last time Laclede installed a  
23 furnace?

24 A. The only thing I can attest to, when I was  
25 on the street, they had installed furnaces for certain



1 people.

2 Q. Do you know whether they currently install  
3 furnaces?

4 A. No, I don't know.

5 Q. Do you know whether they've installed  
6 furnaces in the last 15 years?

7 A. No, I don't.

8 Q. And would you agree that the contractors  
9 are competent to install the appliances?

10 A. Not all.

11 Q. I see. And what do you base that on?

12 A. I base it when I was on the street. We've  
13 had contractors come in and tell people they needed  
14 furnaces and they've installed them wrong. In fact, one  
15 time the Attorney General, when Ashcroft was in charge  
16 here as Attorney General, they wanted me to go against, I  
17 think the name of the company was Afton Heating & Cooling.

18 Q. So occasionally there's an incompetent  
19 contractor, right? Is that what you're saying?

20 A. Yes, I am.

21 Q. Now I'm going to go back to my question  
22 again. Isn't it fair to say that the Union would not be  
23 satisfied if the PSC adopted a rule requiring customers to  
24 have the -- have contractors verify that customers'  
25 appliances are properly disconnected?

1           A.       The PSC can decide whatever they want to  
2 decide, and my contention is Laclede Gas has the most  
3 well-qualified trained employees dealing with this here.

4           Q.       I'm asking a question as to whether Laclede  
5 would be satisfied from a -- I mean whether the Union  
6 would be satisfied from a safety perspective if the PSC  
7 adopted a rule requiring customers to have a contractor  
8 verify that customers' appliances are properly  
9 disconnected?

10          A.       We would not be happy with that because we  
11 have done it for years, and as I've stated before, we feel  
12 that we are the most qualified people out there to do the  
13 work, and we feel it is our work which has been done over  
14 the past 50, 60 years. It's been done for 38 years and  
15 before my time here.

16          Q.       So one of your -- one of your -- is it fair  
17 to say that one of your objections is you believe that's  
18 the Union's work, correct?

19          A.       No. I believe it's Laclede's  
20 responsibility.

21          Q.       Wouldn't you say that one of your reasons,  
22 Mr. Schulte, is that it's the -- you believe that it's the  
23 Union's work and it shouldn't be done by contractors?

24          A.       I told you --

25                   MS. SCHRODER: Objection, asked and

1 answered.

2 BY MR. ELBERT:

3 Q. Okay. Let's go to page 110 of your  
4 deposition. Are you there?

5 A. Not yet. I'm there.

6 Q. Starting with line 13, question: What  
7 would the other objection be?

8 Answer: The other objection would be that  
9 we have consistently done that work for the years, that it  
10 is our work. In the contract there's a clause in there  
11 that said work done in the past by our employees will be  
12 maintained by our employees.

13 Question: So that -- but that has nothing  
14 to do with public safety, does it?

15 Answer: No, that has nothing to do with  
16 public safety.

17 Question: That has to do with protecting  
18 your employees' jobs, right?

19 Answer: Correct.

20 See that?

21 A. I see that.

22 Q. Was that answer true when you gave it on  
23 May 8?

24 A. Yes, it was.

25 Q. Is it true as you sit here today?

1           A.       Yes, it is. I think I've explained that.

2           Q.       Thank you. Well, the Union doesn't contend  
3   that Laclede should be checking contractors' work, does  
4   it?

5           A.       That's not Laclede's responsibility, that I  
6   know of.

7           Q.       Do you know whether there's any difference  
8   between Laclede customers and customers of other gas  
9   utilities in Missouri?

10          A.       No, I don't.

11          Q.       Has the Union done any studies to determine  
12   whether or not customers of other gas utilities use  
13   different types of gas appliances?

14          A.       No.

15          Q.       Has the Union done any studies to determine  
16   whether other utilities use different types of -- or their  
17   customers use different types of connectors for  
18   appliances?

19          A.       No.

20          Q.       Has the Union done any studies to determine  
21   how far apart customers live from one another outside of  
22   Laclede's service area?

23          A.       No.

24          Q.       Let's go to paragraph 17 of your affidavit.  
25   You state that, left unchecked, the new resident would

1 have been the likely victim of a gas leak and subsequent  
2 fire or explosion. Do you see that?

3 A. I see that.

4 Q. Are you aware of any situation where as a  
5 result of failure to conduct a TFTO by any gas company  
6 anywhere, including Laclede, there has been an injury to  
7 person or damage to property?

8 A. No, I am not personally aware of that.

9 Q. Do you have any facts to show that TFTOs  
10 have resulted in a lower rate of injury to persons or  
11 damage to property than any gas utility in the United  
12 States that does not conduct TFTOs?

13 A. No.

14 Q. If a gas utility had a higher rate of  
15 safety hazards than Laclede does, that could -- would you  
16 agree that could be attributable to factors other than  
17 TFTOs or annual meter reads?

18 A. I don't have any clue about what other  
19 utilities do or what they don't do.

20 Q. Are you aware of any gas explosions or  
21 fires from any of the hazards that you describe in  
22 paragraphs 15 or 16 of your affidavit?

23 A. The only thing I can attest to is when I  
24 was on the street, that I responded to emergency  
25 complaints, and one of these was a range that the pilot

1     trevor rod on the burner was blocked up with a white  
2     powder substance, and it blew the door across the room,  
3     and supposedly a woman got flashed and they took her to  
4     the hospital.

5             Q.       When you say supposedly a woman got  
6     flashed, were you present when this happened?

7             A.       No, I was not. That's why I said  
8     supposedly.

9             Q.       Did you conduct an investigation relating  
10    to this alleged incident?

11            A.       No. That would be claims department at  
12    Laclede Gas.

13            Q.       Did you have -- did you witness in any way  
14    this alleged incident?

15            A.       No.

16            Q.       So you're going on what people told you; is  
17    that correct?

18            A.       No. I'm going by on the door blowed across  
19    the room, it was still there when I got there, and what  
20    the fire department told me.

21            Q.       That's what the fire department told you?

22            A.       That's correct.

23            Q.       Now, I'm going to refer you to page 199 of  
24    your deposition, top of the page, line 1, now -- question:  
25    Now, some of these very same problems that you've

1 described in paragraphs 15 and 16 can also occur when a  
2 person is living in a residence, can't they?

3 Answer: Yes, they can.

4 Question: Are you aware of these types of  
5 problems that you refer to this paragraphs 15 and 16  
6 resulting in gas leaks and subsequent fires or explosions?

7 Answer: No, I'm not

8 Was that true when you made that testimony?

9 A. Of course it was true when I made it, but  
10 as reviewing all of this, then I remember things. It's  
11 been 15 years since I've been on the street, and you  
12 cannot remember everything, and that's -- and there's  
13 probably more that I've been involved with, but I just  
14 can't remember them all.

15 Q. And do you know whether that explosion of  
16 the -- was it a range, is that what you said?

17 A. The door was blown off the oven of the  
18 range.

19 Q. The door was blown off the oven of a range.  
20 Do you know whether or not there was a TFTO in connection  
21 with that property?

22 A. I have no idea.

23 Q. Do you know whether there was any other  
24 kind of inspection by Laclede in connection with that  
25 property?

1           A.       No, I do not.

2           Q.       Do you know, in fact, what the true cause  
3 of that blowing off the door was?

4           A.       Not really, because a lot of times when  
5 these happens with this powder substance, when there's an  
6 explosion in there, the force of the explosion clears it,  
7 so you cannot really tell. But this is a good suspicion.

8           Q.       Mr. Schulte, is it fair to say that your  
9 assertion in paragraph 17 that, left unchecked, the new  
10 resident would likely have been the victim of a gas leak  
11 and subsequent fire explosion, is not based on your  
12 personal knowledge?

13          A.       That's correct.

14          Q.       I want to refer you back to paragraph 13 of  
15 your affidavit, the last line. It says, I personally  
16 found and corrected instances of carbonized heat  
17 exchangers when conducting turn offs/turn ons. Do you see  
18 that?

19          A.       Yes.

20          Q.       And did you also do that on other  
21 inspections as well?

22          A.       Yes.

23          Q.       And with regard to the items that you refer  
24 to in paragraph 14 regarding a hole in the vent pipe or  
25 improperly fitted vent pipe, did you discover those types



1 of problems on inspections other than TFTOs?

2 A. Yes. I worked emergency board a lot, and  
3 we were sent out for these, and this is what we found on  
4 emergency complaints, too.

5 Q. Sure. I understand. And this photograph  
6 that's Exhibit 2 to your affidavit --

7 MS. SCHRODER: Do you have that up there  
8 with you, Joe, or do you need a copy?

9 THE WITNESS: I'm looking for it. Oh,  
10 you're saying Exhibit 2?

11 MR. ELBERT: It's Exhibit 2 to Exhibit -- I  
12 know this is confusing. It's Exhibit 2 to Exhibit 4,  
13 which is your affidavit.

14 MS. SCHRODER: Your Honor, may we give the  
15 witness photos, actual photos instead of the photocopies  
16 that are up there?

17 MR. ELBERT: I'm not going to --

18 MS. SCHRODER: You're not going to ask  
19 about pictures? Okay.

20 MR. ELBERT: I'm going to ask about the  
21 pictures, but he doesn't need to see them, I don't think,  
22 to answer my questions.

23 JUDGE DIPPELL: Go ahead.

24 MR. ELBERT: I'm just waiting 'til he finds  
25 it.

1                   THE WITNESS: Here's company Exhibit 2. Is  
2   that what you're talking about?

3   BY MR. ELBERT:

4           Q.       No, sir. Your affidavit, which is Exhibit  
5   No. 4.

6           A.       You guys keep changing these numbers on me.

7           Q.       Sorry about that.

8           A.       You know I'm getting old and slow. Okay.

9           Q.       Do you know where that picture was taken?

10          A.       No, I do not.

11          Q.       Do you know when it was taken?

12          A.       No, I do not.

13          Q.       Do you know who took it?

14          A.       No, I do not.

15          Q.       In paragraph 15 of your affidavit, you  
16   refer to this incident when you went out on a turn  
17   off/turn on and found a plastic sandwich bag wrapped  
18   around a gas stove pipe held in place by a rubber band?

19          A.       That's correct.

20          Q.       Do you remember how long ago that happened?

21          A.       Probably 20 years ago.

22          Q.       And do you know how long that plastic bag  
23   had been there?

24          A.       No, I do not.

25          Q.       And your statement down at the bottom, if

1 the house had exploded, it would have not only destroyed  
2 the residence with the leak, it would have also caused  
3 property damage to the adjacent houses and the house  
4 across the street, and it would likely have killed any  
5 passerby. Is that based on your personal knowledge?

6 A. It's based on my personal knowledge of  
7 explosions. I've had a member was killed in an explosion  
8 by being right out in front of the house.

9 Q. Well, you're talking about Mr. Ferguson,  
10 right?

11 A. That's correct.

12 Q. And do you want to tell the PSC how that  
13 occurred?

14 A. That occurred when the contractor had  
15 drilled through one of our plastic mains and our -- the  
16 leak department had two trucks out there to repair the  
17 main and they were digging it up and trying to clamp it  
18 off when the house exploded. And it not only destroyed  
19 that house, it done severe damage to houses across the  
20 street, on both sides, and it put my member in the  
21 hospital and he subsequently died two days later.

22 Q. That had nothing to do with a Laclede  
23 meter, did it?

24 A. No, it didn't.

25 Q. And it had nothing to do with a TFTO

1 inspection, did it?

2 A. No, it didn't.

3 Q. In fact, no inspection could have prevented  
4 that tragedy, could it?

5 A. No inspection could have prevented it?  
6 Probably not, no.

7 Q. So you just testified previously about the  
8 Boschert explosion. And if I recall your testimony, you  
9 claim that did not destroy the house, right?

10 A. It did not de-- to my opinion, what I've  
11 seen in explosions, and I've been to quite a few of them,  
12 a lot of these explosions, like in Pine Lawn down where  
13 Kenny Ferguson was killed, there was just one over in  
14 St. Ann's a few years -- maybe last year. The customer  
15 disconnected his own stove there, they determined, and  
16 tried to commit suicide. A lot of these explosions when  
17 you go to them, it completely destroys the house plus  
18 numerous houses -- it does damage to numerous houses in  
19 the area.

20 Q. In the Boschert case, was there any damage  
21 to any adjacent houses?

22 A. I'm not aware of it. All I know, that  
23 there was damage to the garage. The house was still  
24 standing. I don't think it looked like there was any big  
25 explosion from the outside where you could tell. Maybe

1 the garage door was warped or something like that.

2 Q. So sometimes there can be a small explosion  
3 from a gas leak?

4 A. Yes, it's possible.

5 Q. With regard to the photograph referred to  
6 as Exhibit 3 to your affidavit, it's referred to in  
7 paragraph 16. See that?

8 A. Yes.

9 Q. Do you know when that photograph was taken?

10 A. No, I do not.

11 Q. Do you know where it was taken?

12 A. No, I do not.

13 Q. Do you know who took it?

14 A. No, I do not.

15 Q. I want to refer you to paragraph 19 of your  
16 affidavit. Is it fair to say that an irregularity in a  
17 gas line can be found during the three-year corrosion  
18 inspection?

19 A. In Laclede's gas line?

20 Q. Yes, sir. I'm sorry.

21 A. Are you referring about inside, outside?  
22 Where are you referring to?

23 Q. Well, I'm referring to inside and outside  
24 in Laclede's gas line.

25 A. Well, the corrosion inspection, and I don't

1 know just everything -- if they go inside, yes, they're  
2 going to find something if it's in there.

3 Q. And doesn't the C&M department also do leak  
4 surveys of property on the outside to determine whether or  
5 not there are leaks?

6 A. I understand they do. I think that's every  
7 three years or maybe year. I'm not clear.

8 MR. SCHWARZ: For clarification, C&M?

9 MR. ELBERT: Correct.

10 MR. SCHWARZ: What is it?

11 MR. ELBERT: Oh, I'm sorry. Construction  
12 and maintenance department, also sometimes called -- I  
13 think Mr. Schulte referred to it in response to your  
14 questions, correct me if I'm wrong, as the street  
15 department, right.

16 BY MR. ELBERT:

17 Q. C&M, construction and maintenance and the  
18 street department all are the same thing, correct, Joe?

19 A. That's correct.

20 Q. And I did note, you corrected -- just so I  
21 understand this, you say in paragraph 19, leaks of this  
22 sort result in gas seeping through the wall into the  
23 residence, another prime source of carbon monoxide  
24 poisoning and explosion. And you've already, as I  
25 understand it, corrected that testimony and you agree that

1 that would not cause carbon monoxide poisoning?

2 Yeah. I've reviewed some of this stuff.

3 I've read so much stuff, it's -- you know, you skim  
4 through a lot as fast as you can. So yeah, I seen that,  
5 and I told Sherrie that it needs to be corrected.

6 Q. You also say, turn off/turn on inspections  
7 are also important because they permit the Laclede service  
8 person to detect general leaks either due to the odor of  
9 gas or the pocket leak detector. Do you see that in  
10 paragraph 20?

11 A. Yes.

12 Q. Is the pocket leak detector used during  
13 turn ons and turn offs?

14 A. No, but they had -- I think I said handheld  
15 in there, too didn't I?

16 Q. No, sir, you did not.

17 A. Okay. Well, that was an error on my part.  
18 They carry a different type of leak detector, and it's  
19 something you don't wear in your pocket. The only ones  
20 that I'm aware of that carries it in their pocket is the  
21 meter readers.

22 Q. Now, with respect to paragraph 24 of your  
23 affidavit, you say Local 11-6's concern for customer and  
24 public safety are shared by some or all of the cities and  
25 counties served by Laclede as reflected by the resolutions

1 attached hereto as Exhibits 5 through 9, correct?

2 A. Correct.

3 Q. And you also have your two supplemental  
4 affidavits that also have some other resolutions attached,  
5 correct?

6 A. Correct.

7 Q. Now, did you write the cities and counties  
8 to ask them to make these resolutions?

9 A. Some I contacted, and as this went on,  
10 you've had aldermen and county councilmen from other  
11 counties contacting the other ones, and they contacted me.

12 Q. And when they contacted you, did you  
13 provide to them information to show what types of  
14 inspections are done by Laclede Gas Company?

15 A. I provided them a copy of the resolution  
16 and explained what I felt was there, what Laclede was  
17 eliminated. They had a right to change and do whatever  
18 they wanted with the resolution. They had a right to  
19 reject it if they wanted to.

20 Q. So is the information you provided to them  
21 a copy of that resolution?

22 A. Unless I went and testified. They asked me  
23 to come and testify at their local hearings.

24 Q. Well, let's look, for example, at Exhibit 6  
25 to your affidavit. That's a resolution that was adopted



1 by St. Louis County apparently. Do you see that?

2 A. I see that.

3 Q. And is this the resolution that you  
4 provided to St. Louis County?

5 A. I provided it to one of the councilmen.

6 Q. Okay. And this is -- is this an exact copy  
7 of the resolution that you provided?

8 A. It probably is.

9 Q. And did you write this resolution?

10 A. No, I did not.

11 Q. Who did?

12 A. The attorney was -- attorney wrote it for  
13 me.

14 Q. Okay. And do you know whether that  
15 attorney had personal knowledge of any information  
16 regarding explosions caused by natural gas?

17 A. Not that I know of.

18 Q. Do you know whether that attorney has any  
19 personal knowledge relating to whether meters could  
20 cause -- a leaking meter could cause an explosion?

21 A. I don't have any idea.

22 Q. Do you know whether that attorney has any  
23 personal knowledge of any --

24 MR. SCHWARZ: I object. Is this relevant  
25 to anything, what the attorney who drafted a resolution

1     that was presented knew?

2                   MR. ELBERT:  I think it's very relevant to  
3     the issue of whether this resolution is based on proper  
4     factual information that was given to the county.  He said  
5     he didn't prepare it, the attorney did.  How else am I  
6     going to get to it but to establish that the attorney had  
7     no knowledge of anything that's in the resolution?

8                   JUDGE DIPPELL:  I don't think you can  
9     establish what the attorney knew by questioning  
10    Mr. Schulte.  Mr. Schulte didn't -- he's not the attorney.  
11    He didn't prepare it.

12                  MS. SCHRODER:  Also, your Honor, the  
13    witness already testified that there were public meetings  
14    on all of this.

15                  JUDGE DIPPELL:  Okay.

16                  MR. SCHWARZ:  I mean, Staff is certainly --  
17    and I don't know if the Union is -- is willing to  
18    stipulate that these things are typically drafted by  
19    attorneys at the direction and with the input of clients.

20                  MR. ELBERT:  I'll revise my question.

21                  JUDGE DIPPELL:  Okay.  I was going to say,  
22    I've already limited the admissibility of these  
23    resolutions to show the concern and not for the facts that  
24    are contained in them, so --

25                  MR. ELBERT:  But -- I'm sorry, your Honor.

1 I didn't mean to interrupt.

2 JUDGE DIPPELL: Go ahead.

3 MR. ELBERT: The point is that if a  
4 municipality is concerned, the concern should be based on  
5 facts. Our position is that they were not given proper  
6 facts and the expression of concern is not founded, it's  
7 not well founded.

8 JUDGE DIPPELL: I think you've made that  
9 point by your questions to Mr. Schulte saying that he  
10 provided the resolution, and he doesn't know what the  
11 attorney knows. There's no way for him to know that.

12 BY MR. ELBERT:

13 Q. In the sixth whereas clause of this  
14 resolution it states, whereas these proposed changes will  
15 harm consumers by reducing annual inspections, increasing  
16 the frequency of estimated readings, et cetera. Did you  
17 provide that information, Mr. Schulte?

18 A. Yes, I did. Yes, I did.

19 Q. Okay. And do you have any factual basis to  
20 show that there will be any harm to consumers resulting  
21 from reducing the annual inspection?

22 A. No actual facts.

23 Q. All right. Now, and the next whereas  
24 clause, whereas these proposed changes will negatively  
25 affect the safety of consumers, their homes and business

1 and the overall community of St. Louis County. Do you see  
2 that?

3 A. Yes, I do.

4 Q. Did you provide the information to the  
5 attorney to say that?

6 A. Yes, I did.

7 Q. Do you have any factual basis for that  
8 statement?

9 A. No. Just from being on the street for  
10 years.

11 Q. Would you agree that TFTOs relate to a very  
12 small number of Laclede's customers on an annual basis?

13 A. The only thing I can go by is your  
14 estimate, what you gave us, something like between 70 and  
15 80,000 a year.

16 Q. Does that seem right to you?

17 A. I have no idea. I'm going by your figures.

18 MR. ELBERT: Do you have Exhibit 16, your  
19 Honor?

20 BY MR. ELBERT:

21 Q. I'm showing you what's been marked for  
22 identification, Mr. Schulte, as company -- I'm sorry -- as  
23 Exhibit 16, which consists of a May 4, 2006 letter from  
24 Sherrie Schroeder to fire chiefs and a May 19, 2006  
25 response from me. Have you ever seen either of these

1 documents before?

2 A. Yes. Yes.

3 Q. And let's look at the May 14, 2006 letter  
4 to the fire chiefs. Did you review that before it was  
5 sent out?

6 A. I seen it, yes.

7 Q. Okay. And did you assist in the  
8 preparation of that memorandum?

9 A. No, I didn't.

10 Q. And did you assist in the preparation of  
11 the resolution that's attached to it?

12 A. The resolution was given to, from my  
13 understanding, to the fire chief from a State Rep.

14 Q. Somebody -- you think that that resolution  
15 was prepared by somebody other than your attorney?

16 A. I think this is a resolution that's a  
17 standard resolution that we've had out there, and they  
18 could have changed it wherever. Our attorney could have  
19 wrote this.

20 Q. You don't know?

21 A. No.

22 Q. Having seen the resolution, do you know  
23 that the resolution went with the memorandum?

24 A. No, I don't.

25 Q. As far as the memorandum goes, does that

1 appear to be a true and accurate copy of the memorandum?

2 A. Yes.

3 Q. And have you seen this letter that's the  
4 May 19 letter -- the May 19, 2006 letter from me to  
5 Sherrie Schroder before?

6 A. Yes.

7 Q. Okay. And do you know whether that was  
8 received by the Union?

9 A. Yes, we have got a copy of it.

10 MR. ELBERT: Just request, your Honor, that  
11 these be admitted into evidence.

12 JUDGE DIPPELL: Is there any objection to  
13 Exhibit 16?

14 MS. SCHRODER: Your Honor, the Union's  
15 position is that it's of questionable relevance, but I  
16 don't care if it goes in.

17 JUDGE DIPPELL: Is that an objection?

18 MS. SCHRODER: So no, it is not an  
19 objection.

20 JUDGE DIPPELL: All right. I'll admit  
21 Exhibit 16 into evidence.

22 (EXHIBIT NO. 16 WAS RECEIVED INTO  
23 EVIDENCE.)

24 MR. ELBERT: Thank you, your Honor.

25 JUDGE DIPPELL: And that is a two-part

1 exhibit, the memorandum and the -- there's a memorandum  
2 dated May 4th and a letter dated May 19.

3 MR. ELBERT: Thank you.

4 BY MR. ELBERT:

5 Q. Mr. Schulte, were you present at the -- was  
6 it Louis Jackson arbitration?

7 A. Yes.

8 Q. And did you follow your typical practice of  
9 leaving the arbitration for portions of it?

10 A. As I said before, sometimes I'm in and out.  
11 Depends on what calls I'm receiving from the Union, if I  
12 have to go to the restroom or whatever, yes, but I was in  
13 there for quite a bit of Louis Jackson.

14 Q. Were you in there for the entire  
15 deposition, I mean the entire hearing?

16 A. No.

17 Q. And you know that Mr. Jackson was  
18 terminated for failure to perform a prescribed safety  
19 test, falsification of records, and overall work record,  
20 don't you?

21 A. That was the company's contention. That's  
22 not ours.

23 Q. I understand. I want to show you what's  
24 been previously marked as company's Exhibit -- I'm  
25 sorry -- as Exhibit No. 19, which is a March 28 -- I'm

1 showing you what's been marked as Exhibit 19, which is a  
2 March 28, 2006 grievance filed by Local 11-6. Is that  
3 your signature at the bottom?

4 A. Yes.

5 Q. Is that a true and accurate copy of that  
6 grievance?

7 A. Best of my knowledge, yes.

8 MR. ELBERT: I move that Exhibit 19 be  
9 admitted into evidence.

10 JUDGE DIPPELL: Is there any objection to  
11 Exhibit No. 19?

12 MS. SCHRODER: No objection from the Union.

13 JUDGE DIPPELL: Seeing no objection, I'll  
14 admit it into evidence.

15 (EXHIBIT NO. 19 WAS RECEIVED INTO  
16 EVIDENCE.)

17 BY MR. ELBERT:

18 Q. Mr. Schulte, you previously testified in  
19 response to questions by Mr. Schwarz that you didn't know  
20 that Ameren uses AMR for gas meters, that Ameren has used  
21 AMR for gas meters, right?

22 A. To the best of my knowledge, yes.

23 Q. Well, didn't you bring Mr. Peterson in here  
24 to testify?

25 A. I did not bring Mr. Peterson in.



1 Q. Your attorney did?

2 A. Correct.

3 Q. So your attorney had knowledge that -- are  
4 you saying that your attorney had that knowledge?

5 A. I think Mr. Peterson was --

6 MS. SCHRODER: Objection, lack of  
7 foundation.

8 BY MR. ELBERT:

9 Q. How did you know how your attorney  
10 determined that Ameren had done AMR for gas meters?

11 MS. SCHRODER: I'm sorry. I would just  
12 also add an attorney/client privilege objection here.  
13 He's asking for discussions between anybody in my office  
14 and Mr. Schulte.

15 JUDGE DIPPELL: I'm going to sustain the  
16 objection. You can ask him if he knows -- you can ask him  
17 what he knows, but not what his legal strategy discovery  
18 was with his attorney.

19 MR. ELBERT: I didn't think I was, your  
20 Honor, but I understand. I understand.

21 BY MR. ELBERT:

22 Q. Do you know how the Union or any of its  
23 representatives determined that Ameren used AMR?

24 A. The only thing I knew is they use it on  
25 electric. I never did inquire about gas.

1           Q.       That wasn't my question. Do you know how  
2 the Union or any of its representatives found out that  
3 Ameren used AMR for natural gas?

4           A.       No.

5                   MS. SCHRODER: And I would repeat -- Joe,  
6 give me a second. I would just repeat the same objection  
7 if my client would let me get it in.

8                   JUDGE DIPPELL: He's already testified that  
9 he doesn't -- he said he didn't know that Ameren used AMR.  
10 I'm willing to let you explore that further if you want,  
11 but I don't -- I don't think it's even relevant how his  
12 attorney put that witness on.

13                  MR. ELBERT: I don't believe my question  
14 asked about the attorney, your Honor. If we can read the  
15 question back, I wasn't asking about any attorney/client  
16 matter. It could be any other Union officer. I mean, how  
17 did they determine -- I'm asking him if he knows how the  
18 Union determined that Ameren used AMR on natural gas  
19 meters. That's all I'm asking.

20                  JUDGE DIPPELL: I'll let him answer if he  
21 knows how they determined Ameren uses AMR.

22                  THE WITNESS: I don't know.

23                  MR. ELBERT: I have no further questions.

24                  JUDGE DIPPELL: Thank you.

25                  MR. ELBERT: Thank you.

1 JUDGE DIPPELL: This is our usual  
2 opportunity for questions from the Bench, and I believe  
3 the Commissioners are involved in their regularly  
4 scheduled agenda. I have just a couple of questions  
5 myself, Mr. Schulte, and I'm probably going to ask that  
6 even after we're finished here, if the Commissioners  
7 haven't come back, I'm going to ask that you remain in  
8 case they had questions for you. We may recall you at  
9 that time.

10 THE WITNESS: Of course.

11 QUESTIONS BY JUDGE DIPPELL:

12 Q. I apologize because I think you answered  
13 this already, but I'm just going to ask it again. Are you  
14 aware of any other gas utility that performs turn off/turn  
15 on inspections?

16 A. I'm not aware.

17 Q. And with regard to your testimony, your  
18 affidavit, in paragraph 12 you're talking about the  
19 sampling and you say, that sampling a true and accurate  
20 copy of which is attached here as Exhibit 1, reflects  
21 numerous potentially life-threatening problems that were  
22 discovered as a result of turnoff/turn on inspections.

23 And do you know if those items in the  
24 sampling were caught as a result of the inspections that  
25 have now ceased at Ameren?

1 MR. SCHWARZ: Laclede.

2 THE WITNESS: These are Laclede.

3 JUDGE DIPPELL: I'm sorry. You guys got me  
4 started with Ameren, and now I'm going to be calling  
5 Laclede Ameren the rest of the day.

6 THE WITNESS: The best of my knowledge,  
7 every one of these that's on there were a Laclede system  
8 and they were found on turn off/turn ons. That's what  
9 I've been told.

10 BY JUDGE DIPPELL:

11 Q. Do you know if a meter reader works on a  
12 Saturday, is there different compensation for a Saturday?

13 A. As far as pay?

14 Q. Yes. For a Saturday versus a Monday  
15 through Friday.

16 A. Only if they're working a sixth day. If  
17 they're working a five over six and they get a day off  
18 during the week, then it's just a regular pay.

19 Q. You've answered most of my questions. I'm  
20 just making sure.

21 JUDGE DIPPELL: Okay. That's all the  
22 questions I had for you, Mr. Schulte. Would there be any  
23 recross based on my questions, Public Counsel?

24 MR. POSTON: No.

25 JUDGE DIPPELL: Staff?

1 MR. SCHWARZ: No.

2 JUDGE DIPPELL: Mr. Elbert?

3 MR. ELBERT: Yes.

4 JUDGE DIPPELL: Sorry. I should have kept  
5 my mouth shut.

6 RE-CROSS-EXAMINATION BY MR. ELBERT:

7 Q. Mr. Schulte, isn't it true that you don't  
8 know whether the hazards that are identified on Exhibit 1  
9 to your affidavit were discovered during TFTOs or other  
10 inspections?

11 A. I have no factual knowledge of being out on  
12 each individual job. All I know is they were turned in as  
13 being found on turn off/turn ons.

14 Q. Did each person tell you that they were  
15 found on turn off/turn ons?

16 A. No.

17 Q. And are you aware that in the Union's  
18 response to Data Requests, that the Union admitted that  
19 some of these so-called hazards were not discovered on  
20 turn offs and turn ons?

21 A. I'm not aware of that.

22 MR. ELBERT: I have no other questions.

23 JUDGE DIPPELL: Thank you. Is there any  
24 redirect?

25 MS. SCHRODER: Yes, there is, your Honor.

1 REDIRECT EXAMINATION BY MS. SCHRODER:

2 Q. I'm sorry. I forgot your name for a  
3 second. Mr. Schulte, how long have TFTOs been done, been  
4 performed by Laclede, in your knowledge?

5 A. I've been around here for 38 years, and to  
6 my knowledge, they've been done from years and years  
7 before that. So it's 38 years plus is all I can attest  
8 to.

9 Q. All right. Prior to the institution of  
10 AMR, when was it necessary for purposes of switching over  
11 the name on the account to actually physically access the  
12 customer's premise in a TFTO situation?

13 A. Only when there was a meter inside.

14 Q. And was there a particular -- okay. And  
15 was that for all inside meters?

16 A. Yeah. If you had to switch it over, I  
17 think what you're saying is basically when did Laclede  
18 have to go in and do a TFTO according to what they're  
19 doing right now with the AMR, is that what you're saying?

