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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing
April 26, 2016
Jefferson City, Missouri
Volume I

In The Matter Of The)
Application Of Laclede) File No. GO-2106-0196
Gas Company To Change)
Its Infrastructure System)
Replacement Surcharge In Its)
Laclede Gas Service Territory)

In The Matter Of The)
Application of Laclede)
Gas Company To Change Its)
Infrastructure System)
Replacement Surcharge In Its) File No. GO-2016-0197
Missouri Gas Energy Service)
Territory)

KIM S. BURTON, Presiding
REGULATORY LAW JUDGE

DANIEL Y. HALL, Chairman

WILLIAM P. KENNEY
COMMISSIONERS

Reported By:
Rebecca A. Brewer, CCR No. 478

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A P P E A R A N C E S

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1 (Laclede Exhibit 1, Laclede Exhibit 2,
2 Laclede Exhibit 3, Laclede Exhibit 4, Staff Exhibit
3 5, Staff Exhibit 6, Staff Exhibit 7, Staff Exhibit
4 8, Staff Exhibit 9, OPC Exhibit 10, OPC Exhibit 11
5 were all marked.)

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

7 JUDGE BURTON: All right. Let's go ahead
8 and go on the record. Today is April 26th,
9 2016. The time is approximately 9:06 a.m. We
10 are in Hearing Room 310 at the Public Service
11 Commission's office in Jefferson City, Missouri.
12 The Commission has set this time for an
13 evidentiary hearing in two cases. And they are
14 In the Matter of the Application of Laclede Gas
15 Company to Change Its Infrastructure System with
16 Replacement Surcharge in Its Laclede Gas Service
17 Territory, File No. GO-2016-0196. And In the
18 Matter of the Application of Laclede Gas Company
19 to Change Its Infrastructure System Replacement
20 Surcharge in Its Missouri Gas Energy Service
21 Territory, the File No. GO-2016-0197. At this
22 time, I will ask the parties to enter their
23 appearance for the record and we'll begin with
24 Laclede Gas Company.

25 MR. ZUCKER: Thank you, Your Honor. Rick

1 Zucker here on behalf of Laclede Gas Company and
2 Missouri Gas Energy, 700 Market Street, St.
3 Louis, Missouri, 63101.

4 JUDGE BURTON: Thank you. On behalf of
5 the Staff of the Missouri Public Service
6 Commission?

7 MR. KEEVIL: Appearing on behalf of the
8 Staff, Jeffrey A. Keevil, PO Box 360, Jefferson
9 City, Missouri, 65202.

10 JUDGE BURTON: Thank you. On behalf of
11 the Office of Public Counsel?

12 MR. POSTON: Thank you. Marc Poston
13 appearing for the Office of Public Counsel and
14 the public.

15 JUDGE BURTON: I would remind all of those
16 who are observing here to please turn off your
17 cell phones or at least put them on silent or any
18 of your electronic devices. And at this time I
19 believe we have a motion to strike portions of
20 rebuttal testimony of OPC witness Charles
21 Hyneman. And that was filed by counsel for
22 Laclede/MGE on April 26th, 2016. We haven't
23 had an opportunity for response from the Office
24 of Public Counsel, but at this time, I'll allow
25 the parties to present oral arguments on behalf

1 of the motions and opposing. And we'll go ahead
2 and begin. I believe that we have Laclede's
3 motion in the written form. Would the Office of
4 Public Counsel like to respond?

5 MR. POSTON: Yes. I don't think there
6 should really be any question that Mr. Hyneman's
7 rebuttal testimony is responsive to the
8 testimonies of all three of the witnesses that
9 filed direct testimony other than him, two Staff
10 witnesses, and Mr. Buck. All three witnesses
11 attached the Staff recommendation to their -- to
12 their testimonies. And in that -- in the Staff
13 recommendations, they showed differing levels of
14 expenses from the different ISRSs that had been
15 approved since the last rate case. We think it
16 shows a trend and a concerning trend in regards
17 to the ability of the Staff and OPC to do audits
18 with more and more costs going into each -- each
19 ISRS petition. So that's what his testimony
20 responds to.

21 Staff's witness also talks about saying
22 that the time to review the petitions is
23 sufficient. And, again, that's all what his
24 testimony speaks to. It speaks directly to
25 those -- those things. And so I think what

1 Laclede's really arguing about is they think we
2 should have raised these arguments in our direct
3 testimony. But the standard for rebuttal is its
4 response to something that was raised in direct
5 and that's exactly what he's done.

6 JUDGE BURTON: Mr. Zucker, would you care
7 to respond?

8 MR. ZUCKER: Yes, I could not agree less.
9 He says that it's responsive to all the
10 witnesses. The testimony itself said he was just
11 responding to Mr. Buck. He says that he's
12 responding to the Staff recommendation. That
13 recommendation was available two weeks before the
14 rebuttal was -- was -- well, it was ten days
15 before -- no, that's not true. It was 17 days
16 before direct and 21 days before rebuttal. And
17 so anything that Mr. Hyneman had to say in his
18 rebuttal testimony should have been said in the
19 direct. In essence, Mr. Buck didn't really say
20 anything in his direct other than he supports the
21 application and the -- and the Staff
22 recommendation. And Mr. Hyneman's rebuttal is
23 not responsive to that at all. He basically
24 responds to his own testimony. So, really, what
25 he filed was supplemental direct, which is -- was

1 not provided for in this case.

2 MR. POSTON: If Mr. Buck didn't want us to
3 respond to Staff recommendation, he should not
4 have attached it to his testimony. And when he
5 did that, he's turning it from a Staff filing
6 into evidence in the case. And so we should be
7 able to respond to that.

8 JUDGE BURTON: Mr. Poston, I have some
9 concerns that material that was presented as
10 attachments to Mr. Buck's exhibit -- or excuse
11 me, testimony, was information that was provided
12 to OPC prior to its filing of its direct
13 testimony. It was something that is usually
14 given an opportunity for OPC to respond to prior
15 to the testimony and it seems as if the arguments
16 that OPC is making as far as what is provided in
17 the rebuttal testimony of Mr. Hyneman were
18 essentially the same arguments but additional
19 evidence that was beyond the scope of what was
20 presented in Mr. Buck's direct testimony. If you
21 look at Mr. Buck's direct testimony, it was only
22 essentially four pages. Three, I believe, if you
23 include just simply the actual testimony and not
24 the caption page. And I believe only one that
25 doesn't include his background, his history of

1 employment and education.

2 MR. POSTON: Well, he did attach the Staff
3 recommendation to his testimony.

4 JUDGE BURTON: But doesn't Mr. Hyneman
5 also address that Staff recommendation in his
6 direct?

7 MR. POSTON: It had not become evidence.
8 It had not become something that was attached to
9 somebody's testimony. It was just the Staff
10 filing and --

11 JUDGE BURTON: What happened after that
12 filing of Buck's testimony, of his direct, that
13 was new and enlightening to Mr. Hyneman to
14 present that testimony that wasn't provided to
15 him before he filed his direct testimony?

16 MR. POSTON: Well, I don't think that's
17 the standard for rebuttal testimony. The
18 standard for rebuttal testimony is something
19 that's responsive to testimony -- to direct
20 testimony. And his testimony -- you can directly
21 point to where in Mr. Buck's testimony, the
22 attachment he added, that is responsive. And you
23 can also look at the Staff's testimony. Although
24 he doesn't say in his testimony that's what it's
25 responsive to. It is also responsive to Staff

1 where the Staff talks about the audit time being
2 sufficient. I mean, this direct testimony --
3 basically Mr. Buck's direct testimony is approve
4 this petition. Approve all of these costs that
5 we've added in this petition. Approve it. And
6 so that's what we're responding to. I mean, I
7 think there's a very wide range of things that we
8 could respond to regarding that. Anything
9 associated with that petition I think we can
10 respond to in rebuttal testimony.

11 MR. ZUCKER: If I may, I think Mr. Poston
12 brings up an important point, because approve our
13 petition is what we filed back on February 1st
14 and the ISRS statute provides for the Staff, not
15 OPC, but the Staff, to do a recommendation -- to
16 present their recommendation within 60 days
17 thereafter.

18 Now, in all fairness, if OPC's going to
19 participate in the case, they should have also met
20 the 60-day deadline. Not wait ten days after the
21 60-day deadline to ask for a hearing at that point.
22 And then file direct testimony on -- on an issue
23 that was decided four months ago. And then file
24 rebuttal that wasn't responsive to anything in the
25 direct but was responsive to what we filed

1 February 1st. So, I think that that's -- that
2 it's the worst form of sandbagging and certainly
3 not -- not appropriate.

4 JUDGE BURTON: Mr. Zucker, what specific
5 portions of the rebuttal testimony is Laclede/MGE
6 requesting be stricken from the record?

7 MR. ZUCKER: Well, going through the
8 questions and they basically cover, oh, maybe
9 three categories, he's talking about an increase
10 in ISRS's costs, the fact that 60 days is not
11 enough to audit, which is what he said in his
12 direct. And he compares Laclede work orders to
13 MGE work orders, which isn't -- doesn't respond
14 to anything either. So, we would ask to strike
15 all those questions. And that begins with the
16 question on Page 1, Line 14, and goes all the way
17 through Page 9, Line 10.

18 MR. POSTON: Judge, if I might?

19 JUDGE BURTON: Yes.

20 MR. POSTON: I think it would set a very
21 dangerous precedent if we can't respond to
22 rebuttal testimony to attachments that are added
23 to direct testimony. This is important evidence
24 that the consumers, the million consumers that
25 are being asked to pay for this ISRS surcharge,

1 are trying to bring to The Commission. We want
2 you to see this evidence. It is responsive.
3 It's -- we've tied it directly to the testimony,
4 the attachment.

5 JUDGE BURTON: How is the comparison of
6 the work orders from Laclede and MGE and
7 increasing costs connected to the direct
8 testimony?

9 MR. POSTON: I'm sorry, say that again?

10 JUDGE BURTON: How is Mr. Hyneman's
11 testimony about the averages for the ISRS costs
12 per day over the years and comparison of those
13 with MGE and the work orders tied to the direct
14 testimony of Laclede's witness?

15 MR. POSTON: I think it's -- I mean, both
16 of these parties are putting forth that this
17 petition, and Staff states it directly in their
18 case, is giving them -- 60 days is giving them
19 enough time. Staff says that directly. And
20 perhaps, you know, we need to -- I mean, I think
21 the testimony is responsive to both Staff and
22 Mr. Buck. And that's what Staff is saying. This
23 60 days is sufficient audit time and that's
24 exactly what his testimony is getting at; that
25 it's not sufficient time. And, you know,

1 Laclede's got an opportunity here today if
2 there's anything in this testimony that they
3 disagree with, Mr. Hyneman will be here on the
4 stand, he can answer any questions that they
5 have. If they think there's anything in this
6 evidence that's false, there's not. I mean, I
7 don't see how this can be excluded. There's
8 nothing wrong with any of this evidence and he
9 can question him on it.

10 MR. ZUCKER: I think the danger, Your
11 Honor, here, is allowing this evidence to come
12 in, because it really does contravene the
13 purposes of direct and rebuttal and what should
14 be filed when.

15 MR. POSTON: Judge, one more thing. You
16 know, in the Missouri American case, you know the
17 chairman talked about transparency, and if you
18 tell us that this testimony cannot come in, I
19 don't know how that's being transparent. This is
20 important data that goes directly to these
21 petitions and surcharges that customers pay. So
22 I think it would be very not transparent to
23 exclude this evidence.

24 JUDGE BURTON: My concern is that OPC is
25 not being transparent in its actions when it had

1 this information, it had Staff's recommendation,
2 it had the material before it filed direct
3 testimony. This rebuttal testimony was filed the
4 Thursday before the hearing when there was no
5 opportunity for surrebuttal testimony. That, to
6 me, does concern me with the issue of
7 transparency and evidence in a evidentiary
8 hearing setting that we have. But for right now,
9 we are going to take this under advisement with
10 the case and we will rule on this motion later.

11 MR. POSTON: If I could be allowed to
12 follow a written motion in response to that
13 motion.

14 JUDGE BURTON: That would be fine. How
15 about -- we'll see how it goes as far as how long
16 the testimony lasts today, but we'll set a
17 deadline at the end for any response.

18 MR. ZUCKER: Did you say you're going to
19 file a motion or written pleading in response?

20 MR. POSTON: I'm sorry, a response.

21 JUDGE BURTON: At this time, I believe we
22 are ready for the opening statements.

23 MR. KEEVIL: Judge, one other housekeeping
24 matter, if I could, I mentioned while we were
25 pre-marking the exhibits, Mr. David Sommerer

1 filed direct testimony on behalf of Staff of rate
2 design and just calculations of the rates. It
3 has nothing to do with the issue that's listed in
4 the issue list because of the way the schedule
5 was. We didn't have the list of issues at the
6 time we filed direct. So we felt like we had to
7 file testimony on everything. The issue as
8 listed is may Laclede and MGE's ISRS filings be
9 updated during the ISRS case to replace two
10 months of budgeted ISRS investments with updated
11 actual ISRS investments. And, like I said,
12 Mr. Sommerer's testimony simply goes into the
13 rate design and computation of the rates
14 themselves.

15 If the commissioners have any questions
16 for him, he will be available for some questions,
17 but otherwise I would just request that his prefiled
18 testimony be received into the record without the
19 need for him taking the stand and those have been
20 premarked Exhibit No. 6 and Exhibit No. 8, I
21 believe.

22 JUDGE BURTON: I don't believe that at
23 this time the commissioners have any interest in
24 hearing his additional testimony here on the
25 stand. However, I would say let's wait to

1 actually address that issue whenever Staff
2 presents its case in chief. But for right now,
3 if you need to provide notice to Mr. Sommerer, I
4 would assume he's safe from our grasp.

5 MR. KEEVIL: Thank you.

6 JUDGE BURTON: That being said, I believe
7 the order of opening statements is that we will
8 hear from Mr. Zucker first.

9 MR. ZUCKER: Thank you, Your Honor. May
10 it please The Commission. Since we are here on
11 the same issue you decided in November of 2015, I
12 decided to bring my opening statement with me
13 that I used then. And as I read through it, I'm
14 pleased to say that it has stood the test of time
15 for it is just as relevant today as it was six
16 months ago. What it says is is that we asked The
17 Commission to allow us to continue the ISRS
18 update process, a process borne out of an
19 agreement between Staff and Laclede, a process
20 that is not mandatory but arises out of the
21 cooperation of the utility and the Staff. And a
22 process that has run smoothly for at least six
23 years. And, finally, a process that is in no way
24 prohibited or proscribed by the ISRS statute or
25 rules.

1 Now, The Commission's decision that they
2 made last November is that this update process could
3 go forward as long as the Staff agrees and has
4 adequate time to -- to audit the updated
5 information. Staff has testified in this case and
6 in their -- in their recommendations that they did
7 have adequate time to handle the updates and, in
8 fact, we got them the updates as -- earlier, I
9 think, than we ever had before leaving them more
10 time to audit the information. What OPC says in
11 this case, through their witness, is that the
12 updating audit can't be done, it's just not possible
13 to update two months of information during the
14 60-day recommendation period. What belies that
15 argument is that it has been done and it has been
16 done repeatedly and it has been done by a number of
17 Staff auditors and those Staff auditors include
18 OPC's witness himself. So let me repeat that. The
19 auditor who says it can't be done has done it and
20 he's done it twice.

21 There is nothing new of substance raised
22 in this case compared to the last case. Let me give
23 you an example of one of the arguments made is that
24 the new plant is not in service and used and useful.
25 Well, the simple fact is that when we filed this

1 petition on February 1, all of the January plant was
2 already used and useful. Four weeks later all of
3 the February plant was used and useful and that
4 information was given to Staff and OPC on
5 March 9th. And by the time that the rates go into
6 effect from this case, sometime in late May, all of
7 the equipment from January and February will have
8 been in use for at least two and a half months. So,
9 the used and useful argument is not meaningful.

10 Another argument that OPC makes is that
11 true-ups are only used in rate cases. And that's
12 where OPC starts with their argument and then
13 convinced of that flawed logic they then say that
14 since this is an ISRS case and not a rate case,
15 therefore there cannot be a true-up process. This
16 is obviously a flawed argument and should not change
17 this commission's position in any way. And so in
18 the end, we ask that The Commission approve the
19 update process just like it did in November. Thank
20 you.

21 CHAIRMAN HALL: Good morning. I'm looking
22 at 393.1015, which sets forth what -- what the
23 utility must file in its application. And it
24 says supporting documentation. And I want to
25 make sure I understand the company's position.

1 In your -- in your view, supporting documentation
2 includes both -- both actual numbers and budgeted
3 numbers?

4 MR. ZUCKER: Correct.

5 CHAIRMAN HALL: That there's nothing in
6 the statute mandating actual numbers in the
7 initial filing.

8 MR. ZUCKER: It says that the -- the Staff
9 will look at the company's information. It
10 doesn't restrict that information to exactly what
11 was available at the time the petition was filed.

12 CHAIRMAN HALL: Okay. So, in our report
13 and order, in the prior case, on Page 18, and you
14 alluded to this -- this concept a moment ago.
15 The Commission wrote, So long as Staff has
16 sufficient time to perform an effective review of
17 ISRS eligibility within 60 days allowed with the
18 ISRS statute, the budgeted July and August
19 documents along with the actual expenses --
20 expense records provided after the filing of the
21 petitions are acceptable. We don't provide in
22 this order what our statutory basis is for that
23 assertion. I think I have a sense myself but I'm
24 wondering what the company's position is as to --
25 I'm going to ask Staff and, well, I think I know

1 what OPC will say. Staff and the company's --
2 Staff's position as well. But what is the
3 company's position as to what the statutory basis
4 is for that assertion?

5 MR. ZUCKER: The statute that authorizes
6 rate cases does not address anywhere the true-up
7 or update process. So it's not something that
8 needs to be addressed to do. It's a convention
9 that is an option for when there's adequate time
10 to do it.

11 CHAIRMAN HALL: So you are in essence
12 saying it's some kind of inherent authority of
13 The Commission?

14 MR. ZUCKER: It is at The Commission's
15 discretion to do this. Just like it is in a rate
16 case. And the Staff has said that they have had
17 adequate time and I think that is a good standard
18 for The Commission to use.

19 CHAIRMAN HALL: But where does that
20 adequate time -- what is the statutory basis for
21 that adequate time standard?

22 MR. ZUCKER: I think the adequate time is
23 part of the convention. In other words, what the
24 statute says is we want to encourage safety work
25 by giving utilities more contemporaneous recovery

1 of that. And so updating the plant during the --
2 during the petition is consistent with that. The
3 statute itself does not directly address the
4 updating process. But, as I said, neither does
5 the rate case statute and nor does it proscribe
6 the updating process. And since that is
7 something that we do as a matter of course in
8 rate cases, we do it in PGA cases where we have
9 estimated costs that are trued up later. And
10 there's no reason that we should not do that here
11 in an ISRS case.

12 CHAIRMAN HALL: Okay. Thank you.

13 JUDGE BURTON: Thank you. Mr. Keevil?

14 MR. KEEVIL: Thank you, Judge. May it
15 please The Commission. Several years ago and
16 several commissions ago, I began an opening
17 statement with lyrics from an old Emerson, Lake,
18 and Palmer rock song. Sadly, none of the
19 commissioners at that time seemed to be familiar
20 with the work of Emerson, Lake, and Palmer. Or
21 if they were, they weren't going to admit it. I
22 thought with a new generation of commissioners, I
23 thought I'd try it again, maybe get a difference
24 response this time. The lyrics was: Welcome
25 back my friends to the show that never ends. How

1 does that apply here? As Mr. Zucker mentioned,
2 you decided the only issue in this case less than
3 six months ago in the last Laclede MGE ISRS
4 cases. Public counsel appealed and which I
5 believe is still pending on appeal to Western
6 District. That was exactly the same issue and
7 exactly the same parties with the same party
8 objecting to the update process, exactly the same
9 applicable statutes, exactly the same applicable
10 commission rules. The only thing, really, that
11 has changed is public counsel's witness, I
12 believe, last case was Ms. Jackie Moore. Now
13 it's Mr. Hyneman. In fact, you can see that
14 these -- that this is the very same issue by
15 comparing public counsel's position statement in
16 this case with the public counsel brief in the
17 last case.

18 If you look at their position statement,
19 No. 1, they refer to the proposed ISRS rate
20 increase violates the statute because petitions
21 do not include the required documentation. This
22 is the brief from the last case and you'll see
23 right there in the middle there, if I can figure
24 out how it make this work -- there it is. The
25 proposed ISRS violates the statute because the

1 documents -- the petitions didn't contain the
2 required documentation. Same thing with
3 Exhibit -- or Issue 2; proposed ISRS violates the
4 statute because costs not -- the plant was not in
5 service. This was in their brief the last case.
6 Again, I keep doing that. Right in there on the
7 top of the page; what parts of the project are
8 completed used and useful. They're claiming the
9 last case wasn't used and useful.

10 If you look at the next one, the argument
11 in their position statement; violates the
12 statutes because did not include net original
13 cost. Brief from the last case, right there; do
14 not include net original costs. Their fourth
15 point; violates the statute because the period is
16 reduced to less than 60 days. Page 14 of their
17 brief, in the last case, proposed ISRS violates
18 because the statutory review period is limited.
19 Right there. And also if -- regarding this issue
20 that popped up in Mr. Hyneman's rebuttal about
21 the increasing cost trend of Laclede/MGE's ISRS
22 filings, bingo, there it is in the last brief,
23 too. Increasing cost trends. Over on the next
24 page, too. So it's the same -- it's the same
25 issue right down the line. They're just

1 rehashing what you decided six months ago and you
2 should reach the same decision you did --
3 actually, less than six months ago, on
4 November 12th, 2015.

5 Now, I would like to mention something
6 that I don't believe will be an issue, given that
7 we've had to have a hearing now in this case and
8 will obviously take you a little time to reach a
9 decision. But the statute, Section 393.1015.3,
10 provides that a gas corporation may effectuate a
11 change in its rate pursuant to provisions of this
12 section no more often than two times every 12
13 months. I believe you quoted that in your last
14 order in the -- in the footnote in the last ISRS
15 order. Based on the company's previous ISRS history
16 and statute, Staff is recommending that any tariffs
17 resulting from this case not go into effect earlier
18 than May 23rd, but, again, because of the delay
19 caused by the hearing and the objection of OPC, that
20 shouldn't be a problem.

21 Now, Staff will be presenting three
22 witnesses today; Brian Wells for the 0196 case,
23 Jennifer Grisham for the 0197 case, and Mark
24 Oligschlaeger for both cases. And Staff also
25 prefilled testimony by David Sommerer, but his

1 testimony concerned ISRS rate design and
2 calculation of the rate, which is not an issue.
3 Therefore we ask, again, that his testimony be
4 received into the record without the necessity of
5 Mr. Sommerer taking the stand unless any
6 commissioners have questions. If so, he will be
7 available. With that, I will close. And thank
8 you.

9 CHAIRMAN HALL: Good morning. I'm going
10 to ask you a couple of the same questions that I
11 asked counsel for the company. And that is is
12 the key statutory provision that this commission
13 must interpret, 393-1015.1, Sub 1, where the term
14 "supporting documentation" is used, do you agree
15 that that's the fundamental statutory provision
16 that we need to interpret to make this
17 determination?