20 Q. No.

21 A. Okay. I misunderstood.

22 Q. My question was when it was necessary just  
23 for the purpose of switching over the name on the account,  
24 not to conduct an inspection or anything, but just for the  
25 purpose of switching over the name on the account, to

1 physically access the customer's premise?

2 A. On every job. On every TFTO.

3 Q. Okay. Let me break this down a little.

4 When there's an outside meter, is it necessary for  
5 purposes of switching the name on the account to actually  
6 physically access the premise?

7 A. No, not now.

8 Q. Was it before AMR?

9 A. We always had to do it.

10 Q. Okay. But I'm not asking whether you had  
11 to do it. I'm asking whether it was physically necessary  
12 to do that to switch the name on the account?

13 A. No. If the meter was outside or the  
14 reading device was outside, you could have just read it  
15 and left.

16 Q. All right. So why was it that -- why was  
17 it that employees from Laclede did actually physically  
18 access the premise?

19 MR. ELBERT: Objection, calls for  
20 speculation by the witness, no foundation.

21 BY MS. SCHRODER:

22 Q. All right. Mr. Schulte, in your experience  
23 as a Laclede employee, you performed TFTOs, I think you  
24 testified previously?

25 A. Yes.

1           Q.     All right. Were you given a reason for why  
2     you had to go onto a customer's premise when there was an  
3     outside meter and perform -- well, and switch over the --  
4     let me rephrase.

5                     Were you given a reason by Laclede for why  
6     you had to physically access the premise, the customer's  
7     premise when you switched over the name on an account on  
8     an outside meter?

9           A.     To do a safety inspection on the customer's  
10    appliances.

11          Q.     And was that the only reason you were told  
12    you had to physically access the customer's premise?

13          A.     That's correct.

14          Q.     And was there any other activity that you  
15    conducted on the customer's premise other than this TFTO  
16    inspection that required you to be there?

17          A.     You checked inside for a gas leak.

18          Q.     That was part of the --

19          A.     With a combustible gas indicator.

20          Q.     Was that part of the inspection?

21          A.     Yes.

22          Q.     All right. Prior to AMR, when you were on  
23    the street -- I'm sorry. Not when you were on the street.  
24    When you were in the service department, were you told  
25    that you had to physically access the customer's premise



1 if you were switching over the name on an account where  
2 there was an inside meter with a remote reading device?

3 A. Yes.

4 Q. And were you given a reason that you had to  
5 do that?

6 A. For safety inspection.

7 Q. Was there any other reason you were given  
8 for why you had to enter the customer's premise if there  
9 was a remote reading device on an inside meter?

10 A. No.

11 Q. Is there anything about the institution of  
12 the automatic meter reading devices known as AMR that has  
13 changed that circumstance? Do you understand my question?

14 A. No. Could you repeat it?

15 Q. Okay. Yeah. Let me change it a little.  
16 What circumstance, if any, has changed because of the  
17 institution of automatic meter reading devices with regard  
18 to the need to physically access the premise of a customer  
19 to switch over the account?

20 MR. ELBERT: Objection, calls for  
21 speculation, no foundation.

22 JUDGE DIPPELL: I don't think it does call  
23 for speculation, and I think there is a foundation, so I'm  
24 going to overrule that. You can answer that, Mr. Schulte.

25 THE WITNESS: The only change I see is what

1   Laclede has said, they're putting the AMR devices in there  
2   and they're saying we no longer have to go in to the  
3   houses because AMR gives them an accurate reading.

4   BY MS. SCHRODER:

5           Q.     All right. But does that actually -- is  
6   that a change? Is that a change from whether they had to  
7   go out and do those readings before on the outside meters  
8   and on the inside meters with remote devices?

9           A.     Yes. Yes.

10          Q.     In what way?

11          A.     Well, they're no longer saying they have to  
12   go inside. The devices could be inside and they're  
13   reading it from the airwaves or however they're reading  
14   it.

15          Q.     All right. But let's go back just a  
16   minute. Again, with outside meters, did you have to go  
17   inside to get the meter reading?

18          A.     No.

19          Q.     All right. And with inside meters that had  
20   a remote reading device that was on the outside, did you  
21   have to go in to get the meter reading?

22          A.     I think once a year they had to go in.

23          Q.     No, that wasn't what I was asking. Did you  
24   have to go in for purposes of switching the meter over?

25          A.     No.

1           Q.       All right. You got asked some questions by  
2 Mr. Elbert about the -- about the comparability, I guess,  
3 of having a private contractor go in to perform a private  
4 inspection as opposed to having a Laclede Gas employee  
5 perform a TFTO inspection or I think even an annual meter  
6 read inspection, and you have already testified about a  
7 couple of reasons that -- about some of that. I just want  
8 to ask a further question about it.

9                   I believe you were here yesterday when  
10 Steve Hendricks testified?

11           A.       Yes.

12           Q.       All right. And he testified about some  
13 situations relating to turn off/turn on inspections in  
14 apartment buildings. And my question to you at this point  
15 is, is there a situation arising with apartment buildings  
16 that might make it more appropriate to have a Laclede  
17 inspection instead of a private inspection? Does that  
18 make sense?

19                   MR. ELBERT: I'm going to object to the  
20 characterization, your Honor, of Laclede inspections and  
21 private inspections. These inspections can be paid for by  
22 the customer in either event. So why one's private and  
23 one is public, if there's a distinction.

24                   MS. SCHRODER: I'll rephrase.

25 BY MS. SCHRODER:

1           Q.       Is there anything about apartment buildings  
2     that might make it more appropriate for a Laclede employee  
3     to perform this inspection, a TFTO inspection, than a  
4     private contractor?

5           A.       I think when I was on the street, and I'm  
6     only going to go when I was there, a lot of these  
7     apartment buildings had their own maintenance people.  
8     Some of them had people sleep in the basement was their  
9     maintenance people. And then you have people moving in  
10    and out, disconnecting stoves and installing new furnaces  
11    in closets.

12                    So I would say a lot of these people are  
13    not familiar with of how to install stuff properly, make  
14    sure you have proper combustion air.

15           Q.       Let me -- let me change the question here.  
16    Is there a difference between where the appliances are  
17    stored, gas appliances may be stored in apartment  
18    buildings and where they may be stored in private homes?

19           A.       Yes.

20           Q.       What is that difference?

21           A.       Well, most of your private homes, your  
22    appliances, water heater and furnace are downstairs in the  
23    basement. When you get into multiple apartments,  
24    sometimes they're in a closet upstairs, the furnace and  
25    the water heater.

1           Q.       You also got asked some questions by  
2 Mr. Elbert about why the Union had never before raised a  
3 safety issue with trace devices or remote reading devices.  
4 Do you recall that?

5           A.       Yes.

6           Q.       All right. And I'm sorry, with not -- I  
7 think the specific issue was whether -- why the Union  
8 hadn't raised an issue about the need for annual reads of  
9 remote devices prior to the 1990s. Can you explain why  
10 the Union didn't raise this issue before?

11          A.       No, not really. I was not in charge at  
12 that time, and everything was going along smooth, I guess  
13 you would say. So I have no reason to say what their  
14 predecessors, why they didn't say anything.

15          Q.       What is the -- how does USW 11-6 get the  
16 money to fin-- that it uses to finance various grievance  
17 arbitrations and other complaints that it may make?

18          A.       Well, we -- we don't have the money to  
19 bring cases up here for the Public Service Commission. So  
20 to do these cases and that, we had to have somebody that  
21 would give us the money or front the money to do this  
22 because it's expensive when you come up here for hearings.  
23 So since we merged with the United Steelworkers last year,  
24 they have agreed to pay attorney's expenses for these  
25 hearings.

1           Q.       Was that financing available to you at the  
2     time that -- prior to annual meter readings going into  
3     effect?

4           A.       No, it wasn't.

5           Q.       You also got asked some questions, I think  
6     by Mr. Schwarz, about the various departments, and I just  
7     want to clarify -- I'm sorry. The various departments at  
8     Laclede. I just want to clarify one thing. Which  
9     department has been responsible for annual meter reads?

10          A.       The meter readers.

11          Q.       And which department has been responsible  
12     for turn off/turn ons?

13          A.       The service and installation department.

14          Q.       All right. Are those the only two  
15     departments that have been at issue at this hearing?

16          A.       Basically, yes.

17          Q.       You also got asked -- you got asked some  
18     questions about your knowledge of explosions and how  
19     powerful those explosions might be by Mr. Elbert, and he  
20     read into testimony -- or he read into the record some  
21     testimony that you gave in your deposition where you  
22     didn't mention a kitchen stove blowing up and blowing the  
23     door off the oven.

24                    I want to direct your attention -- do you  
25     still have your deposition up there?

1 A. Yes.

2 Q. Would you turn to page 200 of that  
3 deposition, line 17. Do you have that in front of you?

4 A. Yes.

5 Q. Answer: You're asking me to go back on my  
6 years on the street. I've had to -- I've had to respond  
7 to them where they've taken a customer to the hospital  
8 from burns.

9 Question: For delayed ignition oven?

10 Answer: Yes.

11 Question: When was that?

12 Answer. Back when I was on the street,  
13 maybe 20 years ago.

14 Question: How many times did that occur?

15 Answer: I was only at one that I can  
16 recall right off the bat. I'd been called out many times  
17 where it blew the door, the oven door off and across the  
18 kitchen floor, but I was out at least one time where, when  
19 I run the emergency board, where I responded to an  
20 explosion at the stove.

21 Is that testimony -- I'm sorry. That went  
22 through page 201, line 8. Is that the situation you just  
23 testified about here in this hearing?

24 A. Yes, it is, to the best of my knowledge.

25 Q. All right. Now, I want to direct your

1 attention to these resolutions that have been so at issue  
2 here this morning. When you testified at these public  
3 meetings about the resolutions, were you only person who  
4 testified about the situation?

5 A. No.

6 Q. Who else testified about the situation?

7 A. Laclede Gas and customers.

8 MR. ELBERT: I'm going to object, your  
9 Honor, on the ground that we haven't established -- there  
10 are multiple resolutions. It would seem to me that the  
11 only appropriate way to do this is to go by particular  
12 hearing that they're talking about. They have to  
13 establish some foundation here as to who was present at  
14 each hearing.

15 MS. SCHRODER: Your Honor, I think  
16 Mr. Schulte has already testified that there were public  
17 hearings on all of these, and I think that this is a fair  
18 line of questioning. He can add the details on cross if  
19 he wants.

20 MR. ELBERT: We don't have cross, your  
21 Honor.

22 MS. SCHRODER: Oh, sorry.

23 JUDGE DIPPELL: Mr. Elbert, are you saying  
24 that Laclede is not willing to stipulate that somebody  
25 else testified at any of these other hearings just in



1    general, that we have to run through each one?

2                   MR. ELBERT:  Well, I would say that -- and  
3    I'd have to talk to my people.  I don't know the answer to  
4    that for sure.  But my understanding, I don't know that  
5    Laclede was present at every one of these hearings.  I  
6    would venture to say that they probably were not.

7                   Maybe Mr. Zucker can answer, because I  
8    don't believe Laclede -- that's the problem with the  
9    testimony he's about to give.  He's suggesting that they  
10   were -- that Laclede was present or that customers were  
11   present at every hearing.  I don't have any -- there has  
12   to be some basis for that.

13                  JUDGE DIPPELL:  I'll sustain the objection.  
14   I'll let Ms. Schroder ask one by one if there were other  
15   witnesses.

16                  MR. ZUCKER:  Your Honor, could I ask one  
17   question?

18                  JUDGE DIPPELL:  Yes, Mr. Zucker.

19                  MR. ZUCKER:  We could possibly clear this  
20   up.  You've already ruled that the resolutions of these,  
21   all these municipalities would come in for a limited  
22   purpose, and that limited purpose being to show that  
23   they're concerned about public safety.  It would be  
24   acceptable to Laclede if we basically took all of those  
25   exhibits and removed them and renumbered an exhibit, you

1 know, with the same numbers and said, the following  
2 municipalities are all concerned about public safety, and  
3 then list the municipalities.

4 That way that would be consistent with your  
5 ruling that that's what they're interested in, and it  
6 wouldn't show all of the factually misstated material in  
7 it, and I think that would also take care of any  
8 disagreements that the parties had.

9 JUDGE DIPPELL: I think it's a little late  
10 in the process for that suggestion, Mr. Zucker, but I  
11 appreciate your trying to help us keep things moving here.  
12 I think the best thing is just for Ms. Schroder to go  
13 through them individually and ask him what he knows about  
14 that.

15 And again, you're correct in that those  
16 resolutions are just for the limited purpose of showing  
17 the concern, but Ms. Schroder does have a right to clarify  
18 those points because of the cross-examination that took  
19 place.

20 MR. ZUCKER: Having failed that, let me  
21 make another suggestion. I can maybe clarify which ones  
22 Laclede was present at and which ones Laclede was not.  
23 Would that be acceptable?

24 MS. SCHRODER: Your Honor, I don't have a  
25 problem with that, as long as he also indicates which ones

1 Laclede was asked or invited to be present at and didn't  
2 appear for.

3 JUDGE DIPPELL: Mr. Zucker, do you even  
4 have that information? Can you get it?

5 MR. ZUCKER: The answer is I don't know of  
6 any invitations that we received that we did not accept.  
7 I'm just trying to short circuit the process.

8 MS. SCHRODER: And I can answer that. I  
9 mean, I can have this witness answer at least one that  
10 they were invited to and didn't appear at from his  
11 personal knowledge, if we want to short circuit it. I'm  
12 willing to short circuit it with the ones that they say  
13 that they appeared at and the least one that he's aware of  
14 that they were invited to. And I guess I would also like  
15 for him to be able to indicate which ones customers  
16 testified at.

17 JUDGE DIPPELL: I think it's again just  
18 simpler if we just go through it. If Laclede wants to  
19 make any further clarifications about whether or not they  
20 were there or invited or whatever, we can talk about  
21 allowing either some more cross or a stipulation or  
22 something as to those facts. Let's just go ahead and keep  
23 going here.

24 MS. SCHRODER: All right. Thank you, your  
25 Honor.

1 JUDGE DIPPELL: Ms. Schroder, I was  
2 actually talking about you going through the ones  
3 attached, because the others are not in evidence.

4 MS. SCHRODER: No. I realize that. I'm  
5 just trying to find the supplemental affidavits to go  
6 through those attachments, too, but I'll start with the  
7 ones for the original affidavit.

8 BY MS. SCHRODER:

9 Q. Mr. Schulte, Exhibit 5 is testing my eyes.  
10 All right. It is a resolution from the City of St. Louis,  
11 Missouri. Did you appear before a public hearing for the  
12 City of St. Louis?

13 A. Yes, I did.

14 Q. Did anybody else appear and testify at that  
15 hearing?

16 A. Not that I know of.

17 Q. All right. Was there any indication from  
18 the City of St. Louis at that time that Laclede had been  
19 invited?

20 A. Oh, not that I know of.

21 Q. All right. Let me direct your attention to  
22 Exhibit 6, which is a St. Louis County resolution. Was  
23 there a public hearing for this resolution?

24 A. I assume there was. I was not invited to  
25 it.

1           Q.     All right. Let me direct your attention to  
2 Exhibit 7, which is the resolution from the Jefferson  
3 County Commission. Was there a public hearing about this?

4           A.     I think there was.

5           Q.     Were you invited? Did you appear?

6           A.     No.

7           Q.     Let me direct your attention to Exhibit 8,  
8 the City of O'Fallon resolution. Was there a public  
9 hearing on the City of O'Fallon resolution?

10          A.     Yes.

11          Q.     Were you invited to attend?

12          A.     Yes.

13          Q.     Did anybody else testify at that hearing  
14 about -- or at, yeah, the public hearing about this  
15 matter?

16          A.     The only ones that was public comments.

17          Q.     All right. So customers?

18          A.     Well, customers or citizens of that  
19 community.

20          Q.     All right. And do you know, do you have  
21 personal knowledge of whether Laclede was invited to that  
22 one?

23          A.     No, I do not.

24          Q.     All right. Let me direct your attention to  
25 a resolution of the City of Florissant. I'm sorry.

1 That's Exhibit 9 to your affidavit. Was there a public  
2 hearing conducted by the City of Florissant on this  
3 resolution or proclamation?

4 A. My understanding is yes.

5 Q. Were you invited to it?

6 A. No.

7 Q. Do you have personal knowledge of whether  
8 Laclede was invited to it?

9 A. No.

10 Q. Are there -- there are other public  
11 resolutions that are not evidence here but that are in the  
12 record. Were there situations where somebody from Laclede  
13 testified?

14 A. Yes.

15 Q. All right. And who from Laclede testified?

16 MR. ELBERT: Your Honor, again, we've got  
17 to identify them. I mean, Laclede didn't testify by his  
18 own admission at any of these, and now we're starting the  
19 same type of line of questioning with regard to  
20 resolutions that aren't even in evidence. I object to  
21 that.

22 JUDGE DIPPELL: I'll sustain that  
23 objection.

24 MS. SCHRODER: That's fine.

25 BY MS. SCHRODER:

1           Q.       Mr. Schulte, which public hearings were you  
2 present at that Laclede testified at?

3           A.       The City of St. Peters, the City of -- the  
4 County of St. Charles County.

5           Q.       All right. Was there -- and are you also  
6 aware of anywhere you testified and you were told that  
7 Laclede was invited?

8                   MR. ELBERT: Objection. That calls for  
9 hearsay. He was told that Laclede was invited? She has  
10 to -- there's no foundation.

11                   MS. SCHRODER: I'm going to rephrase the  
12 question. I'm going to rephrase the question.

13 BY MS. SCHRODER:

14           Q.       Are you aware of any others where you  
15 testified and -- and where Laclede was asked to testify?

16           A.       Yes.

17           Q.       And how do you know that Laclede was --  
18 well, where was it and how do you know Laclede --

19           A.       City of Ballwin.

20           Q.       How do you know Laclede was asked to  
21 testify?

22           A.       Because there was two sets of hearings  
23 there, and I think the alderman, man's name was Lempke, he  
24 asked if anybody from Laclede was in the audience, and  
25 nobody stood up. So he said that Laclede should be

1 invited. Two weeks later when the next hearing was, I got  
2 up and testified for a short time. He -- and the city  
3 administrator asked if anybody from Laclede was in the  
4 audience, and nobody showed up. So that was basically it,  
5 and he said that Laclede was invited.

6 Q. All right. You also testified that Laclede  
7 appeared at the City of St. Peters public hearing and also  
8 at the County of St. Charles public hearing; is that  
9 right?

10 A. That's correct.

11 Q. All right. And who was that who appeared  
12 for Laclede?

13 A. It was Ben McReynolds, Rick Zucker, the  
14 attorney here. I think Tom Reitz had showed up at one of  
15 the hearings. I think that one was St. Peters.

16 Q. All right. And who's Ben McReynolds?

17 A. He's vice president over the -- oversees  
18 the service department.

19 Q. And who is Tom Reitz?

20 A. Tom Reitz is the department head over the  
21 service department.

22 Q. How long -- at the City of St. Peters,  
23 approximately how long did Laclede spend discussing this  
24 matter at the public hearing?

25 A. Well, they only allowed so much time to



1 discuss this. They gave you three minutes unless -- to  
2 put on your case, and then they call you back up and  
3 inquire questions from you.

4 Q. All right. Did Laclede have the same  
5 amount of time at that hearing that you had to present  
6 information?

7 A. They had more time actually.

8 Q. All right. And I think that was the City  
9 of St. Peters. What about the County of St. Charles, how  
10 long did Laclede spend discussing this matter at the  
11 public hearing?

12 A. Well, they had the normal three to five  
13 minutes, whatever that county was, plus the questions that  
14 were asked from individual councilmen.

15 Q. All right. And again, overall, did Laclede  
16 have as much time to discuss this matter as you did at the  
17 hearing?

18 A. They had more time than I did.

19 Q. You were asked by the Judge whether you  
20 were aware of any other Missouri utilities that performed  
21 TFTOs. Are you aware of any that don't perform TFTOs?

22 A. No.

23 MS. SCHRODER: Can I have just a minute,  
24 your Honor?

25 JUDGE DIPPELL: Yes.

1                   MS. SCHRODER: Thank you, your Honor. The  
2 Union has no further questions.

3                   JUDGE DIPPELL: Okay. What I'm going to do  
4 with regard to the resolutions, which I'm probably going  
5 to regret, is I'm going to let Laclede put in either a  
6 late-filed exhibit, a list of the resolution hearings  
7 which they attended and which they were invited to that  
8 they did not attend, so that you have an opportunity to  
9 just clarify that for the record. Does that sound -- does  
10 that make sense?

11                  MS. SCHRODER: Yes, your Honor.

12                  JUDGE DIPPELL: Okay. I'll let you-all  
13 just file that list, and I'll give Ms. Schulte (sic) a  
14 couple of days or something and the other parties to  
15 respond if they have any objection to it.

16                  MS. SCHRODER: Did you just marry me off?

17                  MR. SCHWARZ: No. I think you've been  
18 adopted.

19                  JUDGE DIPPELL: Yes.

20                  MS. SCHRODER: Okay. Thank you, Tim.

21                  JUDGE DIPPELL: Ms. Schroder -- is it  
22 Schroder or Schroeder?

23                  MS. SCHRODER: It is Schroder. Thank you.

24                  JUDGE DIPPELL: Now that we're halfway  
25 through. Okay. And I will call that Exhibit No. 24, and

1 it will be a post-hearing exhibit or maybe you'll even  
2 have it by the end of the day and we can take care of it  
3 on the record.

4 All right. I believe that is all the  
5 questions for Mr. Schulte, except that I am going to ask  
6 him to remain in case -- at the hearing in case the  
7 Commissioners would like to ask questions of you later.

8 THE WITNESS: It's no problem.

9 JUDGE DIPPELL: All right. You may step  
10 down.

11 Given the time -- let's see. Ms. Schroder,  
12 are you going to have --

13 MS. SCHRODER: I think the only we've got  
14 is making sure I'm correct on what's come in. We've dealt  
15 with the management testimony. The only other issue is  
16 Steve Arnold's testimony.

17 JUDGE DIPPELL: But you don't have any  
18 other further witnesses, is that correct, that are  
19 present?

20 MS. SCHRODER: That's correct.

21 JUDGE DIPPELL: Well, let's go ahead and  
22 deal with what's been premarked as Exhibit No. 9. Are you  
23 offering that?

24 MS. SCHRODER: Yes, your Honor. And you  
25 may recall that when the Union requested leave to file the

1 written testimony of Fire Chief Arnold, we did also state  
2 in that motion that we had learned that he would not be  
3 available to testify in person on May 22nd or 23rd, that  
4 we offered at that point, we said that we believed he  
5 would be reasonably available for deposition prior to the  
6 hearing, and that is the position -- that is true.

7 So we believe that his testimony is  
8 relevant, and I really don't know at this point what  
9 Laclede's objection is, but I would move to --

10 JUDGE DIPPELL: We're about to get to that.  
11 Okay. Is there an objection to Exhibit No. 9?

12 MR. ZUCKER: Yes, your Honor. Obviously  
13 this is -- this so-called testimony now becomes hearsay  
14 without the witness here to submit to cross-examination.  
15 It's just an out-of-court statement. We have the right to  
16 have the witness present for cross-examination under the  
17 rules of evidence 536.070, subpart 2. And should it get  
18 any farther than that, I think his testimony is also  
19 irrelevant.

20 JUDGE DIPPELL: Ms. Schroder?

21 MS. SCHRODER: Your Honor, again, to the  
22 hearsay aspect, it's sworn testimony.

23 JUDGE DIPPELL: Well, is it, Ms. Schroder?

24 MR. ZUCKER: It is not.

25 MS. SCHRODER: It was a declaration.

1 JUDGE DIPPELL: Where in Missouri laws,  
2 rules can I even take this as testimony since it's not  
3 under oath?

4 MS. SCHRODER: At the end it says that I  
5 declare under penalty of perjury under the laws of the  
6 United States the foregoing is true and correct and I have  
7 personal knowledge of the facts, dah, dah, dah.

8 And while I cannot cite you to an exact  
9 provision, there is -- generally declarations with this  
10 language are considered to be the equivalent of  
11 affidavits, and yes, that's -- I mean, I practice in  
12 federal court more than in state court, and that's been  
13 the case in the federal system.

14 I would just also point out, however, that  
15 again we put this out in the -- when we filed the motion,  
16 there was no objection to our motion by Laclede, and we  
17 offered the opportunity for Laclede or the Staff, any  
18 party to depose Mr. Arnold, and that wasn't done.

19 JUDGE DIPPELL: There's a provision in  
20 Chapter 536 for submitting testimony by affidavit, and if  
21 it doesn't have any objection, then it's all right to  
22 admit that. However, I don't know of any -- and I'm  
23 willing to be enlightened because I don't know, but I  
24 don't know of any state law. I'm aware that there are  
25 some situations under federal rules that allow a

1 declaration under penalty of perjury to be considered the  
2 same, but I'm not aware of that in the state arena at all.  
3 And I -- what about the relevance of this testimony,  
4 Ms. Schroder?

5 MS. SCHRODER: Well, I think it's extremely  
6 relevant. This is one of the people who responds to fire,  
7 fires and explosions that result from gas leaks, and it's  
8 relevant to address the kinds of -- well, to address the  
9 issues that a fire fighter sees in these situations and  
10 whether inspections would lessen or do lessen those kinds  
11 of explosions.

12 JUDGE DIPPELL: Okay. I'm going to sustain  
13 the objection. I'm not going to allow this to come in.  
14 There's absolutely no -- there's been absolutely no  
15 opportunity for Laclede to cross-examine this, and it's  
16 not sworn testimony. I'm just not going to allow this in.

17 MS. SCHRODER: All right. Thank you. I  
18 just would -- I don't like the characterization that  
19 there's been no opportunity for them to cross-examine him  
20 when they took three depositions in this matter and could  
21 have taken this man's deposition.

22 JUDGE DIPPELL: They have the right to  
23 cross-examine him here at this hearing. So I'm not going  
24 to allow it. I will -- if you want to make an offer of  
25 proof, put it in the record, you're more than welcome to.

1 MS. SCHRODER: Yes, I would like to do  
2 that. Thank you.

3 JUDGE DIPPELL: Mr. Schwarz?

4 MR. SCHWARZ: I would just point out that  
5 under 536.070 it provides that it be preserved in the  
6 record as opposed to making Ms. Schroder go through an  
7 offer of proof.

8 JUDGE DIPPELL: That's true. And we have  
9 marked it, so it will be preserved.

10 MS. SCHRODER: Thank you.

11 JUDGE DIPPELL: Okay. It's quarter to 12,  
12 then, and I believe that is the end of the Union's direct  
13 case; is that correct?

14 MS. SCHRODER: Yes, it is, your Honor.

15 MR. SCHWARZ: We haven't addressed  
16 Exhibit 10 at this stage, which --

17 JUDGE DIPPELL: You're correct.

18 MS. SCHRODER: You're correct. I'm  
19 actually going to use the exhibit with a later witness,  
20 but I'm glad to put it in, to explain why I think that it  
21 will come in. It actually doesn't even require a witness  
22 to testify about it to get it in.

23 The census data that is Exhibit 10 is a  
24 compilation of public records of matters observed pursuant  
25 to public law. That's what census data is, and that is a

1 self-authenticating record that is not considered hearsay.

2 JUDGE DIPPELL: Okay. This was an item  
3 that you were planning to use during your  
4 cross-examination, is that what you're saying,  
5 Ms. Schroder?

6 MS. SCHRODER: Yes.

7 MR. SCHWARZ: I have questions about the  
8 relevancy of this exhibit. That is, we're here examining  
9 questions of gas safety. I have no idea what the  
10 percentage of American Indians and native Alaskan persons  
11 has to this proceeding. I have no idea what the number of  
12 persons of Hispanic or Latino origin living in the same  
13 household has to do with this. And further, I don't see  
14 any --

15 JUDGE DIPPELL: Mr. Schwarz, let me  
16 interrupt. I don't think Ms. Schroder's gotten there yet.  
17 She was going to use this in her cross-examination, and so  
18 hopefully she'll tell us about the relevancy of it or it  
19 will be apparent to us hopefully at that point. So I  
20 think we'll just wait until she needs it before we have  
21 her offer it, and then you can make your objections.

22 MR. SCHWARZ: Thank you, Judge.

23 JUDGE DIPPELL: Is there going to be  
24 anything else from the Union at this point?

25 MS. SCHRODER: No, your Honor.



1 JUDGE DIPPELL: Okay. Then let's go ahead  
2 and take a lunch break. I looked at the Commission's  
3 calendar just in case we don't wrap up today, and I'm  
4 seeing panicked looks on faces, and that's the reason why  
5 I'm hoping that we will wrap up today. But the  
6 Commission's calendar is open Thursday and Friday, but I  
7 thought there might be other conflicts. Mr. Schwarz, you  
8 just have other matters to attend to?

9 MR. SCHWARZ: Yes. Yes.

10 JUDGE DIPPELL: Okay. All right. Well,  
11 just keep that in mind if we don't finish on today, that I  
12 may make you come back here Thursday or Friday. Okay.  
13 Mr. Elbert, you had something to say?

14 MR. ELBERT: Just one question, your Honor.  
15 Yesterday I had offered into evidence the deposition of  
16 Mr. Stewart, and you asked us to go back and try to find  
17 pages that were designated rather than offering the whole  
18 thing. We have done that. We can take care of it after  
19 lunch. I just don't want to forget about that.

20 JUDGE DIPPELL: This is a good time.

21 MR. ELBERT: It turns out to be a  
22 relatively small portion of the transcript.

23 JUDGE DIPPELL: Very good. That makes me  
24 happy.

25 MR. ELBERT: I thought it might. I don't

1 know what exhibit number that would be.

2 JUDGE DIPPELL: It was Exhibit No. 22. I  
3 originally marked it and it was withdrawn. We'll just go  
4 ahead and leave those pages marked as 22.

5 MR. ELBERT: Do you want to read into the  
6 record what pages they are or is that --

7 JUDGE DIPPELL: I think it will be clear,  
8 isn't it, from your copies there? Why don't you  
9 distribute those?

10 Exhibit No. 22 is going to be excerpts from  
11 the deposition of Kevin Stewart taken on May 10th, 2006.

12 MS. SCHRODER: And, your Honor, I would  
13 just request the right to supplement that when we review  
14 what he has put in, if we think there's anything  
15 misleading.

16 JUDGE DIPPELL: We'll just let you all  
17 review this, and we'll actually take objections and stuff  
18 later when we get back from our lunch break.

19 MS. SCHRODER: All right. Thank you.

20 JUDGE DIPPELL: Are there any other matters  
21 we need to take up before we adjourn for lunch?

22 All right. Seeing none, then, we'll take a  
23 break until 1 o'clock. We can go off the record.

24 (EXHIBIT NO. 22 WAS MARKED FOR  
25 IDENTIFICATION BY THE REPORTER.)

1 (A BREAK WAS TAKEN.)

2 JUDGE DIPPELL: Let's go ahead and go back  
3 on the record. Okay. We're back from our lunch break,  
4 and I believe we're ready to begin with Staff's witness.

5 MR. SCHWARZ: Staff would call Mr. Robert  
6 Leonberger.

7 (Witness sworn.)

8 JUDGE DIPPELL: Thank you.

9 ROBERT LEONBERGER testified as follows:

10 DIRECT EXAMINATION BY MR. SCHWARZ:

11 Q. Good afternoon. Are you the same Robert  
12 Leonberger who caused to be filed in this case some direct  
13 testimony which has been marked as Exhibit 11?

14 A. Yes.

15 Q. Do you have any corrections to that  
16 testimony?

17 A. I looked back over my testimony. I would  
18 like to clarify a possible misinterpretation. On page 8  
19 of my testimony, on lines 15 and 16, I say that the TFTO  
20 inspections involved inspection of customer-owned piping  
21 equipment, clearly the responsibility of customers.

22 It was not my intention to convey that the  
23 TFTO inspections only involved customer-owned piping  
24 equipment. TFTOs do involve inspections of customer-owned  
25 piping equipment that are clearly the responsibility of

1 the customers; however, the TFTO inspections also involve  
2 inspections of company-owned piping.

3 Q. Do you have a correction?

4 A. No, I just wanted to clarify that there may  
5 be some mischara-- misinterpretation.

6 Q. Thank you. Well, with that, if I asked you  
7 the same questions as are in your testimony, would your  
8 answers be the same?

9 A. Yes.

10 Q. Are those answers true and correct to the  
11 best of your information, knowledge and belief?

12 A. Yes.

13 MR. SCHWARZ: With that, I would move the  
14 admission of Exhibit 11 and tender the witness for cross.

15 JUDGE DIPPELL: Would there be any  
16 objection to Exhibit No. 11?

17 MS. SCHRODER: No objection from the Union.

18 JUDGE DIPPELL: Then I will admit Exhibit  
19 No. 11 into evidence.

20 (EXHIBIT NO. 11 WAS RECEIVED INTO  
21 EVIDENCE.)

22 JUDGE DIPPELL: Okay. Is there  
23 cross-examination from Laclede?

24 MR. ZUCKER: Yes, your Honor.

25 CROSS-EXAMINATION BY MR. ZUCKER:

1 Q. Good afternoon, Mr. Leonberger.

2 A. Good afternoon.

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

5 Is there any safety rule requiring gas  
6 corporations to send out meter readers to find leaks?

7 A. No.

8 Q. Are gas companies required to use meter  
9 readers to perform corrosion inspections?

10 A. No.

11 Q. Are gas companies required to use meter  
12 readers to perform any inspections?

13 A. No.

14 Q. In setting safety rules or in recommending  
15 safety rules, did the Staff take into account the presence  
16 of meter readers who would be finding leaks?

17 A. You mean by our regulations?

18 Q. Yes, sir.

19 A. No.

20 Q. Are there any less safety requirements in  
21 these regulations because of meter readers?

22 A. No.

23 Q. Do you know what LDCs, local distribution  
24 companies in Missouri, gas corporations, let's say, don't  
25 have -- have reduced meter reading staffs?

1           A.       I'm not aware if they've reduced meter  
2     reading staffs. I know that two large companies have  
3     instituted AMR projects.

4           Q.       Okay. And which companies are those?

5           A.       AmerenUE and Missouri Gas Energy.

6           Q.       And in your experience, is there any  
7     difference in the incident rates between those companies  
8     that already have AMR and Laclede?

9           A.       Not that I know of.

10          Q.       Did Ameren ever perform TFTO inspections?

11          A.       Inspection of the piping when they did a  
12     change of customer?

13          Q.       Yes.

14          A.       No, they did not.

15          Q.       Do they do that now?

16          A.       No.

17          Q.       Did they do that in the past?

18          A.       No. Not that I'm aware of, no.

19          Q.       So are you disagreeing with Mr. Peterson's  
20     testimony?

21          A.       Yes.

22          Q.       You remember his testimony in which he said  
23     that Ameren used to do TFTO inspections?

24          A.       I read his written testimony and I was here  
25     during his other testimony.

1           Q.       Okay. And how do you know that Ameren  
2 never performed TFTO inspections?

3           A.       I've been with the Commission for 24 years,  
4 and we -- during that time, we have -- I've done  
5 inspections and we do checking of records, and I never saw  
6 those kind of records. I also asked my staff who have  
7 been performing inspections for Missouri Power & Light and  
8 Missouri utilities, and then later on with Ameren, and  
9 they did not know of any of those inspections.

10                   I then, after I read the testimony of  
11 Mr. Peterson, I also called personnel at Ameren, I called  
12 William Burnett, who's a supervising engineer, and I also  
13 called Mr. Collier, who's his boss in Springfield, to see  
14 if they remembered, if they could tell me if they ever  
15 performed those kind of inspections. They said they never  
16 did.

17                   MS. SCHRODER: Objection. I'm sorry.  
18 Objection. I would just object to this on hearsay  
19 grounds.

20                   JUDGE DIPPELL: Mr. Zucker, with regard to  
21 his calls, a response?

22                   MR. ZUCKER: I guess he himself has  
23 personal knowledge that they didn't do it. He called them  
24 simply for confirmation of that. So he didn't call them  
25 to prove the truth of it, simply to confirm what he

1 already knows himself.

2 MS. SCHRODER: Excuse me. It sounds like  
3 it's being asserted for the truth of the matter.

4 JUDGE DIPPELL: Mr. Schwarz, you look like  
5 you wanted to say something? No?

6 MR. SCHWARZ: I'm thinking.

7 JUDGE DIPPELL: I think I'll allow as much  
8 as he made the calls, but not to -- it does sound like  
9 hearsay as to what someone else told him who's not here to  
10 testify about it, so...

11 MR. ZUCKER: Thank you, your Honor.

12 JUDGE DIPPELL: I'll strike that part of  
13 the answer with regard to who said what, if that got in  
14 there.

15 MR. ZUCKER: Thank you, your Honor.

16 BY MR. ZUCKER:

17 Q. Is it your testimony, Mr. Leonberger, that  
18 Missouri's rules are more strict than the federal rules on  
19 pipeline safety?

20 A. Yes.

21 Q. And in what ways are Missouri's rules more  
22 strict?

23 A. There's a number of areas that the leak  
24 survey requirements, the frequency of leak surveys,  
25 training of operators. There's just a number of areas.



1           Q.       Okay. And if you find -- if the safety  
2 staff here at the Commission finds a problem in the -- a  
3 gas utility system, what kind of action do they take?

4           A.       If we find problems that -- of the specific  
5 nature that we believe that need to be addressed above and  
6 beyond the current rules, we would try to address those by  
7 more frequent -- more frequent leak surveys, replacement  
8 of pipe or something like that.

9           Q.       Can you give any specific examples?

10          A.       Yes. The -- currently Laclede is replacing  
11 8,000 copper service lines a year, and they are leak  
12 surveying those annually, which is not currently in the  
13 rules.

14          Q.       Okay. Has the safety staff found anything  
15 to justify any additional requirements in the --in  
16 response to turn off/turn on orders --

17          A.       No.

18          Q.       -- or orders in which --

19          A.       Right.

20          Q.       Your answer was no to that?

21          A.       Right.

22          Q.       Let me just confirm that, these are orders  
23 in which the customers are changing but there's no  
24 interruption in the flow of gas?

25          A.       Right.

1           Q.       There's no reason to justify any additional  
2 safety requirements?

3           A.       No.

4           Q.       Are you familiar with safety Rule 14B-6?

5           A.       Yes.

6           Q.       Does that rule generally state that when  
7 Laclede personnel are on a customer's property, they are  
8 to do certain safety activities on that property?

9           A.       Yes.

10          Q.       Does that include a bar hole survey?

11          A.       Includes a bar hole survey with some  
12 exceptions.

13          Q.       And a leak survey?

14          A.       Yes.

15          Q.       And is one of the exceptions a  
16 read in/read out, if Laclede personnel are there to do a  
17 read in/read out?

18          A.       Yes.

19          Q.       And is it your understanding that a  
20 read in/read out is the same thing as a TFTO?

21          A.       That's my understanding, yes.

22          Q.       And so if Laclede personnel are on customer  
23 property to do this read in/read out or TFTO, they're not  
24 required to do these -- take these safety measures?

25          A.       Yeah. We believe that's just a special

1 meter reading.

2 Q. And is that the reason, then? They're just  
3 there for a special meter reading?

4 A. A meter -- meter reading is one of the  
5 exceptions.

6 Q. And why is that an exception?

7 A. We changed the rule to require certain  
8 times that the -- these requirements would be made, and we  
9 had a list of exceptions for those, and we believe that  
10 was one of them. It wasn't a customer service call.  
11 First the rule said customer service call, then we put  
12 exceptions in there for various items.

13 Q. Okay. So in your opinion, there's no need  
14 to do, in effect, what would be similar to a TFTO  
15 inspection while on the customer property to read the  
16 meter?

17 A. Well, not TFTO inspection, but the  
18 requirements in 14B-6.

19 MR. ZUCKER: Okay. That's all I have, your  
20 Honor.

21 JUDGE DIPPELL: Thank you. Public Counsel?

22 MR. POSTON: Yeah.

23 CROSS-EXAMINATION BY MR. POSTON:

24 Q. Good afternoon. Mr. Leonberger, it's your  
25 position that there's no safety justification for

1 requiring TFTO inspections or annual inside meter reads;  
2 is that correct?

3 A. Correct.

4 Q. And you were here during the Union  
5 witnesses who testified about safety hazards found as a  
6 result of meter reads and TFTO inspections, correct?

7 A. I was here during the testimony, yes.

8 Q. Has that testimony changed any position  
9 you've taken in this case?

10 A. No. It's very similar to what was in the  
11 written testimony.

12 Q. And can you please explain where the  
13 company-owned equipment stops and the customer-owned  
14 equipment begins on a typical single-family dwelling with  
15 a single meter?

16 A. It ends at the outlet of the meter.

17 Q. So the piping going out of the meter from  
18 that point on is customer -- what you would call  
19 customer-owned equipment?

20 A. The regulations say it ends at the outlet  
21 meter.

22 Q. Would you agree that where there's a  
23 transfer of service due to a new Laclede customer coming  
24 into a home or coming into a rental unit that's already  
25 being serviced by Laclede, that there would be an

1 increased chance that the customer would disconnect or  
2 connect a gas-powered appliance?

3 A. It's possible.

4 Q. And would this increased chance that  
5 there's going to be this connection or disconnection  
6 justify the need for a TFTO inspection?

7 A. I don't believe it justifies the need for a  
8 TFTO inspection.

9 Q. Why or why not?

10 A. The gas is on, the -- first of all, the  
11 requirements for -- there are regulations for the  
12 company-owned facilities. The inspection of the inside  
13 facilities are the customer's responsibility.

14 Q. So should the customer then get their own  
15 or you would suggest that customers in that situation get  
16 their own professional inspection when they move into a  
17 new home and have to connect a gas-powered appliance?

18 A. The Commission used to -- I think we still  
19 do. We haven't had one this year. During the heating  
20 season we suggest -- we put out a press release that  
21 they've suggested customers should have their appliances  
22 looked at, you know, before the heating season begins. We  
23 haven't put out anything about when you move into a new  
24 home, no.

25 Q. Okay. So before the heating season begins,

1 so then you would recommend an annual inspection of what,  
2 of everything on their side of --

3 A. The heating system.

4 Q. Okay. And this question may be more  
5 appropriate for a Laclede witness, but I'll ask you and  
6 see if you know it. Do you know how or if customers are  
7 notified of their responsibility over inspecting their gas  
8 piping and appliances and the accordance of such  
9 inspections from a safety perspective?

10 A. That's contained in our Rule 12S-2, I  
11 think. I can look it up if you like.

12 Q. Sure.

13 A. The company's required for new customers to  
14 notify them of that.

15 Q. For new customers? Okay.

16 A. Yeah.

17 Q. And how about for existing customers?

18 A. When -- the rule requires when a new  
19 customer or customer relocated from a different operating  
20 district, the operator must provide information concerning  
21 the customer's responsibility to maintain their piping and  
22 utilization equipment.

23 Q. Do you know what that notice would involve,  
24 or is there any detail in there requiring what the notice  
25 would involve?

1           A.       The notice typically involves language  
2     similar to that, that they are responsible for -- that the  
3     customer's responsible for that equipment and piping.

4           Q.       Since Laclede has been conducting these  
5     inspections on customer-owned equipment, couldn't this  
6     have created a false assumption by customers that such  
7     inspections will continue?

8                   MR. SCHWARZ:  Objection, calls for  
9     speculation.

10                  JUDGE DIPPELL:  Okay.  I'll sustain that  
11     objection.  If you'd like to ask him what he knows about  
12     it, I guess.

13     BY MR. POSTON:

14           Q.       I'll move on.  You've been with the  
15     Commission's gas safety engineering staff since 1982; is  
16     that correct?

17           A.       Yes.

18           Q.       And one of your job duties is to prepare or  
19     assist in the preparation of gas incident reports?

20           A.       Yes.

21           Q.       And those happen when there's an unsafe  
22     situation that's caused an incident such as a gas  
23     explosion or something like that?

24           A.       Right.

25           Q.       How many of these gas incident reports,

1     ballpark figure, have you prepared or assisted in the  
2     preparation of?

3             A.       I don't know.  Dozens.  I don't know how  
4     many for sure.

5             Q.       And how often are these incidents the  
6     result of hazardous conditions that existed on the  
7     customer-owned piping or appliances, as opposed to hazards  
8     that existed on the company-owned equipment?

9             A.       We're notified of almost all the ones that  
10    are involved, but we don't do an incident report normally  
11    on customer piping incidents.

12            Q.       So even if there's an explosion in the  
13    home, there won't be a gas incident report done?

14            A.       We will do an investigation typically to  
15    find out what happened, but if it involved inside piping  
16    and it wasn't -- didn't involve pi-- the migration of gas  
17    from the operator or of the malfunction of the operator's  
18    facility or some action of the operator, we would not  
19    normally write an incident report.

20            Q.       Okay.  So then you would probably not know  
21    an example where the incident could have likely been the  
22    result or there was conclusion in the Staff's incident  
23    report that a particular incident was a result of lack of  
24    customer notice regarding their need to get safety  
25    inspections?



1           A.       I don't know of any instance like that.

2           MR. POSTON: That's all I have. Thank you.

3           JUDGE DIPPELL: Thank you. Is there  
4 cross-examination from the Union?

5           MS. SCHRODER: Yes.

6 CROSS-EXAMINATION BY MS. SCHRODER:

7           Q.       I thought I'd better come up here since  
8 everybody else did. I realized that you would have to  
9 turn your head pretty sharply to see me otherwise. Hi,  
10 Mr. Leonberger. I'm Sherrie Schroder. You and I have met  
11 before.

12          A.       Yes.

13          Q.       I do have some questions for you today.  
14 First of all, in your position as utility engineering  
15 supervisor in gas safety -- in the gas safety engineering  
16 section, as I understand it, you would supervise the PSC's  
17 involvement in all phases of the natural gas utilities,  
18 including the rate issues, development of safety rules,  
19 evaluation of utility design procedures and operations; is  
20 that right?

21          A.       Primarily my job is the pipeline safety,  
22 the gas safety rules, those kind of things. I do get  
23 involved in rate issues occasionally, but not as much as  
24 strictly the gas pipeline safety engineering aspect.

25          Q.       All right.

1           A.       Operations, maintenance.

2           Q.       And is that for all of the gas distribution  
3       utilities in Missouri?

4           A.       For all of the investor-owned and the  
5       municipals, yes.

6           Q.       And the gas distribution utilities are just  
7       a small subset of that; is that right? The investor, the  
8       investors groups would be the other part?

9           A.       The investor-owned utilities and then  
10       municipal utilities.

11          Q.       All right. Would you agree with me that  
12       once gas does migrate into a home, it can be ignited by  
13       flipping a light switch?

14          A.       Yes.

15          Q.       And that also once gas migrates into a  
16       home, it can be ignited by lighting a single match?

17          A.       It could be.

18          Q.       Or by picking up a telephone?

19          A.       I haven't seen that, but...

20          Q.       Would you agree that picking up a telephone  
21       and calling Laclede, for instance, to report a smell of  
22       gas could cause a spark?

23          A.       We recommend that people go to another  
24       house to call in a gas leak, but I just never have seen  
25       that happen.

1 Q. All right.

2 A. I've heard it can, yes.

3 Q. All right. And in listening to the  
4 testimony that the Union witnesses have presented in the  
5 last couple of days, I guess -- I mean, Marc asked you  
6 whether that had changed your position any. I guess my  
7 question to you is, do you dispute that these kinds of --  
8 that the kinds of incidents that the Union witnesses have  
9 described occur?

10 A. You're referring to the problems that  
11 were -- in their testimony involving inside piping?

12 Q. Yes, the problems they've identified  
13 picking up during these turn off/turn on inspections.

14 A. So what's your question related to that?

15 Q. My question is, do you dispute that those  
16 issues actually occur? Are you disagreeing with --

17 A. No.

18 Q. -- the Union's anecdotal evidence?

19 A. I'm not disputing it, no.

20 Q. All right. And would you agree that the  
21 types of hazards that they've identified finding on TFTO  
22 inspections are hazards that could lead to a gas explosion  
23 or a gas fire or carbon monoxide poisoning?

24 A. I think some of it may lead to carbon  
25 monoxide poisoning, but I'm not aware of other ones that

1     would cause explosions, no.

2             Q.     Do you do gas explosion investigation?

3             A.     Yes.

4             Q.     That is part of what you do?

5             A.     Yes.

6             Q.     Okay. But you did testify earlier that the

7     migration of gas into a home could create --

8             A.     Yes.

9             Q.     -- a gas explosion?

10            A.     Yes.

11            Q.     All right. I want to talk to you for a

12     moment about what happened when Laclede came in and --

13     came to the Commission and asked for this tariff revision.

14     They filed their request for a tariff revision

15     approximately one month before that was approved; is that

16     correct?

17            A.     I believe so.

18            Q.     All right. What studies did Laclede

19     produce to you at that time that -- well, what data did

20     they produce to you? Did they produce some data to

21     support their request for the tariff revision?

22            A.     They requested the change in the tariffs.

23            Q.     Did they produce some data to support it?

24            A.     No.

25            Q.     Did they produce any kind of study at all

1     that reflected that turn off/turn on inspections are not a  
2     life-saving device?

3             A.       Repeat the question, please.

4             Q.       Did they produce any studies at all that  
5     reflected that TFTOs are not a life-saving device?

6             A.       No.

7             Q.       Did they produce any inspection or studies  
8     that annual meter reads on inside meters are not a safety  
9     measure?

10            A.       They didn't produce a study, no.

11            Q.       All right. Did they produce any hazard  
12     tickets and data of that sort that would reflect that --  
13     that as a safety measure the TFTO inspection is -- is not  
14     a good one?

15            A.       They did not present any hazard tickets.

16            Q.       All right. Did they produce any data,  
17     hazard tickets or other data with regard to the efficacy  
18     as a safety measure of the annual meter reads?

19            A.       They produced no data.

20            Q.       Were you aware that there were meter  
21     readers that were finding gas leaks and other hazards when  
22     they were performing annual meter reads?

23            A.       I'm aware that there's things found. We  
24     look -- we look at records. I'm aware there's things  
25     found during the meter reads and during other inspections,

1     yes.

2             Q.       And you were aware of that at the time that  
3     Laclede asked for the tariff revision?

4             A.       Yes.

5             Q.       Were you aware that Laclede employees,  
6     service department employees were finding hazards on  
7     turn off/turn on inspections at the time that they asked  
8     for the tariff revision?

9             A.       I'm aware that -- I reviewed records that  
10    Laclede employees find things when they go in houses, but  
11    I don't know if it's specifically on turn on/turn offs,  
12    no.

13            Q.       All right. Did Laclede produce any data  
14    that would reflect that the hazards that are picked up by  
15    their service employees on TFTO inspections aren't serious  
16    hazards?

17            A.       They didn't produce any data.

18            Q.       Okay. Did Laclede produce any data that  
19    the hazards picked up by annual meter reads are not  
20    serious hazards?

21            A.       They didn't produce any data.

22            Q.       Did they produce data that the hazards  
23    picked up by TFTO inspections would be picked up by some  
24    other kind of inspection that they already have in place  
25    or were going to institute?

1           A.       They didn't provide data, no.

2           Q.       Did they produce data that the hazards that  
3   are picked up by annual meter reads would be picked up by  
4   other means, other inspections that they already have in  
5   process or were going to institute?

6           A.       They didn't present any data.

7           Q.       Did they produce any data about the cost  
8   savings that they would gain from this tariff revision  
9   they were requesting?

10          A.       Not that I saw, no.

11          Q.       Did you make a recommendation about  
12   Laclede's request for a tariff revision?

13          A.       The tariff provision comes into our tariff  
14   department, and when it came in, we discussed the -- I  
15   discussed that with one of the people there, to see if  
16   they -- if the tariff -- they should let the tariff go  
17   ahead and be approved.

18          Q.       All right. So I still don't understand.  
19   Did you make a recommendation or not?

20          A.       By recommendation, you mean a written  
21   recommendation?

22          Q.       Did you make any kind of recommendation?  
23   You said you talked to somebody in the tariff department,  
24   but I don't know whether you made a recommendation.

25          A.       My recommendation was that they asked me if

1 I had any problems with the tariff revisions, and I told  
2 them no.

3 Q. All right. When did you make that  
4 recommendation, how long after they submitted the tariff  
5 revision request?

6 A. I don't know. Sometime after the --  
7 between the time it was filed and sometime when it was  
8 approved. I don't know, some time.

9 Q. All right. And did you ever memorialize  
10 that in writing?

11 A. No.

12 Q. You stated at page 8 of your testimony that  
13 the proposed tariff revisions were, quote, closely  
14 reviewed, end of quote, by various Staff personnel. First  
15 of all, who in your Staff reviewed or closely reviewed  
16 those?

17 A. The safety parts of them?

18 Q. Yes.

19 A. I'm the one that had discussed earlier  
20 about the tariff provisions, if the two tariff provisions  
21 may have violated any of our rules if they stopped  
22 performing them. So I looked at the tariff provision  
23 again when it came in to make sure I didn't believe that  
24 any of our rules would be affected by the changes.

25 Q. So you're the only person from the Staff



1     who looked at whether there was a safety issue here?

2             A.       I believe so.

3             Q.       All right. And you said, again, that you  
4     did that sometime between the time period that Laclede  
5     made the request and a month later when the PSC approved  
6     the tariff revision; is that correct?

7             A.       Yes.

8             Q.       Was it closer to when they made the request  
9     or closer to when it was approved?

10            A.       I don't know.

11            Q.       What data did you look at to determine that  
12    there was not a safety issue here?

13            A.       My experience has been that none of the  
14    other gas -- the utilities in the state have -- do the  
15    annual reads or do the TFTO inspections. So from that  
16    evidence, I believe that I hadn't seen any other problems  
17    that -- additional problems from those other utilities,  
18    and it wasn't required by our regulations.

19            Q.       Well, my clients have been asked a lot of  
20    questions over the last couple of days, my witnesses,  
21    about whether they performed any independent studies on  
22    the safety benefits of TFTO inspections and annual meter  
23    reads. Did you review any studies conducted that  
24    reflected the safety utility of these measures?

25            A.       Any studies, no.

1 Q. Did you conduct any yourself?

2 A. Specific studies, no.

3 Q. Did you survey these other Missouri gas  
4 distribution utilities?

5 A. For what purpose?

6 Q. For the purpose of -- well, let me go back.  
7 You've just said that these other utilities in the state,  
8 to your knowledge, didn't have TFTOs or meter reading,  
9 annual meter reading. First of all, do you really have  
10 personal knowledge of that?

11 A. Yes.

12 Q. You've asked every one of these gas  
13 utilities?

14 A. Two gas utilities that I know of, AmerenUE  
15 and MGE, have AMR, and they have -- they have had AMR for  
16 a number of years, MGE has. I think Ameren has had AMR  
17 starting about six or seven years ago, and they have --  
18 there's -- I have noted no problems and nor have our Staff  
19 any problems from AMR, from the institution of AMR.

20 Q. The institution of AMR doesn't mean there's  
21 no TFTO inspections, does it?

22 A. You asked me about meter reading also.

23 Q. It doesn't mean there's no annual meter  
24 reads, does it?

25 A. Conducted with that, they don't have an

1 annual meter read, physical annual meter read.

2 Q. All right. Have you been onsite with  
3 Ameren since they have instituted AMR to see how they  
4 handle the switching over of gas when there's no gas turn  
5 off, the switching over of gas ownership?

6 Do you need me to say that again? That was  
7 a really poor question.

8 Have you been onsite with Ameren since  
9 they've instituted AMR to determine or to observe how they  
10 handle the switching over of a gas account from one  
11 resident to the next?

12 A. I have not been onsite with them, no.

13 Q. Have you been onsite with Missouri Gas  
14 Energy -- Missouri Gas Energy since they instituted AMR to  
15 see what procedures they use or they apply when they're  
16 switching over gas from one resident to another?

17 A. I have not been onsite to witness that, no.

18 Q. Have you been onsite with any of the gas  
19 distribution utilities in Missouri to see how they switch  
20 over their -- the gas account from one resident to  
21 another?

22 A. I don't think I've physically been with a  
23 meter reader when they've been out there, no.

24 Q. Have you, in fact, ever reviewed -- been  
25 there to observe Laclede doing it?

1           A.       A read in/read out?

2           Q.       Yes, or a -- I'm used to calling it TFTO,  
3 but yes.

4           A.       I never have physically been there when  
5 they've done a read in/read out.

6           Q.       Have you ever physically been there when  
7 Laclede employees have performed an annual meter read?

8           A.       No.

9           Q.       Have you ever been there when anybody else  
10 in Missouri util-- I'm sorry -- the Missouri utility  
11 industry has -- strike that.

12                   Did you conduct any independent research of  
13 any kind when Ameren -- when Laclede came to you or came  
14 to the Commission and asked for a tariff revision?

15                   MR. SCHWARZ: Object. It's been asked and  
16 answered several times.

17                   JUDGE DIPPELL: He has answered that. I'll  
18 sustain that objection.

19 BY MS. SCHRODER:

20           Q.       Did you do any verification of Laclede's  
21 representations that TFTOs, that the TFTO inspections and  
22 annual meter reads, that the elimination of those would  
23 not pose a safety problem?

24           A.       Could you repeat the question?

25           Q.       I'm tired.

1                   Did you conduct any verification of  
2   Laclede's representations that there would not be a safety  
3   issue raised by eliminating TFTO inspections and annual  
4   meter reads?

5                   MR. ZUCKER:  Objection, there's no  
6   foundation to that question.  There's been no evidence  
7   that Laclede made any such representations.

8                   MS. SCHRODER:  I'll rephrase.

9   BY MS. SCHRODER:

10                  Q.     Did Laclede make representations at the  
11   time that it submitted its tariff revision request that  
12   there would not be a safety impact of the elimination of  
13   these procedures?

14                  A.     Did they come to me and ask me -- or to  
15   tell me there was not going to be a safety impact?

16                  Q.     Well, did they make a representation to the  
17   PSC at all about that?

18                  A.     We -- we discussed the fact that there  
19   would be -- the elimination of that did not -- those  
20   weren't required by the Public Service Commission's  
21   regulations.  Is that what you mean?

22                  Q.     No.

23                  A.     Okay.

24                  Q.     Was there a representation from Laclede  
25   that safety would not be meaningfully impacted by the

1 elimination of TFTO inspections and annual meter reads?

2 A. Just the idea that the -- that they didn't  
3 believe that eliminating them in any way related to the  
4 requirements in the regulations.

5 Q. So basically Laclede's only representation  
6 to you was, these aren't required by anything except our  
7 tariffs; is that right?

8 A. There's discussions about that. We wanted  
9 to make sure they weren't.

10 Q. All right. And you didn't look any  
11 further; is that right?

12 A. I didn't look any further than?

13 Q. Than whether it was required by a specific  
14 regulation?

15 A. Just my experience that other utilities in  
16 the state weren't doing that.

17 Q. Did you discuss with the Union whether  
18 there were possible safety issues raised by this tariff  
19 revision request?

20 A. No.

21 Q. Did you discuss that with the Office of  
22 Public Counsel?

23 A. No.

24 Q. Did you discuss that with anybody other  
25 than -- well, did you discuss it with anybody?

1           A.       Among the Staff.

2           Q.       All right.

3           A.       And with Laclede. And then the tariff  
4 would be -- the tariff was a filed tariff, so it could  
5 be -- anyone could comment on it, I guess, at that time.

6           Q.       The tariff was a what?

7           A.       The tariff revision was a tariff revision  
8 that was a public document. Someone could have commented  
9 at that time, yes.

10          Q.       All right. But now you just said you had  
11 discussions with Staff about safety. I thought previously  
12 you told me you were the only Staff member who closely  
13 reviewed these proposed revisions with regard to safety.

14          A.       You said something about did I talk to  
15 anyone else about safety. At times --

16          Q.       Yes.

17          A.       I just answered yes, we do talk among  
18 ourselves about that, yes.

19          Q.       But did you about these tariff revisions?

20          A.       No.

21          Q.       All right. Did --

22          A.       I may have mentioned it to somebody, but  
23 I'm the one that did the primary review, yes.

24          Q.       All right. And you didn't discuss it with  
25 Laclede either? You didn't discuss the safety aspects of

1 the turn off/turn on inspections and the annual meter  
2 reads?

3 MR. ZUCKER: Objection, it's asked and  
4 answered, twice.

5 MS. SCHRODER: Well, I'm trying to clarify,  
6 because I think he just maybe changed his answer on that.

7 JUDGE DIPPELL: I'm going to let her go  
8 ahead and ask it again because I'm not sure.

9 THE WITNESS: What's the question again,  
10 please?

11 BY MS. SCHRODER:

12 Q. Certainly. Mr. Leonberger, you didn't  
13 discuss the safety aspects of turn off/turn on inspections  
14 or annual meter reads with Laclede before the tariff  
15 revision was approved, did you?

16 A. As I said before, the only -- we discussed  
17 the safety aspects as they pertain to the pipeline safety  
18 rules.

19 Q. So the answer is no?

20 A. I'm not sure.

21 Q. Well, is the answer that the only --

22 A. Your question was -- I believe your  
23 question was did we have discussions about safety, and  
24 yes, I talked to them about the safety aspects of it, as  
25 it pertained to the rules.



1           Q.       All right. So your only discussion with  
2       Laclede about safety was whether or not it was required by  
3       a specific regulation; is that right?

4           A.       That was right.

5           Q.       All right. You further state at page 8 of  
6       your testimony that the Staff concluded the proposed  
7       revisions, quote, did not significantly affect safety of  
8       the facilities regulated by the Commission, end of quote.  
9       What does that mean?

10          A.       The Commission regulates the company, the  
11       company-owned or the investor-owned municipal facilities,  
12       and we don't believe that the TFTO inspections or annual  
13       meter reads would affect the part that we regulate.

14          Q.       All right. So first of all, it means that  
15       you didn't really look at -- you didn't even consider  
16       whether it would impact customer safety; is that right?

17          A.       We made sure that the -- I want to -- we --  
18       the requirement to do leak survey and do the corrosion  
19       inspection on inside piping wasn't -- in our rules weren't  
20       being eliminated, and the customer-owned piping equipment  
21       is the responsibility of the customer. So that's why I  
22       made that statement.

23          Q.       All right. But I'd like an answer to my  
24       question. You didn't look at the customer safety aspects  
25       of the tariff provision; is that correct?

1           A.       Well, I believe the part of the customer's  
2   safety aspect of the tariff provision was making sure that  
3   the leak survey on the inside piping, of any inside  
4   customer-owned piping and the corrosion inspections were  
5   still done. And any time that the -- made it clear that  
6   any time the gas was physically turned on, those inside  
7   inspections were done.

8           Q.       You didn't consider whether the elimination  
9   of a TFTO inspection would affect customer safety, did  
10   you?

11          A.       I think I answered that question.

12          Q.       I don't think I got an answer to that  
13   question. This is the first time I've asked it.

14                   JUDGE DIPPELL: What was your answer?

15                   THE WITNESS: The answer I gave before, the  
16   customer safety involves what we believe the regulations  
17   of leak surveying inside of company-owned piping, the  
18   corrosion inspections of inside company piping.