18 MR. KEEVIL: Well, I think 393.1015, I
19 don't remember the subsection, sorry, but 1015 is
20 certainly key. I do say or would say, however,
21 similar to what Mr. Zucker said, there's nothing
22 in that statute that talks about true-ups or
23 updates. That's fairly clear. But there's also
24 nothing in the general commission rate making
25 statutes that talk about true-ups or updates in

1 general rate case proceedings. I believe, and I
2 could be wrong on this, but I think there had
3 been decisions upholding The Commission's
4 authority to do true-ups and updates in general
5 rate cases and to the extent that those are not
6 precluded by the statute, the ISRS statute that
7 you referenced, I see no reason that the same
8 analysis that upheld true-ups and updates in rate
9 cases would not also apply here. Especially when
10 you have an obvious intent -- I believe The
11 Commission even referenced this in the last
12 Laclede ISRS order, that the intent of that ISRS
13 statute was to allow for more time in recovery of
14 the eligible plant and I think the true-up update
15 process certainly furthers that intent.

16 CHAIRMAN HALL: Yeah, I understand the
17 policy issues. I'm trying to go back to the
18 words in the statute and the statute requires the
19 company to supply supporting documentation. And
20 my -- what I'm trying to figure out is if that
21 said supporting documentation concerning actual
22 numbers --

23 MR. KEEVIL: Right.

24 CHAIRMAN HALL: It doesn't?

25 MR. KEEVIL: It doesn't, right.

1 CHAIRMAN HALL: It also doesn't say
2 supporting documentation including estimates. So
3 from my perspective and consistent with our
4 ruling the last time this show was here, is that
5 it's unclear whether -- whether it includes --
6 whether it allows estimates or not. And
7 therefore we need to look -- look elsewhere to
8 determine what's appropriate. And to me, looking
9 at Section 2 and Section 4, that requires The
10 Commission to grant the ISRS if a certain showing
11 is made by the company, that what -- what The
12 Commission needs to do is determine whether or
13 not that showing was made and when Staff comes to
14 The Commission and says, We've had sufficient
15 time to review the filings and we believe that
16 the eligibility criteria has been met, that
17 that's evidence for us to consider.

18 MR. KEEVIL: I would agree with that.

19 CHAIRMAN HALL: Whereas if the Staff says,
20 we have not had sufficient time to review for
21 eligibility, that is something for us to consider
22 when determining whether or not the statute has
23 been complied with.

24 MR. KEEVIL: I would agree with that as
25 well.

1 CHAIRMAN HALL: Okay. Thank you.

2 JUDGE BURTON: Thank you, Mr. Keevil.

3 Mr. Poston?

4 MR. POSTON: May it please The Commission.
5 My name's Marc Poston. Here on behalf of the
6 Office of Public Counsel and the public. In this
7 case, the public is the more than one million gas
8 service customers of Laclede and MGE. We're not
9 here today to make the exact same arguments that
10 we made in the last case. We're not here to
11 present the same evidence as we did in the last
12 case and then expect a different outcome. You'll
13 see different evidence today. Evidence showing
14 how unreasonable and contrary to the public
15 interest it is to have Laclede's true-up -- have
16 Laclede true up its ISRS petition in the middle
17 of an audit -- and I say in the middle because in
18 this case we received the millions of dollars in
19 additional plant expenses 37 days into the 60-day
20 audit period. Evidence being presented today
21 will show that Staff's review is not consistent
22 with the public interest because it does not ask
23 the tough questions that need to be asked in the
24 single issue rate making surcharge such as this.
25 The evidence will also show one important

1 difference between this case and the last one. And
2 that is the lack of review that ISRS costs get
3 during the subsequent rate case. That was an
4 important aspect of The Commission's ordering in the
5 last rate case, we believe. And the Staff -- we
6 believe, as well as The Commission did, that the
7 Staff actually reviews ISRS's costs for prudence in
8 the rate case. Well, they don't.

9 Evidence will show a company that has
10 significantly increased its ISRS expenditures, which
11 is the strategy for growing rate base and cannot be
12 tied to any new safety requirements. It started
13 with Laclede and began with MGE soon after being
14 acquired by Laclede. By significantly increasing
15 the ISRS cost, it claims by updating those costs
16 more than a month into the audit, and filing each
17 company's petitions on the same day, Laclede has
18 made it almost impossible for the Staff and OPC to
19 do a thorough audit of the petitions.

20 Mr. Hyneman is our witness. He's been
21 involved in ISRS reviews as a Staff auditor since
22 the ISRS began. He's a CPA, has audited dozens of
23 rate cases and other cases, including ISRS cases,
24 for The Commission. And I passed around a handout
25 from my opening that I'd like you to refer to. The

1 first page includes select sections of the ISRS
2 statute. And for this opening I'd like to focus on
3 the middle section. On that page. On the first
4 page, which is Section 393-1015.1, Subsection 1,
5 which the chairman referenced. And this mandates
6 supporting documentation to be filed with the
7 petition and served on OPC.

8 And this is where you're going to see a
9 slightly expanded legal argument from us. If you
10 turn to the second page, I've included several
11 sections of The Commission's ISRS rules and this is
12 where I believe I didn't do a good enough job in the
13 first case of arguing this rule to you, because when
14 I looked at the order it barely even references this
15 rule. In the top Subsection 20, it includes the
16 detail of what supporting documentation is required.
17 And the evidence of this case will show that
18 Laclede's petitions in regards to the true-up months
19 of January and February did not include the net
20 original cost, the description of the project, the
21 location of the project, the statute rule and order
22 requiring the replacement, or the portions, the
23 complete and eligible, and those that are not
24 complete and eligible. These are all required by
25 the rule to be filed with petition. They were not.

1 In fact, none of that information has ever
2 been filed with The Commission. So for this January
3 and February costs, there is no evidence. There's
4 nothing been filed to satisfy those different
5 things; location, description, the net original
6 cost, all of those things. It's not -- has not been
7 filed with The Commission. So in our brief we're
8 going to provide you with a better legal analysis
9 than we provided in the last case. Where I believe
10 it was a good argument, it certainly wasn't
11 persuasive to this commission and I hope to fix that
12 with better evidence to support the analysis.

13 The last page of the handout is from The
14 Commission's final order of rule making that adopted
15 the ISRS rule. And this provides The Commission
16 with an understanding of the ISRS when it first
17 began. And I'd just like to walk through this a
18 little bit. And the first sentence The Commission
19 says that the purpose in developing the rules
20 implement the governing statutes in a manner that's
21 consistent with the statutes and provides timely
22 process of ISRS petitions, cost true-ups. I know
23 that's different than the true-ups we're talking
24 here. This is a reconciliation type true-up that's
25 addressed in the statute and prudence reviews. They

1 go on to say the rule does ask for a significant
2 amount of information. All of it is either directly
3 required for the ISRS petition review or for the
4 prudence reviews that are specifically authorized.
5 Then The Commission says the statutory time frames
6 for Staff and OPC analysis for the petition. So
7 here The Commission's clear that OPC is involved in
8 this and is to analyze these petitions. And then it
9 goes on to talk about -- it says the statute does
10 not permit sufficient time to allow for thorough
11 review of the petition. So then The Commission
12 walks through all the problems with the 60-day
13 review process. They say that is why it is
14 important that all this information has to be filed
15 with the petition, because there's just not enough
16 time to review it. And that's what The Commission
17 is saying here. And we ask you to find the same
18 finding that The Commission found in the final order
19 of rule making. And we thank you for being here
20 today to hear this case and our evidence.

21 Laclede is the one here today asking for a
22 rate increase and therefore they have the burden of
23 proof. At the end of the day we don't believe their
24 evidence will support the inclusion of the January
25 and February costs in this ISRS. Those costs should

1 be appropriately brought back in the next ISRS,
2 which we anticipate will be filed in only four
3 months. Thank you.

4 CHAIRMAN HALL: Good morning. Where in
5 the statute is The Commission -- in the ISRS
6 statute is The Commission authorized to do any
7 kind of prudence review?

8 MR. POSTON: Let's see. I'm looking and
9 I'm reading as fast as I can. I know it's in
10 here. Oh, here. If you look at 393-1015.8.

11 CHAIRMAN HALL: Sub 8 to me says that the
12 prudence review is in the rate case.

13 MR. POSTON: Right. I thought that's what
14 your question was. I'm sorry.

15 CHAIRMAN HALL: I'm sorry, I took some of
16 OPC's arguments in this proceeding to be that
17 the -- a true-up is contrary to the statute
18 because it doesn't allow for proper review,
19 included in that review is a prudence review.
20 Did I misunderstand OPC's position?

21 MR. POSTON: I mean, I guess that's part
22 of it because you're looking to make sure --
23 well, it's more of a review to make sure they're
24 consistent with the statute --

25 CHAIRMAN HALL: Eligibility.

1 MR. POSTON: -- eligibility. That's the
2 primary focus.

3 CHAIRMAN HALL: Isn't that the exclusive?

4 MR. POSTON: Certainly if you find
5 something that was imprudent.

6 CHAIRMAN HALL: Where in the statute are
7 we allowed to look at prudence in an ISRS
8 proceeding?

9 MR. POSTON: Yeah, I don't know just right
10 now if those words are used with the petition
11 proceeding. I think it more talks to just
12 ensuring that complies with this section.

13 CHAIRMAN HALL: Okay. That's my
14 understanding as well, so I guess we're on the
15 same page there. Looking at 393.1015.1 where
16 there's a requirement that supporting
17 documentation be filed with -- with the petition.
18 And my understanding of OPC's position there is
19 that supporting documentation does not include
20 estimated or budgeted expenses.

21 MR. POSTON: No. And I would encourage
22 you to ask Mr. Hyneman about that, from an
23 auditor's perspective what supporting
24 documentation does not include.

25 CHAIRMAN HALL: So the statute requires

1 supporting documentation, OPC's position is that
2 that means actual numbers. Is it not true that
3 when that -- when the company filed its petition
4 on February 1st that it did include some actual
5 numbers?

6 MR. POSTON: No. Not for the January and
7 February. For everything up through
8 December 31st, yes.

9 CHAIRMAN HALL: So it did file some actual
10 numbers in that initial February 1st filing?

11 MR. POSTON: Yeah, it included location.
12 They include all the stuff that they're required
13 to provide.

14 CHAIRMAN HALL: Isn't it statutory
15 compliance?

16 MR. POSTON: I'm sorry?

17 CHAIRMAN HALL: Because OPC's position is
18 that supporting documentation means actual
19 numbers and I think you said a moment ago that
20 there were some actual numbers in their
21 February 1st filing. So my question for you
22 is: Isn't there statutory compliance, then?

23 MR. POSTON: For the cost incurred through
24 December, yes. Not for January and February.

25 CHAIRMAN HALL: Where does it say that? I

1 mean, doesn't it say that in their filing they
2 must file -- in their application they must file
3 supporting documentation?

4 MR. POSTON: I don't think it says they
5 should file supporting documentation for only a
6 portion of the costs. I think what it's saying
7 is supporting documentation for all the costs
8 they want to include in the surcharge.

9 CHAIRMAN HALL: Or at least you believe
10 that's implicit?

11 MR. POSTON: I don't see how you could
12 read anything else into it. Doesn't say a
13 portion, a sampling. I mean, it's the supporting
14 documentation and The Commission's rule further
15 narrows what that supporting documentation is
16 required to be.

17 CHAIRMAN HALL: Moving to -- what do you
18 believe is the key section of the rules that you
19 cited?

20 MR. POSTON: Right at 265 and Subsection
21 20. It's in the handout that I provided to you.

22 CHAIRMAN HALL: Right. I'm looking at
23 that.

24 MR. POSTON: Let me grab mine as well so
25 we have the same thing. And what I didn't put on

1 here, and which I should have, is, actually,
2 where Subsection 20 begins, before you get to the
3 Sub K and L, it says, At the time that a natural
4 gas utility files petition with The Commission
5 seeking to establish, change, or reconcile an
6 ISRS, it shall submit proposed ISRS rate
7 schedules and its supporting documentation
8 regarding the calculation of the post ISRS
9 petition and shall serve the Office of Public
10 Counsel. It goes on to say, The subject utility
11 supporting documentation shall include work
12 papers showing the calculation of the post ISRS
13 and shall include, at a minimum, the following
14 information. And then that's where it goes A all
15 the way through L. So then we focus on K and L.
16 This is the required supporting documentation
17 that they shall provide at a minimum for each
18 project. Under K, the net original cost, was not
19 provided. L, for each project, the order, rule,
20 statute, that was not provided. The description
21 of the project, not provided. Location, not
22 provided. Portions of the project are completed,
23 used and useful, not provided. So I would say
24 Subsection K and L of Sub 20.

25 CHAIRMAN HALL: And you believe that that

1 information has never been filed, even in the --
2 in the March 9th update?

3 MR. POSTON: It was never filed with The
4 Commission. And in the last case I said was not
5 provided either. This is stuff that's not in
6 evidence.

7 CHAIRMAN HALL: Okay. Thank you.

8 MR. ZUCKER: Your Honor, if it's okay, I
9 would like to supplement one of the answers I
10 gave. I didn't have the statute in front of me.

11 JUDGE BURTON: That will be fine. I'll
12 let you come back up. Thank you, Mr. Poston.

13 MR. ZUCKER: Good morning again. The
14 chairman asked about 393.1015.1. And I think
15 discussed that with the other attorneys also.
16 And what that says is is that at the time a gas
17 corporation files a petition, it shall submit
18 proposed rate schedules and supporting
19 documentation regarding the calculation of --
20 with the petition. And shall serve the Office of
21 Public Counsel. What we take that to mean is
22 it's a timing issue. In other words, at the time
23 you file the petition, you are supposed to
24 include your supporting documentation that you
25 have at that time. In other words, don't file

1 your supporting documentation later, waiting for
2 some other time frame to file work papers and
3 other stuff. File it -- file it then. It
4 doesn't say anything about not updating. And, in
5 fact, as the chairman pointed out in Section 4,
6 it does say if The Commission finds that a
7 petition complies with the requirements, it shall
8 enter an order authorizing the corporation to
9 impose an ISRS sufficient to recover all of the
10 appropriate pretax revenues. So, again, the 1.1
11 just tells you what to do at the time you file a
12 petition. It doesn't tell you that you can't
13 supplement with an update with more later
14 information.

15 CHAIRMAN HALL: A follow-up on an issue
16 unrelated to what you just described. I'm
17 looking at the rule and I'm going back to
18 Mr. Poston's last argument, which is in
19 4CSR240-3.265, Sub 20, which lists everything
20 that's supposed to be in the supporting
21 documentation. Are you with me?

22 MR. ZUCKER: Yes, sir.

23 CHAIRMAN HALL: Mr. Poston takes the
24 position that a great deal of that information
25 not only was not in the original supporting

1 documentation, it's never been filed with The
2 Commission. I assume you take the position that
3 that's incorrect; that everything that is
4 required under our rule has been submitted to The
5 Commission, correct?

6 MR. ZUCKER: The original information was
7 submitted to The Commission at the time we filed
8 our petition. After that, again, consistent with
9 the process for true-ups and updates that we do
10 in rate cases, the updated information is
11 provided to Staff and OPC and then Staff files
12 its recommendation or it tells you what -- what
13 it believes is the appropriate pretax revenues.

14 CHAIRMAN HALL: Somewhere in the case file
15 would I be able to find all of the information
16 required by our rule to be included in the
17 supporting documentation?

18 MR. ZUCKER: Well, I mean, the supporting
19 documentation was filed at the time of the
20 petition.

21 CHAIRMAN HALL: Right. And then it was
22 updated.

23 MR. ZUCKER: The updated information --
24 well, the estimates are there in the -- with the
25 original petition. But the updated information

1 is handled through data requests and information
2 provided directly to Staff and OPC; the two
3 parties to the case.

4 CHAIRMAN HALL: Okay. Let me put it this
5 way: In your brief, in your post hearing brief,
6 I hope you will provide a citation to the record
7 where every item required by our rule has been
8 supplied to The Commission so that we can certify
9 compliance with -- with our rule in terms of what
10 supporting documentation needs to be included,
11 either in the original filing or updated or in
12 the process of hearing the case.

13 MR. ZUCKER: Okay. Thank you, Chairman.

14 COMMISSIONER KENNEY: I want to ask
15 Mr. Poston -- excuse me, is it your thought this
16 rule was consistently just maybe overlooked, that
17 procedure? Because you said you didn't make a
18 strong enough case last time. What about cases
19 previous to that? I guess my question is: Do
20 you think this is maybe something that's --
21 you've latched on to it this time, you're making
22 more of an argument on this issue, on Subsection
23 20, but I guess my question is this: Have you
24 looked back and this is a consistent pattern?

25 MR. POSTON: We -- for a while, we didn't

1 get really involved in ISRS petitions, so
2 honestly I'm not too sure what was provided. I
3 don't believe this stuff was ever -- has ever
4 been filed with The Commission. And as we're
5 able to provide a more focused review of ISRS's
6 petitions, we're finding a lot of concerning
7 things with how these reviews happen. And this
8 is one of them. There's just not the
9 documentation that's required as being submitted
10 so the review is not happening.

11 COMMISSIONER KENNEY: Thank you.

12 JUDGE BURTON: Mr. Zucker, you can call
13 your first witness.

14 MR. ZUCKER: Laclede and MGE call Glenn W.
15 Buck.

16 (Witness Sworn.)

17 DIRECT EXAMINATION

18 BY MR. ZUCKER:

19 Q Good morning.

20 A Good morning.

21 Q Can you spell your name for the record?

22 A First name is Glenn, G-L-E-N-N, two Ns,
23 last name Buck, B-U-C-K.

24 Q Are you the same Glenn Buck that filed
25 direct testimony on this case on April 18th, 2016?

1 A Yes.

2 Q Do you have any changes to that testimony?

3 A I do not.

4 Q And so, if I asked you the same questions
5 asked in that testimony, today, would your answers
6 be the same?

7 A Yes.

8 MR. ZUCKER: I move for admission of
9 Exhibit No. 1, the direct testimony of Glenn W.
10 Buck, into evidence.

11 THE WITNESS: When was the application --

12 MR. ZUCKER: I'm sorry, No. 3. Thank you,
13 Glenn. Exhibit 3.

14 JUDGE BURTON: Exhibit 3 has been offered.
15 Are there any objections? Hearing no objections,
16 Exhibit 3 is admitted.

17 Q (By Mr. Zucker) Okay. Are you also the
18 same Glenn W. Buck who filed rebuttal testimony in
19 this case on April 21st, 2016?

20 A I am.

21 Q You have any changes to that testimony?

22 A No, sir.

23 Q And if I asked you the same questions as
24 provided in that testimony, would your answers be
25 the same?

1 A Yes.

2 MR. ZUCKER: And so I move for entry of
3 the -- of Exhibit 4, the rebuttal testimony of
4 Glenn W. Buck, into evidence.

5 JUDGE BURTON: Exhibit 4 has been offered.
6 Are there any objections? Hearing no objections,
7 Exhibit 4 is admitted.

8 MR. ZUCKER: Tender the witness for cross.

9 JUDGE BURTON: Thank you. I believe,
10 Mr. Keevil.

11 MR. KEEVIL: Yes, just one moment, Judge.
12 Very briefly, Judge. Thank you.

13 CROSS-EXAMINATION

14 BY MR. KEEVIL:

15 Q **Good morning, Mr. Buck.**

16 A Good morning, Mr. Keevil.

17 Q **How long have you been involved with**
18 **Laclede ISRS cases?**

19 A Since 2004.

20 Q **Any idea approximately how many cases that**
21 **is?**

22 A Give me one moment, please. Honestly, I
23 don't. My guess would be -- well, that would just
24 be speculation. I think it could probably be found
25 in the rebuttal testimony of Mr. Hyneman. That

1 lists all of Laclede's cases. Because I was
2 involved in every single one of them.

3 Q Okay. Thank you. In your rebuttal
4 testimony, which I believe is Exhibit 4, the bottom
5 of Page 3, Line 21, you state that at no time has
6 any Staff auditor other than Mr. Hyneman himself in
7 prior proceedings when he was a member of the Staff
8 expressed an inability to complete the audit of such
9 information within the applicable time frames. Did
10 I read that correctly, sir?

11 A Yes, sir.

12 Q Can you explain that statement? What are
13 you referring to there?

14 A Well, in the -- in fact, actually, now
15 that I've -- if you give me one moment, I'd like to
16 supplement my answer or my response previously. All
17 together, as far as total ISRS cases, it has been
18 about 28 or 29. And in response to your next
19 question, if I might, as once again, I have been
20 doing these for a long time and in the entire
21 history that we've been doing these, I've never had
22 a problem with the Staff coming up with
23 recommendations within the 60-day time frame. Other
24 than in GO-2015-0178 and GO-2015-0179, at which time
25 the Staff auditor expressed an opinion that he was

1 unable to complete the audits within the time frame
2 expressed and said he would look at them in the next
3 proceeding.

4 Q And that auditor was Mr. Hyneman?

5 A Yes, sir.

6 Q Had Mr. Hyneman been involved in any of
7 Laclede's prior ISRS audits to your knowledge?

8 A He had been in the one that had been done
9 in July of 2014. It was filed in July of 2014. He
10 did the audit then. The recommendation was probably
11 right around the 1st of October of 2014.

12 Q Okay. And did that ISRS case filing
13 include updated or trued up ISRS plant?

14 A Yes, sir.

15 Q And did Mr. Hyneman file a recommendation
16 supporting the updated ISRS plant in that case?

17 A He did indeed.

18 MR. KEEVIL: I think that's all I have,
19 Judge. Thank you.

20 JUDGE BURTON: Thank you. Mr. Poston?

21 MR. POSTON: Thank you.

22 CROSS-EXAMINATION

23 BY MR. POSTON:

24 Q Good morning, Mr. Buck.

25 A Good morning, sir.

1 Q I'd like to start with your rebuttal
2 testimony and you attached what you've referred to
3 as work orders to that testimony, is that correct?

4 A I refer to them as order authorization
5 sheets, but yes, I did.

6 Q Well, I'd like to address some of those.
7 But first would you agree that you're familiar with
8 The Commission rules on ISRS?

9 A Yes.

10 Q Do you have a copy of the rules with you?

11 A I do.

12 Q And so I'd like to ask you questions about
13 rules and how they apply to the work order
14 authorization forms that you have in your testimony.

15 A Okay.

16 Q You see under Subsection 20 of the 3.265
17 Commission's rules?

18 A I'm there.

19 Q And do you see where it says at the time
20 the natural gas company files a petition -- first
21 line?

22 A Yes.

23 Q And when did the company file its
24 petition?

25 A In this proceeding was on February 1st

1 of 2016.

2 Q And then it says, At that time it shall
3 submit proposed ISRS rate schedules and supporting
4 documentation, correct?

5 A Correct.

6 Q And the next sentence says its supporting
7 documents shall include work papers showing
8 calculations, and at a minimum, the following. Is
9 that correct? And then it lists Subsections A
10 through L?

11 A Correct.

12 Q And then if we could turn to 20(k).

13 A I'm there.

14 Q There it says what the petition is to
15 include for each project. Is that correct?

16 A Could you ask that question again, please?

17 Q Subsection K tells the filing company what
18 it should include in its petition for each project
19 for which recovery is sought. Do you see that?
20 Very first line of Subsection K.

21 A I'm just reading the whole section to make
22 sure I understand context. That's all. Okay.

23 Q And so one of the things that says to
24 include is a net original cost for each project. Is
25 that correct?

1 A Correct.

2 Q So going -- I guess, do you have copies of
3 your petition?

4 A Oh, give me one moment, please. I have
5 the associated documents. I do not have the
6 application itself.

7 Q But you have the attachments?

8 A Yes.

9 Q So let me back up here. So the
10 attachments to your testimony, the work order
11 information, those are the January and February cost
12 work orders or some of them, is that correct, work
13 order sheets?

14 A In my rebuttal testimony?

15 Q Yes.

16 A Those are all of Laclede's January and
17 February work order authorization sheets.

18 Q Okay. So starting with one of them, and I
19 don't know if I got my order turned around, but
20 900547, that work order number, do you see that?

21 A I'm there.

22 Q So where in the petition can I find the
23 net original cost for this work order?

24 A In the direct schedules. It won't be in
25 there. It will be estimates. For example, this is

1 a main replacement. So if you go into the schedules
2 themselves, Appendix A, Page 13 of 30, you got main
3 replacement additions for January, approximately
4 \$4.865 million, and February main additions of
5 \$4.362 million. This would be the supplement to
6 that.

7 Q It doesn't show for each -- it doesn't
8 show a project number, does it, in the petition for
9 the January and February?

10 A No, it's got categories.

11 Q It doesn't show the net original cost per
12 project, does it?

13 A It has estimates.

14 Q Per project? It breaks it out per
15 project?

16 A They are estimates, yes.

17 Q Per work order number?

18 A Not per work order number. They're type
19 of project. So just to -- if I might, I'll follow
20 up, so because -- for example --

21 Q Let me follow up with questions on this.

22 A That's fine.

23 Q So for work order No. 900547, the amount
24 you're now claiming is what?

25 A That would be in the update, which I don't

1 think I have up here right now.

2 Q But I can't specifically look for that
3 work order? I can't find a net original cost
4 associated with that, can I, in the petition?

5 A In the petition, no, sir.

6 Q Okay. Now, please look at Subsection L of
7 the rule.

8 A Okay.

9 Q And it also says for each project for
10 which recovery is sought, correct, that these are
11 additional things that are to be provided?

12 A Correct. I'm sorry, is there a question
13 pending?

14 Q No, I'm sorry, there was no -- okay. And
15 do you see on there where it says the location of
16 the project is to be provided for each project?

17 A Correct.

18 Q Okay. And so when I look at your petition
19 for Project 900547, where can I determine what the
20 location of the project is?

21 A In the petition itself you will not find
22 the location of 900547.

23 Q Okay. Where in the -- in the petition,
24 can I find what portion of the project are completed
25 used and useful and what portions are still to be

1 completed?

2 A For that specific project it's not in
3 there.

4 Q For any of the January and February
5 projects, is it in there?

6 A There are estimates of broad categories.
7 That would be it.

8 Q Do those broad categories provide what
9 portions are used and useful and what are still to
10 be completed?

11 A If it's for that specific project, no.
12 For other projects, absolutely.

13 Q For all of the projects, the January and
14 February projects, does it provide a location of the
15 project in the petition?

16 A In the petition, no.

17 Q I'd like to move on to Subsection 21 of
18 the rule. And this subsection says, would you
19 agree, that in addition to the Subsection 20
20 documentation, additional documentation is required
21 either in the petition or in the rate case, is that
22 correct?

23 A Give me one moment, please. Okay.

24 Q And so then if you look -- so do you agree
25 that that's what that says?

1 A Could you preface -- or do the question
2 again?

3 Q It says, In addition to the Subsection 20
4 documents, additional documents are required either
5 in the petition or in the subsequent rate case?

6 A Yes.

7 Q So the company has a choice --

8 A Correct.

9 Q -- where to provide. And then under Sub A
10 of 21 it says the company must also include how long
11 the replaced infrastructure was installed, when it
12 was removed. You see that?

13 A Yes.

14 Q And did Laclede provide that information
15 for any of the projects in this case?

16 A Give me one moment, please. It's got the
17 retirement dates. It doesn't have the date the
18 original information was installed, but that's
19 supplied usually during the rate case itself. We
20 give a copy of our property record, which would show
21 that.

22 Q Okay. Moving to Sub B. It says, The
23 company's to provide an explanation of its efforts
24 to quantify and seek reimbursement for relocations
25 required by an entity within eminent domain. Is

1 **that correct?**

2 A Yes, that's what it says.

3 **Q Has Laclede ever provided that information**
4 **in a petition or in a rate case?**

5 A Yes. Actually, I think we give
6 indications. I'm not really sure whether there is a
7 relocation project in this group. But normally on
8 the work order authorization sheet you would sit
9 there and see an indication as to whether it was
10 reimbursable, non-reimbursable or in some instances
11 it's partially reimbursable whether the entire thing
12 is on easement or not.

13 **Q So, is that an indication of the company's**
14 **efforts to quantify and seek reimbursement?**

15 A I think it's an indication of the effort,
16 yes.

17 **Q So how would I understand what efforts the**
18 **company went through to determine whether it was --**
19 **to quantify and seek reimbursement?**

20 MR. ZUCKER: I'm going to object to this.

21 I think we've kind of gotten far afield from the
22 issue of this case, which is the updating
23 process. He's now going through the rule and
24 asking about us to show compliance with different
25 sections that have nothing to do with updating

1 and that we weren't prepared to do when we came
2 here.

3 MR. POSTON: I'll say no subsections have
4 anything to do with updating. And I'm just
5 walking through showing everything they did not
6 provide in their petition to show how difficult
7 it really is to do these -- these analyses, these
8 reviews, and --

9 JUDGE BURTON: I'm going to go ahead and
10 overrule the objection.

11 Q (By Mr. Poston) So if you look at
12 Subsection C, it says the project was financed. The
13 company's to provide how that was funded and the
14 debt amount and interest on that debt, is that
15 correct?

16 A We don't do project financing for
17 individual projects so the answer would be that we
18 don't -- there is none to report.

19 Q Okay. And then Subsection D talks about
20 an RFP process, an explanation of the company's RFP
21 process or reasons for not using an RFP. Was that
22 stuff ever provided by the company in any ISRS
23 petition?

24 A For the Laclede division, an RFP process
25 wouldn't exist because we do self construction. For

1 MGE, we do use an RFP process. Whether that's been
2 provided during a rate case, I would assume so, or
3 at least -- I'm not as involved with the MGE side
4 because I have only been peripherally involved with
5 an MGE rate case.

6 Q So you don't know if that information's
7 ever been provided?

8 A I would only assume so, sir.

9 Q I'd like to change gears here. You say in
10 your rebuttal that you're very familiar with
11 auditing demands imposed by ISRS, correct?

12 A Line, please?

13 Q It's on Page 4 of your rebuttal.

14 A Okay. Starting on Line 4, I would assume?

15 Q Yes. You see that?

16 A Yes. I see that.

17 Q Are you a Certified Public Accountant?

18 A I am not.

19 Q Are you an accountant?

20 A By experience, yes.

21 Q Do you have an accounting degree?

22 A I do not have a degree in accounting.

23 Q Are you an auditor?

24 A I have done audits before.

25 Q What audits have you done?

1 A I did a full operational audit of a
2 billing dispute related to a utility locating
3 company and a major utility company up in the north,
4 northern Michigan.

5 Q **So is that the only audit you've done?**

6 A I don't think it was the only audit I've
7 done, but I'm drawing a blank as to what that would
8 have been.

9 Q **Was that audit that you did, was that a**
10 **financial audit?**

11 A It was a financial and operational audit.

12 Q **Have you ever taken an auditing class?**

13 A Boy, Marc, that was 30 some odd years ago.
14 I've taken accounting classes. To the extent that
15 there was audit functions related to that, that
16 would be it.

17 Q **Have you ever conducted an ISRS audit?**

18 A I've been the recipient of an ISRS audit
19 but not conducted one, no.

20 Q **Are you aware of generally accepted**
21 **auditing standards?**

22 A I am.

23 Q **Can you just describe what they are?**

24 A There's quite a few of them.

25 Q **Just generally, what are they?**

1 A Well, in fact, actually Chuck uses one of
2 the terms here. It's professional skepticism. I
3 would probably have to sit there and have to rely on
4 the Staff auditors to do this. But, yeah, I'm
5 generally familiar with them. Right offhand, I
6 can't sit there and say exactly what they are. I
7 can tell you, you know, there's audit samples in
8 there. There's professional due care, there's a
9 requirement to have professionalism, there's
10 discussions of how you sit there and write the
11 audit. There's how you write an audit report, what
12 you do with the management discussion. There's
13 quite a few of them, but --

14 **Q Okay. Are you aware that Mr. Hyneman is a**
15 **CPA?**

16 A He's indicated so, yes.

17 **Q Are you aware that he's performed dozens**
18 **of audits, including ISRS audits?**

19 A I'm aware that he participated in cases.
20 I think he has indicated, I think, five ISRS audits.
21 Four of them for Laclede, one for -- or four of them
22 for Laclede and MGE and one of them for Missouri
23 American Water Company. I think he indicated that
24 he did an audit of the Iatan 2 plant for KCPL. He
25 has listed a lot of other engagements that he was

1 on, but whether he was doing auditing or what he was
2 doing, I can't really speak to. I was not involved
3 in those cases.

4 Q So your testimony, you also discussed the
5 issue of where Staff adjusts the ISRS plant
6 depreciation and income tax reserve, closer to the
7 ISRS effective date.

8 A Can you give me a page and line number,
9 please?

10 Q Page 2, Line 19.

11 A Okay. Could you ask the question again
12 please?

13 Q I'm just saying that you do -- you discuss
14 the issue; accumulated depreciation and income tax
15 reserve adjustments?

16 A Sure. I just want to make sure I
17 understand the question. That's all.

18 Q Did you agree with the Staff adjustment in
19 an ISRS case when you first became aware of Staff's
20 request to make these adjustments?

21 A The first case that was introduced to us
22 was in a GO-2009 case. I think it was 0221, but I'd
23 have to check to be sure. It's in my testimony.
24 Where the Staff had -- had a discussion with Laclede
25 saying they have done updates to the depreciation

1 and accumulative deferred income taxes in cases
2 involving -- I think it was ATMOS, maybe Ameren, I
3 think a Missouri Gas Energy case. And in
4 discussions with the Staff, we said, Well, okay, we
5 see where you're going with this. We'd like to
6 propose audit or updating the plant in service for
7 the additional two months to go with it.

8 **Q Initially you opposed it, correct?**

9 A Initially we had a discussion with the
10 Staff and I don't think we ever opposed it. I think
11 the Staff came up with the recommendation in that
12 same proceeding, said yep, we're doing this.

13 **Q Are you aware that MGE opposed that**
14 **adjustment?**

15 A I don't think we owned MGE at the time.

16 **Q If public counsel were to propose a**
17 **settlement in this case today with Staff and Laclede**
18 **that OPC would support not bringing forward the**
19 **depreciation and income tax reserve and leaving**
20 **those balances as existed in petition, would Laclede**
21 **and MGE be willing to forego the ISRS true-ups?**

22 A I'm not really sure settlement discussions
23 are an appropriate question to be asking on the
24 stand.

25 **Q I'm just asking your opinion. Do you**

1 think that would be a good resolution of its issue?

2 I'm not asking you to settle the case.

3 MR. KEEVIL: I'm going to object on the
4 basis of exactly what Mr. Buck said. That's a
5 completely inappropriate question for a witness
6 on the stand; apparently trying to negotiate a
7 settlement at this point during the hearing.

8 MR. ZUCKER: And I don't know that
9 Mr. Buck is authorized to make such a settlement.

10 MR. POSTON: I'm not asking him to settle
11 anything. I'm asking him to give his opinion of
12 whether that would be a good compromise.

13 JUDGE BURTON: I don't see relevance to
14 that. I'm going to go ahead and sustain the
15 objection.

16 Q (By Mr. Poston) Would you agree that
17 Laclede did not raise the issue of the true-ups
18 until Staff had proposed bringing forward the
19 depreciation income tax reserve?

20 A Yes, I agree with that.

21 Q Would you agree that initially Laclede did
22 not include the true-ups in its ISRS petitions?

23 A Are you talking in the first ISRS case
24 that we had?

25 Q The first ISRS cases, yes.

1 A We did not include -- I don't really like
2 use of the term "true-up." I prefer "update." But
3 we didn't start doing updates until the Staff came
4 forward with the concept of doing three and a half
5 months of forward depreciation deferred taxes.

6 Q **And that was about seven years ago?**

7 A It was seven years and two months ago, I
8 think.

9 Q **And you state in your testimony -- and I
10 believe Staff cross-examined you on this -- that no
11 other member of Staff has expressed an inability to
12 complete an audit of an ISRS true-up within
13 applicable time frames, is that correct?**

14 A That's correct.

15 Q **And how many Staff auditors have you asked
16 this question to?**

17 A Asked the -- I'm sorry, asked the question
18 to?

19 Q **Yeah, how many Staff auditors have you
20 asked them if they had concerns with their ability
21 to complete an audit?**

22 A I guess I could only go with experience of
23 the auditors that have worked on our cases and that
24 has been, I'm sure I'll probably miss some names,
25 but that included John Cassidy, it included Lisa

1 Hanniken, Erin Carle, Mr. Hyneman in one case with
2 Matthew Young and I forget who the other gentleman
3 was. Erin Carle was in several of them. Like I
4 said, I'm sure I'm missing a few and obviously
5 Mr. Wells and Ms. Grisham right now.

6 Q And so what have these auditors all
7 expressed to you?

8 A Through their recommendation, they
9 accepted the update.

10 Q In your rebuttal you described your
11 interpretation of the ISRS statute and what role the
12 statute sets out for OPC, correct? I believe that's
13 on Page 4.

14 A Line, please?

15 Q I guess down on Line 17, beginning there,
16 going through 21.

17 A Okay. Could you ask the question again,
18 please?

19 Q My question to you is: Do you think
20 public counsel should not be allowed to do audits?

21 A I think public counsel has a role in the
22 cases as far as auditing. It's not specified in the
23 statute that they can do one for ISRSs, no.

24 Q Do you think it would be good public
25 policy for the competition not to allow OPC to do an

1 **ISRS audit?**

2 A I guess I'm struggling with that because
3 Staff is -- has the capability and knowledge and
4 experience to do audits. OPC's I presume to be
5 duplicative, whether that's the best use of OPC's
6 time, I would assume that would be a decision of
7 your office.

8 **Q You understand that OPC represents your**
9 **customer's interests, correct?**

10 A Certainly.

11 **Q And what parties does the Staff represent**
12 **in an ISRS case?**

13 A My understanding is Staff is supposed to
14 present a balanced -- it's hard for me to sit there
15 and articulate this. They are supposedly to
16 represent The Commission, to give recommendations to
17 The Commission that would be a balancing of parties
18 without necessarily having, I'd say, skin in the
19 game. Not sure that that really answers your
20 question in a very formal fashion, but I think
21 that's what their role is.

22 **Q Okay. So they don't represent customers?**

23 A I think they represent all the parties to
24 the case, including The Commission. I think that
25 would also be the customers also. If you're saying

1 are they an advocate for customers, that's a
2 different question.

3 Q Are they?

4 A I would think not.

5 Q When did MGE start to do the ISRS updates,
6 as you call them?

7 A I believe it was the first MGE ISRS case
8 after Laclede acquired them, was probably late in
9 2014, I think.

10 Q And why did they start doing that; using
11 that process?

12 A I think because it worked well for us
13 previously.

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

16 THE WITNESS: Thank you.

17 JUDGE BURTON: Questions from the bench?

18 CHAIRMAN HALL: No questions. Thank you.

19 THE WITNESS: Thank you, sir.

20 COMMISSIONER KENNEY: No questions.

21 JUDGE BURTON: I have a question. In your
22 rebuttal testimony, you identified, I believe
23 around Page 9, the projects that were completed
24 for Laclede and MGE in January and February. You
25 said approximately 39 additional work orders were

1 closed in January and 46 in February.

2 THE WITNESS: Yes, the breakdown was, I
3 believe, 7 for Laclede in January and 32 for MGE
4 and then in February, it was -- I believe it was
5 16 work orders and for MGE it was 30.

6 JUDGE BURTON: And what were the totals
7 for those work orders?

8 THE WITNESS: For Laclede, it was
9 approximately 16 and a half million dollars. And
10 the revenue requirement effect of that would be
11 1,472,634. For MGE it was \$12.004 million of
12 additions. And the revenue requirement effect of
13 that would be 1,237,278.

14 JUDGE BURTON: Thank you.

15 COMMISSIONER KENNEY: I did have one
16 question.

17 THE WITNESS: Yes, sir.

18 COMMISSIONER KENNEY: Thank you. OPC
19 counsel was discussing CSR 240-3.265(20)
20 Subparagraph K regarding each project and net
21 original cost and some things. You mentioned
22 that a lot of your projects were -- or you
23 couldn't point to a specific work order, but some
24 of the costs were estimates within your summaries
25 or the projects, that they weren't net original

1 costs, they were estimates? Is that correct?

2 THE WITNESS: That's correct. We gave
3 updates to those. For the January projects we
4 gave an update on February 9th, which was
5 approximately eight days after we filed the
6 original application. And then we provided the
7 rest of them for February, I think it was on
8 March 9th.

9 COMMISSIONER KENNEY: But as counsel
10 mentioned, you couldn't point to a specific work
11 order and tell what that costs, is that correct?

12 THE WITNESS: Within the petition, no,
13 sir.

14 COMMISSIONER KENNEY: Is that any
15 deviation from past practices?

16 THE WITNESS: Again, I think we've been
17 doing it for a little over seven years and
18 it's -- again, I believe the OPC witness brought
19 up the concept of a true-up or an update in a
20 rate case. This is not dissimilar to how this
21 process works.

22 COMMISSIONER KENNEY: That's not what I'm
23 asking. I'm just asking is the process you put
24 forth right now that he was questioning you, has
25 Laclede or MGE -- or Laclede, have they deviated

1 in any way from the past practice? I mean, did
2 you use to base it off a work order and show the
3 net exact costs?

4 THE WITNESS: Well, once we started doing
5 updates, we have been doing it in the same
6 fashion in every case, yes, sir.

7 COMMISSIONER KENNEY: Okay. Thank you.

8 JUDGE BURTON: Redirect?

9 MR. ZUCKER: Thank you, Your Honor.

10 MR. POSTON: Judge, I had a question based
11 on questions from the bench, but I believe
12 Mr. Keevil's first.

13 MR. KEEVIL: I don't have anything, Judge.

14 Q (By Mr. Poston) You gave a number -- I
15 guess two numbers. Based on the January and
16 February costs, you said 16.5 million for Laclede
17 and little over 12 million for MGE, is that correct?

18 A That's correct.

19 Q And that's for January and February?

20 A 16.5 million for Laclede for the months of
21 January and February. 12.04 for MGE for the months
22 of January and February combined.

23 Q So that's 28 -- over 28 and a half million
24 dollars of information and costs that were added
25 during the audit, correct?

1 A It was \$28 million worth of costs. I'm
2 not sure that's information.

3 **Q What was the total amount of costs, ISRS's**
4 **costs, through December?**

5 A Give me one moment, please. Rough math,
6 it's probably about \$21 million for Laclede and I
7 don't have the same information for MGE here.

8 **Q And what is that time period? What does**
9 **that cover?**

10 A That covered the period from September of
11 2015 through December of 2015.

12 MR. POSTON: Okay. That's all I have,
13 thank you.

14 JUDGE BURTON: Mr. Zucker?

15 MR. ZUCKER: Thank you.

16 REDIRECT EXAMINATION

17 BY MR. ZUCKER:

18 **Q Commissioner Kenney asked the question I**
19 **was going to ask. So let me reorganize here. So,**
20 **basically, what you did in this case is the same**
21 **thing you did in the last case in terms of the**
22 **updating process?**

23 A In the last case and every case for about
24 seven years, yes.

25 **Q Including the cases that Mr. Hyneman**

1 worked on as a member of the Staff?

2 A Correct.

3 Q And you said that January and February
4 came to 28 million in costs for total; Laclede and
5 MGE?

6 A Yes.

7 Q And about how much is that in revenue
8 requirement?

9 A Between the two of them, 1.4 plus 1.2,
10 that would be, gee, this is math, I should be able
11 to do that very easy. But, it rounds to about
12 \$2.7 million.

13 Q Okay. In Section 20 of the rule, 3.265,
14 that Mr. Poston --

15 JUDGE BURTON: Mr. Zucker, could you
16 please speak into your microphone?

17 MR. ZUCKER: Sorry, thank you.

18 Q (By Mr. Zucker) In Section 20 of the rule,
19 it says that at the time that a natural gas utility
20 files a petition with The Commission, it shall
21 submit proposed ISRS rate schedules and supporting
22 documentation. Did Laclede do that?

23 A Yes.

24 Q And did they submit it to Staff and public
25 counsel?

1 A We did.

2 **Q And as part of the update process, did you**
3 **also submit information to Staff and public counsel?**

4 A We gave the updated information which had,
5 again, for Laclede, approximately 23 work orders of
6 new information. And then for MGE it was
7 approximately 62. We gave them the ISRS schedules
8 just like with the original petition. We also gave
9 them the work order authorization sheets, which are
10 similar to what's attached to the rebuttal testimony
11 as Schedule GW, rebuttal Schedule GW-1. We gave
12 copies of all those to them, so they're able to
13 audit what individualist new work orders were going
14 into the process.

15 **Q Did you give the same information to OPC**
16 **that you gave to Staff?**

17 A I did.

18 **Q And did you in any way prevent or impair**
19 **OPC from doing an audit on this ISRS case?**

20 A No. I responded to the data request from
21 OPC just like I did with Staff. Frankly, with the
22 Staff, usually a more informal process, but I think
23 I answered approximately nine, ten, eleven --
24 probably 12 data requests from Office of Public
25 Counsel.

1 **Q Okay. Did Office of Public Counsel ever**
2 **call you to discuss any of the work orders?**

3 A I think we discussed the provision of
4 the -- a discussion of discovery. I can't say
5 discovery issues, but making sure that Mr. Hyneman
6 had the correct amount of discovery that he was
7 looking for.

8 **Q Okay.**

9 A And he may have had a conversation with
10 Mr. Noack that I wasn't privy to. I don't know
11 about that.

12 **Q Okay. Did you receive any follow-up DRs**
13 **to your original DR answers from OPC?**

14 A I think the answer is no. I recall that
15 there was, for example, one data request response
16 that asked for -- in fact, this was the one we had
17 the discussion over -- and in return -- where
18 Mr. Hyneman asked for each and every work order and
19 all the information related to the work orders and
20 we tried to get into discussion -- we objected
21 saying it was overly broad and burdensome, but I
22 think we worked it down to something that was a
23 little more manageable. So we provided them with
24 the lead work order sheets, work authorization
25 sheets for everything, over 50,000 for Laclede and

1 over 100,000 for MGE. And as a follow-up said if
2 you want any more detail behind these, let us know.
3 And to my -- to my knowledge, he never got back with
4 us and asked for any more additional information.

5 Q And in response to a question from
6 Mr. Poston, I believe, you talked about how many
7 ISRS cases you worked on, correct?