19   BY MS. SCHRODER:

20          Q.       All right. Mr. Leonberger, would you agree  
21   that customer safety is affected also by the kinds of  
22   things that the Union's described, the Union witnesses  
23   have described having found on TFTO inspections?

24          A.       That's related to customer safety.

25          Q.       That is customer safety, right?

1           A.       It is customer safety.

2           Q.       Right. And the customer safety is affected  
3 by that, by those kinds of hazards?

4           A.       Yes, they are.

5           Q.       All right. And you didn't consider that  
6 aspect when you were looking at this proposed tariff  
7 revision; is that right?

8           A.       As I said before, we looked at the aspects  
9 as we regulate the company -- the regulations of the  
10 company facilities. The customer facilities are their  
11 responsibility.

12          Q.       All right. You also -- also that statement  
13 that you made, that the proposed revisions did not  
14 significantly affect safety of the facilities regulated by  
15 the Commission, implies that you found some impact on  
16 safety; is that right?

17          A.       I can't -- I don't believe so.

18          Q.       All right. Then why did you use the word  
19 significantly affect?

20          A.       Honestly, I don't know. Sorry.

21          Q.       That's a fair answer. Would the Staff have  
22 given a different recommendation about the tariff revision  
23 if it concluded that the revisions would have  
24 significantly affected safety?

25          A.       If we believe the tariff provision

1 significantly affected safety in what we regulate, yes, we  
2 would have made some comment.

3 Q. And would you agree with me that a  
4 conclusion about the safety impact of terminating two  
5 measures, two procedures that Laclede had had in place for  
6 some time should be based on accurate data concerning the  
7 effectiveness of those measures?

8 A. I'm not sure I quite understand the  
9 question, but I -- the -- the annual meter read, which  
10 you're talking about both of them or one of them?

11 Q. I'm talking about both measures, the two  
12 measures.

13 A. The annual meter read was something that  
14 was required for billing purposes, and the -- so I didn't  
15 see it affect there. The TFTO inspection was something  
16 Laclede had been doing ever since I can remember, above  
17 and beyond the regulations. So since I didn't believe  
18 that what they were doing above the beyond the regulation  
19 in limiting as long as the -- our regulation is being  
20 complied with would have affected the safety. That's --  
21 if that's the answer to your question.

22 Q. Well, it doesn't. My question was whether  
23 you would agree that a conclusion about terminating two  
24 measures, two procedures that Laclede has been doing  
25 should be based on accurate data concerning the

1 effectiveness of those measures from a safety perspective?

2 MR. ZUCKER: I'm going to object, that  
3 Mr. Leonberger's trying to be clear about the difference  
4 between company-owned facilities and customer-owned  
5 facilities, and I just want to make sure that the  
6 questions are also being asked to take that into account.

7 MS. SCHRODER: I don't have to ask the  
8 questions to take that into account. It's very clear that  
9 he's made a distinction between the two, and I understand  
10 that distinction, I respect that distinction, but I have  
11 the right to inquire about overall safety.

12 MR. SCHWARZ: And he's answered that  
13 question. I think I'll object, too. That is, he said  
14 that -- if I understood his testimony correctly, that  
15 annual read is a billing issue primarily from the  
16 perspective of the Commission's gas safety department, and  
17 also that the TFTO provisions were in excess of the rules  
18 that the Commission has provided -- or prescribed, rather,  
19 for the provision of safe service by the utility. I think  
20 that is his answer to that question.

21 JUDGE DIPPELL: Okay. I'm going to  
22 overrule Mr. Zucker's objection, and state your question  
23 again --

24 MS. SCHRODER: Certainly.

25 JUDGE DIPPELL: -- Ms. Schroder.

1 BY MS. SCHRODER:

2 Q. Mr. Leonberger, would you agree with me  
3 that a conclusion about the safety impact of terminating  
4 two procedures that Laclede has had a practice of  
5 performing should be based on accurate data concerning the  
6 safety effectiveness of those procedures?

7 JUDGE DIPPELL: I'm going to overrule  
8 Mr. Schwarz's objection and let him answer, and  
9 Mr. Schwarz can clarify anything he needs clarified on  
10 redirect.

11 THE WITNESS: Okay. Again, we look at the  
12 aspects of customer safety from the regulations. The  
13 data, that's what we look at. There's -- do I believe  
14 that there could be something found during these  
15 inspections? That's -- other companies found it with  
16 inspections, but it would be on customer piping. It would  
17 not be the responsibility of Laclede.

18 Q. Okay. This really was a yes or no  
19 question.

20 A. No. That's my best answer.

21 JUDGE DIPPELL: Mr. Leonberger, I'm going  
22 to ask you to try answering yes or no or I don't know or I  
23 don't understand the question.

24 THE WITNESS: I don't understand the  
25 question. I'm trying to do my best here. I don't

1 understand the question.

2 BY MS. SCHRODER:

3 Q. All right. Mr. Leonberger, let me reframe  
4 it and see if we can get there. I don't mean to belabor  
5 this. But as I understand it, a large part of your job is  
6 determining pipeline safety; is that right?

7 A. Right.

8 Q. And so part of your job is, when a request  
9 comes in like this for a tariff revision to eliminate a  
10 couple of procedures that may have safety aspects, that  
11 you are to review the effectiveness of those safety  
12 procedures; is that right?

13 MR. ZUCKER: Objection. There's no  
14 foundation for that, and it assumes facts not in evidence.  
15 The safety procedure is not being eliminated, simply the  
16 mandatory part of it is.

17 MS. SCHRODER: I don't understand the  
18 objection.

19 MR. ZUCKER: In other words, there's a  
20 tariff change that says the customers -- that Laclede is  
21 no longer required to do this. There's no elimination of  
22 the safety procedure. In other words, the customer is not  
23 prohibited from having an inspection from Laclede or  
24 anyone else the customer wants.

25 JUDGE DIPPELL: Ms. Schroder, can you

1 rephrase your question?

2 MS. SCHRODER: Certainly.

3 BY MS. SCHRODER:

4 Q. Okay. Mr. Leonberger, am I correct that as  
5 the pipeline safety supervisor, it is your job when a  
6 tariff revision comes in, like the one Laclede submitted  
7 here that eliminates Laclede's responsibility for  
8 performing two inspections, two procedures that have a  
9 safety impact or at least an arguable safety impact, that  
10 it is your job to look at data on the effectiveness, the  
11 safety effectiveness of those measures?

12 A. Yes.

13 Q. And you didn't do that here, did you?

14 A. I believe we looked at the effectiveness on  
15 the part that we regulate.

16 Q. And only on the part that you regulate?

17 A. Yes.

18 Q. All right. And you would agree with me  
19 that there have been times when the PSC has regulated gas  
20 distribution utilities, has required gas distribution  
21 utilities to institute safety procedures for  
22 customer-related or customer-owned facilities?

23 A. When the -- within part of regulation, if  
24 when the company physically turns on the gas, so when the  
25 operator turns on the gas and operates one of their valves



1 to turn the gas on, we want to make sure they're not  
2 creating a hazard, yes.

3 Q. Correct. Okay.

4 A. So it applies to the operator not creating  
5 a hazard.

6 Q. Would you agree that annual meter reads  
7 could have an unintended safety aspect to them?

8 A. On any reading?

9 Q. The annual meter reads that were in effect  
10 for Laclede prior to the tariff revision.

11 A. Possibly. Possibly.

12 Q. All right. And did you consider that  
13 unintended safety aspect when you were reviewing this  
14 tariff revision request?

15 A. Of the meter reader not being there and  
16 then not -- I'm not sure I understand exactly.

17 Q. Did you consider the unintended safety  
18 aspects of the annual meter reads when you were  
19 reviewing --

20 A. No.

21 Q. You state at page 4 of your testimony that  
22 you're not aware of any other state that requires  
23 turn off/turn on inspections when only the name on an  
24 account changes and gas flow isn't interrupted. What  
25 investigation did you conduct?

1           A.       I was -- I have meetings with the 12 states  
2     in the region, and I was the chairman of the national  
3     organization, and we talked a lot about different things  
4     that our operators are doing, and I never had -- I didn't  
5     do a specific study on that, but I never had heard anyone  
6     that was doing an inspection like that.

7           Q.       All right. Did you ever ask that question  
8     at those meetings?

9           A.       Specifically, no.

10          Q.       Do you know whether any other gas  
11     distributor in Missouri has had a multi-decade history of  
12     performing turn off/turn on inspections in the  
13     circumstances that Laclede has?

14          A.       I don't know of any operator in the state  
15     of Missouri that's performing turn off/turn on  
16     inspections.

17          Q.       Would you agree with me, Mr. Leonberger,  
18     that there are -- that there are a number of procedures  
19     that any gas distribution utility performs that aren't  
20     regulated -- I'm sorry -- that aren't covered by a  
21     specific regulation of the PSC?

22          A.       Yes.

23          Q.       All right. And would you agree with me  
24     that one of the reasons there may not be a specific  
25     regulation on some of those is because they've been done,

1     so --

2                     MR. SCHWARZ:  Objection, it calls for  
3     speculation.

4                     MS. SCHRODER:  Can I rephrase?

5                     JUDGE DIPPELL:  Yes.

6     BY MS. SCHRODER:

7             Q.       Mr. Leonberger, I understand that you have  
8     some involvement in proposing regulations; is that right?

9             A.       Yes.

10            Q.       Would you agree with me that you wouldn't  
11   propose a regulation where you knew that a gas company --  
12   that a gas company was already engaged in that particular  
13   practice?

14            A.       I would disagree with that.

15            Q.       All right.  In what circumstances would you  
16   go ahead and propose a regulation when you knew it was  
17   already being done?

18            A.       In fact, the regulation we talked about  
19   earlier requiring an inspection of inside piping, inside  
20   customer-owned pipe when the gas is turned on, we believe  
21   that -- I know at that time Missouri Power & Light and  
22   other companies were already doing that because they felt  
23   they had to because of Missouri law, and we wanted to put  
24   that provision in the regulation.  So we knew other  
25   companies were already doing that, and we put it in the

1 regulation anyway for other companies to follow. I  
2 believe that's in my testimony.

3 Q. All right. Mr. Leonberger, I want to ask  
4 about a couple of specific appliances that -- that you  
5 didn't discuss when you were being cross-examined by  
6 Mr. Zucker. You said something about -- about inspecting  
7 the heating system, I believe, on your cross-examination.  
8 Do you recall that?

9 A. I said that at -- I can't remember if we  
10 did it this year, but the PSC sometimes puts out a press  
11 release about having your heating system, your filters and  
12 your furnace inspected.

13 Q. All right. Does the PSC also put out press  
14 releases about having your hot water inspected?

15 A. No, not that I know of.

16 Q. What about the gas space heaters?

17 A. I think what we say is the heating system.  
18 I'm not sure specifically on gas space heaters.

19 Q. Do you have any information that would  
20 reflect that your average customer in Missouri is going to  
21 know about the hazards relating to a flue backing up or a  
22 cracked heat exchanger?

23 A. Could you repeat that question? I'm sorry.

24 Q. Certainly. Do you have any information  
25 that would reflect that the average customer in Missouri

1 has information, knowledge about the hazards relating to a  
2 backed up flue or a cracked heat exchanger?

3 A. I have no information.

4 Q. I want to ask you some questions about the  
5 other gas distributors in Missouri, and I want to make  
6 sure, first of all, that I really do know them. I suspect  
7 you know them a lot better than I do. In addition to  
8 Laclede, there's Southern Utility Company; is that  
9 correct?

10 A. Southern Missouri Gas.

11 Q. Southern Missouri Gas. All right. And  
12 first of all, is Laclede the biggest gas distributor in  
13 Missouri?

14 A. Yes. Customer-wise or -- customer-wise?

15 Q. Yes, customer-wise.

16 A. Yes.

17 Q. All right. Does Southern Missouri Gas, is  
18 it the second biggest?

19 A. No.

20 Q. Okay. Which is the second biggest?

21 A. Missouri Gas Energy.

22 Q. Okay. And who does that serve, what  
23 population?

24 A. Kansas City area, Joplin, east of Kansas  
25 City up north toward St. Joe.

1           Q.     All right. And then there's, is it Aquila?

2           A.     Aquila.

3           Q.     Aquila Networks. All right. And that's

4 got a fairly rural base; is that correct?

5           A.     There's -- there's various cities that

6 Aquila has, like fair-size cities, but it's also rural

7 based also.

8           Q.     City Utilities of Springfield, is that

9 another natural gas distributor?

10          A.     It's municipal, municipal owned.

11          Q.     Okay. And then there's Atmos Energy; is

12 that right?

13          A.     Yes.

14          Q.     And they serve customers in primarily rural

15 Missouri; is that right?

16          A.     Again, they serve medium-size cities as

17 well as rural areas.

18          Q.     And then there's Empire District Gas

19 Company; is that right?

20          A.     I'm not sure that case is -- I'm not sure

21 when they take over.

22          Q.     Right, they're taking over some of

23 Aquila's --

24          A.     Yes.

25          Q.     -- gas operations.

1                   And then Gateway Pipeline, is that another  
2 gas distribution company in Missouri?

3           A.       Not that I regulate, not safety regulation.

4           Q.       Ameren, is Ameren the only other --

5           A.       AmerenUE?

6           Q.       Yes -- the only other gas utility --  
7 distribution utility in Missouri?

8           A.       I didn't count them all as you went down  
9 them, but --

10          Q.       Does that sound like the list?

11          A.       I didn't count them as you went down, so I  
12 don't know for sure, but I think that's most of them.

13          Q.       Okay. Would you agree with me that Laclede  
14 serves the densest population of any of those gas utility  
15 company?

16                   MR. SCHWARZ: I'll object, no foundation  
17 that this witness has any knowledge whatsoever of  
18 population densities of any service territory. Further,  
19 there's no foundation that Laclede's service territory is  
20 somehow uniform in customer density.

21                   JUDGE DIPPELL: I'll sustain the objection.

22 BY MS. SCHRODER:

23          Q.       All right. Mr. Leonberger, are you largely  
24 familiar with Laclede's gas service area?

25          A.       Yes.

1           Q.       All right. And would you agree with me  
2   that Laclede serves City of St. Louis, St. Louis County  
3   and parts of eight other counties, including St. Charles,  
4   Jefferson, Franklin, Ste. Genevieve, St. Francois, Iron,  
5   Madison and Butler Counties?

6           A.       They serve -- I'm not sure that's all the  
7   counties or there may be one, but that sounds correct.

8           Q.       All right. Would you agree that Laclede  
9   serves a population of approximately 2 million?

10          A.       I don't know what the population is.

11          Q.       Are you familiar with the gas service areas  
12   of the other Missouri gas distribution utilities that you  
13   regulate?

14          A.       I believe so.

15          Q.       All right. And would you agree, for  
16   instance, that the City of St. Louis is the densest  
17   population in Missouri?

18                 MR. SCHWARZ: I will object again. There's  
19   no foundation that this witness by training, education,  
20   knowledge, experience or any other criteria is competent  
21   to testify on population densities.

22                 JUDGE DIPPELL: I'll sustain that  
23   objection.

24                 MS. SCHRODER: All right. May I approach  
25   the witness with a copy of Exhibit 10?



1 MR. SCHWARZ: I will object again.

2 JUDGE DIPPELL: I'll let you object when  
3 she -- you're objecting to her showing it to  
4 Mr. Leonberger?

5 MR. SCHWARZ: I'm objecting, yes, to the  
6 use of the exhibit at all. I have no idea -- it certainly  
7 doesn't reflect population densities. It doesn't reflect  
8 areas that are served by propane, as opposed to areas that  
9 are served by gas. It doesn't in any way, shape or form  
10 suggest that areas of, say Iron County, which is comprised  
11 significantly of the Mark Twain National Forest, what  
12 population densities of -- may be in areas that are  
13 served.

14 It doesn't suggest that -- how the  
15 population of any particular county is distributed within  
16 the county, what the population of the towns that are  
17 actually served are in its -- it's not a subject that is  
18 suitable for someone who's trained as a gas safety  
19 engineer. It's subject for a demographer. It's subject  
20 for someone who is trained perhaps in population  
21 economics, that sort of thing, but it's certainly not  
22 something that a gas safety engineer is competent to  
23 testify by way of training.

24 MS. SCHRODER: Your Honor?

25 JUDGE DIPPELL: Ms. Schroder, response?

1                   MS. SCHRODER: First of all, it's census  
2 data that does provide some specific information about  
3 population density, and while certainly I can't go through  
4 and say exactly this part of Iron County is being covered  
5 by Laclede, et cetera, this does give the witness, who is  
6 an educated person and is used to reading documents with  
7 percentages and documents with this sort of data, it gives  
8 him something upon which to -- in addition to his personal  
9 knowledge, to answer some questions. And if he can't  
10 answer them, then he can't answer.

11                   But I think these are public documents,  
12 public records. They're compilations that are routinely  
13 used in the course of collecting data. I mean, they are a  
14 collection of data, and I mean, we certainly have the  
15 right to use the information in this. I am just simply  
16 asking for the right to have the witness look at it and  
17 make what conclusions he can out of it in response to my  
18 questions.

19                   MR. SCHWARZ: But my point is that the  
20 conclusions that she's seeking to have this witness draw  
21 are conclusions which his expertise does not suit him for.  
22 That is, the fact that there are 19.4 persons per square  
23 mile in Iron County in 2000 doesn't permit a gas safety  
24 engineer to draw any conclusions about anything that's  
25 relevant to this hearing.

1                   I will tell you that, for purposes of  
2 speeding things along, that I think Staff is willing to  
3 concede that if there's a tremendous gas explosion, that  
4 it's likely to do more damage if there's, you know,  
5 300 people living on the block than there are if it occurs  
6 in an isolated home out in some rural county. But I  
7 don't -- I don't think it's appropriate to have someone  
8 who's trained in a specialized field to try to draw  
9 conclusions from this kind of economic data that is not,  
10 in fact, the stuff of which gas safety engineers work on.

11                   JUDGE DIPPELL: And, Mr. Schwarz, are you  
12 only objecting to him drawing conclusions or are you  
13 objecting to the Commission having this information at  
14 all?

15                   MR. SCHWARZ: I don't think that this  
16 information is anything that the Commission or this  
17 witness or actually any of the witnesses that I've heard  
18 so far or whose testimony I've reviewed can draw any  
19 conclusions from. That is, we could also put in  
20 astrological tables. We could put in shipping and tide  
21 tables. We could put in lots of information that's  
22 readily available from the public and reliable, and it's  
23 not anything that any witness in this case can draw any  
24 conclusions from by way of the training and so forth that  
25 they've had. It's -- it gives the impression of pseudo

1 science. If you take a look at 409.065, which is the rule  
2 on expert testimony, an expert has to be proffered data  
3 that is --

4 JUDGE DIPPELL: I understand that, and I'm  
5 willing to go with you on that one. I don't believe  
6 Mr. Leonberger is qualified to make opinions about this,  
7 but it is census data. It is the kind of thing that I  
8 think the Commission could take official notice of. Are  
9 you saying that?

10 MR. SCHWARZ: It's not relevant to  
11 anything.

12 JUDGE DIPPELL: Well, that's what I was  
13 asking.

14 MR. SCHWARZ: It's not relevant to  
15 anything, and it's not data which by its nature would  
16 permit anyone with expertise that we've heard or the  
17 Commission itself to draw the conclusions from that are  
18 relevant to this proceeding.

19 MS. SCHRODER: Your Honor, if I may?

20 JUDGE DIPPELL: Yes.

21 MS. SCHRODER: First of all, it is relevant  
22 to several of the issues that have come up in this  
23 hearing. Certainly the Commission has asked us why  
24 Laclede should be treated differently than other gas  
25 distribution utilities in Missouri, and the issue of

1 density of population is one of the reasons that the Union  
2 has asserted, and the issue of the percentage of  
3 multiple-unit housing is one of the issues that -- and  
4 rental rate are issues that the Union has identified as  
5 distinguishing Laclede service area from other gas  
6 distribution utilities. So I think that it is relevant in  
7 that regard.

8                   And as far as whether this Commission can  
9 make conclusions based on this data, this Commission is  
10 not a jury. They have the ability to sift through  
11 information and determine for themselves whether or not  
12 they can reasonably make those conclusions. I think that  
13 we have the right to ask the Commission to take judicial  
14 notice of this and to make our arguments based on it and  
15 let the Commissioners decide whether or not they're  
16 persuaded.

17                   JUDGE DIPPELL: Mr. Schwarz, one last shot?

18                   MR. SCHWARZ: Well, there are areas in  
19 St. Louis County where you'll have zoning requirements  
20 that limit homes to an acre, acre and a quarter, two acre,  
21 five acre lots. Certainly in Iron County I would assume  
22 that -- and I don't know, and the Local 11-6 doesn't  
23 provide any information, and I don't believe is going to  
24 provide any information -- that either within Laclede's  
25 service territory, that these documents are sufficient to

1 establish that 60 percent of Laclede's customers live  
2 within 200 feet of another customer or they don't.

3                   There's no way that you can draw the  
4 conclusion -- any conclusions about anything from this  
5 data without the use of an expert who is trained to do so,  
6 without the use of an expert who has conducted a study on  
7 population densities, which is not the province of any of  
8 the experts who have testified at this hearing. This data  
9 is simply not relevant in its raw state to anything that  
10 is at issue.

11                   JUDGE DIPPELL: Okay. I disagree. I'm  
12 going to allow it. I'm --

13                   MR. ZUCKER: Judge Dippell --

14                   JUDGE DIPPELL: Yes?

15                   MR. ZUCKER: -- may I speak?

16                   I'm not clear I have the exact document,  
17 which is Exhibit 10, but the first two pages appear to be  
18 some kind of a compilation.

19                   MS. SCHRODER: Yes. I'm sorry. The first  
20 two pages are a summary of data behind which the -- and I  
21 think the exhibit was identified that way, actually, on  
22 the cover sheet, that it's a summary with the backup  
23 information.

24                   MR. ZUCKER: And is -- I assume  
25 Mr. Leonberger's not the person who prepared this?

1 MS. SCHRODER: No. The summary was  
2 prepared by 11-6 counsel.

3 MR. ZUCKER: And then the pages after that  
4 appear to be from the -- from a government website,  
5 census.gov; is that correct?

6 MS. SCHRODER: That is correct.

7 MR. ZUCKER: And then the last -- what is  
8 the last page?

9 MS. SCHRODER: I have as my last page  
10 another page of the Census Bureau, Butler County. Do you  
11 have something different?

12 MR. ZUCKER: Butler County, Missouri is the  
13 last page. Okay.

14 MS. SCHRODER: Yes. Did you have something  
15 different, Rick? Do you need another version?

16 MR. ZUCKER: No, no, that's fine. I just  
17 wanted to make sure. Okay. So it's basically something  
18 off of the government's website, except for the first two  
19 pages that are a compilation?

20 MS. SCHRODER: That is correct.

21 MR. ZUCKER: Okay. So the issue then would  
22 be under 536.070(11) whether or not it was made by or  
23 under the supervision of this witness. In other words,  
24 she had this document. She could have introduced it  
25 through her own witnesses or whoever -- whoever prepared

1 it,  
2 but --

3 MS. SCHRODER: Your Honor, it's generally  
4 acceptable to put in a summary document, as long as you  
5 have the attached support and the summary fairly  
6 summarizes the data contained in there. If anybody has  
7 any questions about the fairness of the summary, I mean, I  
8 -- that would be another issue, I guess.

9 JUDGE DIPPELL: Okay.

10 MS. SCHRODER: If you don't want to put the  
11 summary in, that's fine. We can put that in our Brief, so  
12 that's fine.

13 JUDGE DIPPELL: I think that's what we'll  
14 do, just to speed things along, Keep going. We're going  
15 to -- I'm going to allow the census data. It appears to  
16 be from the U.S. Government website. If someone wants to  
17 argue about the accuracy of the government's website, I  
18 think this is the kind of thing the Commission can take  
19 judicial notice of. I think that the Commission can  
20 determine what the population of various areas are from  
21 this information.

22 As to what conclusions they can draw from  
23 that, I don't know. We'll have to see how it goes, but as  
24 far as that, I think that is information that the  
25 Commission may be able to use and may be relevant to or is



1 relevant to the Union's arguments. I will strike the  
2 first two pages, the summary, and force myself and the  
3 Commissioners to run the numbers on our own or have  
4 Ms. Schroder attach it to her Brief.

5 MR. SCHWARZ: Well, I certainly have no  
6 objection -- if you're including the exhibit, you should  
7 include the summary.

8 JUDGE DIPPELL: It sounded as though  
9 Mr. Zucker had an objection.

10 MR. ZUCKER: Well, if the summary's right,  
11 then I'm willing to go along with it also.

12 JUDGE DIPPELL: Okay. I'll let the summary  
13 in. If someone comes up with an error in the summary,  
14 they can so notify the Commission in your Brief.

15 Okay. I'm going to admit Exhibit No. 10.

16 (EXHIBIT NO. 10 WAS RECEIVED INTO  
17 EVIDENCE.)

18 JUDGE DIPPELL: Now, Ms. Schroder, you can  
19 continue, but I will warn you that I'm not going to allow  
20 Mr. Leonberger to make any conclusions as to population  
21 density because I think we've established here that he's  
22 not an expert on that.

23 MS. SCHRODER: Can I ask him questions  
24 about it based on his personal knowledge?

25 JUDGE DIPPELL: You may ask him about his

1 personal knowledge.

2 MS. SCHRODER: All right.

3 BY MS. SCHRODER:

4 Q. Mr. Leonberger, in your experience from  
5 working with these gas distribution companies, do you know  
6 whether Laclede serves the densest population in Missouri?

7 A. I believe there's areas of Kansas City  
8 probably as dense as St. Louis, but I mean, as far as  
9 overall, I mean, I never have looked at what the density  
10 is.

11 Q. All right. Would you agree that the  
12 density of the population would have an impact on the  
13 safety -- strike that.

14 Would you agree with me that an explosion,  
15 for instance, that might happen in a rural area is less  
16 likely -- will have a lesser overall effect on life and  
17 property than an explosion that happens in a residential  
18 area?

19 A. It depends on the severity of the incident.

20 Q. All right.

21 JUDGE DIPPELL: I think counsel already  
22 stipulated to actually what you're looking for,  
23 Ms. Schroder.

24 MS. SCHRODER: I think you're right,  
25 actually.

1 BY MS. SCHRODER:

2 Q. Mr. Leonberger, would you agree with me  
3 that there's generally greater turnover among residents in  
4 multiple-family housing than in single-family housing?

5 A. I don't know.

6 Q. Pardon?

7 A. I don't really know.

8 Q. Would you agree with me that the Missouri  
9 regulations pertaining to pipeline safety are minimum  
10 requirements?

11 A. Yes.

12 Q. All right. And it says so repeatedly in  
13 those CSRs, doesn't it?

14 A. Yes.

15 Q. Would you also agree with me that certain  
16 of the CSRs, for instance, 4 CSR 240-40.030(13)(m)2, which  
17 is the instrument leak detection section, distinguish the  
18 amount of or the frequency of leak detections by whether  
19 they're conducted within a business district or outside of  
20 a business district?

21 A. Yes.

22 Q. All right. Do you know what the basis of  
23 those distinctions are, why there would be more frequent  
24 inspections in the business district than outside of the  
25 business district?

1           A.       Oftentimes it's the continuous pavement.

2           Q.       I'm sorry?

3           A.       Continuous pavement, not allowing the gas  
4 to vent to the atmosphere.

5           Q.       And I'm sorry. I really don't understand  
6 what you just said. Continuous pavement allowing?

7           A.       In business areas, oftentimes there's  
8 continuous pavement. There's a street, a sidewalk that  
9 goes right up to the building. There's not an opportunity  
10 for that to vent, so that's one reason for the more  
11 frequently surveyed. There's also more facilities in  
12 those areas, sewers and things of that nature.

13          Q.       So the density of the facilities might be  
14 part of the reason?

15          A.       The location of the facilities near -- the  
16 underground facilities near them, yes.

17          Q.       All right. And would you agree with me  
18 that again that CSR pertaining to instrument leak  
19 detections has a specific note that the type and scope of  
20 the leakage control program must be determined by the  
21 nature of the operations and the local conditions?

22          A.       Where are you?

23          Q.       This is 4 CSR 240 40.030(13)(m)2. And I'm  
24 sorry. I do not expect you to be familiar with every word  
25 in every CSR. So I'll just go back -- I'll withdraw that

1 question.

2                   Would you agree from your knowledge of the  
3 regulations, the Missouri regulations, that local  
4 conditions may be a reason why there would be tighter  
5 controls in some areas than in others?

6           A.       I would say over some facilities than  
7 others, yes.

8           Q.       And what do you mean by that?

9           A.       There are specifically, like if we have  
10 facilities, as I mentioned earlier about copper service  
11 lines, unprotected steel service lines, gas facilities --  
12 gas facilities we believe would need more frequent  
13 surveys.

14          Q.       All right. I want to go back for just a  
15 minute to turn off/turn on specifically, those  
16 inspections. Prior to the Union filing the complaint in  
17 this matter, were you aware that gas landlord accounts  
18 could be switched from tenant to tenant without the  
19 interruption of gas flow?

20          A.       Yes.

21          Q.       All right. And had you ever -- if I have  
22 asked this before, I apologize, but have you ever watched  
23 that performed?

24          A.       You asked before and I said no, I never  
25 have physically watched them perform.

1           Q.     Okay. I apologize. You state at page 5 of  
2 your testimony your, quote, belief that it would be more  
3 appropriate to have ordinances requiring turn off/turn ons  
4 in this situation than a PSC rule; is that right?

5           A.     Yes.

6           Q.     Who did you envision paying for the  
7 inspection?

8           A.     My statement was because I believe that  
9 those were -- facilities were the responsibility of the  
10 customers, so that's why I made the statement.

11          Q.     So you believe the customer would pay for  
12 the inspection?

13          A.     I didn't consider who would pay for it. I  
14 considered who was responsible for it.

15          Q.     But who do you envision? This is your  
16 belief. I'm asking you now, who do you envision paying  
17 for the inspection?

18          A.     The customer.

19          Q.     Would you agree that some Missouri  
20 residents don't even have the money necessary to even pay  
21 their heating bills without help?

22          A.     I agree with that.

23          Q.     And the PSC has felt that it was necessary  
24 to create a program that helps those people afford the gas  
25 to heat their homes; isn't that right?

1           A.       The Commission created one?

2           Q.       Yes.

3           A.       The State has one, yes.

4           Q.       And you would agree that those same people  
5 who can't afford to pay their heating bills are not going  
6 to be able to pay for those private inspections either; is  
7 that right?

8           A.       The -- I'll just go back to what I said  
9 before. I believe that they're responsible for their own  
10 pipe and equipment.

11          Q.       All right. So if they can't afford the  
12 heating bill and they can't afford the inspection bill,  
13 they just shouldn't get the inspections; is that right?

14          A.       It's their equipment. They're responsible  
15 for it.

16          Q.       Can you answer my question?

17          A.       Sure. I thought I did. Ask it again,  
18 please.

19          Q.       Would you agree if they can't pay for the  
20 heat and they can't pay for the inspections, they just  
21 should go without the inspections?

22          A.       I guess they would have to.

23          Q.       All right. And if it comes down to it, I  
24 mean, in your opinion should they go without the heat or  
25 the safety?

1           A.       That's a decision they'd have to make. I  
2 don't know.

3           Q.       Under the scenario that you proposed of  
4 the individual political subdivisions passing ordinances  
5 that -- would you agree that neighboring cities could have  
6 widely different procedures about whether turn off/turn on  
7 inspections are performed?