8 A Correct.

9 Q And would that -- I think that number was
10 something like 28?

11 A Way more than I needed to.

12 Q Okay. And in these cases, did you work
13 with Staff auditors directly?

14 A Absolutely.

15 Q All of them or just some of them?

16 A All of the ones that I mentioned, yes, but
17 often times, for example, John Cassidy was one of
18 the names I had. I'm not sure John was the --
19 what's the term I'm looking for? I'm not sure he's
20 boots on the ground auditor for that one. I think
21 he signed off on the recommendation. More likely
22 than not, it was another member of the St. Louis
23 Staff who did the audit and John supervised it.

24 Q So would you say that you are very
25 familiar with ISRS audits?

1 A Yes, absolutely.

2 Q Could you conduct one today if you had to?

3 A Yes.

4 Q Okay. Mr. Poston asked you some questions
5 about when the updating process started for deferred
6 taxes and depreciation. And do you recall about
7 when that was?

8 A Yes. It was late in 2008, early 2009, I
9 think is when the Staff report was signed off on.

10 Q Is that for a Laclede case or MGE case or
11 any case?

12 A It was a for a Laclede case but they had
13 included for Laclede and, in fact, it was indicated
14 in the recommendation that they had done the
15 updating deferred taxes and accumulated depreciation
16 for other utilities in other cases.

17 Q So this was Staff's idea to do the update?

18 A Yes. In fact, I thought Mr. Hyneman
19 mentioned that it was his idea.

20 Q Yes, you are sure of that? Or you're
21 still looking?

22 A I'm still looking.

23 Q Are you looking at the data request
24 responses?

25 A I was looking at his testimony. It may be

1 in the data request response. Yeah, right offhand,
2 I'm not sure where I found it or recall seeing that.

3 Q Do you have data request responses from
4 OPC?

5 A Our responses to OPC?

6 Q No, OPC's responses to Laclede.

7 A I do not.

8 MR. ZUCKER: May I have approach the
9 witness?

10 JUDGE BURTON: You may.

11 A Yes, there it is. It was response to --
12 OPC's response to Laclede Data Request No. 2 where
13 the question was please provide a full and complete
14 copy of all policies and procedures Mr. Hyneman
15 references that he developed. And one of the
16 significant policies that comes to mind I developed
17 was to bring the ISRS rate base deferred tax reserve
18 and depreciation reserve close to the ISRS effective
19 date to ensure that the ISRS that went into effect
20 reflected actual cost and prevented double recovery
21 of the cost from rate payers.

22 Q So, you're saying the very same
23 Mr. Hyneman who's sitting here as a witness for OPC
24 actually developed the policy for updating deferred
25 taxes and depreciation reserve?

1 A That's what he indicated, yes.

2 Q When he was a member of the Staff?

3 A Correct.

4 Q And can you point to me in the ISRS
5 statute where it provides for an update of deferred
6 taxes and depreciation reserve in the statute?

7 A No more -- no more so than the update of
8 the plant in service, no sir. Again, the updates
9 are -- I can go into what I understand to be a
10 fairly long history of it, but it's kind of become
11 part and parcel of the process. Again, we do it in
12 PGA cases. We do it in rate cases. We've been
13 doing it in ISRS cases for seven or eight years now.
14 As far as I know, there's no statutory or commission
15 rules that discusses updates or true-ups. It was my
16 understanding it was in response to the '70s and
17 '80s when there was very high inflation and they
18 used that and companies were churning in a lot of
19 rate cases at the time. And in response to that, in
20 return for not filing quite so many rate cases, they
21 came in with the update process.

22 Q And in -- when you do an update in a rate
23 case, do you file the information with The
24 Commission?

25 A No, it's supplied to the other parties and

1 then they, for example, right before the Staff does
2 their Staff cost of service report is what they call
3 it now, usually they will do an update of the rate
4 case, which has a historical test period to a period
5 closer to the time when they do the Staff customer
6 service report. That's not information that's
7 filed. But the Staff uses it to sit there and
8 assist in making their recommendation of their
9 direct case.

10 Q Okay. So that's the same way it's done in
11 the ISRS case? Same way an update is done in ISRS?

12 A Correct. But they look at a lot more
13 information.

14 Q Can you tell me where in The Commission's
15 rules, ISRS rules, it says to update depreciation
16 reserve and deferred taxes?

17 A No.

18 Q Is that because it's not in those rules?

19 A To my knowledge, no.

20 MR. ZUCKER: One moment, Your Honor. I
21 found some reading glasses in the drawer here.

22 COMMISSIONER KENNEY: I'll sell you an
23 extra pair.

24 MR. ZUCKER: I've got half a pair here.

25 THE WITNESS: He borrowed mine last night

1 and they had bifocals and so he was good real
2 close up. Far away, he couldn't see a thing.

3 Q (By Mr. Zucker) Mr. Poston asked you if it
4 was Laclede's position that it updated for two
5 months of plant in response to Staff's update for
6 depreciation and deferred taxes. You recall that
7 question?

8 A Yes.

9 Q And your answer was yes, is that correct?

10 A Correct.

11 Q And before then, Laclede hadn't really
12 thought about updating?

13 A Not really, no.

14 Q Okay. And Staff agreed to update for
15 plant at the same time it was updating for
16 depreciation and deferred taxes?

17 A I don't believe they did so in the other
18 cases the Staff members mentioned to us, but as part
19 of the GO-2009 case, it was not an issue.

20 Q As part of Laclede's case?

21 A Correct. As long as they had time to get
22 the information and audit it, which apparently they
23 had because they were able to make the
24 recommendation.

25 MR. ZUCKER: Okay. Thank you. No further

1 questions.

2 THE WITNESS: Do I get to keep the
3 computer?

4 MR. ZUCKER: No.

5 JUDGE BURTON: All right. Mr. Zucker, I
6 believe that's your only witness?

7 MR. ZUCKER: Yes, Your Honor.

8 JUDGE BURTON: My thought is that we were
9 going to take a break for lunch. I believe that
10 Staff is up next, so before we take a break,
11 Mr. Keevil, if you would like to offer the
12 exhibit, the testimony of Mr. Sommerer, I don't
13 believe we'll be needing him for any additional
14 testimony.

15 MR. KEEVIL: Okay. I caught on, Judge.
16 Yes, judge, as I mentioned previously,
17 Mr. Sommerer filed direct testimony in both the
18 0196 and 0197 cases but his testimony is limited
19 to the rate design and computation of the actual
20 rates, which is not an issue according to the
21 issue list, according to my understanding of what
22 is at issue. So I would like to offer his
23 testimony, which has been marked as Exhibit 6 and
24 Exhibit 8, into the record, into the proceeding,
25 and ask it -- that be received without the

1 necessity of him taking the witness stand.

2 JUDGE BURTON: All right. Exhibit 6,
3 which is Mr. Sommerer's direct testimony in 0196,
4 the Laclede application, has been offered. Are
5 there any objections?

6 MR. ZUCKER: No, Your Honor.

7 JUDGE BURTON: Hearing no objections, that
8 is admitted. Exhibit 8 is Mr. Sommerer's direct
9 testimony in the MGE application. Are there any
10 objections?

11 MR. ZUCKER: No.

12 JUDGE BURTON: Hearing none, Exhibit 8 is
13 also admitted. For housekeeping, Mr. Zucker, I
14 don't have Exhibit 1 or Exhibit 2 as being
15 offered.

16 MR. ZUCKER: I would like to offer it now,
17 then, with my microphone on.

18 JUDGE BURTON: Okay. Exhibit 1 is the
19 application for Laclede and GO-2016-0196. Are
20 there any objections? Hearing none, that is
21 admitted. Exhibit 2 is the application of MGE in
22 File GO-2016-0197. Are there any objections?
23 Hearing none, that also is admitted. At this
24 time, I'd like to take a recess for lunch. It's
25 11:00. Why don't we come back at 12:30? Will

1 that work? And we're off the record.

2 (Break taken.)

3 JUDGE BURTON: Let's resume the hearing.

4 And I believe, Mr. Keevil, you were up with your
5 second or, technically, first witness.

6 MR. KEEVIL: Right. Staff would call
7 Brian Wells.

8 (Witness sworn.)

9 DIRECT EXAMINATION

10 BY MR. KEEVIL:

11 Q Mr. Wells, will you state your name for
12 the record, please?

13 A Brian Wells.

14 Q Are you the Brian Wells who were caused to
15 be prepared direct testimony of Brian Wells in Case
16 No. GO-2016-0196?

17 A Yes.

18 Q And I believe that direct testimony has
19 been premarked as Exhibit No. 5. Is that your
20 understanding, sir?

21 A Yes.

22 Q Do you have any changes or corrections you
23 need to make to that testimony?

24 A No, I do not.

25 Q Are the matters stated in that testimony

1 true and correct to the best of your information,
2 knowledge, and belief?

3 A Yes.

4 Q If I were to ask you the questions
5 contained in the testimony, would your answers be
6 the same today as contained therein?

7 A Yes.

8 MR. KEEVIL: Judge, with that, I would
9 offer Exhibit No. 5.

10 JUDGE BURTON: Are there any objections to
11 the admission of Exhibit 5?

12 Hearing none, Exhibit 5 is admitted.

13 MR. KEEVIL: I tender the witness for
14 cross, Judge.

15 JUDGE BURTON: I believe, Mr. Zucker,
16 that's your cross first.

17 MR. ZUCKER: Thank you, Your Honor.

18 JUDGE BURTON: And please remember to
19 speak into your microphone.

20 CROSS-EXAMINATION

21 BY MR. ZUCKER:

22 Q Good afternoon, Mr. Wells.

23 A Good afternoon.

24 Q You said in your testimony that you had
25 adequate time to do the review of the two updated

1 months. Do you recall that?

2 A Yes, I do recall.

3 Q And do you remember what date you received
4 that information?

5 A The updated information?

6 Q Yes.

7 A That was on March 9th, 2016.

8 Q Okay. And in reviewing it, how did you
9 set up your audit?

10 A It was similar to the process that I went
11 through to audit the -- we'll say the non true-up
12 items, the non-updated items. I was provided with
13 order authorization sheets to review as well as
14 updated work papers provided by the company and I
15 was able to view those. I also requested a sample
16 of invoices to aid in that process as well.

17 Q Okay. Did you have a materiality level?

18 A Overall, the work order authorization
19 sheets represented 73 percent of the additions for
20 which the company was requesting recovery in this
21 case. But that 73 percent does include the non
22 true-up and the true-up periods combined.

23 Q And did you look at -- on the two months
24 updated information, did you look at all information
25 for projects that were over a certain dollar amount?

1 A The work order authorization sheets that
2 were provided to Staff were for -- for items that
3 were over \$50,000.

4 **Q And is the 50,000 a cost or revenue**
5 **requirement?**

6 A Of costs for the additions, additions
7 dollars.

8 **Q So the revenue requirement for that would**
9 **be much smaller?**

10 A Correct.

11 MR. ZUCKER: No further questions.

12 JUDGE BURTON: Okay. Thank you.

13 Mr. Poston?

14 CROSS-EXAMINATION

15 BY MR. POSTON:

16 **Q Good afternoon.**

17 A Good afternoon.

18 **Q You did just the Laclede audit, right, not**
19 **the MGE?**

20 A That's correct, yes.

21 **Q And you've been involved in only one other**
22 **ISRS audit, is that correct?**

23 A That is correct.

24 **Q And what was your involvement in that**
25 **case? Did you do the recommendation?**

1 A Yes, I had the same involvement as with
2 this case where I performed the audit with
3 supervision and participated in putting together
4 that -- that memorandum.

5 Q Okay. And did someone at Staff instruct
6 you on how to do an ISRS petition audit?

7 A Yes, I was -- yeah, instructed on how to
8 do that.

9 Q Who did that instruction?

10 A In this case or in the previous case?

11 Q Well, in this case, who instructed you in
12 this case?

13 A I was supervised by Mr. John Cassidy and
14 Mr. Mark Oligschlaeger.

15 Q Okay. And what directions were you given
16 in your review?

17 A The -- I was told that the two primary
18 goals of my review would be to verify that the items
19 held in the request were ISRS eligible and also to
20 verify that it was -- computation will be sound. To
21 check the math, make sure that the revenue
22 requirement was calculated correctly.

23 Q Okay. Laclede filed on February 1, is
24 that correct, the petition?

25 A Yes, that's correct.

1 Q When did you start your audit?

2 A My review, due to other casework, actually
3 began, roughly, I would say, the week of
4 March 14th. That's an estimation.

5 Q So roughly two weeks before you filed the
6 recommendation?

7 A Roughly.

8 Q And did you do any site visits to Laclede
9 during your audit?

10 A Not during this audit period. Although
11 Laclede has allowed us to do some reviews of on-site
12 visits previous to this case having been filed.

13 Q But not in this case?

14 A But not in this case.

15 Q You also, I believe, in response to a
16 question from Mr. Zucker, you said that you looked
17 at invoices?

18 A I did.

19 Q How many invoices did you look at?

20 A In number, it was a total of seven
21 invoices.

22 Q What were those invoices for?

23 A Well, I should say the specific number of
24 invoices -- it was seven invoice items, I should
25 say, and some of those involved two documents so you

1 could say two invoice numbers were involved in that.

2 But, I'm sorry, what was your question?

3 Q I asked -- I don't know what my question
4 was. I asked you -- you said it was seven invoices.
5 Yeah, I don't remember what my question was. What
6 was the subject of invoices? What were the invoices
7 for?

8 A They were for some certain specific
9 categories of expense. Most of the expense incurred
10 by the company for -- for these items. It's
11 in-house expense so there's no external invoices to
12 review, but there were some for -- I'm trying to
13 remember -- for paving services, paving materials,
14 some repair and maintenance and trying to find that.
15 Stores issues, maintenance repair and operations was
16 that other one.

17 Q And so you requested those invoices from
18 the company?

19 A Yes, that's correct.

20 Q And what caused you to select those?

21 A Those specific items?

22 Q Right.

23 A My methodology was that I looked at the --
24 the work order numbers. I started -- I wanted to do
25 five -- five items for the non true-up period and

1 then I did two for the true-up period. And I chose
2 the largest work orders based on the company work
3 papers, the largest amounts, so I picked five from
4 the non true-up and two from the true-up. And then,
5 from there, I randomly selected one of those GL
6 categories that I just mentioned, paving materials,
7 paving services, et cetera. And then I also
8 randomly selected a month within that period.
9 Either the non true-up period or the true-up period.
10 And requested invoices related to those criteria.

11 **Q So in addition to -- well, let me ask you:**
12 **What all did Laclede provide you in addition to**
13 **those invoices for your review?**

14 A Other than those invoices I was provided
15 with work order authorization sheets and company
16 work papers and any other assistance they could
17 provide, verbal assistance, that offer was
18 available, that was provided.

19 **Q Did you look at all of the work order**
20 **authorization sheets for all the ISRS costs in this**
21 **case or just a sampling?**

22 A Just the sample. As I mentioned, it was
23 for \$50,000 or above. I reviewed all of those work
24 order authorization sheets which were provided, but
25 that's not all that there are.

1 **Q And those work order authorization sheets**
2 **aren't the actual work orders, is that correct?**

3 A That's my understanding.

4 **Q Okay. And why didn't you review any**
5 **actual work orders?**

6 A Those were not provided and they are
7 generally not provided for these cases. My
8 understanding is that it's a voluminous amount of
9 documentation and I was not instructed to -- to --
10 to try to acquire those for this case for review.

11 **Q Do you think those work orders are**
12 **important to look at?**

13 A I don't know. That would be a good
14 question, policy question, for Mr. Oligschlaeger.

15 **Q So, Mr. Buck attached documents to his**
16 **rebuttal testimony, some of the work order**
17 **authorization sheets. Have you seen that?**

18 A I'm sure I have, but I don't specifically
19 recall the items.

20 MR. POSTON: Judge, can I approach?

21 JUDGE BURTON: You may.

22 MR. POSTON: Judge, I'd like to have this
23 marked No. 12. Exhibit 12.

24 JUDGE BURTON: We are at 12.

25 (OPC Exhibit 12 marked.)

1 Q (By Mr. Poston) Can you identify what I've
2 handed you and what's been marked Exhibit 12?

3 A This appears to be a collection of work
4 order authorization sheets.

5 Q Are these authorization sheets that are
6 for work orders that are included in this ISRS case?

7 A Presumably. I don't have all the work
8 order numbers memorized, but --

9 Q If these were work orders that were
10 attached to Mr. Buck's testimony, would --

11 A Then it's reasonable to assume that that
12 is true, but I can't verify it myself off the top of
13 my head.

14 Q I'd like to walk through these with you.
15 If you see on the bottom, I've labeled them one
16 through six. So just starting with Page 1 on
17 Exhibit 12, so looking at this work order, you had
18 testified earlier that one of your goals was to
19 verify whether the item's eligible?

20 A Correct.

21 Q So on this first sheet, what would you
22 look at on here to determine whether this plant item
23 is eligible?

24 A My -- my main indication would be reading
25 the work order description, which is in sort of the

1 top section, there's a work order description and
2 notes as well. And it has locations on here. And
3 it has some in service dates as well. There are
4 expenses down at the bottom. But those are
5 estimations. This is a work order authorization.
6 So this is a document that was put together before
7 the work was completed.

8 **Q So this doesn't even give you the actual**
9 **expenditures for this work order?**

10 A That's true. Of course, verifying the
11 expenses was not something I was instructed to do
12 with this audit.

13 **Q Is this first one -- is this one that you**
14 **reviewed in your audit?**

15 A I don't know specifically if it was
16 provided with either the initial set of materials
17 from the application or it was provided with the
18 true-up information, then I would have reviewed it.
19 But, again, I don't have the work order numbers
20 memorized.

21 **Q So looking at this sheet, can you**
22 **determine what the actual in service date is?**

23 A No, I cannot.

24 **Q So how do you know this was actually in**
25 **service?**

1 A Well, there were a few questions I had
2 with the in service dates I would look at. So my
3 follow-up was that I contacted some company
4 representatives and inquired why are these -- you
5 know, with these in service dates, what can you tell
6 me about them? And he provided more information on
7 when things go in service and when costs are
8 incurred and how that interacts with the costs that
9 are in the application.

10 Q He, is that Mr. Buck?

11 A Yes, it was.

12 Q So, do you see -- you had mentioned the
13 notes and it mentions in here that it's being
14 replaced as part of the fiscal year '15 cast iron
15 replacement program, do you see that?

16 A Yes, I do.

17 Q Did you do anything in your audit to
18 ensure that cast iron was actually being replaced as
19 part of this work order?

20 A Other than reviewing the documentation,
21 which I was provided, and the company work papers,
22 if you're asking if I went out and checked the
23 pipes, no, I did not.

24 Q Did anybody, any engineer from Staff, do
25 they ever go out and check for ISRS cases?

1 A I don't know. Not to my knowledge.

2 Q So you're just taking it on the company's
3 word that this is actually cast iron, replacement of
4 cast iron?

5 A Yes.

6 Q Did you do anything during your audit to
7 ensure that the mains that were being replaced for
8 this work order were worn out or in deteriorated
9 condition?

10 A No, I did not.

11 Q Do you see, up towards the top of this
12 work order, it says "eligible for AFUDC" and then it
13 says, "yes," do you see that?

14 A We still on the first page, No. 1?

15 Q Yes. On the top left.

16 A Oh, yes, I see it now, yes.

17 Q What is AFUDC?

18 A I don't know.

19 Q So did you check any replacements to make
20 sure the appropriate AFUDC rate was used?

21 A No, not specifically.

22 Q And do you see the reason code right below
23 the AFUDC?

24 A I do.

25 Q It says "strategic," right?

1 A Yes, it does.

2 Q What does that mean?

3 A I don't know.

4 Q Okay. Let's turn to the second one.

5 Okay. So the total, I guess, estimated cost of this
6 No. 2 is roughly \$217,000, is that correct?

7 A Yes, I see that.

8 Q And it's on the note section you see where
9 it says it's part of the strategic cast iron
10 replacement program and then it says service
11 estimate, 53 renewals and three abandonments. Can
12 you explain what that means?

13 A Which part are you at?

14 Q Oh, I'm sorry, under notes.

15 A Right. I mean, are you inquiring about
16 the first sentence or the second one?

17 Q Where it says service estimate. 53
18 renewals. Let's start there. What does that mean?

19 A I don't know for sure.

20 Q Okay. Well, let's move up to where it
21 says work order description. Do you see where it
22 says 2-4-1-0, 2,410 feet?

23 A Yes.

24 Q Of 2PL, what is that?

25 A That's two inch plastic.

1 Q And IP, what is that?

2 A IP is intermediate pressure.

3 Q And if you follow along, that describes
4 the location, correct?

5 A Yes.

6 Q And then it says abandon 1,001 feet of 6CI
7 at same location. Do you see that?

8 A Yes, I do.

9 Q Would you assume the three abandonments
10 under the notes are those 1,000 feet, correct?
11 They've abandoned 1,000 feet of main?

12 A That stands to reason.

13 Q And then they renewed 53, perhaps?

14 A Yes.

15 Q Of mains. So that's -- so of that
16 2,410 feet, did you check to ensure that this main
17 was not used to connect to any new customers?

18 A No, I did not.

19 Q Did you check to ensure that if any one of
20 those 53 renewals that the replaced main was worn
21 out or in deteriorated condition?

22 A No, I did not.

23 Q Okay. Can you turn to the third page?
24 This is work order 900647. Do you see that?

25 A Yes.

1 Q So do you see under work order type
2 description?

3 A Yes.

4 Q It says "WO-Relocation mains, LGC," do you
5 see that?

6 A I do.

7 Q If you look over to the right under budget
8 description, it says "replacement header main," you
9 see that?

10 A Oh, yes, I do.

11 Q Think it's inconsistent? Is it a
12 relocation or is it a replacement?

13 A I don't know.

14 Q Relocations and replacements have
15 different eligibility criteria, do they not?

16 A I don't know.

17 Q Says the estimated cost of this project
18 was \$474,000 and -- \$474,085, is that correct?

19 A Correct.

20 Q And do you see under the work order
21 description, could you read the second sentence
22 under that?

23 A This header main is being installed to
24 support the fiscal year '14 strategic cast iron
25 replacement program.

1 Q Would you agree that's different than
2 saying that we're replacing this because it is a
3 cast iron replacement?

4 A Could you ask that question again?

5 Q Would you agree that saying that you're
6 just installing it to support the program is
7 different than saying this is a replacement of a
8 cast iron main?

9 A I'm not sure I'm understanding the
10 distinction between those two items.

11 Q Could -- let me ask this: This does not
12 say this header main is replacing cast iron?

13 A It does not literally say that, no.

14 Q It just says it's being installed to
15 support the program?

16 A That is what it says.

17 Q Would you agree that's vague?

18 A It is somewhat vague. But it does provide
19 some insight as well. Medium vague, perhaps.

20 Q And the reason code for this is also
21 strategic?

22 A It indicates -- it has that word in the
23 sentence.

24 Q I mean, under the reason code?

25 A Oh, yes, under reason code, it does say

1 strategic.

2 Q Let's turn to four, please. This is Work
3 Order 900953. Do you see that?

4 A Yes.

5 Q It's 342,000 estimated expense, right?

6 A Roughly, yes.

7 Q And the description says it's installation
8 of over 3,500 feet of main, correct?

9 A Correct.

10 Q And it's well over a half mile?

11 A Yes.

12 Q It doesn't say cast iron, does it?

13 A No, I don't see those words.

14 Q And do you see where it also says -- could
15 you read the second sentence under the work order
16 description?

17 A Main to be installed as part of the fiscal
18 year 2015 main replacement program and is needed to
19 facilitate the future abandonment of the 12-inch
20 steel on Union.

21 Q What does that mean; to facilitate the
22 future abandonment?

23 A My assumption would mean that they intend
24 to perform -- to abandon the pipe, but they need to
25 do something beforehand to allow service to continue

1 in the meantime. It's a matter of timing so no
2 service is lost.

3 Q All right. Let me move to five. This is
4 work order 900446. Do you see that?

5 A Yes, I do.

6 Q Can you please point me to anything on
7 this work order where it provides any information
8 suggesting this project is ISRS eligible?

9 A Not on this document, no.

10 Q Did you inquire into this with Laclede?

11 A No, not on this specific work order, I did
12 not.

13 Q Do you see the estimated in service date?

14 A Yes, I do.

15 Q What is that?

16 A It's February 24th, 2014.

17 Q So it's over two years ago?

18 A Yes.

19 Q Do you have an explanation as to why that
20 would be there?

21 A That's -- these are some of the dates that
22 I mentioned earlier that I had questions about and
23 so I asked company representatives about -- about
24 those concerns. And the explanation was something
25 to the effect of that this is work that had been

1 done in the past, but because of circumstance --
2 specific circumstances for the project, the costs
3 were booked and incurred at a later time. So while
4 the project may have been done outside of the ISRS
5 period for this case, the costs are still related to
6 this ISRS case.

7 Q And did you do any follow-up review of
8 documentation to verify what they're telling you
9 about the in service dates?

10 A No, I did not.

11 Q Okay. If we move to the last one -- and
12 I'm almost done. And this is Page 6, work order
13 900149. Do you see that?

14 A Yes.

15 Q And it says this one's a relocation,
16 correct?

17 A Yes.

18 Q And did you check Laclede's documents for
19 proof in this; that the City of St. Peters mandated
20 this replacement?

21 A Sorry, could you repeat that question?

22 Q Well, actually, let's back up. Where it
23 says notes, what does -- can you read where it says
24 notes, what it says under notes?

25 A It says these mains are being replaced for

1 replacement of Sutters Mill Road Bridge by City of
2 St. Peters.

3 Q And did you ask Laclede for verification
4 that City of St. Peters mandated this replacement?

5 A No, I did not.

6 Q Did you ask for verification that Laclede
7 was not already reimbursed by the City of St. Peters
8 for this replacement?

9 A I inquired about reimbursements at some
10 point of company representatives and I was directed
11 to the company work papers, which show an itemized
12 basis, the costs that went in, and then a negative
13 cost, which is the reimbursement which offsets the
14 cost. And I was directed to, you know, how you can
15 see a specific work order, it will have work order
16 number, cost, the same work order number, and a
17 negative cost, which is the offset, the
18 reimbursement.

19 Q And you're accepting the company's numbers
20 for those?

21 A Yes.

22 Q You haven't inquired with any government
23 entity with the power of eminent domain as to
24 whether they reimbursed Laclede?

25 A No.

1 MR. POSTON: Judge, that's all I have.

2 I'd like to offer Exhibit 12.

3 JUDGE BURTON: Exhibit 12 has been
4 offered. Are there any objections?

5 MR. ZUCKER: No objections.

6 JUDGE BURTON: Exhibit 12 is admitted.

7 Mr. Wells, these exhibits, they were part of the
8 rebuttal schedule provided by Laclede's witness,
9 Mr. Buck. Were these specific ones presented to
10 you for the audit?

11 THE WITNESS: I presume so. I'm not --
12 well, I do have all the things that I looked at
13 in front of me but I would have to go through 60
14 pages or so to verify that these specific items
15 were in here. I can do that if you want to take
16 the time to do that, but --

17 JUDGE BURTON: Let me ask you this: Is
18 there another individual on the Staff who would
19 have been reviewing these work orders other than
20 yourself?

21 THE WITNESS: Oh, no, no. It was just me.
22 I presume that what was attached to that rebuttal
23 testimony was -- excuse me, were work order
24 authorization sheets, which I did review, but
25 they do all look the same at a glance, so --

1 JUDGE BURTON: Can you just walk me
2 through what happens when you receive these work
3 orders? Let's just limit it to, for instance,
4 the ones for January and February for Laclede.

5 THE WITNESS: I would look at the company
6 work papers and I would try to filter out --

7 JUDGE BURTON: Can you explain what you
8 mean by work papers?

9 THE WITNESS: Sure. With the application
10 that was filed, some appendices to that, which
11 showed the additions and the retirements and tax
12 information and everything else. And those were
13 all put together in one Excel spreadsheet. And
14 usually when I'm referring to company work
15 papers, that's the documentation I'm referring
16 to. That's the documentation that had 30 tabs,
17 Excel tabs, on it. And that had a lot of
18 information in it. And so what I would do with
19 that is I would go to the additions tab and I
20 would filter out for the work order numbers that
21 I received with these authorization sheets. And
22 I would compare information from the work papers
23 to the information that's on these authorization
24 sheets and see if they are comparable, if they
25 are similar.

1 JUDGE BURTON: In what way?

2 THE WITNESS: Well, in the work papers, it
3 does have a brief description like you might find
4 in a general ledger, a very brief description
5 about what the item was and, of course, on here
6 you see a somewhat more detailed description and
7 you could compare those. Also, the -- in the
8 work papers, they'll have a designation as to
9 the -- that ties that specific cost to something
10 from the statute that allows me to see which
11 paragraph of the statute does this pertain to in
12 terms of ISRS eligibility. And then I can look
13 at this as well and see -- see if this can back
14 that up.

15 JUDGE BURTON: Okay. And is that the
16 conclusion of your review, your audit, of the
17 information that's provided with these work
18 papers?

19 THE WITNESS: That it is ISRS eligible, is
20 that what you're asking?

21 JUDGE BURTON: Yes.

22 THE WITNESS: Yeah, it is my conclusion
23 that the items for which the company requested
24 recovery are ISRS eligible and that the revenue
25 requirement was calculated correctly.

1 JUDGE BURTON: I asked specifically about
2 the January and February projects.

3 THE WITNESS: Yes.

4 JUDGE BURTON: Were those included, those
5 numbers in the work papers that were attached and
6 provided with the application?

7 THE WITNESS: Well, no. There were two
8 sets of work papers. The application included
9 one -- well, the work papers were sort of
10 summarized in the application itself, all those
11 appendices and attachments, and then we got an
12 Excel format after that. And those documents
13 included estimates for January and February.
14 Then on March 19th, we got a new Excel document
15 which replaced those estimations with actual
16 numbers for January and February. So with those
17 updated work papers, we had actual amounts for
18 January and February. And at that time we also
19 received the work order authorization sheets for
20 January and February things.

21 MR. KEEVIL: Did you say March 19th?

22 THE WITNESS: I meant to say March 9th,
23 I'm sorry.

24 JUDGE BURTON: And so as part of your
25 review, when you have this updated information on

1 March 9th, would you evaluate information other
2 than the code, that ABCK, et cetera, that matches
3 with the ledger to identify what specific portion
4 or reasoning there is for it being included in
5 the ISRS?

6 THE WITNESS: I did rely on the
7 designations that were provided in those work
8 papers but I could also -- to some extent, I
9 could check them against what they provided in
10 this other documentation and to see if it would
11 jive.

12 JUDGE BURTON: Were there any that,
13 quote-unquote, did not jive?

14 THE WITNESS: None that I saw.

15 JUDGE BURTON: Okay. Thank you.

16 THE WITNESS: Thank you.

17 JUDGE BURTON: Recross?

18 MR. ZUCKER: Yes, Your Honor. Permission
19 to approach the witness.

20 JUDGE BURTON: You may.

21 MR. KEEVIL: While they're doing that,
22 Judge, was 12 received?

23 JUDGE BURTON: Yes.

24 RE-CROSS-EXAMINATION

25 BY MR. ZUCKER:

1 Q Mr. Wells?

2 A Yes.

3 Q You were asked by the judge about what you
4 reviewed. I've handed you a sheath of documents at
5 least 103 pages. Do you recognize it?

6 A Yes, it appears to be -- this appears to
7 be a printout of the work papers, the updated work
8 papers, appears to be.

9 Q Okay. So this is what you would have
10 received on or by March 9th?

11 A Correct.

12 Q And this includes all of the items that
13 were from September to December plus January and
14 February?

15 A Yes, that is accurate.

16 Q And this is the document you were
17 referring to when you -- when you were describing it
18 to the judge?

19 A Yes.

20 MR. ZUCKER: Okay. I would like to mark
21 this as Exhibit 13.

22 JUDGE BURTON: Okay. So marked.

23 (Laclede Exhibit 13 marked.)

24 Q (By Mr. Zucker) So, looking toward the
25 back at Appendix A, Schedule 3, for example -- so

1 Appendix A, Schedule 3 starts on, looks like, Page

2 61. No, I'm sorry, Page 52.

3 A Yes, that appears to be correct.

4 Q And that's where you see the references to
5 the ISRS statute and the state or federal safety
6 requirement?

7 A Yes. I do see that.

8 Q Do you know how those came to be included
9 in this document? Are you aware of that?

10 A I assume someone typed it.

11 Q I'm sorry, why they're in at all? Are you
12 aware that Office of Public Counsel asked for this
13 information to be included?

14 MR. POSTON: Objection. That's leading
15 and that's putting facts into evidence that are
16 not into evidence.

17 JUDGE BURTON: I'll sustain.

18 MR. ZUCKER: It is cross, Your Honor.

19 Okay. Well, I would like to offer Exhibit 13
20 into evidence.

21 MR. POSTON: I'm going to object. This is
22 something the company was supposed to file with
23 the petition. They're submitting it after the
24 60-day period. We have not been given an
25 opportunity to review what this is. They don't

1 even have a copy for us and, yeah, I object to
2 this.

3 JUDGE BURTON: Mr. Zucker, do you have a
4 copy for opposing counsel?

5 MR. ZUCKER: Absolutely, Your Honor.

6 MR. POSTON: Okay. So am I to sit here to
7 read through this entire 130 something pages and
8 verify this? We certainly can't verify this here
9 now. Laclede had every opportunity, you know,
10 they're trying to strike our testimony. They had
11 every opportunity to submit this stuff into the
12 record since February -- well, I guess
13 March 9th, when they actually calculated this
14 stuff, two weeks before the recommendations were
15 due. So, yeah, we object to this being entered
16 into the record.

17 MR. ZUCKER: Your Honor, you asked about
18 the format of this document and what he looked at
19 and we're providing this as evidence of what he
20 looked at. He identified it and authenticated
21 it. And, I'm sorry, one other thing. This was
22 delivered on March 9th to Staff and it was also
23 delivered that same day to OPC. So they had had
24 it for six weeks.

25 JUDGE BURTON: Okay.

1 MR. POSTON: We're not familiar with that.
2 We can double-check to see if that came to us.
3 We're familiar with getting work orders. We
4 don't recall getting this, but we can certainly
5 check.

6 JUDGE BURTON: I'm going to mark Exhibit
7 13 as offered for right now. I'm going to give
8 OPC an opportunity to review this and make any
9 specific objections to whether or not what has
10 just been handed to you by Mr. Zucker is
11 inconsistent with the information in the
12 materials that was provided to Staff and OPC on
13 March 9th.

14 MR. POSTON: When would you like me to
15 follow up on that?

16 JUDGE BURTON: Depending on how soon we
17 get done today, I would hope that we could get
18 something from OPC by, let's say, 10:00 tomorrow
19 morning.

20 MR. POSTON: Absolutely.

21 MR. ZUCKER: If it's helpful for Public
22 Counsel, this was sent in an e-mail from Glenn
23 Buck on February 9th at 2:36 p.m. and it was --
24 I'm sorry, March 9th. The third month of the
25 year, ninth day, at 2:36 p.m. And it includes in

1 its address Charles Hyneman and Marc Poston.

2 JUDGE BURTON: Okay. Thank you.

3 Mr. Zucker, do you have any additional questions?

4 MR. ZUCKER: Based on questions from the
5 bench?

6 JUDGE BURTON: Yes.

7 MR. ZUCKER: No, Your Honor.

8 JUDGE BURTON: Okay. Mr. Poston?

9 REXCROSS-EXAMINATION

10 BY MR. POSTON:

11 **Q Judge asked you questions about the code**
12 **that Laclede uses, the ABCK, and what does that code**
13 **reference to?**

14 A The code references ISRS -- the ISRS
15 statutes or rules to verify ISRS eligibility. It
16 provides insight into that.

17 **Q Would you agree that Laclede also uses**
18 **codes to cite to safety rules that they say they are**
19 **compliant with with the ISRS expenditures?**

20 A Yes.

21 **Q And did you verify any of those, follow-up**
22 **and look and verify that -- look at the rule that**
23 **they're citing to make sure that it was consistent**
24 **with ISRS eligibility?**

25 MR. KEEVIL: I'm going to object to this.

1 I think this is exactly what the judge asked;
2 what he looked at to verify ISRS eligibility.

3 JUDGE BURTON: I'm going to overrule.

4 A Can you repeat the question, please?

5 Q (By Mr. Poston) Yeah, when you viewed the
6 petition, including the additional January and
7 February costs, did you look to verify that the
8 legal reason that the company was claiming that it
9 had to make these replacements, was actually -- did
10 you verify that it was an eligible replacement,
11 according to -- or the legal, I guess, requirements
12 that the company claims that they were following?

13 A Are you asking if I checked the rules that
14 were included in the work papers as attached to
15 these various codes to the statute itself? Is that
16 what you're --

17 Q I'm asking you like if the company claimed
18 that -- if they cite to a commission rule and said
19 this rule required us to make this replacement and
20 that's why we're making this replacement, did you
21 verify of that, check with the rules and check the
22 plant they're replacing, compare it to the rule
23 they're claiming that caused them to make that
24 replacement? Did you verify any of those?

25 A Well, yes, we can see it on this sheet

1 right here. We can see that that's --

2 Q Show me where you're referring to.

3 A I may not be understanding your question
4 exactly.

5 Q Okay. Well, let's go back to -- I'm on
6 Exhibit 13. Me citing this is going to create a
7 problem with me objecting to this. Let me actually
8 look at the petition. Do you have the petition with
9 you? I believe that's in there. Do you have the
10 petition?

11 A I think I'm opposite of what Glenn Buck
12 had earlier. I don't have the work papers, the
13 attachments, but I do have the application itself.

14 Q You have just the opposite of him?

15 A Yeah, exactly.

16 Q Then I'm going to talk generically, then.
17 So you're aware that in the petitions, as the judge
18 was asking you about, that there are codes that the
19 company uses, correct?

20 A Yes. Yeah.

21 Q And would you agree that one of those
22 codes is that it cites to different rules within The
23 Commission's safety rules?

24 A Yes.

25 Q Okay. And what's the purpose of them

1 **citing to those different safety rules?**

2 A It provides insight for Staff and other
3 parties so that they can see on an individual basis
4 for these additions, which -- which requirement they
5 meet, which portion of the statute that they meet to
6 be ISRS eligible.

7 Q **Okay. You're talking about the ISRS**
8 **statute. I'm talking about the safety rules.**

9 A Okay.

10 Q **And that's different. So you're claiming**
11 **that you did look at the ISRS claims that they made,**
12 **the code they used to claim which ISRS statute**
13 **caused it to be eligible, right?**

14 A I looked at these -- both of these
15 columns, not just one or the other, but both.

16 Q **Okay. Let me ask you this, then: So you**
17 **did not then look to verify any gas safety rules --**
18 **compliance with any gas safety rules with any of**
19 **these plants that they're claiming?**

20 MR. KEEVIL: I'm going to object to that
21 as being beyond the scope of questions from the
22 bench.

23 MR. POSTON: Judge, you asked him
24 specifically about these codes and I'm asking him
25 again about these codes that the company's using

1 in their petition.

2 MR. KEEVIL: Mr. Poston himself has
3 admitted there were multiple codes, not the codes
4 you were asking about.

5 JUDGE BURTON: I'm going to give a little
6 bit of leeway for the witness to identify what he
7 understands when he's reviewing the codes.

8 Q (By Mr. Poston) I'm just asking, did you
9 look at any gas safety rules, compare the gas safety
10 rules cited by the company with the plant they're
11 claiming is eligible to verify that that type of
12 plant is satisfying a particular gas safety rule?
13 I'm not talking about ISRS rules.

14 A If you're asking if I looked up the rule
15 independently as research and compared it to the
16 rule that they were citing in their work papers, no,
17 I did not do that research.

18 Q Did you look at the rule -- the safety
19 rule and compare it to the work order, the project
20 that they're claiming?

21 A Could you repeat that question?

22 Q Did you look up the gas safety rules to
23 ensure -- to compare the project that they're --
24 let's say like a main replacement, did you then
25 compare the rule they cite requiring that

1 replacement? Did you then look up that rule?

2 A Not in an independent research fashion.

3 MR. POSTON: That's all I have. Thank
4 you.

5 JUDGE BURTON: Mr. Keevil?

6 MR. KEEVIL: Very briefly, Judge.

7 REDIRECT EXAMINATION

8 BY MR. KEEVIL:

9 Q Just to follow-up a little bit on what
10 Mr. Poston was just asking you, Mr. Wells. You're
11 not a gas safety engineer, are you?

12 A No, I'm not.

13 Q You're a auditor?

14 A That is correct.

15 Q Okay. Mr. Poston, in his first round of
16 questions, asked you what invoices or what materials
17 you looked at in the conduct of your ISRS audit.
18 And among them, I think, was the work order
19 authorization sheets, work papers, and you also
20 mentioned some invoices, do you remember that?

21 A Yes.

22 Q Okay. You said, I believe, you looked at
23 seven specific invoices, that they covered
24 multiple -- some of them covered more than one
25 product or something like -- could you explain what

1 **you said?**

2 A Well, it was complicated. When I
3 contacted Laclede representatives to do this invoice
4 review, I was informed that that was a very
5 complicated thing to pursue and so the way that I
6 went about it was I chose a work order number and I
7 chose, you know, the largest ones that I saw. And
8 then I randomly selected one of those GL categories.

9 **Q By GL, you mean general ledgers?**

10 A Yes, general ledger. I randomly selected
11 one of those categories and I randomly selected a
12 month for that category. Now, we have a very
13 specific cost item in there and that is what I
14 requested in the invoices that I reviewed for that.
15 It was seven such specific items.

16 **Q Okay. You say they were based on the**
17 **larger work orders?**

18 A They were -- those costs were included in
19 an overall work order, yes.

20 **Q Okay. And the work orders you say you**
21 **picked from were from the larger work orders**
22 **themselves?**

23 A Yes, I intentionally chose the largest
24 ones.

25 **Q You also, in your discussion previously**

1 regarding the invoices, said something about, if I
2 understood you correctly, that a lot of Laclede's
3 activities were done through internal services?

4 A That's correct.

5 Q Could you explain that?

6 A A lot of the work that is done, the labor
7 that is done, is performed by Laclede employees.
8 Also, a lot of the inventory items that they -- that
9 they use in this work is from their own inventory,
10 in-house inventory, and because of that there aren't
11 invoices to review from when they bought this --
12 this new item or for when they contracted out this
13 construction company to complete the project. It
14 was done in-house. So there is no such
15 documentation for external sources.

16 Q Okay. You still have a copy of Exhibit 12
17 that Mr. Poston handed you, which is the six
18 different work order authorizations?

19 A Yes.

20 Q If you could turn to Page 5, which is work
21 order 900446. I believe he asked you if there's
22 anything on there that indicates that it was ISRS
23 eligible. Do you see that under the work order type
24 description line where it says work order
25 replacement mains and services?

1 A I do see that, yes.

2 Q Could that be some indication that it
3 could be ISRS eligible?

4 A It is an indication that it could be ISRS
5 eligible, yes.

6 Q And, let's see, down there, further down,
7 funding project description, replacement of
8 distribution system, similar; would you agree that
9 could be an indication of eligibility?

10 A Yes, I would agree.

11 Q Let's see, where's the other one? Over on
12 the right column, budget description, replacement of
13 distribution system; same question.

14 A Yes.

15 Q Okay. If you turn over to the next one
16 that says 901149. I think Mr. Poston asked you
17 specifically if you contacted the City of St. Peters
18 to determine if they had required Laclede to
19 relocate a main there referred to on that work
20 order. And you said no, I believe, was your answer.
21 Is that correct?

22 A To my memory, yes, that was correct.

23 Q To your understanding, is it typical to
24 ask a city in the course of an ISRS audit or any
25 other type audit, for that matter, for specific

1 information regarding a company that you're
2 auditing? I mean, is that part of the normal audit
3 scope; to go to a non-party government entity and
4 ask them specific questions relating to the company
5 that you're auditing?

6 A To my knowledge that is not typical
7 procedure.

8 MR. KEEVIL: Okay. Thank you. No further
9 questions.

10 JUDGE BURTON: Thank you. You're excused,
11 Mr. Wells. Staff may call its next witness.

12 MR. KEEVIL: Staff's next witness would be
13 Jennifer Grisham.

14 (Witness sworn.)

15 DIRECT EXAMINATION

16 BY MR. KEEVIL:

17 Q Ms. Grisham, would you please state your
18 name for the record, please?

19 A Jennifer K. Grisham, G-R-I-S-H-A-M.

20 Q And have you prepared direct testimony of
21 Jennifer K. Grisham in Case No. GO-2016-0197?

22 A Yes.

23 Q And do you have any corrections or changes
24 to make to that testimony?

25 A No, I do not.

1 Q Are the matters stated in that testimony
2 true and correct to the best of your information,
3 knowledge, and belief?

4 A Yes.

5 Q If I were to ask you the questions
6 contained in that testimony, would your answers be
7 the same here today?

8 A Yes.

9 MR. KEEVIL: And just for clarification,
10 Your Honor, I believe Ms. Grisham's testimony has
11 been premarked as Exhibit 7?

12 JUDGE BURTON: That's correct.

13 MR. KEEVIL: With that, Judge, I would
14 offer Exhibit No. 7 into the record.

15 JUDGE BURTON: Exhibit 7 has been offered.
16 Are there any objections? Hearing none, Exhibit
17 7 is admitted into the record.

18 MR. KEEVIL: Thank you, Your Honor. And I
19 will tender the witness for cross.

20 JUDGE BURTON: Okay. I believe this is
21 your witness.

22 MR. ZUCKER: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. ZUCKER:

25 Q Good afternoon, Ms. Grisham.

1 A Good afternoon.

2 Q My name's Rick Zucker. I'm an attorney
3 for Laclede and MGE.

4 A Hello.

5 Q Nice to meet you.

6 A Nice to meet you.

7 Q You did the audit for the MGE side of the
8 Laclede Gas Company house?

9 A That is correct.

10 Q Okay. And did you work with a Laclede
11 representative in doing that audit?

12 A Yes, I did.

13 Q Do you remember who that was?

14 A Mr. Noack.

15 Q And in doing your audit, what methodology
16 did you use in deciding which -- what papers to look
17 at?

18 A When I performed my audit, I did -- it was
19 decided that I would mirror what Mr. Wells had done
20 since both cases were filed at the same time, so I
21 looked at the work order authorizations along with
22 the work papers that had the additional information
23 that came in with the updated information. And then
24 requested invoices as pertaining to seven --
25 actually, I think it was six of the work orders but

1 seven items within those six work orders.