8           A.       Yes.

9           Q.       And do you realize that under the scenario  
10 you proposed of these individual political subdivisions  
11 passing ordinances, that the neighboring cities could also  
12 have widely differing procedures about whether annual read  
13 inspections or annual inspections are done?

14          A.       Yes.

15          Q.       How does that -- how do you harmonize that  
16 with the Staff's position in this matter that if Laclede  
17 is required to perform TFTO inspections and annual read  
18 inspections, that all Missouri gas utilities --  
19 distribution utilities should do so?

20                 MR. SCHWARZ: I'm going to object to this  
21 question at this time because I think it's tied to the  
22 earlier ones, and I think it assumes facts not in  
23 evidence. That is, I think it assumes that TFTOs and  
24 annual reads would somehow result in uniform inspection of  
25 all customers' property, and I think that even the Union



1 witnesses in this case have conceded that it won't. So I  
2 think that to that extent, the question assumes not only  
3 facts that are not in evidence, but facts which the  
4 evidence suggests are not true.

5 JUDGE DIPPELL: I disagree, Mr. Schwarz.  
6 Her question was for him to reconcile the position that  
7 individual cities should regulate this aspect and all  
8 companies should be treated the same. Is that correct,  
9 Ms. Schroder?

10 MS. SCHRODER: Yes, it is.

11 THE WITNESS: If that's the question, in my  
12 testimony I said that it's customer-owned piping and  
13 equipment, and it would be more appropriate for the local  
14 jurisdiction to look at that, as opposed to the  
15 Commission.

16 BY MS. SCHRODER:

17 Q. And I'm asking you how you harmonize that  
18 with the Staff's position that if Laclede is required to  
19 perform these inspections, that all gas utilities in  
20 Missouri should be required to.

21 A. My idea there would be if it is -- if it --  
22 I was assuming that if it should be required, then it  
23 should be required by all gas utilities to do it. I  
24 didn't see there's a difference of circumstances of  
25 Laclede and other utilities.

1           Q.       Well, wouldn't there be a difference of  
2     circumstances between Laclede and other utilities if  
3     individual subdivisions -- political subdivisions pass  
4     ordinances that require different things?

5                   MR. ZUCKER:  I'm going to object to that.  
6     Does this question assume that these individual  
7     subdivisions would require Laclede to perform these  
8     inspections or require the customer to have them  
9     performed?

10                  JUDGE DIPPELL:  I think she's asking about  
11    Mr. Leonberger's testimony that he believes if anybody's  
12    going to do it, it should be left up to the local  
13    subdivisions.  Is that --

14                  MS. SCHRODER:  Yes, that is correct.

15                  THE WITNESS:  I believe I answered that  
16    already.

17                  MR. ZUCKER:  Right.  And so then she's  
18    saying if some of these subdivisions require it to be done  
19    and others don't, doesn't that create a difference for  
20    Laclede?  And what I'm wondering, does what she's asking  
21    assume that these subdivisions would require Laclede to be  
22    doing these inspections versus the subdivision just  
23    requiring inspections to be done on properties in their  
24    subdivision in their jurisdiction?

25                  JUDGE DIPPELL:  Okay.

1                   MR. ZUCKER: In other words, it wouldn't be  
2 something that Laclede would necessarily be required to  
3 do.

4                   MS. SCHRODER: He's taking issue with my  
5 using the word Laclede in there. Let me just reframe.  
6 It's just not worth it.

7 BY MS. SCHRODER:

8                   Q.       Okay. Mr. Leonberger, I'm really trying to  
9 understand here whether you believe it's more important  
10 that there be uniform procedures for all Missouri gas  
11 distribution utilities or that customer-owned facilities  
12 be regulated by individual ordinance.

13                  A.       I believe there should be uniform  
14 regulations, but in this case, I believe that  
15 customer-owned facilities aren't something that we  
16 normally -- that we should regulate. So if there is going  
17 to be a regulation on those, that's why I said in my  
18 testimony, I believe it would be more appropriate for the  
19 local -- local municipalities to do that.

20                  Q.       Why is it okay for the Commission to  
21 regulate customer-owned facilities with regard to turn on  
22 inspections but not with regard to turn off/turn on  
23 inspections?

24                  A.       I believe -- and again, that's from my  
25 testimony before about -- basically, my belief is that

1 a -- Laclede, a Laclede employee is operating a Laclede  
2 valve, that the action of that employee turning a  
3 company-owned valve could cause a problem. So we believe  
4 that that would be appropriate at that point to -- since  
5 the company was operating one of their valves and their  
6 actions could cause a hazard, that they should at that  
7 point perform the inspection.

8 Q. All right.

9 A. And the turn off/turn on, there's no  
10 company action involved there, except to read the meter,  
11 special meter read.

12 Q. All right. You stated at page 10 that it's  
13 not mandatory for Laclede meter readers to wear leak  
14 detection devices as part of their annual meter reads. Do  
15 you recall that testimony?

16 A. Where's that?

17 Q. Page 10.

18 A. Where?

19 Q. I'm sorry. I didn't put line numbers. I  
20 can go back and grab my copy real quickly. It's actually  
21 in here a couple of different places, but one of the  
22 places I'm talking about is line 12 and 13 of page 10.

23 A. Okay.

24 Q. Do you see that?

25 A. Yes.

1           Q.       Are you aware that Laclede mandates that  
2     its meter readers performing inside annual reads wear a  
3     leak detection device?

4           A.       Yes.

5           Q.       Okay. So it is mandatory for Laclede  
6     employees, isn't it?

7           A.       I probably should have better stated as  
8     mandatory pipeline safety requirement.

9           Q.       All right. Did you know at the time you  
10    reviewed the tariff revision request that Laclede mandated  
11    that its employees wear these leak detection devices when  
12    they performed an annual meter read?

13          A.       Yes.

14          Q.       And would you agree that wearing a leak  
15    detection device or having a leak detection device with  
16    you when you're performing a meter read makes that a  
17    safety precaution?

18          A.       Looking for leaks always involves safety,  
19    yes.

20          Q.       Okay. You refer at page 8 of your  
21    testimony to, quote, leak surveys required by Commission  
22    rule, end of quote, still being performed after automatic  
23    meter reader goes in, just not by meter readers. Do you  
24    see that? That's at lines 9 through 11.

25          A.       I was referring to the fact that the

1 requirements -- there's still requirements for leak  
2 surveys of company-owned piping inside. There's -- the  
3 requirement for those have not been eliminated.

4 Q. All right. Is that the corrosive pipe  
5 inspection?

6 A. No.

7 Q. What are you talking about?

8 A. There's leak survey rules. There's also a  
9 three-year leak survey requirement -- well, it could be  
10 the -- I say leak surveys, but specifically leak survey  
11 requirements, there are three-year requirements on leak  
12 surveys earlier in my testimony and there's also a  
13 three-year requirement for corrosiveness. Those could be  
14 done together.

15 Q. All right. And, in fact, at Laclede they  
16 are most of time; is that right?

17 A. I believe.

18 Q. All right. And that inspection's only  
19 required every three years?

20 A. It's required every three years unless it's  
21 in the business district.

22 Q. You would agree that it's three years less  
23 often than inside remotely read meters were being checked  
24 for leaks visually and with the leak detector under the  
25 annual leak program?

1           A.       If someone's in there once a year, as  
2   opposed to three times a year, I guess that would be three  
3   times, yes.

4           Q.       Would you agree that a three-to-one  
5   difference is a significant difference in safety  
6   inspections?

7           A.       I don't know if it's significant. I think  
8   the Commission rules are more stringent than the federal  
9   rules, and I believe that we -- it's clear from what I  
10   said before that our rules are more stringent. I'm not  
11   sure how much more safety you get going every year.  
12   There's always a level of safety you could get by doing  
13   increased inspections.

14          Q.       All right. More frequent inspections are  
15   going to give you additional safety; is that correct?

16          A.       Possibly.

17          Q.       And you made this conclusion that this  
18   corrosive pipe inspection and leak survey will still be  
19   performed. What did you base that on?

20          A.       The requirements have not been eliminated.

21          Q.       All right.

22          A.       And we do inspections on Laclede. We have  
23   people that are in right now doing inspections to make  
24   sure those kind of things are being done.

25          Q.       In response to questions by Mr. Poston, you

1 talked about certain suggestions that inspections be done  
2 before the heating season begins. Are you aware that  
3 customers often don't do this?

4 A. I wouldn't be surprised, no.

5 Q. You wouldn't be surprised?

6 A. If they didn't do them.

7 Q. Okay. So is it enough just to issue a  
8 recommendation that it be done?

9 A. I don't know.

10 JUDGE DIPPELL: Ms. Schroder, let me  
11 interrupt just a moment. Are you going to have  
12 significantly more?

13 MS. SCHRODER: No. I'm almost finished.

14 JUDGE DIPPELL: I'll let you finish up  
15 then.

16 BY MS. SCHRODER:

17 Q. You also testified that the company's  
18 required to notify the customer of the suggestion or  
19 recommendation at the time that they start service. Are  
20 you aware that there are landlord accounts where the  
21 actual customer reading never changes, even when new  
22 renters come in?

23 A. It's possible, yes.

24 Q. All right. And so you would agree that  
25 those people might never get the recommendation?



1           A.       This is possible.

2           Q.       Mr. Poston also asked you a question about  
3   a customer's assumption that might be created by past  
4   practice, and I just want to ask whether you are aware  
5   from your dealings with the public on safety issues of  
6   whether the customers have complained that they understood  
7   that or have notified you that they understood that  
8   Laclede does do an inspection of their customer-owned  
9   facility and appliances?

10          A.       Have I ever gotten calls about Laclede's  
11   home inspections or other inspections?

12          Q.       Or other notice that they expect that to be  
13   done.

14          A.       I don't think I've gotten that they expect  
15   it to be done. I've gotten complaints where a home sale  
16   inspection found something that wasn't found in earlier  
17   inspections or something like that. But I haven't -- I  
18   don't know if I've had anyone discuss with me the  
19   expectation of an inspection, no.

20          Q.       All right. Mr. Poston also asked you about  
21   incident reports that might be done on the customer side,  
22   on customer side leaks and explosions and things. I think  
23   you indicated you don't get incident reports of that; is  
24   that correct?

25          A.       We get into investigations of that, but we

1 wouldn't necessarily write a formal report on that.

2 Q. So do you collect any data on the amount of  
3 -- amount or percentage of customer side fires and  
4 explosions?

5 A. Do I have percentage? No, I don't have  
6 percentage of that, no.

7 Q. All right. Do you have even a -- do you  
8 have enough data on that to have a general opinion on the  
9 frequency of customer-side hazards?

10 A. The frequency of -- compared to other  
11 utilities, the frequency of -- I'm not sure I understand  
12 the question.

13 Q. Just the frequency of customer-side hazards  
14 in Missouri, period, versus --

15 A. I guess my opinion would be, I don't see  
16 the frequency of Laclede's any different than other  
17 utilities.

18 Q. Okay. And I'm not asking about Laclede's.

19 A. Okay.

20 Q. I'm just asking about whether you have  
21 enough data to determine whether customer-side hazards are  
22 a big problem in Missouri?

23 A. I don't have any data on the frequency, no.

24 Q. You identified two gas companies that have  
25 instituted automatic meter reading prior to Laclede. Can

1 I assume from that that the other gas distribution  
2 utilities don't have automatic meter reading?

3 A. As far as I know, yes.

4 Q. You just don't know, do you?

5 A. I don't believe they do.

6 Q. And unless it's come up with one of these  
7 utilities, you really don't know whether they do  
8 turn off/turn ons either, do you?

9 A. I think I testified that before, that  
10 myself -- we look at -- we look at records, all sorts of  
11 records of the company, so I would know that. One of my  
12 Staff would know that, yes.

13 Q. You testified in response to Mr. Zucker's  
14 questioning that Missouri has stricter rules than the  
15 federal standards on pipeline safety; is that right?

16 A. Yes.

17 Q. That's because Missouri decided those  
18 federal standards weren't enough; isn't that right?

19 A. Yes.

20 Q. All right. And you would agree with me  
21 that there could be local conditions that would make some  
22 of the Missouri standards not enough for particular areas?

23 A. Mr. Zucker asked me that question, yes.

24 MS. SCHRODER: I have no further questions.

25 JUDGE DIPPELL: Okay. Then let's take this

1 opportunity to take a short break. We're going to break  
2 until 3:05, and then we'll come back and hopefully finish  
3 Mr. Leonberger, and we'll get started on Laclede's witness  
4 and I'll look into the possibility of staying beyond five,  
5 if it comes to that. Let me take a quick survey from  
6 counsel. Is that going to be an issue with counsel?  
7 Okay.

8 MS. SCHRODER: As long as I can leave by  
9 six.

10 JUDGE DIPPELL: We will see how it goes  
11 then. Off the record.

12 (A BREAK WAS TAKEN.)

13 JUDGE DIPPELL: Let's go ahead and go back  
14 on the record. All right. Back from our break, and we're  
15 ready for questions from the Bench for Mr. Leonberger.  
16 And I have just a couple of questions that I wanted to ask  
17 on behalf of some of the Commissioners.

18 QUESTIONS BY JUDGE DIPPELL:

19 Q. Start with you kind of went through some of  
20 this, but I'd like you just to go through the whole thing  
21 with me. What happens when a tariff comes in or this  
22 tariff specifically, this change that Laclede made to  
23 their tariff, what happens once that revision is filed?

24 A. Normally I don't get involved that much in  
25 tariff revisions. In this particular case, I'd already --

1 I knew that one was going to come because there is --  
2 there's discussions from Laclede about -- as I mention in  
3 my testimony, about if they change the TFTO requirements  
4 or change the annual read, would that be a -- would that  
5 affect the requirement.

6 So it comes into the rates and tariffs  
7 department. Then basically I was -- the rates and tariff  
8 people and I discussed would that have been -- the safety  
9 aspects of that, and would there be -- would I have a  
10 problem with those safety aspects. And then the normal  
11 tariff provisions, the normal tariff procedure went about.  
12 I just was basically a consultant I guess on the safety  
13 aspect of it.

14 Q. Okay. So when you said that you didn't  
15 make any recommendation, you didn't make any  
16 recommendation, but did someone from the rates and tariffs  
17 staff make a written recommendation in that tariff?

18 A. I don't know.

19 JUDGE DIPPELL: Okay. Does counsel know?

20 MR. SCHWARZ: I believe so.

21 JUDGE DIPPELL: Yes?

22 MR. SCHWARZ: Never mind.

23 JUDGE DIPPELL: Does counsel know, by any  
24 chance, what the tariff number was?

25 MR. SCHWARZ: No, I'm certain we could

1 check it, but if I might, Section 393.140 requires that  
2 before tariff goes into effect, they --

3 JUDGE DIPPELL: I don't think your mic is  
4 on, Tim.

5 MR. SCHWARZ: -- they be on file for  
6 30 days unless the Commission, for good cause, orders them  
7 into effect earlier.

8 Every tariff that comes in for every  
9 industry is reviewed by Staff. If Staff thinks there's a  
10 problem with them or a concern, it will recommend  
11 suspension. General rate cases, when they come in, the  
12 Commission on its own motion suspends them for different  
13 periods, up to 11 months.

14 If there is no problem with them, they come  
15 through on routing sheets, and I believe that there's  
16 typically a Staff recommendation, typically from the  
17 tariff department that says -- and I don't know how  
18 telco's work, but there'll be a Staff recommendation  
19 saying Staff's looked at this and, you know, recommends  
20 that it go into effect.

21 But those are the ones that go into effect  
22 by operation of law without a formal vote of the  
23 Commission. If Staff has a problem with a tariff, we will  
24 recommend suspension.

25 JUDGE DIPPELL: And that -- but that

1 written recommendation from the Staff is included in our  
2 electronic filing and information system now?

3 MR. SCHWARZ: I don't know if it's  
4 available -- you know, I look on the Commission side of  
5 the wall. It would --

6 JUDGE DIPPELL: But that is something  
7 that's kept in the ordinary course of the Commission  
8 business?

9 MR. SCHWARZ: Yes. You could check the  
10 tariff file, and whatever records are there are the  
11 records. And I will be honest with you, I cannot now  
12 recall these specific tariff changes, but that's the  
13 process.

14 JUDGE DIPPELL: Would there be any  
15 objection to the Commission taking official notice of the  
16 recommendation of its Staff from this -- from the original  
17 tariff filing?

18 MS. SCHRODER: No objection from the Union.

19 MR. SCHWARZ: That's something the Staff  
20 can do. We will -- we can -- I'll write it down and  
21 remember it. We can pull those and put them in as  
22 whatever the next exhibit is, 25.

23 JUDGE DIPPELL: Mr. Zucker?

24 MR. ZUCKER: I don't think we have an  
25 objection.

1 JUDGE DIPPELL: Okay. I will -- I will  
2 make that Exhibit No. 25. Mr. Schwarz, you don't have  
3 anyone here besides Mr. Leonberger with you today who  
4 could actually look that tariff number up?

5 THE WITNESS: It's in the Union's filing, I  
6 believe.

7 JUDGE DIPPELL: The complaint?

8 THE WITNESS: The complaint.

9 MR. SCHWARZ: That's okay. The simplest  
10 thing would be to take a momentary break long enough to  
11 dial Mr. Imhoff's number and have Mr. Imhoff bring a copy  
12 down.

13 JUDGE DIPPELL: Okay. Let's do that.  
14 Let's go off the record for just a moment.

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

16 JUDGE DIPPELL: After a quick break, we no  
17 longer have to call Mr. Imhoff, as you were correct, it  
18 was on the amended complaint. Okay. But I will make  
19 Exhibit No. 25 the Staff recommendation with regard to  
20 Tariff No. JG-2005-0976. And I'm going to admit that now,  
21 but I will allow -- once you see it, if there is some  
22 objection to it, I'll let you raise that objection at that  
23 time.

24 (EXHIBIT NO. 25 WAS RECEIVED INTO  
25 EVIDENCE.)



1 BY JUDGE DIPPELL:

2 Q. Let me see what else I have for you. So  
3 you're not familiar at all with the rates and charges, is  
4 that correct, Mr. Leonberger?

5 A. I'm not, no. I'm not that familiar with  
6 the rates and charges in the tariff, no.

7 Q. You're not familiar with the cost of these  
8 inspections and charges that have been in Laclede's tariff  
9 or anything like that?

10 A. Mainly because they're part of this case,  
11 I'm aware of this particular cost, yes.

12 Q. Do you know what the charge was for a  
13 turn off/turn on inspection?

14 A. I believe it was \$36.

15 Q. And do you know, was that part of Laclede's  
16 tariff before this revision?

17 A. I believe it was, yes.

18 Q. And do you know what the charge is for an  
19 annual meter read?

20 A. I don't think there is a charge for that.

21 JUDGE DIPPELL: Okay. And, Mr. Schwarz,  
22 you had offered or had marked as an exhibit pages from the  
23 tariffs. Were you going to --

24 MR. SCHWARZ: Offer those? Yes.

25 JUDGE DIPPELL: -- offer those?

1                   MR. SCHWARZ: I can do so now, if you'd  
2 like.

3                   JUDGE DIPPELL: Is this an appropriate time  
4 for that?

5                   MR. SCHWARZ: If you have any other  
6 questions for this -- yeah, I would offer Exhibit 12, I  
7 think it is, into the record at this time.

8                   JUDGE DIPPELL: Would there be any  
9 objection to Exhibit No. 12?

10                  MS. SCHRODER: Not from the Union.

11                  MR. ZUCKER: No, your Honor.

12                  JUDGE DIPPELL: Okay. I'll admit Exhibit  
13 No. 12, which was portions of Laclede tariff sheets, I  
14 believe both the previous sheets and the current ones.

15                  MR. SCHWARZ: It is current sheet 11,  
16 current and canceled sheet 11, current sheet 14, canceled  
17 sheet 14. And I think a couple of R10 and 10A which are  
18 current tariffs covering the customer-owned requirements.

19                  JUDGE DIPPELL: Thank you.

20                  (EXHIBIT NO. 12 WAS RECEIVED INTO  
21 EVIDENCE.)

22 BY JUDGE DIPPELL:

23                  Q.       And, Mr. Leonberger, I apologize if you've  
24 been asked this before, but did -- do the city, the  
25 municipal systems that you're aware of, do any of -- are

1 you aware of any turn off/turn on inspections that they  
2 conduct?

3 A. No, but the turn off/turn on inspection, I  
4 think that's a bad name for it. I call it a read in/read  
5 out, turn off/turn on. I know that's been used here a  
6 lot, but that almost insinuates there's a turning on and  
7 turning off of the system. That's what Laclede calls it.  
8 It's really the meter is just read without the service  
9 being turned off, and no, I'm not aware of any municipal  
10 that does an inspection when the meter's read without  
11 the -- being turned on or off.

12 Q. Are you knowledgeable at all about any of  
13 the municipals' procedures with regard to when they do  
14 inspections? Do you -- are you generally familiar with  
15 that?

16 A. I'm generally familiar with, you know, we  
17 do the inspections on the municipals just like we do on  
18 the investor-owned utilities.

19 Q. Okay. Mr. Hendricks' testimony, which was  
20 marked as Exhibit 2, he made a reference to AMR devices.  
21 It says, the AMR device will not be able to withstand  
22 severe temperature changes. As a result, they will get  
23 brittle and break, causing the meter either not to  
24 register or to spin too fast. Are you familiar with the  
25 automated meter reading devices?

1           A.       I'm familiar with them, yes. I mean, I'm  
2 not -- I'm not a meter expert or anything like that, but  
3 no, I'm familiar with them, I'll say.

4           Q.       Do you know if the AMR devices have been  
5 tested to withstand Missouri weather conditions?

6           A.       The AMR devices have been used --  
7 specifically Missouri weather conditions, I don't know.  
8 AMRs have been used by other utilities, MGE for a time and  
9 Ameren, so I would assume that they were -- the devices  
10 would be good for the weather, but I'm not an expert on  
11 that.

12                   JUDGE DIPPELL: Okay. That's all -- wait.  
13 Maybe one more.

14 BY JUDGE DIPPELL:

15           Q.       Okay. I think you testified that the other  
16 gas utilities, as far as you know, are not conducting  
17 these types of the read in/read out, turn off/turn on,  
18 whichever way you want to call it --

19           A.       Right.

20           Q.       -- aren't conducting those inspections; is  
21 that what you testified, to your knowledge?

22           A.       My testimony, I don't know of any of the  
23 utilities in the state of Missouri that are conducting an  
24 inspection when they do a read in and read out, or TFTO in  
25 this case.

1 Q. Do you know if any of them ever have?

2 A. Not to my knowledge.

3 JUDGE DIPPELL: You just -- I mean, that's  
4 fine. Not to your knowledge, that's what I asked. Okay.  
5 That's all the questions I have for you.

6 Is there recross based on my questions from  
7 Laclede?

8 MR. ZUCKER: No, your Honor.

9 JUDGE DIPPELL: Public Counsel?

10 MR. POSTON: No.

11 JUDGE DIPPELL: Union?

12 MS. SCHRODER: Just two questions.

13 RE CROSS-EXAMINATION BY MS. SCHRODER:

14 Q. Mr. Leonberger, these AMR devices that the  
15 other utilities use, first of all, are they all from  
16 Cellnet?

17 A. I believe the AmerenUE is from Cellnet.  
18 The system used by MGE is a little bit different. I don't  
19 know the name of -- the actual name.

20 Q. All right. Do you know if Ameren or MGE  
21 has AMR on outside meters?

22 A. Yes, they do.

23 MS. SCHRODER: All right.

24 JUDGE DIPPELL: You said two questions and  
25 you meant it.

1 MS. SCHRODER: I meant it.

2 JUDGE DIPPELL: Thank you. Is there  
3 redirect?

4 MR. SCHWARZ: Yes, there is, Judge.

5 REDIRECT EXAMINATION BY MR. SCHWARZ:

6 Q. You were asked about Commission  
7 Rule 1430-14B, and you said you changed the rule and  
8 mentioned a customer service call. Do you recall that --

9 A. Yes.

10 Q. -- question?

11 Can you tell me when that change was made?  
12 Within the last five years? Well, can you tell me when it  
13 was made?

14 A. Just one second. I think I can. I think  
15 those changes were made in '95. Okay.

16 Q. Not recently?

17 A. No.

18 Q. Is it part of your job to ensure that  
19 utility tariff provisions comply with Commission rules  
20 with respect to gas safety procedures?

21 A. Yes. Normally when a tariff provision  
22 would come in that would involve safety issues, I would be  
23 involved, yes.

24 Q. And if a proposed tariff revision would  
25 result in a tariff being out of compliance with a

1 Commission rule, is that something that you on behalf of  
2 Staff would raise as an issue to the Commission?

3 A. Yes.

4 Q. And in reviewing proposed tariffs for  
5 compliance with Commission rules, do you rely solely on  
6 the representations of the utility?

7 A. No.

8 Q. Do you compare the tariff to the Commission  
9 rules?

10 A. I use my experience and compare it to the  
11 Commission rules, yes.

12 Q. I think you mentioned in response to a  
13 number of questions Staff's role in inspecting local  
14 distribution companies and municipalities for safety. Can  
15 you -- where does Staff begin that kind of an inspection?  
16 What do you do first?

17 A. Well, first of all, we go through and  
18 review the last, the inspec-- we do these annually,  
19 basically annually. We go back through and review the  
20 last year's inspection summaries. We would go through  
21 then and review various records on leak surveys, leak  
22 calls coming in, cathodic protection records, valve,  
23 emergency valve records, just a whole myriad of types of  
24 records we would look at to make sure that the required  
25 inspections were made and -- correctly and they're made in

1 the correct amount of time.

2 Q. And --

3 A. And then after we get those records, we  
4 would take some of those records and go out in the field  
5 and verify some of the areas, regular station, what's out  
6 in the field and what the settings were, what the records  
7 say, cathodic protection values and those kind of things.

8 Q. And you do that both for investor-owned  
9 distribution companies and municipals?

10 A. Yes.

11 Q. And, for instance, also with Fort Leonard  
12 Wood?

13 A. Yes.

14 Q. Which may or may not be either. So your  
15 policies and practices are the same with respect to those  
16 entities?

17 A. Our rules apply to them equally, yes.

18 Q. But your practice, the way you do these  
19 inspections?

20 A. Right.

21 Q. So that is it safe to say that after doing  
22 these kind of inspections for 10 or 15 years, you and your  
23 staff are familiar with the practices of all of the  
24 distribution companies in the state?

25 A. I believe so, yes.



1           Q.       Ms. Schroder asked you a question about  
2 possible ignition sources for migrated gas. Do you recall  
3 that question?

4           A.       Yes.

5           Q.       In your experience, is migrated gas  
6 something that you incur with respect to company-owned  
7 property or customer-owned property?

8           A.       Company-owned property or municipality  
9 owned property.

10          Q.       And why is that?

11          A.       I take migration to assume that migrating  
12 to the soil, so it would be the outside facilities,  
13 normally be on a service line or a main of the company or  
14 the municipality.

15          Q.       Ms. Schroder asked you a series of  
16 questions about whether Laclede produced studies and that  
17 sort of thing with respect to the tariff change that we're  
18 talking about here. Has -- strike that. Never mind.

19                   Does the source of incidents, whether it's  
20 from customer-owned property or company-owned property,  
21 does the source of an incident affect its impact on  
22 customer safety?

23          A.       No.

24          Q.       So that if there's an explosion, the impact  
25 on the customer is the same whether it's customer-owned

1 property or company-owned property; is that correct?

2 A. Yes.

3 Q. Would you agree that the Commission rules  
4 imposing requirements, safety requirements on  
5 company-owned and operated property protect customer  
6 safety?

7 A. Yes.

8 Q. Ms. Schroder took you through a series of  
9 questions involving who should pay for inspections of  
10 customer-owned property. Do you recall those questions?

11 A. Yes.

12 Q. Do TFTO or annual inspections ensure that  
13 low-income customers' customer-owned property is inspected  
14 every year?

15 A. No.

16 Q. Would it be possible for a municipality  
17 that adopts a requirement for inspection of customer-owned  
18 property to provide municipal employees who would do that  
19 program?

20 A. I assume they could, yes.

21 Q. Would it be possible for members of 11-6 or  
22 other trained company employees to volunteer to provide  
23 those kind of services to low-income customers?

24 A. Yes.

25 Q. She also asked you about the possibility

1 that different municipalities could have different  
2 standards and different time schedules. Do you recall  
3 that?

4 A. Yes.

5 Q. Is it possible that different  
6 municipalities have different conditions in their housing  
7 stock that would perhaps dictate differences in inspection  
8 periods? Let me be more specific. I'll strike that  
9 question.

10 Is it possible that the property conditions  
11 in say Clayton, Missouri or Ladue, Missouri would be  
12 different from the property conditions in the north side  
13 of the City of St. Louis sufficient to justify different  
14 inspection periods?

15 A. Company-owned pipe or customer-owned pipe?

16 Q. Customer-owned. Are you familiar with  
17 Clayton?

18 A. Yes.

19 Q. Do you think conditions in Clayton,  
20 conditions of the housing stock in Clayton might be  
21 different than the conditions in the housing stock in the  
22 City of St. Louis?

23 A. Probably be better quality, yes.

24 Q. And might that justify a different  
25 inspection schedule?

1           A.       Possibly.

2           Q.       I think Ms. Schroder also asked you a  
3   question about the rule -- the Commission rules that  
4   remain in place on inspections would be three times less  
5   frequent than the annual meter reads. Do you recall  
6   those?

7           A.       Yes.

8           Q.       Would that be true of outside meters as  
9   well?

10          A.       There wouldn't be an annual read on outside  
11   meters.

12          Q.       So as far as outside meters are concerned,  
13   it would not necessarily be three times less frequent --

14          A.       Right.

15          Q.       -- now?

16                    And approximately two-thirds of Laclede's  
17   meters are outside, 200,000 out of 600,000?

18          A.       60 percent, two-thirds, something like  
19   that, yes.

20          Q.       Ms. Schroder asked you a question about --  
21   with respect to the Commission requirement that the  
22   company notify new customers. She mentioned -- asked you  
23   about landlord accounts. Do you recall that question?

24          A.       Yes.

25          Q.       Have you ever been a tenant?

1           A.       Yes.

2           Q.       And does the landlord assume responsibility  
3   for maintaining the premises frequently in those kind of  
4   relationships?

5           A.       Yes.

6           Q.       Do you know if landlord -- strike that.

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

8                   JUDGE DIPPELL: Thank you. Commissioner

9   Gaw, did you have additional questions for this witness?

10                  COMMISSIONER GAW: I may.

11                  JUDGE DIPPELL: Do you want us to go on and  
12   call him back up?

13                  COMMISSIONER GAW: I'm thinking, because --

14                  JUDGE DIPPELL: What I did was we went  
15   ahead and entered the Staff recommendation as Exhibit  
16   No. 25, but we haven't gotten copies of that yet.

17                  COMMISSIONER GAW: That might be a good  
18   idea. Are you going to have copies made?

19                  JUDGE DIPPELL: Well, I don't have anybody  
20   working on that, but I could.

21                  COMMISSIONER GAW: If I could have a few  
22   minutes, if you want to go ahead. My difficulty is we  
23   have another hearing in the morning.

24                  JUDGE DIPPELL: Well, let's go ahead then,  
25   and we'll have Mr. Leonberger step down. I'm sure he'll

1 be available if questions come up.

2 MR. SCHWARZ: Even better, we can send him  
3 off to find the Staff rec.

4 JUDGE DIPPELL: That's right. Okay.  
5 Mr. Leonberger, you can step down.

6 Mr. Schwarz, did you have anything further?

7 MR. SCHWARZ: No.

8 JUDGE DIPPELL: All right. Then Laclede.

9 MR. ZUCKER: Your Honor, have we admitted  
10 Exhibit 22, the excerpts from the --

11 JUDGE DIPPELL: No, we didn't quite get to  
12 that. Ms. Schroder, did you have any opportunity to  
13 review that?

14 MS. SCHRODER: I did have an opportunity to  
15 review it. I have no objection to it, except that I would  
16 like -- I think some of the pages reflected in there or  
17 covered in there are also covered by the errata sheet that  
18 Mr. Stewart submitted, and unfortunately, I don't have  
19 multiple copies of that today. I can PDF file it  
20 tomorrow, if you'd like.

21 MR. ZUCKER: That's fine with us.

22 MR. SCHWARZ: Or we can copy it at the next  
23 break.

24 JUDGE DIPPELL: We'll get some. If they're  
25 not submitted later today, we'll have you submit them

1 tomorrow or Staff will take care of making some copies.  
2 So there's no objection, then, to the excerpts from the  
3 deposition of Kevin Stewart, with the exception that we're  
4 going to add the errata sheets that were attached. So I  
5 will admit that into evidence.

6 (EXHIBIT NO. 22 WAS RECEIVED INTO  
7 EVIDENCE.)

8 MR. ZUCKER: And may we now call our next  
9 witness -- or our first witness?

10 JUDGE DIPPELL: Yes, please go ahead.

11 MR. ZUCKER: We're calling  
12 Mr. Thomas A. Reitz.

13 (Witness sworn.)

14 JUDGE DIPPELL: Thank you.

15 THOMAS A. REITZ testified as follows:

16 DIRECT EXAMINATION BY MR. ZUCKER:

17 Q. Good afternoon, Mr. Reitz.

18 A. Good afternoon, Mr. Zucker.

19 Q. Can you state your full name for the  
20 record.

21 A. Thomas A. Reitz.

22 Q. And are you the same Thomas A. Reitz who  
23 filed testimony on behalf of Laclede Gas Company in this  
24 case on May 5, 2005?

25 A. Yes.

1           Q.       And do you have any changes to that  
2 testimony?

3           A.       I do. On page 4, line 18, I at the time  
4 understood that the federal rule required operators to  
5 inspect its own pro-- or own property at the time by  
6 physically turning on the flow of gas, and in fact, I have  
7 since learned that the federal rule does not require such  
8 an inspection of the -- of its own property, the  
9 operator's property.

10          Q.       Do you have specific word changes?

11          A.       The federal rule does not require even its  
12 own facilities -- even inspection of its own facilities  
13 when physically turning on the flow of gas.

14          Q.       Okay. With that change, do you have any  
15 other changes to your testimony?

16          A.       No, sir.

17          Q.       Okay. With that one change, if I asked you  
18 all the same questions contained in your testimony today,  
19 would you give the same answers?

20          A.       Yes, I believe I would.

21                   MR. ZUCKER: I move that this testimony be  
22 admitted into evidence.

23                   JUDGE DIPPELL: Is there any objection to  
24 Exhibit No. 13?

25                   MS. SCHRODER: No objection from the Union.



1 JUDGE DIPPELL: Seeing no objection, then I  
2 will receive it into evidence.

3 (EXHIBIT NO. 13 WAS RECEIVED INTO  
4 EVIDENCE.)

5 MR. ZUCKER: Tender the witness for cross.

6 JUDGE DIPPELL: Thank you. Is there  
7 cross-examination from Staff?

8 MR. SCHWARZ: I have a couple of items.

9 CROSS-EXAMINATION BY MR. SCHWARZ:

10 Q. And it's forms that were referred to by  
11 other witnesses. It's Form 686. Do you know what that  
12 is?

13 A. That is a form that's filled out when we  
14 have work -- when work is found that needs to be referred  
15 to C&M, our construction and maintenance department, when  
16 that's found by another department, typically the service  
17 department.

18 Q. What about a 712?

19 A. 712 is a report of a leak form. So when a  
20 employee finds a leak on company-owned property, we fill  
21 out a 712 form.

22 Q. What's a CIS?

23 a. CIS is -- actually, a CIS in general is a  
24 customer information system. That's our computer system,  
25 and forms -- all information related to the customer is

1 stored in there in the computer. The forms that we fill  
2 out are considered a CIS form. It's a general work order  
3 form for almost any type of work typically done by the  
4 service department, turn ons, turn offs, any type of work  
5 that is done.

6 Q. If I understand, they're work order forms?

7 A. Essentially, yes, sir.

8 Q. What's a 626?

9 A. 626 is a notice of code violation filled  
10 out by service techs when they find something that is not  
11 a hazard but is a potential hazard and it just does not  
12 meet the codes.

13 Q. Okay. And 627?

14 A. That is a report of a hazard form.

15 Q. Okay.

16 A. A red tag, commonly known throughout the  
17 industry.

18 Q. And can you tell me how many inside meters,  
19 residential meters Laclede has about now?

20 A. Approximately 230, 40,000, somewhere in  
21 that general vicinity, I believe.

22 Q. And outside meters, residential?

23 A. The balance 630,000, so around 400,000.

24 Q. And it's my understanding that the  
25 corrosion inspections and inside leak surveys still have

1 to be done every three years?

2 A. That is correct.

3 Q. So how many -- I mean, do the math for me,  
4 would you. How many do you have to do every year?

5 A. It's done in a variety of ways. Right now  
6 every time a service man enters that premise, we do one.

7 Q. I just want the math. If you have 600,000,  
8 that's 200,000 a year?

9 A. Total, correct.

10 Q. And of those, 80,000 would be inside  
11 meters?

12 A. Correct.

13 Q. And does Laclede have plans -- I mean,  
14 you'll no longer be able to rely on the TFTOs or the  
15 annual reads to accomplish those. How does Laclede  
16 propose to do those?

17 A. Those are going to be -- there'll be a  
18 specific inspection group that will handle those  
19 three-year corrosion inspections, a specific group of  
20 people that will -- that will be one of their primary  
21 tasks.

22 Q. Is that going to be members of Local 11-6?

23 A. I would assume so, sir.

24 MR. SCHWARZ: All right. Thank you. I  
25 think that's all I have.

1 JUDGE DIPPELL: Public Counsel.

2 MR. POSTON: Yes. Thank you.

3 CROSS-EXAMINATION BY MR. POSTON:

4 Q. I want to ask you questions about your  
5 testimony on page 6.

6 A. Okay.

7 Q. And you state that it is commonly  
8 recommended that customers have their furnaces checked or  
9 maintained by a qualified professional once per year; is  
10 that correct?

11 A. That's correct.

12 Q. What do you mean by commonly recommended?  
13 How are these recommendations made?

14 A. Around the fall of the year, folks like the  
15 PSC, as Mr. Leonberger testified, they'll put out notices  
16 to the public that they recommend that. The company -- at  
17 least our company suggests that on an annual basis, that,  
18 you know, that's a good practice to have. HVAC  
19 contractors will frequently take out advertisements  
20 suggesting it's that time of year to have your furnace  
21 inspected. Even on the news, they'll usually run blurbs  
22 about the potentials of -- the potential danger of carbon  
23 monoxide and things of that nature. So they will alert  
24 people that they should have their furnaces checked.

25 Q. The HVAC contractors, you're saying?

1           A.       And just the news media in general will  
2 usually have some kind of public service announcement-type  
3 thing. I've seen that on a fairly frequent basis.

4           Q.       Well, what does Laclede do to notify their  
5 customers? Is there something specific that you do  
6 through like a bill insert notice or something to educate  
7 your consumer?

8           A.       Yes, sir, we have -- twice a year we have  
9 safety notices that go inside our bill that in general  
10 recommend general safety practices that should be  
11 followed, things like let pipes be pipes and follow your  
12 nose and the number to call for emergencies and things of  
13 that nature. And in there we also recommend an annual  
14 inspection.

15                   We also have what we call a customer  
16 information pack that is sent to all new customers. Any  
17 time we have a new customer come on the system, they get a  
18 packet of literature, and contained in there is some of  
19 the same types of information. We also have a website  
20 that references a lot of those same types of things.

21           Q.       In your testimony, you also state that  
22 there are recommendations -- that there are no  
23 recommendations regarding regular maintenance of inside  
24 piping. And what do you mean when you say inside piping?

25           A.       Customer-owned piping. Typically there's a

1 mercaptan added to the gas, and it would probably be --  
2 wouldn't be cost effective for us to recommend someone  
3 have their pipes checked, their customer-owned pipe  
4 checked on a regular basis. If, in fact, there's a leak,  
5 it's generally smelled. And when it's -- when someone  
6 smells the leak, we respond and/or they can have a  
7 contractor respond to take care of that.

8 Q. Is -- you had just testified regarding the  
9 notices and the HVAC contractors. And I believe in your  
10 written testimony you state that, for instance,  
11 inspections can be obtained on the competitive market from  
12 Laclede or any qualified HVAC contractor, correct?

13 A. Yes, sir.

14 Q. Do you know what a furnace inspection would  
15 cost a customer of Laclede from Laclede or from the  
16 contractor?

17 A. I can only -- I can speak from Laclede.  
18 It's \$75 for an inspection on a -- a furnace inspection.  
19 I can speak to contractors just in that we do cost  
20 comparisons to see where we fit, and we're typically right  
21 kind of in the middle. There's some higher and some that  
22 are lower than us, but specific dollar amounts, I can't  
23 say.

24 Q. Do you know if Laclede did any study before  
25 that price -- before you came up with that price as to

1     whether a low income consumer would consider such an  
2     inspection worthwhile if they're on a limited budget?

3             A.       We did not do a study, no, sir.

4             Q.       And the notices that you do put in your  
5     bills, do you give contact information for Laclede's  
6     inspections or any qualified HVAC contractors?

7             A.       We give our contact information and we  
8     refer them to any qualified HVAC contractor. We don't  
9     refer specifically any one in particular.

10            Q.       So you rely on the customer to open the  
11    Yellow Pages to --

12            A.       That is correct.

13            Q.       -- find them?

14                    Okay.

15            A.       I'm sorry. I don't mean to cut you off.

16            Q.       I think I cut you off. That's all I have.

17            A.       Thank you.

18                    JUDGE DIPPELL: Union?

19                    MS. SCHRODER: Yes. Thank you. I wish I  
20    could say I was going to be as brief, but I'll try to keep  
21    it.

22                    THE WITNESS: So now are you going to make  
23    me turn my head or are you going up there?

24                    MS. SCHRODER: I don't think as well when  
25    I'm up there. I will go up there.

1 CROSS-EXAMINATION BY MS. SCHRODER:

2 Q. I will go up there. I should apologize to  
3 all the witnesses that I didn't stand up here, which were  
4 all my people, weren't they? And I want to apologize to  
5 you for calling you Reitz for the last two days.

6 A. It's fairly common. Actually my brother  
7 works there and he's Reitz and I'm Reitz. He hasn't  
8 bothered to correct anyone.

9 Q. Mr. Reitz, I'm hoping that you can answer  
10 some questions that I got into a little bit with  
11 Mr. Leonberger just about Laclede's service area. First  
12 of all, am I correct that Laclede serves approximately  
13 2 million residents?

14 A. We have --

15 Q. A population of 2 million people. I'm  
16 sorry.

17 A. I don't know the answer to that.

18 Q. Okay. Are you familiar with Laclede's  
19 website?

20 A. Yes. Not intimately, but certainly  
21 familiar with it to some degree.

22 Q. Do you think the figures that Laclede  
23 prints out there about the population that it serves are  
24 probably accurate?

25 A. I would assume so.



1 MS. SCHRODER: All right. Can we agree to  
2 take judicial notice of what Laclede puts on their  
3 website?

4 JUDGE DIPPELL: We can take notice of that,  
5 but --

6 MR. ZUCKER: It's not an official document.

7 JUDGE DIPPELL: Yeah, but --

8 MR. ZUCKER: On the other hand, I wouldn't  
9 want to dispute it.

10 JUDGE DIPPELL: I was going to say, but you  
11 might show what you want to enter. Is it just --

12 MS. SCHRODER: I just have a page 1 of 1  
13 called about Laclede Gas.

14 JUDGE DIPPELL: Maybe Mr. Zucker could  
15 agree to allow that in, if you want to show it to him.

16 You'll stipulate to that one?

17 MR. ZUCKER: Yes.

18 JUDGE DIPPELL: All right.

19 MS. SCHRODER: Do you want me to mark it as  
20 an exhibit and then PDF it tomorrow?

21 JUDGE DIPPELL: You're willing to stipulate  
22 to the fact that the website says this about the  
23 population?

24 MR. ZUCKER: Yes.

25 JUDGE DIPPELL: We will just take that as a

1 stipulated fact. You can read what it says there,

2 Ms. Schroder.

3 MS. SCHRODER: All right. The company  
4 serves an area of eastern Missouri with a population of  
5 approximately 2.0 million, including the county (sic) of  
6 St. Louis, St. Louis County and parts of eight other  
7 counties.

8 JUDGE DIPPELL: Okay. Thank you.

9 BY MS. SCHRODER:

10 Q. And, Mr. Reitz, are the eight other  
11 counties St. Charles, Franklin, Jefferson, Ste. Genevieve,  
12 Madison, Butler, Iron and then that county I'm going to  
13 screw up?

14 A. It's just St. Francois.

15 Q. It's St. Francois?

16 A. Yes, St. Francois.

17 Q. Thank you. I'm not from there and I've  
18 never figured out how to pronounce that before. All  
19 right?

20 A. That is correct. Yes.

21 Q. Thank you. And do you know -- do you know  
22 what parts of Iron County, for instance, is covered by  
23 Laclede? And by that, Mr. Schwarz had referred at one  
24 point to there being a large forest area of Iron County.  
25 Does Laclede cover that area, do you know?

1 A. Cover which?

2 Q. Does it provide gas service there?

3 A. To the Iron County area?

4 Q. The forest part of Iron County?

5 A. No, no. To the town of Ironton, we do.

6 Q. Is that the only part of Iron County?

7 A. Actually, there's -- there's another small  
8 town, I can't -- the name escapes me right now.

9 Q. All right. Is it safe to assume that these  
10 other counties that we listed, that Laclede provides gas  
11 service to residential areas in those counties?

12 A. There's a distinct difference, I guess.  
13 There's a division of Laclede Gas called the Missouri  
14 Natural division. That group, the folks that work in that  
15 area are not represented by 11-6. They're represented by  
16 the same International 5584, and we've actually -- have  
17 AMR going in that area. We've actually reached agreement  
18 on how that will take place, and since there was no loss  
19 of jobs, there's no dispute with that. They've not  
20 grieved it or filed any motions or anything.

21 MS. SCHRODER: I would move to strike his  
22 testimony as nonresponsive.

23 JUDGE DIPPELL: Okay.

24 THE WITNESS: I'm just trying to  
25 distinguish between Missouri Natural's division of

1     Laclede. While Laclede owns it, it's operated  
2     differently, so...

3                     MS. SCHRODER: My question was --

4                     JUDGE DIPPELL: I was going to say, ask  
5     your question again, Ms. Schroder.

6     BY MS. SCHRODER:

7                     Q.     Mr. Reitz, is it safe to assume that the  
8     parts of the eight counties other than St. Louis City and  
9     St. Louis County that are identified as being part of  
10    Laclede's service area are generally residential areas?

11                    A.     I mean, there's business areas in each of  
12    those areas, so there's downtown districts in Poplar  
13    Bluff, for instance. It's primarily downtown areas,  
14    fairly dense population in there, and then there's some  
15    more rural parts to it as well. Same with Farmington.  
16    There's a business district that's almost exclusively a  
17    business area, and then there is a fairly dense population  
18    around that. And then the farther out you go, the more  
19    rural it becomes. Does that answer your question?

20                    Q.     I think so, yes. Thank you. Do you have  
21    personal knowledge -- this question's been asked of a lot  
22    of witnesses today. Do you know from either personal  
23    knowledge or from review of records as a Laclede  
24    management employee how long the company has done TFTOs?

25                    A.     Specifically, no, I do not.

1           Q.     All right. Well, you can join the club.  
2     Do you know approximately how many AMR devices Laclede has  
3     already installed?

4           A.     As -- about halfway done from what I  
5     understand, been 300-some-odd thousand in place, of a  
6     meeting I was at a week and a half ago. So we're  
7     installing more every day. So somewhere around the  
8     halfway point, maybe a little past right now.

9           Q.     And as -- in your role over the service  
10    department, do you have any role over the meter readers?

11          A.     I have a role over the meter readers in the  
12    other piece of my job. My title is superintendent of  
13    service and division operations. I'm over that Missouri  
14    Natural division. We have meter readers in that division,  
15    so I'm over them, but not directly over the meter readers  
16    at Laclede.

17          Q.     All right. Do the meter readers in the  
18    Missouri Natural division, have they been issued CGD  
19    devices?

20          A.     No, they have not. We have a low number of  
21    inside meter sets.

22          Q.     All right. Is it your testimony that those  
23    CGD devices are or combustible devices that are pocket  
24    devices -- well, first of all, is that what a CGD is, it's  
25    a pocket leak detector?

1           A.       Yes, essentially.  Yes.

2           Q.       Is it your testimony that those are only  
3 issued for inside meters?

4           A.       I can't speak specifically to why they're  
5 issued.

6           Q.       All right.  You just know they're not  
7 issued in your division?

8           A.       That's correct.

9           Q.       All right.  In the service department,  
10 however, you do issue the CGIs; is that correct?

11          A.       That is correct.

12          Q.       And that's a heavier duty hand-held  
13 combustible leak detector; is that correct?

14          A.       It's more sophisticated.  It does a lot of  
15 things that the CGD -- the CGD is simply an alarm.  It  
16 just tells you there's something there.  A CGI actually  
17 gives you percentage reads of gas and air.  The specific  
18 model we use is a Gas Ranger made by Bassman Turner, and  
19 it does background checking for carbon monoxide and things  
20 of that nature.  So it's much more sophisticated than the  
21 CGD.  CGD is simply an alarm.  It just alarms at whatever  
22 rate you set.

23          Q.       All right.  And why are CGIs given to  
24 service men?

25          A.       So they have the ability to check for gas.

1 Q. All right. And --

2 A. Carbon monoxide in this case.

3 Q. Why isn't smell enough?

4 A. We are required -- we have to classify  
5 leaks. The class is based on a percentage of gas in air.  
6 So if you get 100 percent gas in air mixture, if you've  
7 got a blowing leak, for instance, that's a Class 1. If  
8 you've got lower percentages, you get Class 2s. You get  
9 even lower percentages and nowhere near any homes or  
10 things of that nature, then it's Class 3. So you have to  
11 be able to identify the amount of gas, specific amount of  
12 gas, so it helps us measure.

13 Q. Isn't it true that the CGIs also detect  
14 leaks that the nose doesn't?

15 A. It can perhaps. I don't know that often  
16 would be.

17 Q. But you're certainly aware of times when a  
18 CGI has detected an inside leak that the customer wasn't  
19 aware of?

20 A. Sure.

21 Q. Are you also aware of certain portions of  
22 your population that maybe have less sensitive noses for  
23 leaks than other parts, for instance, the older  
24 population?

25 A. I would have no idea.

1           Q.     All right.  You haven't seen any records  
2     reflecting that?

3           A.     No.

4           Q.     Are you responsible for the training  
5     procedures in the SAID department?

6           A.     That's kind of a twofold question --  
7     twofold answer I should say.  I'm responsible for the  
8     procedures themselves, and we have a training school that  
9     they have two gentlemen that their primary function is to  
10    train the service personnel.  So I don't specifically do  
11    the training.  I do consult with them on what we will  
12    train on and kind of agree on the course schedules and  
13    things of that nature.

14          Q.     So you oversee the training?

15          A.     I'm not responsible for the training  
16    school.  There's another department.

17          Q.     Okay.  But you are responsible for the  
18    procedures; is that correct?

19          A.     Yes, in conjunction with our engineering  
20    staff and things of that nature to make sure we're in  
21    compliance with all rules and regulations set forth by the  
22    Missouri Public Service Commission.

23          Q.     All right.  And do you believe that the  
24    procedures that you've instituted or that the SAID  
25    department has are important for public safety?



1           A.       Yes.

2           Q.       And --

3           A.       Among other things.

4           Q.       All right.  And do you think Laclede has a  
5 good safety record?

6           A.       I believe so, generally.

7           Q.       All right.  Do you think it's better than  
8 other gas distribution utilities in Missouri?

9           A.       I don't know the answer to that.

10          Q.       Do you think that -- are you aware of  
11 safety precautions that Laclede has instituted that other  
12 gas distribution companies in Missouri haven't?

13          A.       I need something more specific.  I'm not  
14 sure exactly what you're asking with regard to safety  
15 precaution.

16          Q.       Well, do you believe that Laclede has  
17 instituted any procedures through its SAID department that  
18 you consider to be safety precautions that have not been  
19 instituted by other gas distribution companies?

20          A.       The one off the top of my head, if I  
21 think -- I think I'm answering what you're looking for, we  
22 do a copper bar hole survey that I don't believe other  
23 operators are performing.

24          Q.       And do you think that the copper bar hole  
25 survey that Laclede has instituted is part of the reason

1 for Laclede's strong safety record?

2           A.       I think it's part of the reason for our  
3 improved safety record. I might add, the bar hole survey  
4 in and of itself is really -- that's not what -- why it  
5 improved our copper replacement program to get that. The  
6 bar hole survey merely identifies the areas that are in  
7 most need of replacement, the copper services in most need  
8 of replacement. So just finding it and identifying  
9 doesn't necessarily improve the safety record or overall  
10 safety. The replacement program does.

11           Q.       All right. So the copper bar hole survey  
12 in conjunction with the replacement program?

13           A.       Correct.

14           Q.       Were you involved in responding to USW 11-6  
15 Data Requests in this matter?

16           A.       No, not really.

17           Q.       All right. Did you review those responses?

18           A.       No, I don't. I didn't. I reviewed some  
19 material that was associated with them or that came back  
20 and forth if it related to SAID-type information, but  
21 specifically, no.

22           Q.       All right. Are you aware that in response  
23 to a request, Laclede stated that it doesn't keep records  
24 specifying the origin of a call of a gas odor?

25           A.       That's correct.

1           Q.       Does Laclede keep any records of whether  
2 gas detection devices detect gas? Do you understand my  
3 question?

4           A.       No.

5           Q.       All right. Laclede has at least two gas  
6 detection devices that we've identified here today?

7           A.       Right.

8           Q.       The CGD and the CGI?

9           A.       Correct.

10          Q.       Does Laclede keep any records that reflect  
11 whether they're effective in detecting gas leaks?

12          A.       Every leak is recorded on the order when  
13 it's work, so if we work an order, whatever type of order,  
14 if we take CGI readings, and if nothing is found, zero is  
15 recorded and if something is found, that percentage is  
16 recorded. So if that's what you're looking for.

17          Q.       All right. And what -- do you know what  
18 record that's recorded on?

19          A.       On the CIS form.

20          Q.       Does Laclede keep records about who reports  
21 gas leaks, whether it's a customer, a meter reader or  
22 service person?

23          A.       No, not to my knowledge.

24          Q.       Does Laclede keep records about whether the  
25 detection of a gas leak was due to odor, visual inspection

1 or leak detection instrument? Does it keep records of how  
2 they're being detected?

3 A. Well, they're always detected with CGI.  
4 They're always verified with a CGI. So in other words, if  
5 someone said they smelled it, we don't -- we record what  
6 we find with that CGI. If it's CGD or if a meter reader  
7 turns in an alarm, CGD alarm went off, we respond and if  
8 we find something it's recorded, so every recorded reading  
9 is as a result of a CGI.

10 Q. I guess what I'm trying to get at is  
11 whether you keep any categorization of whether leaks are  
12 first detected through odor, whether they're first  
13 detected through visual inspection, such as the corrosive  
14 pipe inspection or the leak -- I guess that one, or  
15 whether they're first detected because of a leak  
16 detection.

17 A. No, ma'am. I believe everything's call --  
18 everything's called in to one spot to the what we call our  
19 blackboard and they dispatch personnel accordingly. I  
20 don't think they track where the call came from.

21 Q. If you don't keep records categorizing the  
22 means by which leaks are determined, how can you -- how  
23 can you state that removing the annual use of a leak  
24 detection device from inside meters through the process of  
25 the annual meter read won't adversely impact safety?

1           A.       Again, that's a device what's been  
2     implemented for a relatively short time, the purpose of  
3     which is to -- so we can when meter readers get inside, we  
4     can use that information for our -- we can count that  
5     toward our leak survey. We have no reason to believe that  
6     those -- if there is a leak turned in because of that  
7     device alarm, that leak wouldn't also have been turned in  
8     because someone smelled it.

9           Q.       But you also have no reason to know that it  
10    would have been turned in because of smell; isn't that  
11    correct?

12          A.       That's correct.

13                 MR. ZUCKER: I'm going to -- objection.

14                 THE WITNESS: Too quick.

15    BY MS. SCHRODER:

16          Q.       Isn't it true, in fact, that if these are  
17    first coming up during an annual meter read, that it's  
18    probably because the customer hasn't called it in?  
19    Wouldn't you agree with that?

20          A.       If these are -- I'm sorry. What are we --  
21    if a leak is turned in because it was found on an annual  
22    meter read, is that --

23          Q.       Yes.

24          A.       -- what you're suggesting?

25                 I -- yeah, I would guess that's probably

1 correct.

2 Q. All right. I want to shift to talking with  
3 the turn off/turn ons for a moment. In some of the  
4 pleadings in this matter, Laclede has described a  
5 turn off/turn on as a cursory inspection?

6 A. That's correct.

7 Q. What is meant by that?

8 A. Essentially, it's not a very comprehensive  
9 inspection. It's primarily done -- well, it's done  
10 because we had to be on the customer's premises. I  
11 believe it's one of more minimizing liability. We want to  
12 give it what we commonly refer to as kind of give it the  
13 once over. We go in, we verify that there's no blatant  
14 hazards. The whole process takes 15 minutes on the  
15 outside probably. You know, it's kind of a long time. A  
16 lot of them are less than that, some would be a little bit  
17 longer.

18 They essentially just do a visual  
19 inspection of the piping and the appliance. They'll --  
20 it's by no means a comprehensive inspection like our home  
21 sale inspection where we actually check for leaks through  
22 the meter and through sthenometers where we actually cycle  
23 appliances on and off multiple times to verify appropriate  
24 operation, things of that nature. We're more minimizing  
25 liability. I think one mentioned the other day, if we're

1    there, if we're the last ones there and something goes  
2    wrong, we're going to get blamed, so we try to make sure  
3    we don't have any just blatant problems there.

4           Q.       All right. I want to go back through a few  
5    aspects of that. First of all, you said it's primarily a  
6    visual inspection?

7           A.       Uh-huh.

8           Q.       Isn't it, in fact, true that whenever  
9    someone does a TFTO, they have to carry a CGI?

10          A.       That's correct.

11          Q.       And they check the meter and each of the  
12    appliances with the CGI for leaks?

13          A.       That's not necessarily true, no. They  
14    check the service entrance where -- the service entrance  
15    to the building, and they check the drains and sewer traps  
16    and things of that nature, but they don't spend a  
17    significant amount of time checking all the piping and  
18    every appliance with the CGI.

19          Q.       But they do take to CGI up to each of the  
20    appliances, don't they?

21          A.       They should, yes.

22          Q.       All right. And in fact, don't they cycle  
23    the appliances on and off one time?

24          A.       Yes, they should. Again, time of year will  
25    often dictate customers if it's middle of summer,

1 100 degrees out, customers will say, I don't want my  
2 furnace ran on. They should note on the order that they  
3 left off per customer, things of that nature.

4 Q. All right. So unless the customer refuses  
5 to let them, they cycle those appliances -- all the gas  
6 appliances on and off once, to make sure that the pilot  
7 lights are lit?

8 A. Yes. That's fewer and fewer these days,  
9 there's less and less pilot lights, due to technology.

10 Q. To make sure there's no, what, gas  
11 bubbling, is that part of why they do that?

12 A. I wouldn't necessarily be --

13 Q. Why do they cycle the appliances on?

14 A. Just to make sure fires up, that it comes  
15 on.

16 Q. All right. And you would agree with me,  
17 wouldn't you, that they can catch a lot of hazards by  
18 doing this visual inspection and the CGI leak detector and  
19 the cycling the appliances on and off?

20 A. I would take issue with a lot. I would  
21 suggest that very few are caught. It's relatively rare  
22 for terms thrown around 60 percent of the time, 25 percent  
23 of the time. You know, I've done these inspections  
24 myself. I've been part of service departments on and on  
25 for almost 20 years here, and I would argue that it's



1 considerably less than that. It's rare to find anything  
2 of substance.

3 Occasionally, the most common thing is I  
4 think Mr. Hendricks testified caps missing from ranges.  
5 The gas is off, there's no flow, but there's a flex  
6 connector or a valve that needs a cap put on it. In and  
7 of itself, I'm not sure how much of a hazard that  
8 constitutes, but we do -- our procedures do require them  
9 to cap it.

10 Q. If the cap's off, isn't it -- isn't it true  
11 that that's more likely to develop a leak?

12 A. Only if you've had -- only if the valve is  
13 bad. You've got to have the cap off and the valve bad.

14 Q. All right. What is your estimation of the  
15 percentage of time -- percentage of times that a hazard is  
16 found in a TFTO inspection?

17 A. I would suggest something less than 5.

18 Q. Than 5 percent?

19 A. That's correct.

20 Q. And have you reviewed hazard tickets to  
21 come to that conclusion?

22 A. Yes.

23 Q. Did you review, for instance, all the  
24 hazard tickets for 2005?

25 A. I don't know specifically the time frame

1     that I reviewed, but we've watched as we're preparing for  
2     contemplating TFTOs going away as part of AMR coming into  
3     place, we just kind of did a casual, not a sophisticated  
4     survey, you know, just kind of monitored things that were  
5     coming in, hazards and things of that nature, and found it  
6     to be relatively low and significantly minor.

7             Q.       Because we were told in this case that  
8     Laclede had approximately 79,000 hazard tickets in 2005 I  
9     think that resulted from TFTOs.

10            MS. SCHRODER:   And I will count on Rick.  
11     Is that correct?

12            MR. ZUCKER:   The number 79,000 that I  
13     remember is the number of TFTO orders that we did in 2005.

14            MS. SCHRODER:   All right.   Thank you.

15     BY MS. SCHRODER:

16             Q.       There were approximately 79,000 TFTOs in  
17     2005, and that that was too burdensome to produce to the  
18     Union.   Did you look at a smaller sampling?

19             A.       As to?

20             Q.       Time period.   Did you look at a smaller  
21     time period or did you just do what you said was a casual  
22     survey?

23             A.       For a couple of months, as those came in,  
24     we just kind of tracked raw numbers of hazards that were  
25     coming in, and then anything of significance I asked to be

1 sent to me. I received nothing of significance. No  
2 Class 1 leaks were turned in, you know, nothing like that.  
3 And the number of hazards that were found were relatively  
4 small. And I specifically don't know the number, but it  
5 was a couple months, and it was just raw numbers, just  
6 check off how many hazards came in versus how many TFTOs  
7 were done.

8 Q. And when you were doing that, were you  
9 looking just at the Form 627?

10 A. I believe we did 626s and 627s, the notice  
11 of code violations.

12 Q. So you looked at notice of code violations  
13 and hazard reports?

14 A. Correct.

15 Q. So you didn't look at the CIS forms that  
16 would show if they fixed it on the spot or the reports of  
17 leak or the referrals to the C&M or street department; is  
18 that right?