2 MR. ZUCKER: Okay. Thank you very much.

3 No further questions.

4 JUDGE BURTON: Mr. Poston?

5 MR. POSTON: No questions.

6 JUDGE BURTON: All right. Thank you,

7 Ms. Grisham. No questions from here.

8 MR. KEEVIL: No redirect.

9 JUDGE BURTON: All right. Thank you very
10 much.

11 MR. KEEVIL: When there's very little
12 cross, makes redirect much simpler. Should I
13 call my next witness, Judge?

14 JUDGE BURTON: You should.

15 MR. KEEVIL: We would call Mark
16 Oligschlaeger.

17 (Witness Sworn.)

18 DIRECT EXAMINATION

19 BY MR. KEEVIL:

20 Q Mr. Oligschlaeger, would you please state
21 your name for the record?

22 A Mark L. Oligschlaeger.

23 Q And how do you spell your last name, sir?

24 A O-L-I-G-S-C-H-L-A-E-G-E-R.

25 Q Thank you. And did you cause to be

1 prepared in these -- both of these cases one piece
2 of rebuttal testimony which was filed in both Case
3 GO-2016-0196 and GO-2016-0197?

4 A I did.

5 Q And is it your -- well, let me just tell
6 you, that particular testimony has been premarked as
7 Exhibit 9. Do you have any corrections or additions
8 or changes that you need to make to that testimony?

9 A I do not.

10 Q Are the matters stated therein true and
11 correct to the best of your information, knowledge,
12 and belief?

13 A They are.

14 Q If I ask you the questions contained in
15 that testimony, would your answers be the same
16 today?

17 A They would.

18 MR. KEEVIL: Judge, with that, I would
19 offer Exhibit No. 9 into the record.

20 JUDGE BURTON: No. 9 has been offered.

21 Are there any objections?

22 MR. ZUCKER: No objections.

23 JUDGE BURTON: Hearing none, Exhibit 9 is
24 admitted into the record.

25 MR. KEEVIL: Thank you. I'd tender the

1 witness for cross, Judge.

2 JUDGE BURTON: Mr. Zucker?

3 MR. ZUCKER: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. ZUCKER:

6 Q Good afternoon, Mr. Oligschlaeger.

7 A Good afternoon.

8 Q When an ISRS audit is done, do you
9 recommend that each project be looked -- that each
10 eligibility standard be looked at for each project?

11 A If I understand your question, the answer
12 would be that would not typically be my
13 recommendation, given the limited time to perform
14 our audit. Therefore, we would most likely look at
15 those standards in relation to just a sample of
16 projects, typically the most expensive during the
17 period being looked at.

18 Q And is it common to do sampling when
19 you're doing auditing?

20 A That's a staple of auditing, both in a
21 very general sense as well as what we do in terms of
22 rate case audits and ISRS audits.

23 Q Did you supervise Mr. Hyneman when he
24 worked for Staff?

25 A During part of my tenure and part of his

1 tenure, yes, I did.

2 Q And did you supervise him in 2014 or 2015
3 time frame when he was doing ISRS work on Laclede
4 and MGE ISRSs?

5 A I did.

6 Q And were part of his duties to look at
7 updated information on ISRSs?

8 A The established Staff practice and policy
9 at that time was to perform such updates when we had
10 sufficient time and resources to accommodate them
11 and to the extent that was the case in Mr. Hyneman's
12 situation, the cases he was assigned, yes, he would
13 be asked to do that.

14 Q Okay. And to your knowledge, was he able
15 to do it?

16 A Yes, in at least two cases he was assigned
17 to.

18 Q Was he unable to do it in any cases?

19 A I don't think there was a case where he
20 was unable to do it for reasons of time or
21 resources.

22 Q During situations where Staff has decided
23 to -- that it has sufficient time to do an update,
24 have you had any issues with any of the auditors
25 getting the update done?

1 A Well, sometimes we get the information
2 with more time to do our review than others. But in
3 all cases that I'm aware of, we were ultimately able
4 to do the true-up procedures.

5 **Q One moment, please. Is the update**
6 **procedure in ISRS cases similar to that in rate**
7 **cases?**

8 A And, yeah, perhaps I can explain that a
9 little bit. The true-up procedure in rate cases
10 refers to the provision of information to the Staff
11 and other parties after the initial rate audit is
12 complete. And that requires a whole new re-audit
13 and in some cases new testimony filings and new sets
14 of hearings. The -- what I have referred to as the
15 true-up process in ISRS is more analogous to what we
16 call the update process in rate cases by which
17 during the course of our initial audit, updated and
18 new information is provided to us, but we have the
19 time and ability to consider that and incorporate
20 that as appropriate in our rate case recommendations
21 as part of our upfront direct filing.

22 **Q So, when a rate case is filed, are there**
23 **pro forma data or numbers filed with that?**

24 A Well, I think sometimes companies use pro
25 forma data as kind of placeholders with the

1 expectation it will be replaced by actual data at a
2 later point in time.

3 Q That sounds exactly like the ISRS process
4 we're talking about.

5 A I would agree with that.

6 Q So should we be referring to the ISRS
7 process as an update process rather than a true-up?

8 A If you wish to, I guess, distinguish it
9 from what occurs in a rate case as part of what's
10 called the true-up process in that context, that
11 would probably be more accurate.

12 Q It would be more accurate to consider it
13 an update?

14 A It's certainly more analogous to a general
15 rate case update process as opposed to a true-up
16 process.

17 MR. ZUCKER: No further questions. Thank
18 you, Mr. Oligschlaeger.

19 JUDGE BURTON: Mr. Poston?

20 CROSS-EXAMINATION

21 BY MR. POSTON:

22 Q Good afternoon.

23 A Good afternoon.

24 Q I'd like to first follow up on some of the
25 questions you got from Mr. Zucker. When you say

1 that you testified that -- I guess you used the term
2 "limited time to do a review." You used that term,
3 do you recall that?

4 A I believe so.

5 Q And when you say "limited time," are you
6 referring to the 60 days provided in the statute or
7 the two-week audit that your auditors actually
8 performed?

9 A Well, we have 60 days by statute to
10 perform whatever audit and review we are able to.
11 The reality is, because of other rate casework
12 loads, sometimes we have to concentrate our efforts
13 in a smaller period of time than the full 60 days.

14 Q So I guess timing and resource issue then
15 dictates the quality of the audit?

16 A Well, if you have a full 60 days, you
17 certainly have the ability to perform more audit
18 steps and procedures than what you have with a
19 smaller time frame. So but even in the smaller time
20 frame you try to accomplish what you have to
21 accomplish.

22 Q And you were asked questions about
23 Mr. Hyneman when he worked for Staff?

24 A That's correct.

25 Q Would you agree that Mr. Hyneman objected

1 to the update process?

2 A I don't want to quibble. He certainly
3 disagreed with our practice of doing true-up or
4 update procedures in ISRS audits.

5 Q And was he removed from an ISRS petition
6 because he refused to do the update?

7 A No.

8 Q Would you be surprised if Mr. Hyneman
9 believes differently?

10 A I could see where Mr. Hyneman would
11 believe that, yes.

12 Q And how many Auditor 5s of Staff have
13 disagreed with the update procedure?

14 A To my knowledge, besides Mr. Hyneman,
15 there was one other Auditor 5 who expressed what I
16 would call theoretical disagreement with doing the
17 true-up procedures.

18 Q Who was that?

19 A It's Mr. Kerry Featherstone.

20 Q You said that an ISRS, it's more similar
21 to an update than a true-up, is that correct?

22 A As you compare it to general rate case
23 terminology, yes.

24 Q And would you also agree that the update
25 is different than what's done in a PGA

1 **reconciliation?**

2 A There's probably similarities and
3 differences.

4 **Q What are the differences?**

5 A Well, with a PGA, as I understand the
6 process, the rates go into effect based initially on
7 estimated numbers but are later subject to true-up
8 for -- to convert them to actual costs incurred by
9 the company.

10 **Q I'd like to refer to your testimony on**
11 **Page 6. This is just more of a correction. On the**
12 **very top, you refer to getting plant additions no**
13 **later than March 9th, 2015. You meant to say**
14 **2016, is that correct?**

15 A That is certainly correct.

16 **Q Do you believe OPC should have the same**
17 **opportunity to review ISRS work orders as Staff?**

18 A I certainly don't want to get into any
19 legal questions that may involve the allowable scope
20 your office has in these types of proceedings.
21 Certainly my own opinion is you should have the
22 ability to get involved as you see fit.

23 **Q How many years experience do you have**
24 **doing audits?**

25 A I've been with The Commission for around

1 34 and a half years and I would say all of it, to
2 some degree, was involved in either performing or
3 supervising audits.

4 **Q Based on your experience, can you describe**
5 **the usual contents of a plant work order?**

6 A It's been quite a while since I've
7 actually looked at an actual plant work order. My
8 recollection is that generally it is voluminous
9 documentation entailing how the various cost
10 components of a plant project were calculated and
11 put together.

12 **Q So would it include the request for the**
13 **project and a description of why the project was**
14 **needed?**

15 A I know the work order authorizations that
16 Mr. Wells, in particular, discussed does contain
17 that information. Whether that is actually part of
18 the work order, I'm not sure.

19 **Q Would a work order include a list of all**
20 **types of charges, labor, materials, overhead, all of**
21 **those?**

22 A I would expect it to.

23 **Q Was that in the work order authorization**
24 **forms?**

25 A I don't believe so.

1 Q Would it include the date the project was
2 recorded to plant in service work order?

3 A I would expect it to.

4 Q Was that the authorization forms?

5 A I don't believe so.

6 Q Would a work order include documentations
7 explaining reimbursements of the cost, if any?

8 A I would expect it to.

9 Q And was that the work order authorization
10 forms?

11 A I don't believe so.

12 Q Would a work order include dollar amounts
13 for -- of AFUDC capitalized to the project?

14 A I would expect it to.

15 Q And was that included in the work order
16 authorization forms?

17 A I don't believe so.

18 Q And what is AFUDC?

19 A Allowance for funds used during
20 construction.

21 Q Can you tell me if any of this information
22 that you just testified is in a work order was
23 reviewed by your Staff auditors in this case?

24 A I don't believe they specifically looked
25 at any work orders in these cases.

1 Q How many ISRS audits have you actually
2 reviewed or you actually performed?

3 A Performed? I file testimony in several
4 ISRS cases but I wasn't necessarily the primary
5 person to do the audit. I did perform some of the
6 audit steps in a prior Missouri American Water
7 Company ISRS case.

8 Q So you've never done a full ISRS audit
9 yourself?

10 A I'd say I did a majority of the audit
11 steps in that Missouri American case.

12 Q I'd like you to turn to Page 8 of your
13 testimony, if you could. And you see, like starting
14 on Line 7, you refer to Mr. Hyneman in discussing
15 the Staff, what the Staff conducts when it's, you
16 know, in terms of prudence reviews. Do you see
17 that?

18 A I do.

19 Q Is it your testimony that you do not
20 believe that even one single ISRS plant work order
21 that was included in an ISRS from 2004 to 2016 was
22 ever reviewed for prudence?

23 A I don't know whether one was or not.

24 Q Are you aware of any ever being reviewed
25 for prudence?

1 A I am not specifically aware of any. Of
2 course, during a large period of time I was not in
3 my present position or in a position to have
4 knowledge of that.

5 Q Do you think Staff should look at prudence
6 on at least some of its ISRS work orders it reviews?

7 A No, I believe they should look at prudence
8 in work orders as necessary and as needed on a case
9 by case basis for both non-ISRS and ISRS plant. I
10 don't see any distinction between the two. I don't
11 see any necessary -- what's the word I want to
12 use -- special need to review prudence of ISRS plant
13 work orders compared to non-ISRS plant work orders.

14 Q Can you turn to Page 10? And referring to
15 line 19. And you've included testimony from the
16 last ISRS case, is that correct?

17 A That is correct.

18 Q And this is a Q and A between the judge
19 and Ms. Carle?

20 A Carle, actually.

21 Q Is that correct?

22 A That is correct.

23 Q And she says, in her answer to the
24 question there -- well, could you just read the Q
25 and A for me, please?

1 A Sure. The question: Would you agree with
2 Mr. Buck's testimony saying that in performing a
3 review Staff is just merely looking to see whether
4 or not it's ISRS eligible and then reserves any
5 costs in those amounts for any prudence review
6 that's performed later. Answer: That is usually
7 taken care of during a rate case.

8 **Q Could you tell me what is usually taken**
9 **care of in a rate case?**

10 A To the extent a prudence review is
11 appropriate of a particular ISRS cost, that prudence
12 review would generally take place in a general rate
13 case and not in the ISRS review itself.

14 **Q Has that ever taken place in a rate case?**

15 MR. KEEVIL: Objection. That's asked and
16 answered.

17 MR. POSTON: I'll withdraw it. You're
18 right. It was.

19 **Q (By Mr. Poston) Do you believe that this**
20 **testimony from Ms. Carle could lead The Commission**
21 **to believe that Staff looked at at least one ISRS**
22 **work order in a rate case in the past?**

23 A Well, I believe as is probably not
24 uncommon in -- under cross-examination and in an
25 evidentiary proceeding such as this, probably the

1 wording here is ambiguous and could be interpreted
2 in ways other than what I've interpreted it after
3 discussions with Ms. Carle.

4 Q Were you in the room when she made that
5 statement?

6 A I believe I was.

7 Q Did you attempt to correct it?

8 MR. KEEVIL: Objection. Again, how do you
9 do that? If you're sitting in the gallery and if
10 you hear someone something wrong, you jump up,
11 rush --

12 JUDGE BURTON: I will take your comments
13 under advisement but I'm going to overrule that
14 objection. The witness can answer.

15 A I don't specifically recall this question
16 and answer. This was six months or so ago. I will
17 say, to the best of my knowledge, I did not
18 necessarily interpret it at the time in the way that
19 Mr. Hyneman is.

20 Q (By Mr. Poston) If you had interpreted it
21 to -- as a statement that would lead The Commission
22 to believe that the Staff routinely reviewed ISRSs
23 in a rate case, do you think that's something that
24 should have been corrected?

25 A Well, under the hypothetical, if it had

1 been stated, we always look at ISRS work orders for
2 prudence in rate cases, yes, I would have
3 discussed -- I assume I would have discussed that
4 with the attorney for possible treatment and
5 redirect.

6 **Q** Going back to the question I asked you
7 about Mr. Hyneman's work on a case. I'm trying to
8 recall how you testified when I'd asked you a
9 question about him opposing the Staff's policy. Did
10 you remove him from a case because he did not
11 support the Staff policy?

12 **A** There was an ISRS case in which fairly
13 late in the process Mr. Hyneman was removed from the
14 case and I replaced him for the remainder of the
15 case. I would not describe the reason for that as
16 solely being that Mr. Hyneman disagreed with the
17 true-up procedure and, in fact, some of the
18 rationale for that action had to do with discussions
19 with Staff counsel and I suspect I can't get into it
20 more than that.

21 **Q** Would you agree that Mr. Hyneman didn't
22 refuse to do that ISRS petition, refuse to do the
23 audit?

24 **A** I would agree with that.

25 MR. POSTON: That's all I have.

1 JUDGE BURTON: Mr. Oligschlaeger, I just
2 have a few questions. Could you just, for the
3 record, describe what you consider to be within
4 the scope of review by Staff for an ISRS
5 application audit?

6 THE WITNESS: The two things that are laid
7 out in the statute in the rule are that we have
8 to do a determination of eligibility to make sure
9 that the costs being claimed by the company in
10 fact are eligible for recovery under the
11 guidelines set out in the rule, in the statute.
12 That's Item 1. Item 2 is we are also called on
13 to -- I think someone referred to as checking the
14 math. I would say beyond checking the math,
15 making sure that all of the inputs are correctly
16 made by the company in their calculations, things
17 like the rate of return, property tax rate,
18 depreciation rates, and so on.

19 JUDGE BURTON: Okay. For the record, can
20 you also explain the difference between a Staff's
21 ISRS audit and prudence review in a general rate
22 case?

23 THE WITNESS: A prudence review in a
24 general rate case would look at the time honored
25 distinction being that you can have decisional

1 prudence and cost prudence. Decisional prudence
2 is in making that decision did the company do the
3 right thing, was there another course of action
4 they could have taken that might be lower cost or
5 might be -- result in better service to customers
6 and so on. Cost prudence is simply once you
7 assume or verify that a particular project, that
8 the prudence -- the decision to undertake the
9 project was prudent. Then you look at the costs
10 to see that the company managed the project so
11 that it was done at a reasonable least cost
12 basis.

13 JUDGE BURTON: Do you think it's necessary
14 for Staff's auditors to review the work orders
15 from the company as part of its ISRS audit, as
16 part of -- just to be clarifying here, to
17 determine whether or not it's part of the
18 eligible standards under the statute?

19 THE WITNESS: My view is that it is nice
20 to the extent there is time and resources
21 available to at least do a limited sample of
22 actual work orders. That is not always possible,
23 given the time and resource limitations, and I
24 don't think that kind of review to that depth is
25 required as part of our ISRS review.

1 JUDGE BURTON: Now, there's been
2 discussion of a sample being provided of some of
3 the work papers to Staff's auditors. Is that
4 determined by the company or does Staff state
5 specifically we would like to have the work
6 papers or additional information or work orders,
7 for instance, on certain projects?

8 THE WITNESS: Ultimately it's -- I'm
9 sorry, ultimately it's up to the Staff in terms
10 of what sample it would like to review and
11 criteria for that. We have worked with Laclede
12 and MGE long enough that they -- that they know
13 or anticipate our expectations. And in this case
14 they provided a sampling of work order
15 authorizations. I think it was discussed for all
16 projects \$50,000 or more. And that constituted
17 considerably more than 50 percent of the total
18 dollars being claimed here. And that was
19 sufficient for our purposes in this case and
20 consistent with what we have asked for and
21 received in the past.

22 JUDGE BURTON: And that was over
23 50 percent for both Laclede and MGE?

24 THE WITNESS: That is correct. I think
25 it's around 75 percent for both companies.

1 JUDGE BURTON: Would it be possible for
2 Staff to review, let's say, the work orders or
3 work projects just from beginning of
4 September 2015 through December 2015, to review
5 all of those work papers as part of an ISRS audit
6 in the 60-day timeline?

7 THE WITNESS: Again, it somewhat depends
8 on the amount of time you have and, you know,
9 whether you have the auditors working on other
10 projects and so on. It is conceivable that that
11 could be done as a standard audit practice. I
12 probably wouldn't recommend it, simply because
13 some of these projects are very small dollar.
14 And from a bang for the buck perspective, we
15 would prefer to look at the big dollar items, and
16 doing that, it would give us more of a comfort
17 that the entire -- the 100 percent is reasonably
18 stated and eligible.

19 JUDGE BURTON: That wouldn't be straying
20 from accepted auditing practices, procedures?

21 THE WITNESS: That would not be straying?
22 I would view it as not straying from standard
23 audit practices at all.

24 JUDGE BURTON: How often would you say
25 that Staff reviews an ISRS application and the

1 amount of -- that's proposed by the company,
2 let's say Laclede, and suggested a different
3 amount?

4 THE WITNESS: I'd say -- you know, I'm
5 going off the top of my head. I think probably
6 at least in 50 percent of the cases we come up
7 with a different valuation in the company and
8 that can be for many reasons. Sometimes we see
9 problems in how they're reflecting the deferred
10 taxes. They -- I know there was at least one
11 case where a company didn't claim bonus
12 depreciation as part of their ISRS application
13 when they could have. And occasionally we do
14 find instances where for a particular work order
15 authorization we find evidence that the actual
16 project was not -- should not have been included
17 in the ISRS claim. In other words, it was not
18 eligible.

19 JUDGE BURTON: Okay. Thank you. I have
20 no further questions. I would also advise
21 counsel that when you're discussing potential
22 questions with your witnesses, that your
23 microphones are still on.

24 MR. ZUCKER: Finally, it worked for me
25 that my microphone's on.

1 JUDGE BURTON: Any recross?

2 RECROSS-EXAMINATION

3 BY MR. ZUCKER:

4 Q Mr. Oligschlaeger, you were asked a
5 questions about whether it was appropriate to look
6 at work orders in an ISRS case. Do you recall
7 those?

8 A I do.

9 Q And would you be surprised to know that
10 both Mr. Wells and Ms. Grisham looked at work order
11 information in their ISRS audits in these cases?

12 A Well, I'm not sure if you're drawing a
13 distinction between work order information and work
14 orders, the actual documents. I was not aware they
15 looked at the actual documents. I wouldn't be
16 surprised that they would look at work order
17 information.

18 MR. ZUCKER: Okay. So, permission to
19 approach?

20 JUDGE BURTON: Permission granted.

21 Q (By Mr. Zucker) I'm showing you
22 information sent from Mr. Buck to Mr. Wells. Have
23 you seen information like this?

24 A I try to make it a point not to ever
25 review information like this. It's much too

1 detailed.

2 Q Well, if you think that's detailed, here
3 are the details behind it.

4 A And I assume your point being that this
5 information on this spreadsheet came directly from
6 Laclede or an MGE work order?

7 Q Correct. So if we were to assume -- and I
8 believe there's seven of them here. Would you
9 consider this to be a work order?

10 A I guess I'm old fashioned enough to think
11 of the work order as a stack of, you know, sheets
12 this thick. This may well convey very similar
13 information as to what you would put on a work
14 order.

15 MR. ZUCKER: All right. Thank you.

16 Permission to approach one more time?

17 JUDGE BURTON: Permission granted.

18 Q (By Mr. Zucker) Again, in terms of
19 information provided to your auditors, this is an
20 MGE attachment to its filings. And I reference you
21 to the work order descriptions there that are very
22 difficult to read. Do you recognize that document?

23 A I don't recognize it as such. Having said
24 that, I do -- this is the type of information I
25 would expect to see on an actual work order.

1 Q Okay. You were asked some questions about
2 the scope of review by the Staff. Is it your
3 experience that auditors need to see everything from
4 the pipe in the ground to the exchange of the
5 dollars?

6 A I think it would be highly unusual for us
7 to actually go out into the field and verify ISRS
8 additions as an example. That may well have
9 happened in isolated cases. That is certainly not a
10 standard ISRS review practice.

11 Q And you said that you were familiar with
12 Laclede and MGE -- or the Staff was -- in terms of
13 taking business records that the companies offer.
14 Is that something that -- that Staff does in the
15 ordinary course of its business?

16 A You mean, reviewing documents supplied to
17 them by the company?

18 Q Yes.

19 MR. POSTON: I'm going to object. I don't
20 see how this has come off of any question that
21 you asked.

22 JUDGE BURTON: I believe it goes to my
23 question about the sample and who provides the
24 sample, so I'm going to overrule the objection.

25 A The answer to your question is yes, we do

1 that all the time in ISRS and other types of audits.

2 MR. ZUCKER: No further questions.

3 JUDGE BURTON: Thank you. Mr. Poston?

4 MR. POSTON: No questions.

5 JUDGE BURTON: Okay. It's currently 2:06.

6 Why don't we take a brief recess and go back on
7 the record at 2:15.

8 (Break taken.)