19 A. The 712s would have been included in there,  
20 in what they sent me. I didn't receive any, but that  
21 would have been one of the forms they would have sent me.  
22 They wouldn't have sent me the 626 -- or I'm sorry -- the  
23 686.

24 Q. Or the CIS?

25 A. Or the CIS form.

1           Q.       Would you agree that hazards that were  
2   referred to, that hazards from TFTOs could have been  
3   referred to the street department on Form 686s?

4           A.       No, I would not agree with that. The  
5   686 form is not necessarily for hazards. Things we refer  
6   to the C&M with regard to hazards would typically be  
7   leaks. That would be a 712 form. 686 form is typically  
8   for brackets loose where the meter needs to be refastened  
9   to the wall, the riser sunk somewhat and needs to be  
10  raised up, the lock cock, the ear on the lock cock has  
11  been sheered off and needs to be replaced. That would be  
12  not necessarily what we would constitute as a hazard per  
13  se.

14          Q.       What do you constitute as a hazard?

15          A.       Something that's imminently dangerous or  
16  potentially dangerous. Depending on imminently dangerous  
17  requires on the CID side 627, the hazard form, it's a red  
18  tag, potentially dangerous, the 626, the code violation  
19  form, or a 712 if it's a leak.

20          Q.       And those things could also have been  
21  picked up and fixed on a customer and then reported on a  
22  customer information system form; is that correct?

23          A.       If a repair was made, correct.

24          Q.       Would you agree that in performing a TFTO  
25  that a service person, in addition to the other things

1 that we've discussed here, checks the appliances  
2 specifically for blockage, carbonization and valve  
3 placement?

4 A. Not necessarily, particularly  
5 carbonization, unless it shows signs when you operate it  
6 there's something that the flame characteristics are not  
7 performing as expected, then you would have no reason to  
8 look any further. They don't pull the doors off or all  
9 the safeties. They don't run through the safeties around  
10 things of that nature. So carbonization is, the chamber  
11 itself gets partially blocked or blocked to the point of  
12 affecting the flame characteristics. If you see that  
13 then, perhaps, but typically not. That's that would be  
14 something usually found on a home sale inspection or a  
15 turn on.

16 Q. Carbonization can be seen visually at a  
17 certain stage, can't it?

18 A. If there are significant stage, yes.

19 Q. Doesn't it change the color of the flame?

20 A. Correct.

21 Q. And your service department employees are  
22 trained to see that; is that right?

23 A. Correct.

24 Q. Would you agree that TFTOs are a safety  
25 measure?

1           A.       Yes. Yes. I don't think we've ever said  
2       that a TFTO wasn't a safety. It is a safety. It's just  
3       not a comprehensive, necessary safety measure, but it is a  
4       safety measure.

5           Q.       Did Laclede perform a cost benefit analysis  
6       regarding the termination of TFTOs -- or I'm sorry -- just  
7       the termination of TFTOs?

8           A.       Cost benefit analysis, the customer pays  
9       for those. While the \$36 that they pay probably doesn't  
10      cover the full cost of the TFTO, it did at least cover the  
11      bulk of the costs, particularly since we had to show up.  
12      There was a need to be there to get that meter read. So  
13      the inspection piece of that, perhaps the \$36 covered a  
14      good chunk of that. We no longer collect that if we don't  
15      go. So there's -- you know, it's actually a having a  
16      negative impact on our revenue at this point because we  
17      don't collect that \$36.

18          Q.       I guess I'm a little confused about that.  
19      Did the \$36 cover all the cost or didn't it cover all the  
20      cost?

21          A.       We had to go read the meter to get the  
22      metering. There's part -- and so the show-up piece is we  
23      had to go anyway. The inspection was in addition to that.  
24      So the time it takes to do the inspection, the \$36, you  
25      know, may or may not have covered that in totality, I

1 would suspect relatively close. For to us send a truck  
2 out with overheads and all those things is fairly  
3 expensive.

4 Q. Okay. Would you agree that for a customer  
5 to hire a private inspector to come out is going to cost  
6 them more than \$36?

7 A. It depends on the service. I've seen ads  
8 for furnace inspections for 29.99. You know, what you get  
9 for that -- and obviously, you know, their goal was to  
10 sell you something else while they're there, but, you  
11 know, to get them out there, I've seen ads for relatively  
12 low.

13 Q. But a furnace inspection doesn't cover  
14 everything that a TFO covered, does it?

15 A. No.

16 Q. All right. Would you agree with me that  
17 Laclede only recently started charging the \$36 for the  
18 TFTOs?

19 A. It was some years ago.

20 Q. About five?

21 A. I believe more than that, but I don't know  
22 specifically, but I think it was -- I think it was closer  
23 to ten.

24 Q. All right.

25 A. Somewhere around mid '90s.

1           Q.       Okay. Was that part of a rate increase  
2       that Laclede sought here at the PSC?

3           A.       I believe so, yes.

4           Q.       And prior to that time, the TFTO  
5       requirement was in the tariff for Laclede, but there was  
6       also no ability to charge the customer for it; is that  
7       correct?

8           A.       I think so.

9           Q.       All right. I mean, if you don't know --

10          A.       Yeah. I'm not into the rates and --

11          Q.       Okay. Laclede doesn't have data on the  
12       number or percentage of percentage of hazards it  
13       discovered during TFTO inspections; is that right?

14          A.       No.

15          Q.       And Laclede also doesn't have data on the  
16       number of or percentage of leaks or hazards that are  
17       discovered through an annual meter read; is that right?

18          A.       I'm not -- I don't do meter reading.

19          Q.       I'm sorry. I keep asking you meters.

20          A.       I know some things about it, but whether  
21       they collect that data, I don't know.

22          Q.       Thank you. Wait a second. Sorry. I  
23       forgot one more page, but it's a short page.

24                    Laclede has taken the position in this  
25       matter that TFTO and annual meters reads are a customer



1 inconvenience. Would you agree that if there's a private  
2 ordinance, an ordinance citywide or whatever that requires  
3 an annual inspection, that that customer's still going to  
4 be inconvenienced by having to open the house up for that  
5 inspection?

6 A. Yes, I would agree with that. I certainly  
7 wouldn't be in favor of it, particularly in my  
8 neighborhood. I wouldn't want them to force me to have  
9 any kind of inspection. If I want an inspection, I'll  
10 order one.

11 Q. Well, if you want an inspection, you can do  
12 it yourself?

13 A. That's true, too. A gas inspection. But I  
14 don't want, you know, the water company, the electric  
15 company, I don't want anybody to tell me when I have to  
16 inspect my stuff.

17 Q. And I appreciate your opinion on that.  
18 Would you -- there was also I think some -- there was also  
19 a statement, I think in Laclede's brief that the customers  
20 in -- strike that. Let's just start over on this one.

21 Isn't it true that right now when Laclede  
22 sends somebody out to do an annual meter read or a TFTO  
23 inspection, that there's -- that the customer's required  
24 to have a four-hour window for Laclede?

25 A. Actually, I think our normal is that we

1 have basically three classifications: We have all day  
2 a.m. or p.m. So our preference is if they'll tell us  
3 they'll be home all day, and we can work them in wherever  
4 we can, but the rest is a.m. and p.m. and the window is  
5 typically 7 a.m. to noon, so it's basically a five-hour  
6 window, and then from noon to five. So it's essentially  
7 two five-hour windows.

8 Q. All right. And the PSC, there's nothing in  
9 the PSC regulations that require the company to schedule  
10 those inspections in such large blocks of time, is there?

11 A. We've got requirements with regard to --  
12 you're talking about TFTOs specifically or annual meter  
13 reads?

14 Q. Okay. Let's just break it down. There's  
15 no PSC requirement that when -- and I should say when  
16 annual meters reads were still required and when TFTOs  
17 that were still required that required that Laclede demand  
18 an all day or all night time period, time frame in which  
19 to conduct those; is that right?

20 A. I'm not sure I understand the question.  
21 Can you hit me one more time?

22 Q. Certainly. You've just testified that  
23 there -- that Laclede tells people when they're going to  
24 come out to do one of these inspections, that they want  
25 them to be there all day or all night. And I think there

1 was a third category you said, but anyway, Laclede has  
2 specified a fairly lengthy time period in which a customer  
3 has to be available for an inspection; is that right?

4 A. Yes.

5 Q. Okay. Is Laclede requiring that time  
6 period because of any regulation that the PSC has?

7 A. No, it's just trying to be accommodating to  
8 the customers.

9 Q. It's accommodating to the customers to  
10 require them to be there for eight hours?

11 A. No. Again, we offer a.m., p.m. or all day,  
12 if they tell us that, I'll be home all day, then we tell  
13 them -- and then we arrange that time for them to -- you  
14 know, that we will be by sometime that specific day,  
15 that's fine. A lot of customers, if it's depending on the  
16 type of work, turn on, house sale inspection, things of  
17 that nature, if someone's going to be there all day and  
18 don't care what time we come, then we work it in whenever  
19 we can and we get there. If they say, well, can I get  
20 specific time, the blocks we use are a.m. and p.m.

21 Q. All right. And the point is that Laclede  
22 determines those blocks of time; is that correct?

23 A. That is correct.

24 Q. All right. And they're not required to set  
25 any particular block of time by any regulation; is that

1 correct?

2 A. That's correct.

3 Q. All right. The tariff revision that's  
4 in -- that's at issue here right now went into effect on  
5 June 10th, 2005. Did you --

6 MR. ZUCKER: Objection. The tariff  
7 revision is not in effect at issue here. This is Union  
8 complaint.

9 MS. SCHRODER: It's a complaint about the  
10 tariff revision.

11 JUDGE DIPPELL: Okay. Ms. Schroder, would  
12 you just rephrase that?

13 MS. SCHRODER: Certainly.

14 BY MS. SCHRODER:

15 Q. The tariff revision that we've been  
16 discussing today went into effect on June 10, 2005; is  
17 that right?

18 A. I believe that's correct.

19 Q. All right. Did you as the head of the  
20 service department order that all TFTOs be stopped at that  
21 time?

22 A. No.

23 Q. All right. You've been -- you've been  
24 phasing those out, haven't you?

25 A. That's correct. We still do them to this

1 day if we have to go -- if we have to go to the property,  
2 trying to appease the Union rather than just flip the  
3 switch and stop, we kind of phased them out over the  
4 course of AMR being activated. So if we still have to go  
5 to get the meter read, we still do the inspection.

6 Q. But the intent is that they will be phased  
7 completely out by the end of 2006?

8 A. Whenever all the AMR devices are activated.

9 Q. And the intent for that is by the end of  
10 2006; is that right.?

11 A. I believe that's the time frame, yes,  
12 ma'am.

13 Q. All right. And I don't know if you'll know  
14 the answer to this, and if you don't, just tell me. Would  
15 you agree that annual meter reads have also -- well, let  
16 me restate that. Have annual meter reads also been being  
17 phased out?

18 A. I don't know the answer to that. Stop you  
19 there.

20 MS. SCHRODER: All right. I have no  
21 further questions.

22 JUDGE DIPPELL: Thank you. I have just a  
23 couple questions for you Mr. Reitz.

24 QUESTIONS BY JUDGE DIPPELL:

25 Q. Are you familiar with the gas utility

1 industry in the state of Missouri generally?

2 A. On a limited basis, perhaps. Not all  
3 facets of all utilities, but generally, perhaps.

4 Q. Are you generally familiar with some of the  
5 other -- the operations of the other gas utilities with  
6 respect to what you are in charge of at Laclede?

7 A. I have people that do similar work at those  
8 companies. I meet with those at MANGO, Missouri  
9 Association of Natural Gas Operators, meetings, you know,  
10 things of that nature, so yes, to that extent.

11 Q. Are you aware of any other gas utility in  
12 the state of Missouri that conducts turn off/turn on  
13 inspections in the situation where Laclede conducted  
14 those?

15 A. No, ma'am, none whatsoever.

16 Q. Are you aware of any other gas utility in  
17 the state of Missouri that has ever conducted that kind of  
18 inspection?

19 A. Not to my knowledge, no, ma'am. I could  
20 add, I'm -- the company's also part of the Southern Gas  
21 Association, which is the SGA, which is an industry-wide  
22 association of gas operators, and the AGA, American Gas  
23 Association. And I have cohorts, we have seminars and  
24 meetings and training sessions and things of that nature,  
25 and we have discussed this specifically and sent out

1 surveys and stuff and have not found anybody that does  
2 this type of thing. So to my knowledge, nobody in the  
3 country does, but I didn't talk to everybody in the  
4 country.

5 Q. And did you send out those surveys in  
6 preparation for this case or in preparation for ceasing  
7 the inspections?

8 A. Actually, it was -- the survey was sent,  
9 actually, by another operator with regard to what services  
10 do you provide to the customer, and it was related to  
11 the -- more to the service work. And then it was a  
12 follow-up question that we asked, does anybody do  
13 inspections related to if you're on the premises and you  
14 don't stop the flow of gas. And every respondent came  
15 back no, but it was probably year and a half ago, and when  
16 this all came up, I couldn't -- I didn't save that  
17 information because it was just kind of a casual thing.

18 Q. And that was within your industry group?

19 A. Yes, it is.

20 Q. Are you familiar with the AMR devices  
21 themselves?

22 A. Yes. Not intimately familiar, but I've  
23 seen them.

24 Q. Do you have any knowledge as to whether or  
25 not they've been tested to withstand the weather

1 conditions in the state of Missouri?

2 A. When I saw Mr. Hendricks's testimony to  
3 that regard, I called our meter department who contacted  
4 the company that puts them in, Cellnet company, and have  
5 been assured that that's not a valid concern whatsoever.  
6 They have been tested in all kind of environments.  
7 They've used them in Minnesota and a couple other places.

8 Q. If you -- if Laclede discovers a problem  
9 with -- hang on just a minute. Okay. If Laclede  
10 discovers a problem with an AMR device, say it's leaking,  
11 what does Laclede do to fix the problem?

12 A. Typically just replace the meter. We don't  
13 own the device itself. The device is owned by Cellnet.  
14 So we'll replace the meter with another meter equipped  
15 with an AMR device on it. We'll return that defective  
16 device to Cellnet.

17 JUDGE DIPPELL: Okay. I think that's all  
18 the questions I have for you, and Commissioner Gaw just  
19 stepped out, and I believe he had some additional  
20 questions. But we're going to go ahead and keep moving so  
21 we can maybe still get wrapped up tonight.

22 Mr. Schwarz?

23 MR. SCHWARZ: Might this be an opportunity  
24 to provide you with the copies?

25 JUDGE DIPPELL: Yes. Go ahead and take a



1 little moment here to receive copies of Exhibit 25.

2 (EXHIBIT NO. 25 WAS MARKED FOR  
3 IDENTIFICATION BY THE REPORTER.)

4 JUDGE DIPPELL: I'll let you -- you'll have  
5 an opportunity to review. Let's go ahead. Is there any  
6 recross based on my questions from Staff?

7 MR. SCHWARZ: No, ma'am.

8 JUDGE DIPPELL: Public Counsel?

9 MR. POSTON: No.

10 JUDGE DIPPELL: Union?

11 MS. SCHRODER: No.

12 JUDGE DIPPELL: Is there redirect?

13 MR. ZUCKER: Yes, your Honor.

14 JUDGE DIPPELL: Wait, Mr. Zucker. I just  
15 found two more questions I had.

16 BY JUDGE DIPPELL:

17 Q. Mr. Reitz, with regard to the customer  
18 charges, you're familiar with those, you were testifying  
19 about that earlier --

20 A. Yes.

21 Q. -- correct?

22 Is there a -- is there a customer charge  
23 right now for changing -- if I want to change my account  
24 without changing -- without the gas flow coming to a stop,  
25 is there a charge for that?

1 A. Do you have an AMR device?

2 Q. Not yet.

3 A. Then we would come out and do a TFTO and  
4 charge \$36.

5 Q. Okay. And if I have an AMR device  
6 currently?

7 A. We don't come out and we make that -- we do  
8 it as Mr. Leonberger referred to, read in/read out. We  
9 basically stop the billing for one customers and start it  
10 for another.

11 Q. And there's no service charge for that?

12 A. No, ma'am.

13 Q. Okay. When you do the three-year  
14 inspections, do you do the customer -- does that involve  
15 the same items as the turn off/turn on inspection?

16 A. No, it does not. The three-year corrosion  
17 inspections and the leak inspections only apply to  
18 customer-owned facilities, so if you have an inside meter,  
19 we inspect up to the outlet of the meter, do the corrosion  
20 inspection up to the outlet of the meter. We don't  
21 inspect the appliances. Obviously, hazard -- if we see a  
22 leak or smell gas we would react to that, but we don't do  
23 appliance inspection as we would with a TFTO.

24 JUDGE DIPPELL: Okay. Mr. Schwarz?

25 MR. SCHWARZ: I thought he said it only

1 applies to customer-owned property.

2 THE WITNESS: I'm sorry. Company-owned.

3 I'm sorry. I must have misspoke.

4 JUDGE DIPPELL: Are there any additional  
5 recross based on those questions?

6 MS. SCHRODER: No, your Honor.

7 JUDGE DIPPELL: See none. Okay.

8 Mr. Zucker?

9 REDIRECT EXAMINATION BY MR. ZUCKER:

10 Q. Good afternoon again, Mr. Reitz.  
11 Ms. Schroder asked you some questions about whether  
12 Laclede's service territory consisted primarily of  
13 residential areas, and you responded that there were dense  
14 business districts, commercial districts, as well as  
15 residential areas. Do you recall those questions?

16 A. Yes.

17 Q. And have you had occasion to review or  
18 experience other areas in Missouri that are served by  
19 other gas utilities?

20 A. I've been to Kansas City, been to  
21 Springfield. I find I don't see significant differences  
22 when I'm in those towns than I do in St. Louis.

23 Q. Do they have dense business districts?

24 A. Appear to have.

25 Q. Do they have commercial districts?

1 A. Appear to have.

2 Q. Are their residential areas different in  
3 any way from Laclede's?

4 A. Not that I can distinguish.

5 Q. Are the houses further apart in these other  
6 areas?

7 A. Some are, some aren't. Not notably.

8 Q. Any differences in the density per block?

9 MS. SCHRODER: Objection, I'm just going to  
10 object on lack of foundation.

11 MR. ZUCKER: Well, he's establishing a  
12 foundation with each question.

13 MS. SCHRODER: He said that he's  
14 occasionally been to Kansas City and Springfield. I don't  
15 know that that gives him the foundation to answer these  
16 questions.

17 MR. ZUCKER: He's answering based on his  
18 knowledge. That was established with the very first  
19 question.

20 JUDGE DIPPELL: I'm sorry. I kind of zoned  
21 out just for one moment, I'll have to admit, so you were  
22 asking him about the density of?

23 MR. ZUCKER: Well, for the other cities in  
24 Missouri that he's familiar with, was his observation --  
25 what were his observations regarding the business,

1 commercial and residential areas of those cities compared  
2 to Laclede's service territory?

3 JUDGE DIPPELL: I'll let him answer and it  
4 will go toward the weight of the question.

5 BY MR. ZUCKER:

6 Q. Any differences in density per block?

7 A. Not that I've noticed.

8 Q. So in your view, is a natural gas incident  
9 or explosion likely to have any greater impact in  
10 Laclede's territory than in any other utility's service  
11 territory?

12 MS. SCHRODER: Same objection.

13 JUDGE DIPPELL: I was hoping you'd make  
14 another one.

15 MS. SCHRODER: Okay. Let me see. Well, I  
16 think it still goes to lack of foundation, but I think  
17 it's a different lack of foundation now. It's lack of  
18 foundation about his experience with explosions.

19 JUDGE DIPPELL: It seems a bit speculative  
20 to me.

21 BY MR. ZUCKER:

22 Q. Do you have any experience with gas  
23 incidents or explosions?

24 A. As far as investigating them, yes. I've  
25 had some training on investigating natural gas emergencies

1 and incident investigation. I've been involved in several  
2 incident investigations unfortunately.

3 Q. So in your opinion, would such an incident  
4 or explosion in any of the other cities that you've seen  
5 have a greater impact than an explosion in Laclede's  
6 service territory?

7 MS. SCHRODER: Your Honor, I'm sorry. I  
8 just want to renew my objection. I still don't think that  
9 that gets us beyond the speculative nature of this, and  
10 the lack of foundation generally.

11 JUDGE DIPPELL: I'm going to sustain that.  
12 I don't think this witness is really established that he  
13 has any knowledge about explosions in other cities.

14 MR. ZUCKER: Okay.

15 BY MR. ZUCKER:

16 Q. Does the nature of the housing stock affect  
17 what impact an explosion might have?

18 A. I would say yes. For instance, we've got  
19 houses in the City of St. Louis that the foundations are  
20 two feet thick. An explosion in that house, no matter how  
21 dense the population around it would probably have less  
22 impact than ones in some of these newer homes that are  
23 frame homes, where the resulting damage could be  
24 significantly more. So I would say yes.

25 Q. So would that have more of an impact in

1 some cases than the density of the population?

2 A. I would think.

3 Q. You've been here in Jefferson City now how  
4 long?

5 A. Two days, two and a half days.

6 Q. And is this -- the spacing and mix of homes  
7 and businesses you've seen in Jefferson City different  
8 than what you've seen in Laclede's service territory?

9 A. Not the areas that I've been around.

10 Q. And are you aware that TFTO inspections and  
11 annual meter reads aren't done here?

12 A. That's correct. That's what I believe to  
13 be true.

14 MS. SCHRODER: I'm sorry. I just -- did he  
15 say yes or that I believe that to be true? I didn't catch  
16 the last part.

17 THE WITNESS: This area is served by  
18 Ameren, correct?

19 MS. SCHRODER: I'm going to object on  
20 speculation.

21 BY MR. ZUCKER:

22 Q. Do you know who serves this area?

23 MS. SCHRODER: He doesn't even know who  
24 serves the area.

25 THE WITNESS: Ameren serves this area.

1 Ameren doesn't do TFTOs.

2 JUDGE DIPPELL: Okay. I'll allow that.

3 BY MR. ZUCKER:

4 Q. Have you done meter reading for Laclede?

5 A. For Missouri Natural division of Laclede, I  
6 did meter reading for a short time.

7 Q. And you now have some meter readers  
8 reporting to you through your organization?

9 A. Correct. Through the Missouri Natural, not  
10 reporting directly to me but they're in my charge.

11 Q. What is the purpose of meter reading?

12 A. To obtain for billing, to obtain readings  
13 for billing.

14 Q. And do you send meter readers out to find  
15 leaks?

16 A. No, we do not.

17 Q. Exhibit 8 in this case is excerpts from an  
18 arbitration involving an employee named Jackson?

19 A. Are familiar with that employee?

20 A. Yes, I am.

21 Q. And can you tell me why he was fired?

22 A. He was terminated for failing to follow  
23 procedures, falsifying company documents and his overall  
24 work record.

25 Q. And what was it about his overall work



1 record that contributed to his firing?

2 A. He was not a good employee. He had  
3 previously been suspended for 60 days for a number of  
4 violations. He actually -- we intended to terminate him  
5 at that time, but the witnesses were not company personnel  
6 and they later decided not to testify. He was -- he had  
7 arranged to steal gas for a neighbor. He had stolen some  
8 equipment from the company and given it to another  
9 neighbor. Things of that nature. We brought him back on  
10 a settlement agreement after a 60-day suspension because  
11 the witnesses wouldn't testify, so he was not a good  
12 employee.

13 Q. He was stealing gas?

14 A. For -- not for himself, but he had arranged  
15 for or diverted gas for a -- by drilling out a meter and  
16 allowing his neighbor to get free gas or some free gas  
17 anyway.

18 Q. And how did this come to the company's  
19 attention?

20 A. It was a tip by one -- in fact, the  
21 neighbor that he'd given the shovel to brought it to our  
22 attention. They'd had a falling out. They --

23 Q. I'm sorry. This is a different neighbor?

24 A. Different neighbor than the one that was  
25 stealing the gas. I think there was -- he lived in

1     this --

2                     MS. SCHRODER:  Objection, your Honor.  I  
3     mean, I know that you have ruled on this issue before, but  
4     I'm going to go ahead and ask again anyway.  This is way  
5     beyond the scope any of the cross or his direct testimony,  
6     for that matter.

7                     MR. ZUCKER:  Well, this is rebuttal, your  
8     Honor, we're allowed to provide that.

9                     MS. SCHRODER:  Did we switch to rebuttal?

10                    MR. ZUCKER:  What do you mean?

11                    MS. SCHRODER:  I thought we were still  
12     doing redirect.

13                    MR. ZUCKER:  We're doing the same thing  
14     that all the other witnesses did.

15                    JUDGE DIPPELL:  Well, technically we were  
16     doing redirect, but I will allow you to do some rebuttal  
17     if -- I'm just trying decide if there needs to be some  
18     distinction between the two, and I can't really see that  
19     there needs to be.

20                    MS. SCHRODER:  Your Honor, I would request  
21     that then we get the opportunity to cross the witness on  
22     those matters.

23                    JUDGE DIPPELL:  I was going to say, except  
24     for the opportunity to cross.

25                    Did I hear you say, Mr. Zucker, that there

1     were going to be other rebuttal witnesses for Laclede?

2                     MR. ZUCKER:   One other witness.

3                     JUDGE DIPPELL:   Okay.

4                     MR. ZUCKER:   Should be fairly brief.

5                     JUDGE DIPPELL:   Do you have other redirect  
6     before you get into --

7                     MR. ZUCKER:   Let me check real quick.

8     Maybe just a little bit.

9                     JUDGE DIPPELL:   All right.   Go ahead.

10    Switch gears here.

11    BY MR. ZUCKER:

12             Q.     Mr. Reitz, you testified that Laclede does  
13    TFTOs or formerly did TFTOs on all meters, correct, on all  
14    TFTO changes?

15             A.     Prior to the tariff change?

16             Q.     Yes.

17             A.     Correct.

18             Q.     And now with AMR, Laclede would no longer  
19    be on the customer's property?

20             A.     That's correct.

21                     MR. ZUCKER:   Okay.   I think I can go back  
22    to my rebuttal.

23                     JUDGE DIPPELL:   I think we need to take a  
24    little break.   Is there any possibility of finishing this  
25    before six o'clock?   You need to leave by six, is that

1     what you said?

2                     MS. SCHRODER:  Yeah, I'm really sorry about  
3     that, but yeah.

4                     JUDGE DIPPELL:  That's fine.

5                     MR. ZUCKER:  I'm almost finished with this,  
6     and our next witness will be fairly short.  So I think  
7     yes.

8                     JUDGE DIPPELL:  Let's give it a try.  We're  
9     just going to take a break until five o'clock.  The doors  
10    at the back of the room may be locked at five, as well as  
11    the front door to the building, so if you go out those  
12    doors, you won't be able to come back in them after five,  
13    unless a PSC employee lets you in.  But this door at the  
14    front here will be open so you can come in that way.  You  
15    can go out that door, but you won't be able to come back  
16    in.

17                    Let's go off the record.

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

19                    JUDGE DIPPELL:  We had a little discussion  
20    off the record about the timing of things, and it doesn't  
21    look like we were going to be able to finish before  
22    six o'clock because the Commissioner has some questions,  
23    and Laclede has a rebuttal witness it would like to call  
24    and we need to finish up with Mr. Reitz.

25                    So how much more rebuttal do you have with

1 Mr. Reitz, Mr. Zucker?

2 MR. ZUCKER: Just a few questions.

3 JUDGE DIPPELL: Let's go ahead then and  
4 finish Mr. Reitz, and I'll allow you cross and that  
5 rebuttal testimony, and then we'll put on Laclede's  
6 rebuttal. And then we'll plan to come back Thursday  
7 morning at 8:30 to finish up what we -- Commission  
8 questions of Staff, and I think that will be it. Okay.

9 Go ahead, Mr. Zucker.

10 BY MR. ZUCKER:

11 Q. Mr. Reitz, when we last left off, you were  
12 telling -- we were discussing the Jackson arbitration, and  
13 you were telling us that Mr. Jackson was accused of  
14 helping one neighbor steal gas and helping another  
15 neighbor steal a shovel; is that correct?

16 A. Actually, he stole the shovel allegedly and  
17 gave it to that other neighbor. They're the ones that  
18 turned him in, yes.

19 Q. And the neighbor with the shovel is the one  
20 that complained?

21 A. Yes.

22 Q. And then so did Mr. Jackson get fired?

23 A. He did not. We suspended him with the  
24 intent on firing him, ultimately brought him back under a  
25 settlement agreement with the Union because the witnesses

1 decided that they didn't -- they moved from what  
2 subdivision and basically wanted to wash their hands of  
3 the whole affair.

4 Q. And did you also say that Mr. Jackson  
5 falsified company documents?

6 A. Yes, he did. That was part of the -- not  
7 at that point, but that was part of this -- the activities  
8 with regard to him failing to take his CGI equipment in on  
9 a TFTO.

10 Q. This is the case that -- I'm sorry --  
11 that's part of Exhibit 8?

12 A. That's correct. Yes.

13 Q. And what did he do?

14 A. He did not -- he was observed by two  
15 foremen not taking his CGI in on a TFTO, as required at  
16 that time. Procedure for a TFTO was that you take your  
17 CGI in on -- any time you're on in the customer premises.  
18 He failed to do that. It is a safety violation. That  
19 procedure was in place at that time. It's no longer in  
20 place, but at that time it was in place. Employees don't  
21 get to pick and choose what rules they want to follow. He  
22 with -- coupled with his work record, he was subsequently  
23 terminated.

24 Q. So what you described was where did he not  
25 follow procedures?

1           A.       Correct.

2           Q.       And what did he do to falsify documents?

3           A.       When he recorded on his form, his CIS form  
4   the CGI readings inside, he put zero.  You have no way to  
5   know it was zero if you didn't take the instrument in with  
6   you, so when he put down that he got a zero percent  
7   reading there, having not taken that device in, he could  
8   not verify that.

9           Q.       Did you hear testimony from Mr. Stewart for  
10   the Union saying that gas that is leaking at the meter  
11   could migrate along the foundation from the meter?

12          A.       Yes, and if he -- I did.

13          Q.       Do you agree with that?

14          A.       If he's talking about -- I believe at the  
15   time that the questioning was regarding outside meters and  
16   he was talking about a meter being outside and having gas  
17   migrate.  Unless it's magic gas, it's not going to happen.  
18   Gas is lighter than air, and it would dissipate into the  
19   air and would not go along the foundation into the ground.

20                   MR. ZUCKER:  Thank you, Mr. Reitz.

21                   JUDGE DIPPELL:  Thank you.  Is there any  
22   further cross-examination from Staff?

23                   MR. SCHWARZ:  No.

24                   JUDGE DIPPELL:  Public Counsel?

25                   MR. POSTON:  No.

1 JUDGE DIPPELL: Union?

2 MS. SCHRODER: Yes, briefly. Could I just  
3 sit here?

4 JUDGE DIPPELL: Yes, you're fine.

5 RE-CROSS-EXAMINATION BY MS. SCHRODER:

6 Q. Mr. Reitz, the testimony that you just gave  
7 about Louis Jackson, would you agree with me that this --  
8 all this discussion of stealing, none of that came into  
9 the arbitration of Mr. Jackson's discharge that's  
10 Exhibit 8; isn't that correct?

11 A. I believe his overall work record was part  
12 of the reason he was -- he was terminated. That's part of  
13 his overall work record.

14 Q. Okay. His overall work record, but there  
15 was no mention in the arbitration of a stealing  
16 allegation, was there?

17 A. He was not terminated for that incident.  
18 He was terminated for his overall work record and --

19 Q. Right. And again, my question is, there  
20 was no mention at the arbitration of the alleged stealing  
21 incidents, was there?

22 A. I don't believe so.

23 Q. All right. First of all, then, I would  
24 move to strike all of the testimony about this alleged  
25 stealing incident that the witness has admitted wasn't



1 even proven because it has nothing to do with this hearing  
2 or any exhibit in front of the Commissioners.

3 JUDGE DIPPELL: Mr. Zucker?

4 MR. ZUCKER: We would show on either  
5 redirect or we can bring another witness up if necessary  
6 that the stealing incident was part of the arbitration  
7 that's in Exhibit 8, that it was stipulated. The  
8 settlement agreement from the stealing incident was a  
9 stipulation in that arbitration.

10 MS. SCHRODER: Again, I think it was the  
11 work record that was the stipulation, wasn't it? If  
12 there's testimony in that arbitration hearing about it, do  
13 you want to put that pages in? I don't have a problem  
14 with that, if that's all right with the Judge.

15 JUDGE DIPPELL: As to the arbitration, I  
16 allowed that information in on a very limited basis.

17 MS. SCHRODER: Yes.

18 JUDGE DIPPELL: And in fact, I allowed  
19 that in only to show that Laclede had admitted that  
20 turn off/turn on inspections were a safety-related issue,  
21 which this witness has since testified to since then,  
22 so...

23 MR. ZUCKER: Your Honor, we --

24 JUDGE DIPPELL: I'm not sure how the  
25 person's work record is relevant. How is that relevant,

1 Mr. Zucker?

2 MR. ZUCKER: The excerpts from the  
3 arbitration could lead to the conclusion that we fired  
4 this person solely on the basis of his failure to take his  
5 CGI device in on a TFTO inspection, and the truth of the  
6 matter is this person had a history of very bad acts, and  
7 was fired based on that larger -- the bigger picture.

8 JUDGE DIPPELL: Okay. I'm going to allow  
9 the testimony to stay in. I'll overrule your objection.

10 MS. SCHRODER: All right. Can I go on then  
11 with my questions?

12 JUDGE DIPPELL: Go ahead.

13 BY MS. SCHRODER:

14 Q. Mr. Reitz, the arbitrator hasn't ruled yet  
15 on Mr. Jackson's discharge; isn't that correct?

16 A. To my knowledge, that's correct.

17 Q. All right. And you don't dispute that the  
18 company took the position at the hearing that Mr. Jackson  
19 was being fired in part because he violated a safety  
20 procedure, the safety procedure of performing a TFTO, do  
21 you?

22 A. The procedure that was in place at that  
23 time, correct.

24 Q. All right.

25 A. He violated that procedure.

1 MS. SCHRODER: I guess then I just renew my  
2 notion strike the other evidence because he's just  
3 admitted that that was indeed one of the reasons for the  
4 discharge.

5 JUDGE DIPPELL: Overruled.

6 BY MS. SCHRODER:

7 Q. You also just testified about -- in  
8 rebuttal about Mr. Hendricks' testimony about gas  
9 migrating from -- on the foundation from a meter. Isn't  
10 it correct that gas can migrate under the cement into a  
11 home even on an outside meter?

12 A. I believe it was Mr. Stewart's testimony.

13 Q. I'm sorry. It was Mr. Stewart's, not  
14 Mr. Hendricks?

15 A. Yes, Mr. Stewart's.

16 Q. Okay.

17 A. Under the -- as I heard Mr. Stewart's  
18 testimony, the question he was asked was -- by Mr. Elbert  
19 was gas leaking from a meter, and gas leaking from a  
20 meter, the meter itself is not under concrete. The riser  
21 leading up to the meter perhaps could be, but as I  
22 understood him, he was saying that the leaks that he was  
23 referring to were gas leaking from a meter, and, you know,  
24 if it's leaking into the free air, it will dissipate into  
25 the free air.

1           Q.     All right. You wouldn't have any problem  
2 with that statement if he was referring to gas leaking  
3 from the riser and going through the foundation or the  
4 concrete into the house; is that correct?

5           A.     As long as the part of riser he was  
6 referring to was below grade, below ground.

7           Q.     And that's possible, isn't it?

8           A.     Part of riser is below ground, yes.

9           Q.     All right. You're certainly aware of  
10 situations in which a below-ground riser, a leak in a  
11 below-ground riser can migrate into a house?

12          A.     Yes, that can happen.

13                 MS. SCHRODER: Thank you. No further  
14 questions.

15                 JUDGE DIPPELL: Thank you. Is there any  
16 redirect based on that cross-examination?

17                 MR. ZUCKER: I'm going to say no, your  
18 Honor.

19                 JUDGE DIPPELL: That's the right answer.  
20 And I didn't ask the Commissioner if he had any questions.

21                 COMMISSIONER GAW: I don't know if that's a  
22 good idea to ask me if I have any questions.

23                 QUESTIONS BY COMMISSIONER GAW:

24           Q.     Mr. Reitz, were you involved in the filing  
25 of the tariff which is the subject of this complaint?

1           A.       No, sir.

2           Q.       Okay. Are you familiar with any ratemaking  
3 treatment that the utility does?

4           A.       No, sir.

5           Q.       Okay. So you wouldn't be able to tell me  
6 one way or the other whether ratepayers were in their  
7 rates paying for some of the services that are in  
8 controversy here in the past, would you know that?

9           A.       Just with regard to the TFTO fee that's  
10 charged, the \$36, for the people that receive that  
11 service, then no. The limited number of folks that get  
12 that, there's this \$36 charge, but with regard to what's  
13 built in the rates and such, no, sir.

14          Q.       Okay. And did you say earlier that the  
15 \$36 does not cover the full cost of that service when it  
16 was being performed?

17          A.       Of a trip from start to finish if, in fact,  
18 we cover the cost of going there, getting the read and  
19 doing the inspection, I would suspect not. If we factor  
20 in just the inspection part, then I would suspect it's  
21 relatively close. That's what I testified to earlier.

22          Q.       Okay. So it's possible that some portion  
23 of it's built into the rates, but you're not sure?

24          A.       Correct.

25          Q.       Okay. And the annual inspections that

1     were -- that were done, they would have been -- there was  
2     no additional charge per customer for that, correct?

3             A.       That's correct.

4             Q.       Who would the -- is there someone that is  
5     available from Laclede that is familiar with the tariff  
6     filing? I don't know whether your counsel knows.

7             A.       I'm not sure who would be best to speak to  
8     that.

9                     MR. ZUCKER: We do not have a witness, but  
10    the attorneys can.

11                    COMMISSIONER GAW: Well, I appreciate that.  
12    Maybe it will all fall on Staff's witness to answer my  
13    questions later, because I have some questions about the  
14    tariff and the changes in it, but I can wait and find that  
15    out. And the other witness for Laclede would not have  
16    that background, correct?

17                    THE WITNESS: I don't believe so.

18                    COMMISSIONER GAW: That's all I have.

19                    THE WITNESS: I see him shaking his head  
20    no.

21                    COMMISSIONER GAW: Thank you.

22                    JUDGE DIPPELL: Would there be any  
23    additional cross based on Commissioner Gaw's questions  
24    from Staff?

25                    MR. SCHWARZ: No.

1 JUDGE DIPPELL: Public Counsel?

2 MR. POSTON: No.

3 JUDGE DIPPELL: Union?

4 MS. SCHRODER: No.

5 JUDGE DIPPELL: Any redirect based on those  
6 questions, Mr. Zucker?

7 MR. ZUCKER: No, your Honor.

8 JUDGE DIPPELL: Okay. Thank you.

9 Mr. Reitz, I believe you are finished, and may be excused.

10 THE WITNESS: Thank you.

11 JUDGE DIPPELL: Let's go ahead then with  
12 your next rebuttal witness. Mr. Schwarz?

13 MR. SCHWARZ: While he's coming up, I'd  
14 like to inquire as to the status, as far as whether  
15 they've been admitted, of Exhibits 16 to 21? I've just  
16 lost track.

17 JUDGE DIPPELL: 16 has been. In fact, they  
18 all have been except for 17, which has not been offered,  
19 and 20, which was rejected, or withdrawn rather. I take  
20 that back.

21 MR. SCHWARZ: And I would also like to  
22 offer Exhibit 25 at this stage, ask the Commission to take  
23 official notice of its records and offer it.

24 JUDGE DIPPELL: All right. Has -- which  
25 actually I already admitted it, but I said I would give

1 everybody a chance to object. Has anybody had an  
2 opportunity to review that?

3 MS. SCHRODER: We've reviewed it. We have  
4 no objection.

5 JUDGE DIPPELL: Mr. Zucker, did you have an  
6 opportunity to review the Staff recommendation that was  
7 Exhibit 25?

8 MR. ZUCKER: Yeah. We don't have any  
9 objection to it.

10 JUDGE DIPPELL: So that's admitted without  
11 objection then.

12 (EXHIBIT NO. 25 WAS RECEIVED INTO  
13 EVIDENCE.)

14 JUDGE DIPPELL: All right. Go ahead,  
15 Mr. Zucker.

16 MR. ZUCKER: Good afternoon, Mr. Lauber?

17 MR. LAUBER: Good afternoon.

18 MR. ZUCKER: Have you been sworn?

19 MR. LAUBER: No.

20 JUDGE DIPPELL: I'm sorry.

21 (Witness sworn.)

22 JUDGE DIPPELL: Thank you.

23 MARK LAUBER testified as follows:

24 DIRECT EXAMINATION BY MR. ZUCKER:

25 Q. Can you state your full name for the



1 record?

2 A. Mark Lauber.

3 Q. And who are you employed by?

4 A. Laclede Gas Company.

5 Q. And what is your business address?

6 A. 3950 Forest Park Boulevard, St. Louis,  
7 Missouri 63108.

8 Q. And what do you do for Laclede Gas Company?

9 A. I'm the superintendent of maintenance  
10 engineering.

11 Q. Okay. And can you describe briefly your  
12 work experience?

13 A. Sure. I'm generally responsible for  
14 ensuring the integrity of both the distribution system and  
15 the transmission line system that Laclede operates, and  
16 also ensuring the compliance with pipeline safety rules  
17 and regulations.

18 Q. And how long have you been at Laclede?

19 A. Approximately 19 and a half years.

20 Q. And how long have you been in your present  
21 job?

22 A. Since 1997.

23 Q. And when service is transferred from one  
24 customer to another without interrupting the flow of gas,  
25 what we call a TFTO, is there any concern raised about the

1 migration of gas?

2 A. There wouldn't be any additional  
3 probability that you would expect to find migrating gas at  
4 the locations where a TFTO would occur versus really any  
5 other location in our distribution system.

6 Q. And do you work with copper services, the  
7 copper service program?

8 A. Yes, I do. We have a pretty comprehensive,  
9 very comprehensive copper service replacement program  
10 that's in effect right now.

11 Q. And did that program address a migration of  
12 gas issue?

13 A. Yeah. Typically the pipeline safety  
14 regulations in general address on a systematic basis  
15 versus something like you might find with a TFTO, which is  
16 kind of hit and miss. You know, more or less just taking  
17 a random sample, you know, where you might be doing  
18 inspection, where the pipeline safety regulations, you  
19 know, if there is a concern, that's what leak surveys are  
20 for. And we perform various leak surveys on our  
21 distribution system.

22 The copper service replacement program that  
23 you mention has a very intrusive leak survey that involves  
24 an annual bar hole inspection of each and every  
25 direct-buried copper service that's part of this program,

1 and with that we have coupled a very aggressive action  
2 that we take when we do find any hint of any kind of leak  
3 or anything going on there. You know, we aggressively  
4 replace them as a result. So, you know, a systematic  
5 approach is, you know, in my opinion far more able to  
6 address integrity issues on our distribution system.

7 Q. Okay. And how many of the copper services  
8 have you replaced in this program?

9 A. I would say -- I don't have the exact  
10 number. We're replacing services every day, but somewhere  
11 in the neighborhood of in excess of 50,000 copper  
12 services.

13 Q. And roughly how many are left?

14 A. I believe a little bit over  
15 30,000 remaining.

16 Q. And when you remove a copper service, do  
17 you make any effort to get the worst ones or is it just  
18 random?

19 A. No, we absolutely look for the worst ones,  
20 we have a prioritization model where we track the activity  
21 that's going on in our copper service population, and this  
22 bar hole survey that I spoke of is very valuable input  
23 into that model that reports basically on a geographic  
24 basis where the leaks are occurring. We compare that to  
25 historically where the leaks have been occurring and we

1 route our crews to those areas.

2 Q. And you do a bar hole, you said, on every  
3 copper service?

4 A. That's correct.

5 Q. Every year?

6 A. That's correct.

7 Q. Is that correct?

8 A. Yeah.

9 Q. And do you keep track of the leak rate from  
10 those surveys?

11 A. Yes, we do.

12 Q. And how does that leak rate now for copper  
13 services compare with the general population?

14 A. It's actually with the latest results from  
15 this year's copper survey that we've got going on right  
16 now, and we're probably over two-thirds of the way done,  
17 we're reporting a leak rate that's consistent with the  
18 rest of the service lines our distribution system. And  
19 that's in part, you know, mainly because of the aggressive  
20 nature in which we prioritize leaks, and we go after the  
21 bad areas basically and replace them.

22 Q. Are you involved in providing information  
23 to customers on safety issues?

24 A. Yes, I am.

25 Q. Can you speak to how often Laclede does

1     that and how it's done?

2             A.       Are you talking about customers?

3             Q.       Yes.

4             A.       Okay. Well, customers are probably hit on  
5     various levels from various messages that we put out.  
6     Specifically, we send bill enclosures that Mr. Reitz spoke  
7     of twice a year. I believe it's May and November. We  
8     also -- we have just a general message on every bill that  
9     remind customers if they -- you know, the number to call  
10    for emergencies and things like that. We have the  
11    website, which is available to the general public.

12            We also have general advertisements that we  
13    put throughout the St. Louis area for the general public,  
14    that would include our customers that we have general  
15    safety types and things like that, that we put in various  
16    newspapers and such. We also have a targeted mailing that  
17    we do along to customers that live along some of our major  
18    transmission lines that have a little bit more specific  
19    messages related to transmission line activity and leaks  
20    and recognizing emergencies and things like that.

21            Q.       I'm going to ask you help me clear up  
22    something on the annual inside meter reads. Meter readers  
23    have a what we -- what's been called a pocket leak  
24    detector; is that correct?

25            A.       Yes, that's correct. That's correct.

1 Q. And sometimes also called a CGD?

2 A. Yeah, combustible gas detector.

3 Q. And do they use those for corrosion  
4 inspections?

5 A. Actually, there's a lot of terms have been  
6 thrown around related to the various inspections and  
7 annual meter read and such. I was involved in, I guess,  
8 identifying the fact that we needed to have this  
9 instrument. The CGD is basically worn by the leak -- or  
10 the meter reader to fulfill our three-year leak survey  
11 requirement for inside piping, and that is the sole reason  
12 why they are -- they are wearing it. The fact that they  
13 wear it during all inside meter reads and annual meter  
14 reads is only because it was a management decision to  
15 ensure that they had it when they were inside to do a  
16 required three-year leak survey.

17 So that -- the fact that they're wearing  
18 the instrument and when a survey is actually required on a  
19 particular service line that they would have, I guess, a  
20 card spit out that would be asking them if the instrument  
21 alarmed or not. And basically by them saying that it did  
22 not alarm, means that they completed the inspection.

23 Q. So if they were not doing the required leak  
24 survey but just a straight annual read, are they required  
25 to bring in their CGD device?

1           A.       We require them to wear it at the time that  
2   they're reading inside meters, but that's got nothing to  
3   do with the annual read on a meter.  It's my understanding  
4   that a manual read applies to all meters inside and  
5   outside and just a requirement of a billing issue to  
6   ensure that we have accurate billing.  It's got nothing do  
7   with a leak survey.

8           MR. ZUCKER:  Okay.  Thank you, Mr. Lauber.

9           JUDGE DIPPELL:  Okay.  Is there  
10  cross-examination from Staff?

11          MR. SCHWARZ:  I have a couple questions.

12  CROSS-EXAMINATION BY MR. SCHWARZ:

13          Q.       Do you oversee operations for Missouri  
14  Natural division?

15          A.       No, I don't.  I deal with them periodically  
16  to ensure that our practices are similar and that they're  
17  in compliance with safety regulations as well, though.

18          Q.       So what areas do you -- does your job  
19  entail?

20          A.       My responsibility encompasses all of the --  
21  really all of Laclede, Laclede Gas.

22          Q.       Okay.  I'm sorry.

23          A.       Do you want me to get more specific?

24          Q.       Is Laclede gas like the central district or  
25  MoNat?  I don't understand.  I mean, does your

1 responsibility extend out as far as St. Charles?

2 A. Sure, yes.

3 Q. Okay. And -- but not as far south as  
4 Franklin County or Iron County or Butler or those remote  
5 regions?

6 A. I'm not directly responsible for any  
7 engineering functions in the Missouri Natural division,  
8 but for the entire rest of Laclede, if you're familiar  
9 with that, you know, all St. Louis City, St. Louis County,  
10 St. Charles County, I'm involved in those areas.

11 Q. Okay. You're not suggesting that the  
12 annual leak survey of services is going to discover the  
13 same kind of -- well, it's not designed to discover  
14 anything on customer-owned property. That's strictly  
15 company-owned property, correct?

16 A. That's correct, yes.

17 MR. SCHWARZ: Thank you.

18 JUDGE DIPPELL: Is that all? Public  
19 Counsel?

20 MR. POSTON: No questions.

21 JUDGE DIPPELL: Union?

22 MS. SCHRODER: Yes.

23 CROSS-EXAMINATION BY MS. SCHRODER:

24 Q. Mr. Lauber, I don't know how long you've  
25 been hire, I'm the Union attorney, Sherrie Schroder and



1 I've just got a couple questions for you.

2 A. All right.

3 Q. First of all, you were testifying in  
4 response to Mr. Zucker's questions about this CGD device.  
5 Would you agree with me that the annual meter read form  
6 that the meter readers fill out requires them to note the  
7 CGD reading, whether the alarm went off or not? I'm  
8 sorry.

9 A. Yes, but I'm not part of the meter reading  
10 department, and I'm not extremely familiar with the forms  
11 that they fill out. But I do know that -- that we have a  
12 requirement that we're trying to fulfill with wearing  
13 that, which is a three-year requirement, unless we're --  
14 and I didn't say this earlier, but unless we're in a  
15 business district, then we an annual requirement to do a  
16 leak survey. But whenever -- whenever we're fulfilling  
17 that or documenting that inspection, the meter reader --  
18 it's my understanding that the meter reader does document  
19 whether or not the alarm went off.

20 Q. All right. And you said that you were  
21 involved in identifying the need for a CGD. Did you  
22 identify that need because you believed that the CGD is an  
23 effective means of conducting leak survey?

24 A. No, that wasn't the reason.

25 Q. Why did you identify there was a need for a

1 pocket device?

2 A. Basically, I believe for years the  
3 company's position on the requirement to complete a leak  
4 survey over the service line, and that's what the  
5 requirement is, to conduct a leak survey over the service  
6 line, that the inside portion of that survey was fulfilled  
7 by the meter reader's sense of smell. Some time ago, I  
8 believe there was a interpretation that came out from the  
9 regulators that required that portion of the survey to be  
10 conducted by an instrument leak detector.

11 Q. And by the regulators, you're referring to  
12 the Public Service Commission?

13 A. I believe they were enforcing the  
14 interpretation that came out from the Office of Pipeline  
15 Safety at the federal level.

16 Q. All right.

17 A. Staff, I guess, enforced that  
18 interpretation and, you know, through discussions with us  
19 we came upon, you know, a process and a leak detector that  
20 we felt was acceptable to us, and I was involved in that  
21 process.

22 Q. All right. So the Office of Pipeline  
23 Safety decided that it wasn't enough to use your nose,  
24 that there needed to be an instrumental leak detecting  
25 device?

1           A.       I believe so, yes.

2           Q.       All right. And you're not disputing that  
3 this particular leak detection device that Laclede agreed  
4 to use is effective at picking up leaks, are you?

5           A.       No, I'm not disputing that, no.

6           Q.       And you're not disputing that it's more  
7 effective than just using your nose, are you?

8           A.       In some cases, it is more effective than  
9 using your nose. I would agree with that.

10          Q.       All right. And I'm a little bit confused  
11 about the copper service replacement program that you were  
12 discussing. I mean, I understand it's in place and  
13 actually, I've just experienced it personally. But I  
14 guess I don't understand or I didn't get quite from your  
15 testimony how frequently you're surveying all the meters  
16 or whether you're surveying all the meters within a  
17 certain time period to determine whether there are these  
18 copper service leaks?

19          A.       I think I was using that as an example of,  
20 I guess, addressing a risk that might exist. It was  
21 identified some time ago that, you know, there was a  
22 higher risk associated with copper service lines and,  
23 therefore, the company, along with input from the Public  
24 Service Commission gas safety staff developed this  
25 program.

1                   And I was kind of contrasting that with,  
2   you know, like a TFTO which might be -- while it -- we  
3   would consider it a safety inspection, but it is very  
4   random in nature of who you're and what you're going to be  
5   inspecting.

6           Q.       All right. And this copper service  
7   replacement program was developed by Laclede as a  
8   requirement of the Public Service Commission; is that  
9   right?

10          A.       I believe it was a Stipulation & Agreement,  
11   so it was a negotiated development.

12          Q.       All right. And you're not saying that this  
13   copper service replacement program catches all leaks that  
14   might lead to migrating gas, are you?

15          A.       As it relates to copper services, I would  
16   say that it would be, you know, very high percentage.  
17   Obviously with buried facilities you can't be 100 percent,  
18   but I would say that it's a very effective program at  
19   dealing with the risks associated with leaks on copper  
20   service lines, yes.

21          Q.       Is it your testimony that as soon as  
22   there's no more copper service lines, there's not going to  
23   be any more migrating gas leaks?

24          A.       No.

25          Q.       All right. And you would agree that there

1 are situations where a meter or a riser can leak in such a  
2 way that gas can migrate into a home; is that right?

3 A. I would say the circumstances of a meter in  
4 and of itself leaking, if it's located outside of a  
5 building, I would have a hard time envisioning how that  
6 would migrate into a home unless you have possibly an open  
7 window or air intake or something right next to the meter.

8 Q. All right. But it could go through an open  
9 window, couldn't it?

10 A. It's possible.

11 Q. And could it also go through the cracks in  
12 the brick?

13 A. I think that that would be extremely  
14 unlikely.

15 Q. What about through siding?

16 A. Again, I think that would be very unlikely.

17 Q. But both of those are possibilities, aren't  
18 they?

19 A. Remote.

20 Q. Would you agree that a meter reader  
21 performing an annual inspection might pick up such leaks?

22 A. I don't believe meter readers perform  
23 annual inspections.

24 Q. Well, the annual meter readings that  
25 were -- I'm sorry -- the annual meter read that was being

1 performed prior to this tariff revision, do you agree that  
2 in carrying their leak detector and also using their nose,  
3 that the meter readers could pick up such leaks?

4 A. I believe, you know, that significant leaks  
5 on meters could be picked up while a meter reader -- this  
6 is could be picked up while a meter reader is doing any  
7 kind of meter reading.

8 MS. SCHRODER: All right. Thank you. No  
9 further questions.

10 JUDGE DIPPELL: Okay. Is there any  
11 redirect?

12 MR. ZUCKER: Very, very quickly, your  
13 Honor.

14 REDIRECT EXAMINATION BY MR. ZUCKER:

15 Q. If there is a leak at a meter and nearby  
16 there's an open window, will the gas gather in the house?

17 A. I think that's a pretty remote possibility,  
18 but I mean, there's a possibility that you can get gas  
19 inside the house.

20 Q. But will it dissipate into the air?

21 A. More than likely it will dissipate to the  
22 extent that you won't have any accumulation anywhere.  
23 I've heard of people getting -- calling in odor complaints  
24 from smelling it inside, but that is very low  
25 concentrations.

1                   MR. ZUCKER: Okay. Thank you.

2                   JUDGE DIPPELL: All right. I believe  
3 that's all of the questions for you, then. You may be  
4 excused.

5                   And I misjudged your abilities to ask  
6 questions quickly. But I know Commissioner Gaw has some  
7 questions for Staff, so I am going to make you come back  
8 on Thursday.

9                   MR. ZUCKER: And you're addressing the  
10 attorneys and Staff, I assume?

11                  JUDGE DIPPELL: Yes.

12                  MR. ZUCKER: I don't need to bring any of  
13 my witnesses back.

14                  JUDGE DIPPELL: No. I believe all the  
15 other witnesses have been excused and they need not  
16 return, except Mr. Leonberger, and from my understanding  
17 of what Commissioner Gaw was saying, he may have some  
18 questions related to rates. And I know that  
19 Mr. Leonberger has testified that he really doesn't know a  
20 lot about that, so I'll just advise Staff counsel they may  
21 want to sort of have a Commission witness waiting in the  
22 wings that the Commissioner might be able to ask questions  
23 about that. Just warning. Just think about it.

24                  And as far as the other items, we did mark  
25 an Exhibit 17 and Exhibit 20 and neither of those have

1   been admitted. That's -- I assume everybody's aware of  
2   that. And I marked for a late-filed exhibit or it may not  
3   be late-filed now for Laclede to submit a list of the  
4   resolution hearings it attended and/or was invited to.

5                   And I think that's all of the exhibits  
6   issues that still are outstanding. I ordered this  
7   transcript to be done on a three-day turnaround. Do you  
8   want to do closing arguments in lieu of Briefs on Thursday  
9   or do you feel a need to brief this further?

10                  MR. SCHWARZ: I would rather do closing  
11   arguments on Thursday, particularly if you want this  
12   briefed any time in the next month.

13                  JUDGE DIPPELL: Ms. Schroder, how do you  
14   feel about it?

15                  MS. SCHRODER: I normally would lean  
16   towards closing arguments, and I'm sorry, Tim, this was --  
17   we had already discussed this and thought this was such a  
18   case that it probably needed a Brief. That would be my --  
19   but I'll do closing arguments.

20                  JUDGE DIPPELL: The Union has more of an  
21   interest in this being wrapped up quickly, so what kind of  
22   a time frame for Briefs would you be looking at?

23                  MS. SCHRODER: I think if we're talking  
24   about getting the transcript by, what, early next week,  
25   then?



1 JUDGE DIPPELL: Yes.

2 MS. SCHRODER: Two weeks, I think we can  
3 get our brief submitted in two weeks.

4 JUDGE DIPPELL: I'll let Mr. Schwarz think  
5 about that until Thursday morning and we'll set a time.

6 MR. SCHWARZ: Are you looking for  
7 simultaneous Briefs?

8 JUDGE DIPPELL: Yes, I am just looking for  
9 one round of --

10 MR. SCHWARZ: I'll tell you, I'm taking  
11 annual leave a week from tomorrow that's been long  
12 planned. I have tickets to the ballgame. The following  
13 week -- well, the day after that, I'm taking my son for  
14 pre-op surgical investigations and he's going into surgery  
15 on Wednesday the 7th. I have a brief due in the Missouri  
16 Supreme Court, which my opponent's brief arrived this  
17 morning, that's due the 12th of June. I suspect I can get  
18 that extended some.

19 I also have a brief due in the Western  
20 District Court of Appeals on June the 22nd. Now, you  
21 know, there are 14 lawyers up there and I can get some  
22 help on those Briefs, but it's substantial, and --

23 JUDGE DIPPELL: Okay. We'll discuss -- we  
24 don't have to decide that tonight. Let's get everybody  
25 out of here for tonight and on the road, and we'll

1 discuss, but it sounds like we won't -- I just wanted to  
2 give you some warning if you wanted to do closing  
3 arguments.

4                   So, Ms. Schroder, you still want to do  
5 Briefs, maybe just later?

6                   MS. SCHRODER: I would be fine with pushing  
7 them off to later. I do think that probably a Brief.

8                   MR. ZUCKER: And we'll okay with Briefs  
9 later also.

10                  JUDGE DIPPELL: I'm not sure how the  
11 Commission feels about it, but for now, let's make that  
12 our plan and let's call it a night and come back at 8:30  
13 on Thursday morning. Thank you. Off the record.

14                  WHEREUPON, the hearing of this case was  
15 concluded.

16

17

18

19

20

21

22

23

24

25

I N D E X

UNION'S EVIDENCE:

JOE SCHULTE

Questions by Judge Dippell	288
Direct Examination (Resumed) by Ms. Schroder	303
Cross-Examination by Mr. Schwarz	305
Cross-Examination by Mr. Elbert	310
Questions by Judge Dippell	383
Recross-Examination by Mr. Elbert	385
Redirect Examination by Ms. Schroder	386

STAFF'S EVIDENCE:

ROBERT LEONBERGER

Direct Examination by Mr. Schwarz	415
Cross-Examination by Mr. Zucker	417
Cross-Examination by Mr. Poston	423
Cross-Examination by Ms. Schroder	429
Questions by Judge Dippell	488
Recross-Examination by Ms. Schroder	497
Redirect Examination by Mr. Schwarz	498

LACLEDE GAS COMPANY'S EVIDENCE:

THOMAS REITZ

Direct Examination by Mr. Zucker	507
Cross-Examination by Mr. Schwarz	509
Cross-Examination by Mr. Poston	512
Cross-Examination by Ms. Schroder	516
Questions by Judge Dippell	546
Redirect Examination by Mr. Zucker	551
Recross-Examination by Ms. Schroder	564
Questions by Commissioner Gaw	569

MARK LAUBER

Direct Examination by Mr. Zucker	573
Cross-Examination by Mr. Schwarz	579
Cross-Examination by Ms. Schroder	581
Redirect Examination by Mr. Zucker	586

	EXHIBITS INDEX	MARKED	RECEIVED
1			
2			
3	EXHIBIT NO. 4 Affidavit of Joseph Schulte	21	304
4	EXHIBIT NO. 5 Supplemental Affidavit of Joseph		
5	Schulte	21	302
6	EXHIBIT NO. 6 Second Supplemental Affidavit of		
7	Joseph Schulte	21	302
8	EXHIBIT NO. 8 Testimony of Walter Reitz, Joseph		
9	Williams, Mike Sisak and Stephen Ferris	21	287
10	EXHIBIT NO. 10 Summary of Census Data and Supporting		
11	Documents	21	469
12	EXHIBIT NO. 11 Direct Testimony of Robert R.		
13	Leonberger	21	416
14	EXHIBIT NO. 12 Tariff Sheets	21	494
15			
16	EXHIBIT NO. 13 Direct Testimony of Thomas A. Reitz	21	509
17	EXHIBIT NO. 14 USW Local 11-6's Response to Laclede		
18	Gas Company's First Set of DRs	21	336
19	EXHIBIT NO. 15 USW Local 11-6's Response to Laclede		
20	Gas Company's Second Set of DRs	21	336
21	EXHIBIT NO. 16 May 19, 2006 Letter to Sherrie Schroder		
22	from Charles Elbert, with Attachments	21	378
23	EXHIBIT NO. 18 PACE International Union Complaint or		
24	Grievance Report	21	326
25			

1	EXHIBIT NO. 19		
2	PACE International Union Complaint or		
	Grievance Report	21	380
3	EXHIBIT NO. 21		
4	Meter Reading Manual	212	212
5	EXHIBIT NO. 22		
6	Excerpts from Deposition of Kevin		
	Stewart	415	507
7	EXHIBIT NO. 23		
8	12/13/05 Letter to Jeff Davis from		
	St. Louis County Council	301	302
9	EXHIBIT NO. 24		
10	List of Hearings Attended by Laclede	*	
11	EXHIBIT NO. 25		
	Staff Recommendation	549	492
12	*Late-filed exhibit		
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			