9 JUDGE BURTON: And we are back on the
10 record. Mr. Keevil, we will conclude with your
11 redirect.

12 MR. KEEVIL: Thank you, Judge. I don't
13 have much but just a little bit here.

14 REDIRECT EXAMINATION

15 BY MR. KEEVIL:

16 Q Mr. Oligschlaeger, I've handed you what
17 has been marked Exhibit 12 from public counsel.
18 During Mr. Poston's questions earlier, he asked you
19 if there was anything on those work order
20 authorizations that would indicate whether or not a
21 project was reimbursable. And I believe you
22 indicated no, but how -- do you have Page 6, Exhibit
23 12, in front of you there, sir?

24 A I do.

25 Q And is that -- is that one of the work

1 order authorizations?

2 A It is.

3 Q And under the work order description, does
4 it indicate whether it's reimbursable or not?

5 A Yes. Under work order description, part
6 of the verbiage is, quote, project is not
7 reimbursable but is ISRS recoverable, closed quote.

8 Q Thank you. Let me work backwards here.
9 During his questions, Mr. Poston also asked you
10 something about the bottom -- not the bottom -- Page
11 10 of your testimony where you quote a exchange from
12 the last MGE and Laclede ISRS cases between Judge
13 Burton and Ms. Carle, and I believe you indicated
14 that you did not interpret Ms. Carle's response the
15 same way that Mr. Hyneman apparently does. How, in
16 fact, do you interpret that response there, sir?

17 A My interpretation of Ms. Carle's response
18 is that, again, she was agreeing with the premise of
19 the question posed to her that Staff looks at
20 eligibility criteria in the ISRS audit; that any
21 prudence questions will typically be reserved for a
22 later time and that later time is usually in the
23 context of a general rate case.

24 Q Regarding prudence reviews, then, if you
25 could turn back to Page 8 of your rebuttal

1 testimony, Mr. Poston asked you some questions about
2 the prudence reviews of ISRS work orders, I believe,
3 to use his wording. And let me ask you: What is
4 your position here on Page 8 and then the remainder
5 of your testimony regarding prudence review of ISRS
6 work orders?

7 A Well, if there is some underlying reason,
8 I might call a red flag, which would indicate that a
9 particular ISRS work order should be reviewed for
10 prudence at some point, then we would do that. The
11 typical red flags we use are things like very high
12 cost projects and, as I mentioned in my testimony,
13 most of those -- not all of them -- had been in the
14 recent past major electric generating additions.
15 Most ISRS projects aren't nearly of the same cost
16 magnitude. Nor are they inherently necessarily the
17 kind of controversial kind of costs that you may see
18 in other contexts. Therefore, to me, at least, it
19 isn't surprising that prudence reviews of ISRS plant
20 in the same way that prudence reviews of non-ISRS
21 plant would be fairly rare.

22 Q And any review of the ISRS plant, if there
23 was a red flag, that would take place in a general
24 rate case as stated by Ms. Carle in the last Laclede
25 ISRS case, correct?

1 A Yes. You really don't have the time or
2 resources to do that sort of thing in an ISRS audit.
3 Plus, I think, as I mentioned in my testimony, there
4 are questions as to whether that would even be
5 legally allowed.

6 Q I agree. Regarding the prudence review of
7 the ISRS plant, is it correct to say that the ISRS
8 plant --

9 MR. POSTON: Objection. Leading.

10 Q (By Mr. Keevil) Okay. I'll rephrase it.
11 Is the ISRS plant reviewed for prudence on the same
12 basis as a non-ISRS plant in a rate case?

13 A We wouldn't -- we have no special scope
14 for prudence review of ISRS plant. It's not like we
15 have someone assigned in every case to do that kind
16 of review. Because the need for such review
17 wouldn't come up in every case or even most cases.

18 Q So, is it treated differently than the
19 non-ISRS plant?

20 A In terms of?

21 Q Prudence review.

22 A No.

23 Q Now, there was some discussion with
24 Mr. Poston about whether Mr. Hyneman was removed
25 from a previous ISRS audit or whether he refused to

1 perform a previous ISRS audit. Something to that
2 effect. Could you explain what happened in that
3 situation to the best of your recollection?

4 A Well, at some point Mr. Hyneman became, at
5 a minimum, uncomfortable and perhaps unwilling to
6 sponsor the Staff's traditional position on ISRS
7 true-up or update procedures. And I might add that,
8 as a general rule, Staff witnesses are not forced to
9 testify to positions which they may not personally
10 agree. And this particular, at least in one case, I
11 took over that responsibility for that particular
12 issue in terms of sponsoring the true-up. And in
13 another case we believed the best course of action
14 was to remove Mr. Hyneman from the case in total.

15 Q Thank you. Before that happened, however,
16 had Mr. Hyneman filed Staff recommendations on ISRS
17 cases which included plant true-ups, ISRS plant
18 true-ups?

19 A He had in at least two cases.

20 MR. KEEVIL: Thank you. That's all I
21 have, Judge.

22 JUDGE BURTON: Thank you. You're excused.

23 I believe that concludes the witnesses from
24 Staff. Next? Mr. Poston?

25 MR. POSTON: OPC calls Charles Hyneman.

1 (Witness sworn.)

2 DIRECT EXAMINATION

3 BY MR. POSTON:

4 Q Please state your name for the record.

5 A Charles R. Hyneman.

6 Q What is your job title and by who are you
7 employed with?

8 A Yes. I am the chief public utility
9 accountant for the Office of Public Counsel.

10 Q Are you the same Charles Hyneman that
11 caused to be prepared and filed direct and rebuttal
12 testimony in this case that's been marked as
13 Exhibits 10 and 11?

14 A Yes, I am.

15 Q Do you have any changes to your testimony?

16 A No, I do not.

17 Q Do you have any changes to your rebuttal
18 testimony?

19 A I do not.

20 Q Let me refer you to one. I believe you're
21 going to make a change to the first page of your
22 rebuttal testimony, Line 9/10.

23 A Oh, I'm sorry, yes. I'd like to amend
24 that to respond to the direct testimonies of Laclede
25 witnesses, Missouri Gas and Missouri Gas Energy

1 witness Glenn Buck, and also to the Staff witnesses'
2 direct testimony in this case.

3 JUDGE BURTON: Could you please restate
4 what line you're referring to and what you are
5 amending it to?

6 THE WITNESS: Yes. It should be the
7 purpose of this testimony is respond to the
8 direct testimony of Laclede Gas, Laclede, and
9 Missouri Gas Energy, MGE, witness Glenn Buck, and
10 to Staff witnesses in this case.

11 JUDGE BURTON: Okay.

12 Q (By Mr. Poston) With that correction, do
13 you have any other changes?

14 A I do not.

15 Q And with that change, if I were to ask you
16 the same questions that appear in your direct and
17 rebuttal testimony, would your answers be the same?

18 A They would.

19 Q And are those answers true to the best of
20 your belief?

21 A They are.

22 MR. POSTON: I'm going to offer these
23 separately but I will offer Exhibit 10.

24 JUDGE BURTON: Exhibit 10 has been
25 offered. Are there any objections? This is the

1 direct of Mr. Hyneman. Seeing none, Exhibit 10
2 is admitted.

3 MR. POSTON: I'm going to offer Exhibit 11
4 but I understand there's been a suspended ruling
5 on the objection that's already been there, but
6 I'd just like to go ahead and offer it for the
7 record.

8 JUDGE BURTON: 11 is offered for the
9 record and will be taken with the case and we
10 will discuss at the conclusion of today's hearing
11 the deadline for OPC to file a response and for a
12 reply.

13 MR. ZUCKER: Your Honor, could I add one
14 objection to that? The change that was just made
15 by Mr. Hyneman is not in the nature of a
16 correction but in the nature of an amendment of
17 the testimony and that his testimony was due last
18 week, so it's unfair and it controverts the
19 procedural schedule to allow an amendment at this
20 point.

21 MR. POSTON: Judge, I'll say it is a
22 correction.

23 JUDGE BURTON: Okay. It will be noted and
24 taken for review.

25 MR. POSTON: I tender Mr. Hyneman for

1 cross-examination.

2 JUDGE BURTON: Okay. Mr. Keevil?

3 MR. KEEVIL: Very briefly, Judge.

4 CROSS-EXAMINATION

5 BY MR. KEEVIL:

6 Q Mr. Hyneman, in your direct testimony,
7 Page 8, you take issue with the true-up or update
8 procedure, which is being applied to the ISRS plant
9 in this case. And you state there that on Line 5, a
10 true-up is a revenue requirement issue and rate
11 making issue designed to maintain the integrity of
12 the revenue requirement matching principle, is that
13 correct, sir?

14 A That is correct.

15 Q You agree, do you not, sir, that when you
16 were a member of Staff filing Staff recommendations
17 on ISRS cases that you supported a number of Staff
18 recommendations where the depreciation reserve and
19 accumulated deferred income taxes was updated to a
20 point in time several months and several months past
21 the cutoff date proposed for the ISRS plant
22 additions?

23 A Past the cutoff date, I'm not --

24 Q Well, like we're saying in this case, the
25 January -- or the two months of updates and then the

1 accumulated deferred income tax and depreciation is
2 taken out even further than that?

3 A No, I wouldn't characterize that as a
4 true-up or update. What you did is you took the
5 plant service, depreciation reserve, and a deferred
6 tax reserve that the company filed in its ISRS
7 petition and you reflected those balances close as
8 possible to the date the ISRS would go in effect and
9 merely represents an accurate depiction of what the
10 ISRS revenue requirement is when it goes into effect
11 because otherwise if you include the depreciation
12 reserve and deferred tax reserve earlier than that,
13 then the company would actually double recover. So
14 as an attempt not to allow double recovery of the
15 costs of base rates and an ISRS. It's not a update
16 or true-up in any sense.

17 Q You're taking it -- it wasn't calculated
18 out that far in the previous ISRS cases, right?

19 A No, the previous --

20 Q And you're taking it out beyond the end of
21 the ISRS plant addition date, correct?

22 A No, in --

23 Q Yes or no? Are you taking it out beyond
24 the date at which the ISRS plant is being taken?

25 A It's a reflection of the deferred tax

1 reserve and a depreciation reserve based on the
2 plant balances that were filed in the petition. So
3 it's a reflection of those balances at the date the
4 ISRS will go into effect, closest possible to the
5 date that the ISRS will go into effect.

6 Q And it also includes the -- in this --
7 cases where there are updated ISRS plant numbers, it
8 also included the updated plant, does it not?

9 A I don't know what you mean on that
10 question.

11 Q Okay. But, I guess, bottom line is you
12 see no contradiction between maintaining the
13 integrity of the revenue requirement matching
14 principle between updating or not updating ISRS
15 plant, which is your recommendation, and the process
16 or the procedure of updating the accumulated
17 deferred income tax and depreciation?

18 A Well, there's many facets to that
19 question, I'm going to have to ask you to repeat,
20 but I want to clarify, there is no matching
21 principal in an ISRS. The ISRS only considers
22 costs, increase in utility rates. A matching
23 principle assumes that you include revenues, rate
24 base, and expenses. And you match those in a period
25 of time. That's not allowed and it's not even

1 considered in an ISRS.

2 **Q Where do you get that?**

3 A Well, I mean, the language in the statute
4 says that it lists specific types of costs that can
5 be included in the ISRS. It doesn't put revenues or
6 decreases in other costs. It says, No other rate
7 making or revenue requirement issue may be
8 considered. So it's -- matching is prohibited in
9 the ISRS statute.

10 **Q In your legal opinion?**

11 A Well, in my auditing opinion. I mean, I'm
12 very familiar with the matching principle, test
13 years, updates, true-ups. I'm not making an opinion
14 on whether it's legal or not.

15 **Q So you don't believe that statutory**
16 **interpretation involves legal opinions?**

17 A I'm not giving a statutory interpretation.
18 I'm saying how I interpret that as an auditor with
19 the language that deals with audits in rate cases in
20 the ISRS statute. Now, how you apply that is up to
21 you. Not me. I'm just merely giving an
22 interpretation about a statute that's all about
23 audit, it's all about plant, it's all about
24 revenues.

25 **Q Mr. Hyneman, there's no question. You've**

1 answered several times now. Thank you.

2 MR. KEEVIL: I have nothing further,
3 Judge.

4 JUDGE BURTON: Mr. Zucker?

5 MR. ZUCKER: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. ZUCKER:

8 Q Mr. Hyneman, on Page 7 of your direct
9 testimony, Line 08 through 14, you were asked the
10 question: Is 60 days sufficient time to perform an
11 ISRS audit? And your answer is: It's not
12 sufficient if the petition is allowed to be updated
13 during the very limited ISRS audit period. Do you
14 see that?

15 A It's insufficient, yeah, with the updates.
16 And it is sufficient, I believe, if you have
17 experience auditors without an update, focus on the
18 ISRS costs, do a review of the plant work-ups.

19 Q You've answered the question. Now let me
20 ask you another question. Isn't it true that you,
21 in fact, did an ISRS audit in which an update was
22 done?

23 A I was involved in them and I was certainly
24 not satisfied that the audit work was complete, of
25 high quality, and, in fact, I think one report I had

1 to make a statement in the audit report that not
2 sufficient time or no resources were able to
3 adequately review these work orders and they would
4 be reviewed in a subsequent case. So no, I don't
5 think I concluded that I had adequate time in any
6 ISRS audit that included true-ups.

7 Q Okay. On July 25th, 2014, Laclede Gas
8 Company filed an ISRS case called GR-2015-0025.

9 A I think that was filed as a GO case.
10 Subsequently transferred to a GO case.

11 Q Okay. I'm sorry, that was an MGE case.
12 Let's just call it 2015-0025.

13 A Okay.

14 Q And on the same date, Laclede Gas filed an
15 ISRS case numbered 2015-0026. Do you recall working
16 on those cases?

17 A I do.

18 Q Okay. And were you an auditor on those
19 cases?

20 A Yes. Well, my recollection -- I either
21 performed the audit or I supervised the audit.

22 Q Okay. And was an update done, the two
23 months plant update done in both of those cases?

24 A I can't recall.

25 Q Let me refresh your recollection.

1 MR. ZUCKER: Permission to approach?

2 JUDGE BURTON: Permission granted.

3 Q (By Mr. Zucker) This is the Staff
4 recommendation in 0025. You want to take a minute
5 to read through it? If I may refer you to the
6 bottom of Page 3 of the recommendation.

7 A I'm trying to scan through -- may I write
8 on this for this copy?

9 Q I would say okay.

10 A Yeah, I do recall having this case and I
11 recall having discussions with Mr. Noack of MGE and
12 Mr. Buck and making a trip to Laclede and visiting
13 Laclede and this was during the time of the
14 integration with MGE and Laclede. I know there's a
15 lot of problems integrating.

16 Q My question is: Was the two-month
17 estimate, the additional plant update, done in that
18 case?

19 A Yeah, I think I noted that it was --

20 Q That's a yes or no question.

21 A Well, I'm trying to review. Yes. And I
22 noted it on Page 3 of 4 at the bottom that this
23 practice was consistent with how the Staff treated
24 Laclede's prior ISRS, which it wasn't how Staff
25 treated MGE's prior ISRS. But I understand that the

1 Jeff City auditing staff did allow --

2 Q Okay. Let me ask you something: Is your
3 affidavit attached to that Staff recommendation?

4 A Yeah, and it asserts that I participated
5 in the audit and recommendations were developed by
6 me and I have knowledge set forth in the
7 recommendation and it's true and correct. Certainly
8 nowhere in the recommendation did I say there was
9 sufficient time to complete an adequate audit of
10 this ISRS case.

11 Q Okay. Well, this -- this affidavit was
12 signed on your oath, is that correct?

13 A Absolutely it was, yeah.

14 Q And you swore that you have participated
15 in the preparation of the Staff recommendation,
16 correct?

17 A I did.

18 Q That the information in the recommendation
19 was developed by you?

20 A It was.

21 Q That you have knowledge of the matters set
22 forth in the recommendation?

23 A That's correct.

24 Q And that such matters are true and correct
25 to the best of your knowledge and belief?

1 A That's absolutely correct. And if you can
2 see through this memo --

3 Q Okay. That's all. You've answered my
4 questions. Do we need to go through the same thing
5 on GR-2015-0026 or do you recall that one?

6 A I do recall and that is the case where I
7 specifically had discussions with Mr. Noack about
8 the problems with the update, asking him why MGE had
9 never in the past done an update and all of a sudden
10 now that we're joined with Laclede, they decided to
11 do true-ups.

12 Q Well, 0026 is the Laclede Gas case.

13 A I was speaking to the MGE case.

14 Q So now I'm asking about the Laclede Gas
15 case.

16 A And I can't recall if I had concerns
17 expressed to Mr. Buck when I traveled to St. Louis
18 at Laclede headquarters. I assume we probably had
19 discussions to that effect. I know I proposed --

20 Q So was a two-month update of plant done in
21 that case?

22 A When you say done, I mean, what do you
23 mean by done?

24 Q Well, was it -- was the information
25 submitted to the Staff and to OPC and did Staff

1 recommend that the update occur?

2 A Insufficient information was provided.

3 Even though I did get more information from Laclede
4 in that case through additional requests, I got some
5 information about the costs that are included in the
6 work orders.

7 Q Did Staff recommend the update? Did Staff
8 recommend the two-month plant update in that case?

9 A Staff doesn't recommend it, no, Staff
10 doesn't recommend updates.

11 Q Was the update included in the Staff
12 recommendation?

13 A Yeah.

14 Q In that case?

15 A Yes.

16 Q That's a yes?

17 A That's a yes.

18 Q Okay. And were you involved as an auditor
19 in that case?

20 A I was.

21 Q Okay. And both of those cases were taking
22 place at the same time, correct?

23 A Yes.

24 Q You pointed -- excuse me, on Page 5, Line
25 14 of your direct, that the ISRS statute -- for

1 **qualification of the ISRS statute, the plant must be**
2 **in service and used and useful, do you see that?**

3 A I do.

4 Q **And would you agree with me that on**
5 **February 1, 2016, when Laclede and MGE filed their**
6 **ISRS petitions, the plant for the month of January**
7 **was in service and used and useful?**

8 A I have no idea if it was.

9 Q **Okay. Would you agree with me that four**
10 **weeks later the plant for February was in service**
11 **and used and useful?**

12 A No, and I certainly don't see how Staff
13 could determine it either because the information
14 provided by Staff, those face sheets or work order
15 summary sheets, don't have in service dates. So I
16 don't think Staff -- and I think Mr. Oligschlaeger
17 indicated, there's no way to determine any of that
18 plant when it was in service.

19 Q **And those in service dates would be on**
20 **work orders, right?**

21 A Absolutely. Source documents, yeah.

22 Q **And so did you ask for those source**
23 **documents so you could verify what date the plant**
24 **went into effect?**

25 A I did in that case you referenced earlier

1 when I was a member of Staff.

2 Q I'm asking about now in 2016-0196 and
3 2016-0197, the current cases.

4 A No, I didn't actually perform an ISRS
5 audit in those cases.

6 Q And you stated in discovery that you don't
7 have any reason to believe that the numbers are
8 incorrect that Staff is recommending?

9 A I said what? I'm not sure what you mean
10 by that.

11 Q You were asked a series of questions about
12 the amounts in Laclede's and MGE's ISRS and whether
13 they added up the numbers that are currently in the
14 recommendation.

15 MR. POSTON: Judge, can I have him refer
16 to somewhere in the testimony he's referring to?

17 JUDGE BURTON: I believe this is -- this
18 from a data request.

19 MR. ZUCKER: This is from a data request.

20 MR. POSTON: Okay. Sorry.

21 Q (By Mr. Zucker) And your answer was: I
22 have not performed those calculations but I have no
23 reason to dispute the numbers provided. Do you
24 recall that?

25 A Yes. I think a series of data requests

1 that we received a couple days ago and I believe we
2 responded to last evening.

3 MR. POSTON: It would be helpful if he
4 could see the data requests.

5 JUDGE BURTON: Would that be possible?

6 Q (By Mr. Zucker) Would you like to see it?

7 A Absolutely.

8 JUDGE BURTON: And for clarification for
9 counsel, could you identify the number for the
10 data request as well?

11 MR. ZUCKER: Yes, this is Data Request No.
12 5.

13 A Okay. Yeah. And it references to --
14 you're asking -- you wanted me to add up total
15 additions? There's a February update sent out
16 March 9th, is that correct?

17 Q (By Mr. Zucker) Well, let me ask you the
18 questions. You see the amounts and the numbers
19 there in terms of work orders?

20 A Right.

21 Q Okay. So, new to January and February, do
22 you see 23 work orders totaling 11,924,000?

23 A Where's that number? I don't see that
24 number. Okay. Number -- that's number of work -- I
25 didn't -- you mean face sheets? Is that what you're

1 talking about on there?

2 Q No, this is Laclede Gas additions for
3 January or February.

4 A Right. Work orders. I don't believe
5 Staff or I saw any work orders. So I can't -- I
6 can't verify that. But if you want me to add up
7 those numbers, I have no problem that those are
8 correct. I'm not going to take time and go through
9 and add up numbers but I have no issue if you say
10 that's what they are.

11 Q And do you agree, for example, with F,
12 that says, Of these specific work orders, over
13 \$10,000, there are approximately 23 of them totaling
14 about 11.1 million?

15 A Yeah, I mean, this data request would
16 require me to go through your application and do all
17 kind of calculations and that's not relevant. So if
18 you want to say it is, I'm fine with that. I don't
19 disagree with that, but I didn't do any independent
20 calculations of that.

21 Q Okay. Well, then let me ask you
22 something. We sent this document to you on
23 March 9th, 2016. Do you recognize it?

24 A No.

25 Q Okay. This is the MGE updated

1 information.

2 A Okay.

3 Q So by not recognizing it, are you saying
4 you didn't look at it?

5 A I'm saying I looked at -- what I recall
6 seeing in an e-mail was those work order face
7 sheets, a bunch of those for the January and
8 February updates. If that was included in that, in
9 the -- I'm sorry, in that e-mail with all those
10 documents, then if it was included, I didn't see it,
11 but I don't specifically recall seeing that specific
12 document. I do recall getting a bunch of those work
13 order face sheets.

14 Q Okay. But you don't recall getting this?

15 A No.

16 Q You know you didn't get it?

17 A No, I don't know that I didn't get it.

18 Q In other words, did you look at all the
19 documents that were sent to you on March 9th?

20 A I don't know if I looked at all of them.
21 I looked at several of them.

22 Q So this comes from MGE and I'm going to
23 need my glasses. Did you look at MGE's original
24 attachments to their applications -- or their
25 application?

1 A No, I mean, this type of information, this
2 Excel spreadsheet is the type of information that
3 MGE filed in the past. Has nothing to do with
4 the -- the work orders. When we actually did audits
5 of MGE's ISRS, we would go to MGE and look at each
6 individual work order which included all the
7 documentation of the type that Mr. Oligschlaeger
8 would say would be in a work order. We actually
9 reviewed those original documents. None of that is
10 in this at all. So I wouldn't believe --

11 Q So if you look at this description, would
12 you say you may need some glasses for that? Or you
13 have them. Would you say that that is work order
14 information?

15 A This column here is, yes. But I see
16 nothing about in service dates, anything to deal
17 with costs that's in a work order. Anything, for
18 example, AFUDC, how much labor cost was charged, you
19 know, what capital expense ratio was used, whether
20 the charges to the work orders included stock
21 compensation or all those types of costs that would
22 normally should not be in a work order, was not
23 provided.

24 Q That normally should not be in a work
25 order?

1 A Well, for example --

2 Q So you seem to know a lot about this
3 document.

4 MR. POSTON: Judge, he asked him a
5 question and he's not letting him answer.

6 JUDGE BURTON: I believe -- let's go ahead
7 and back up. I believe that he did answer.

8 A Yeah, this is the type of document, if not
9 exactly, that MGE would provide in the past in
10 addition to the actual work orders.

11 Q (By Mr. Zucker) Okay. So what does that
12 column say right there?

13 A Depreciation expense.

14 Q This column?

15 A Month.

16 Q Month. And what are the months below
17 that? Give me a "for example."

18 A Well, December of 2015, September 2015.

19 Q Okay. So those do have the dates on them,
20 correct?

21 A Well, I mean, it's not source documents.
22 You could put any date in an Excel spreadsheet.

23 Q I see. You don't believe that -- that
24 information that the company gives you is -- is
25 accurate?

1 A I don't assume it is accurate. No.

2 Q Okay.

3 A In fact, an auditor should not assume it's
4 accurate.

5 Q Well, let me ask you this: On Page 7 of
6 your direct testimony, Line 19, you say a thorough
7 review of an ISRS petition involves multiple
8 determinations to ensure each project meets each
9 eligibility standard. Do you see that?

10 A Yes.

11 Q And do you agree with that; that to review
12 an ISRS you need to look at each project?

13 A Again, you have 60 days. It makes it a
14 lot more difficult when your ISRS filing is a moving
15 target and you file halfway through the audit period
16 with updates. It make it very difficult to do -- to
17 complete an adequate audit. And that's my whole
18 point. I don't believe Staff does an adequate audit
19 of ISRS. I don't believe it's even close to doing
20 an adequate audit.

21 Q So when you signed off on those, swore on
22 your oath, was that false, then?

23 A There's nothing under oath that said it
24 was a quality audit. I did the best I could with
25 the time I was allowed but I in no way felt it was

1 sufficient review. And I didn't attest to that
2 either. Because I would not have.

3 Q Who developed the idea of bringing
4 depreciation expense and deferred taxes forward to
5 the -- as close as possible to the operation of law
6 date?

7 A My recollection is that I proposed that
8 adjustment in an MGE ISRS case and MGE initially
9 opposed it but then they dropped that charge. I
10 think they opposed it because Staff --

11 Q Okay. So the answer is you did?

12 A Yes.

13 Q Correct. Okay. And so, tell me where in
14 the ISRS statute -- and I want you to tell me in
15 your role of auditor, where in the ISRS statute it
16 says to bring forward depreciation expense and
17 accumulated deferred taxes to the operation of law
18 date.

19 A You want me to find those exact words in
20 the ISRS statute?

21 Q Well, can you find those words?

22 A I cannot find those exact words.

23 Q But you believe it was appropriate to do
24 so?

25 A Yes.

1 MR. ZUCKER: Permission to approach again,
2 Your Honor?

3 JUDGE BURTON: Permission granted.

4 Q (By Mr. Zucker) This is the same document
5 I showed you before. It is a document we sent you
6 on March 9th. In terms of the month that this
7 plant went into effect for MGE, can you tell me what
8 month that purports to be?

9 A February of 2016.

10 Q February of 2016. And so if that's
11 correct, would that plant be in service and used and
12 useful today as we stand here today?

13 A Yes.

14 Q Okay. And do you believe that that plant
15 actually went into service in February of 2016?

16 A I have no idea. MGE -- MGE/Laclede
17 provided no documentation to verify the in service
18 dates of any of the plant.

19 Q So this is not documentation that verifies
20 it?

21 A No.

22 Q What kind of documentation are you looking
23 for?

24 A I'm looking for work order documentation
25 that shows from your plant personnel when these

1 costs were cut over from construction work in
2 progress into either 106, a temporary holding
3 account, or Account 101, plant in service.

4 Q And you did not ask for those work papers,
5 did you?

6 A I did not perform an audit in this case.
7 In the last case, when I performed the audit for
8 Laclede and MGE, I did and I was successful in
9 getting some documentation showing costs from
10 Mr. Buck from Laclede.

11 Q Okay. Thank you. Are you aware that
12 these same parties had this same dispute over
13 updating last -- in an ISRS cases, in Laclede and
14 MGE ISRS cases last fall?

15 A Yes.

16 Q And are you aware that that dispute was
17 over plant put into service in July and August of
18 2015?

19 A I think that's correct. Yes.

20 Q Okay. And are you aware that Laclede
21 submitted that plant in service during that case
22 during -- the July and August, 2015 plant in service
23 and also included it in its petition in this case?

24 A I'm sorry, could you repeat that question?

25 Q Are you aware that Laclede not only

1 included the July and August 2015 plant in the last
2 ISRS cases, but Laclede and MGE both included them
3 in this ISRS -- in these ISRS cases?

4 A Hopefully in separate updates. I mean, if
5 it was in the last ISRS update, it would be still
6 considered in the ISRS, but those dollars should not
7 be included in this update.

8 Q So that they don't get double counted?

9 A Correct.

10 Q Have you had a chance to look at those
11 July and August, 2015 information?

12 A No.

13 Q And why haven't you done that?

14 A I didn't perform an ISRS audit, a cost
15 audit, in this case.

16 Q Okay. Thank you.

17 MR. ZUCKER: One moment, please, Your
18 Honor.

19 JUDGE BURTON: You're fine.

20 MR. ZUCKER: Permission to approach one
21 more time, Your Honor.

22 JUDGE BURTON: Permission granted.

23 Q (By Mr. Zucker) I'm going to show you this
24 same document again that was sent to you on
25 March 9th. You have answered --

1 MR. POSTON: Judge, I just want to object
2 just to -- he's testifying. He's asserting facts
3 that are not on record that this was sent to us
4 on March 9th and he's been doing this
5 repeatedly and just wanted to put that objection
6 out there.

7 Q (By Mr. Zucker) He's right. Let's -- do
8 you need to have your e-mail here to see whether or
9 not you received that on March 9th?

10 A I've seen documents --

11 MR. POSTON: We have committed to follow
12 up.

13 JUDGE BURTON: Well, I have a question
14 about that because we have what's previously been
15 marked and offered as Exhibit 13, which is the
16 updates that were supposed to have been sent on
17 March 9th concerning Laclede. Is this the same
18 document that you're currently showing the
19 witness or is this in relation to MGE or is it
20 the same thing?

21 MR. ZUCKER: This is the same document in
22 relation to MGE.

23 JUDGE BURTON: So it has not been marked
24 as an exhibit?

25 MR. ZUCKER: Right. I would like to mark

1 it.

2 JUDGE BURTON: Thank you. Let's mark that
3 as Exhibit 14.

4 MR. POSTON: Judge, no witness has
5 authorized that document. I don't know what's
6 the need to mark something that has not even been
7 authenticated to be entered into the record.

8 JUDGE BURTON: I'd like for the record, if
9 the witness has been presented with material to
10 be questioned on, to have clarification of what
11 it is exactly.

12 (Laclede Exhibit 14 marked.)

13 Q (By Mr. Zucker) Okay. I'm handing you
14 what's entitled ISRS work order additions, updated
15 for January and February, 2016.

16 A Okay.

17 Q Is that what that purports to be?

18 A Yes, it is.

19 Q And does it show utility accounts by
20 number and name?

21 A Yes, it does.

22 Q And does it show the MGE work order
23 number?

24 A Yes.

25 Q And does it show a new work order number

1 from a new system?

2 A Yes.

3 Q And does it show a work order description?

4 A Brief description. Yeah.

5 Q Okay. And a funding project number?

6 A Yes.

7 Q Okay. And a funding project description?

8 A Yes.

9 Q All right. And does it show category of
10 the project?

11 A Yes.

12 Q And addition amount?

13 A Yes.

14 Q Okay. And the depreciation rate?

15 A Yes.

16 Q And the accumulated depreciation?

17 A Yes.

18 Q And finally the depreciation expense?

19 A Yes.

20 Q And is it approximately 100 something
21 pages?

22 A I would think it's approximately 100
23 something pages, yes.

24 MR. ZUCKER: Okay. Your Honor, we've now
25 identified what this document is.

1 MR. POSTON: Judge, I disagree. All he's
2 done is repeated what the heading of the
3 categories are. He's not authenticated that this
4 document is what it's purporting to be.

5 MR. ZUCKER: I'm willing to let
6 Mr. Hyneman look at his e-mail from March 9th,
7 see that he received this documentation, and
8 authenticate it from there.

9 JUDGE BURTON: Are you using this for
10 impeachment purposes?

11 MR. ZUCKER: Yes.

12 JUDGE BURTON: I'm going to have this
13 noted as being offered and we'll have the same
14 condition and I'll allow the parties to brief
15 this as far as the admissions after.

16 MR. ZUCKER: Okay. So I'll hand it to
17 her.

18 JUDGE BURTON: That is marked as Exhibit
19 14.

20 MR. ZUCKER: Thank you, Your Honor.

21 Q (By Mr. Zucker) And you've already
22 testified that you didn't look at that document and
23 you did not ask for work orders from that document
24 because you didn't do an audit, correct?

25 A Well, I think I did ask for work orders.

1 I can't recall the exact language of the data
2 request. But if I asked -- I think I asked for work
3 orders and I got face sheets. I don't think you
4 provided work orders. And I think Staff witness
5 indicated that you're not capable of providing work
6 orders because it's too complex or something.

7 Q But you've said you didn't do an audit?

8 A Correct.

9 Q After March 9th, did you make any
10 requests for information on the January and February
11 plant or anything else?

12 A Well, I think we asked Staff to provide us
13 with documentation that -- from Laclede to try to
14 handle it that way and I think Staff objected to it.
15 They said we have to get it from you. And do I
16 recall issuing a data request for the January and
17 February updates? No.

18 MR. ZUCKER: No further questions. Thank
19 you.

20 JUDGE BURTON: Okay. Mr. Hyneman, I have
21 a few questions. OPC normally doesn't perform an
22 audit in an ISRS application, is that correct?

23 THE WITNESS: Correct. I don't think that
24 they ever have.

25 JUDGE BURTON: Okay. And you've expressed

1 some doubts or concerns that Laclede or MGE have
2 verified the in service dates for some of these
3 projects or all of the projects.

4 THE WITNESS: Well, they didn't verify a
5 lot of data. That's just one of them, right.

6 JUDGE BURTON: So is OPC objecting to all
7 of the work plants from September through
8 February for both of them for failure to include
9 that information?

10 THE WITNESS: You'll have to speak to
11 Mr. Poston on the legal objection. We are
12 objecting for ISRS true-ups, that that plant
13 that's not in a petition to be considered in that
14 current ISRS. It should be in the next ISRS.

15 JUDGE BURTON: So, yeah, but I heard you
16 referring to some of the documentation that was
17 being provided with the application, not being
18 the work orders, I believe you called them the
19 face sheets.

20 THE WITNESS: Right. And that goes --
21 there's two main detriments we see.

22 JUDGE BURTON: Let me just ask my
23 question. Was there anything that was different
24 between the projects that were completed between
25 the beginning of December and the end of

1 December 2015 and far as the in service dates,
2 let's say, in that Excel spreadsheet that was
3 provided with the application that makes it more
4 verifiable to you than the information that was
5 provided later for January and February?

6 THE WITNESS: None of it's verifiable.

7 JUDGE BURTON: Okay. Now, I know you're
8 not a lawyer, so please let me know if you don't
9 know the answer to this, but you've performed, I
10 believe, a lot of audits and participated in a
11 lot of audits when you were with Staff or when
12 you're with OPC. What does a verified
13 application mean?

14 THE WITNESS: Well, the application or I
15 think the ISRS statute refers it to a petition,
16 has specific requirements that what is included
17 in that. An eligible infrastructure system
18 replacement is one that has to be in service and
19 used and useful. If you include estimates, the
20 petition does not do that. To me it's a clear
21 violation of the requirement, the plain words in
22 the statute. And then you get into other
23 requirements in The Commission rule that says you
24 have to have this specific documentation.
25 Putting an estimated number is not considered

1 documentation by any auditor that I think would
2 call themself an auditor. It's not
3 documentation. It's a clear violation of the
4 rule. They have to have documentation in the
5 petition and they don't. They have some
6 estimated number that they're going to have in
7 the future, which is, in many cases, it's wildly
8 different than what actually -- they actually
9 incur in that month.

10 JUDGE BURTON: Well, actually for MGE,
11 wasn't it actually lower than what the estimate
12 was?

13 THE WITNESS: It could go either way.

14 JUDGE BURTON: But for MGE, wasn't it
15 lower?

16 THE WITNESS: I don't know.

17 JUDGE BURTON: You didn't review this?

18 THE WITNESS: Oh, no. I don't really -- I
19 wasn't too concerned about the numbers in those
20 months. I just know they're not verifiable.
21 They're not sufficient -- there's no
22 documentation and, you know, they should have
23 been, if they were -- they need to be in service
24 and used and useful to be, according to the
25 statute, to be eligible.

1 JUDGE BURTON: How do you decide if
2 something's in use and used and useful?

3 THE WITNESS: It's classified as plant in
4 service. It's an accounting transaction. And
5 it's actually providing service to rate payers.
6 It's used and useful in the provision of utility
7 service. And it's classified in service, which
8 is normally for Account 101 and subaccounts for
9 different main services.

10 JUDGE BURTON: So if Mr. Buck, in his
11 rebuttal testimony which he's taken under oath,
12 states that it was in service and used and useful
13 before April 1st, would you believe that?

14 THE WITNESS: I have no reason to believe
15 or disbelieve it. I need documentation to verify
16 it. And that's part of the standard and the
17 issue what I have --

18 JUDGE BURTON: So his sworn statement is
19 not enough?

20 THE WITNESS: Not even close.

21 JUDGE BURTON: Okay. What type of
22 documentation would Staff need to see if a
23 project is used and useful?

24 THE WITNESS: Well, Staff obviously
25 doesn't need any documentation. That's the

1 problem. What they should need is they'll review
2 the work order documentation, source documents
3 from the company, and certify from their plant
4 personnel when these costs were transitioned from
5 construction work in progress to plant in
6 service. When that date is certified by the
7 plant personnel, that's the date if it's
8 otherwise eligible to be in an ISRS that makes it
9 eligible. And the only way you can verify, you
10 know, the documentation received by Laclede is
11 just estimates, wild estimates of when the plant
12 would be in service. That's not a document an
13 auditor would consider.

14 JUDGE BURTON: Let's say you have all the
15 statements from the company. We have
16 verification to your standards that the projects
17 for January and February of 2016 are in service
18 and are used and useful under the statute. If
19 Laclede and MGE filed their application today, in
20 your opinion would it be ISRS eligible?

21 THE WITNESS: Again, I want to answer the
22 first part of that. They're not my standards.
23 They're professional auditing standards. I don't
24 have my own standards.

25 JUDGE BURTON: Do you believe that your

1 standards are the same as Staff's and
2 Mr. Oligschlaeger's?

3 THE WITNESS: No, I don't believe the
4 Staff is following professional auditing
5 standards.

6 JUDGE BURTON: You can continue with your
7 answer.

8 THE WITNESS: If I got your question
9 correct, are you saying if Laclede filed today
10 for those January and February additions?

11 JUDGE BURTON: Yes.

12 THE WITNESS: Yeah, I mean, then -- and if
13 they were verified in service, that would be
14 perfectly fine. In fact, I think that's exactly
15 what happened in a few cases ago. There was a
16 question on this, Laclede withdrew its
17 application, then re-filed it to show that those
18 two months of updates were actually in service.
19 So that's been done before.

20 JUDGE BURTON: Is there any way -- and
21 let's say this is the standard adopted auditing
22 procedures, to perform an audit of this nature,
23 an ISRS audit, without reviewing every single
24 work order?

25 THE WITNESS: I think it could be done.

1 You know, I think if you have time, I don't
2 believe there's a reason why you would not review
3 at least the majority of work orders. Staff
4 picked a little less than 75 percent. They claim
5 they have --

6 JUDGE BURTON: Last I knew, granted I'm a
7 lawyer, that's why I'm a lawyer, I'm not good at
8 math, but 75 percent is a majority.

9 THE WITNESS: It's more than 50 percent.
10 But it's not adequate, I don't believe. If you
11 have time to review 100 percent, why don't you?
12 I think that's the question that needs to be
13 asked.

14 JUDGE BURTON: But I thought from your
15 testimony that it would be very difficult in 60
16 days to perform a full audit.

17 THE WITNESS: I said it could be done if
18 you had experienced auditors. You could have --
19 and the company was actually willing to provide
20 data. That's another thing that has to be --

21 JUDGE BURTON: How likely is that within
22 60 days?

23 THE WITNESS: With Laclede, it's not
24 likely.

25 JUDGE BURTON: No, not that. But how

1 likely is it for Staff to be able to perform an
2 audit within 60 days, reviewing every single work
3 order between just September and December 2015?

4 THE WITNESS: Well, I've done it. I mean,
5 when we used to do Laclede audits -- I'm sorry,
6 MGE audits, the Kansas City office of the Staff,
7 we did it from 2004 to 2009. In every one of
8 those things, we would visit Mr. Noack at MGE
9 headquarters in Kansas City, would request work
10 orders to review. We'd have a stack of work
11 orders. We'd have two or three auditors in there
12 reviewing them. MGE would bring in their
13 experienced plant personnel. We would ask
14 questions about, okay, in service date, you know,
15 they would have documentation where they sought
16 reimbursements, had checks in there for actual
17 reimbursements. We didn't have to call a city to
18 see if they did a reimbursement. MGE had
19 documentation in its work order.

20 JUDGE BURTON: Isn't that information
21 provided through a data request, let's say?

22 THE WITNESS: Well, I mean, if you had a
23 data request for each piece of information that
24 you need to review in the work order, you
25 wouldn't get the ISRS audit done. You'd be

1 writing data requests all the time.

2 COMMISSIONER KENNEY: Did you say that MGE
3 never did true-ups, right?

4 THE WITNESS: They didn't until they were
5 associated --

6 COMMISSIONER KENNEY: That's different.
7 How does that compare to what we're talking about
8 now with the true-ups? Because what you're
9 answering about MGE, they didn't do what we're
10 discussing right now.

11 THE WITNESS: She asked me if it could be
12 done in 60 days. I'm saying yes, it can be.
13 We've done it.

14 COMMISSIONER KENNEY: The audit?

15 THE WITNESS: Yes.

16 COMMISSIONER KENNEY: With the true-ups?

17 THE WITNESS: No. She was asking the 60
18 days, I believe, without the true-ups. I think
19 that's what the basis of the question was.

20 JUDGE BURTON: Let's say, you're going
21 back to your experiences from prior MGE cases,
22 but I believe that part of your argument is that
23 the number of ISRS applications or projects have
24 increased over time. Is the number of projects
25 that are included for MGE and Laclede from

1 September 2015 through December 2015 comparable
2 to the amount of projects and work orders you had
3 to review when you went to MGE's office?

4 THE WITNESS: My testimony didn't address
5 the number of projects. My testimony addressed
6 cost and I provided this schedule here which
7 shows when MGE was acquired by Laclede about this
8 time frame, when Laclede acquired new management,
9 the cost for ISRS shot up, it skyrocketed.

10 JUDGE BURTON: So you don't know if
11 currently there are more work orders -- more work
12 projects in Laclede's, let's say, December or,
13 excuse me, September 2015 through December 2015
14 orders?

15 THE WITNESS: I didn't do that analysis.

16 JUDGE BURTON: Okay.

17 COMMISSIONER KENNEY: What's the
18 limitation on ISRS's percentage of capital? Is
19 it ten percent? So they're still -- they're just
20 doing more, under your chart that I saw, they're
21 still within that ten percent, they just weren't
22 doing as much?

23 THE WITNESS: I know their cost per work
24 project increased significantly and that -- could
25 be many reasons for that. But -- and I'm not

1 saying it --

2 COMMISSIONER KENNEY: No, I understand.

3 But it's still within that ten percent on your
4 chart or am I just -- am I misunderstanding what
5 you're saying?

6 THE WITNESS: Yeah, the ten percent
7 affects ten percent of their revenues. You can't
8 exceed that for the ISRS cap. I didn't do any
9 analysis to that effect.

10 COMMISSIONER KENNEY: I misrepresented
11 what you're saying. I meant --

12 THE WITNESS: I would never say that.

13 COMMISSIONER KENNEY: Well, I'm not
14 seeing -- I'm off somewhere because I thought you
15 were saying that was the total cost of the ISRS,
16 your chart there.

17 THE WITNESS: No, no. In fact, I
18 explained the calculation in my rebuttal
19 testimony.

20 COMMISSIONER KENNEY: We're not talking
21 about that right now.

22 THE WITNESS: Well, that's where this
23 comes from.

24 COMMISSIONER KENNEY: Okay. Thank you.

25 JUDGE BURTON: All right. Thank you.

1 Those are my questions. Staff, any recross?

2 MR. KEEVIL: Just briefly.

3 RE CROSS-EXAMINATION

4 BY MR. KEEVIL:

5 Q Mr. Hyneman, in response to a question
6 from Judge Burton, you said regarding the -- when
7 the plant would become in service, used and useful,
8 there would be a plant personnel certify when it
9 went into service? Did I misunderstand you there?

10 A That was a process for Missouri Gas
11 Energy. I'm assuming Laclede's plant personnel who
12 are in charge of their continuing property records
13 would certify when plant is actually in service.
14 They're responsible for that.

15 Q So there would be a plant personnel
16 individual doing that?

17 A I would assume so.

18 Q Okay. I mean, you've made it fairly
19 obvious that you don't believe their documentation.
20 Why couldn't that person falsify a document just as
21 easily as anyone else at Laclede or MGE?

22 A I'm not saying anybody falsified any
23 documents.

24 Q But you don't trust the documentation they
25 have?

1 A Well, it's not an issue of trust,
2 Mr. Keevil, it's an issue of verification.

3 Q That's my question. Just because you --
4 I'm not necessarily disagreeing with your premise
5 here, but I'm trying to take your premise that the
6 document -- you need something more than just a
7 document that says it. So you're saying that a
8 document from the plant personnel is more believable
9 than a document from Mr. Buck or Mr. Zucker or
10 whoever else?

11 A It's better evidence, yes.

12 MR. KEEVIL: Okay. Thank you. That's --
13 I'm done. No further question on that. Yeah, I
14 think I'm done, Judge.

15 JUDGE BURTON: Mr. Zucker?

16 MR. ZUCKER: Thank you, Your Honor.

17 RE CROSS-EXAMINATION

18 BY MR. ZUCKER:

19 Q Did I hear you say in response to a
20 question from Judge Burton that in an MGE ISRS audit
21 you looked at every work order?

22 A No. We looked at substantially all of
23 them.

24 Q And by "substantially all," what kind of
25 percentage would you --

1 A I can't -- normally it depends, like if
2 you have 80 percent of the cost in 50 or 60 work
3 orders and then you had a bunch of small ones, if we
4 did our initial review of substantially all the work
5 orders and we didn't find any major problems, we
6 would not then normally go back to review the very
7 small dollar ones. But if we did find them, and we
8 have in the past with MGE, we would further go back
9 and say, okay, we need to look at all these to make
10 sure the problems aren't in the other work orders as
11 well.

12 Q Okay. So after we sent you the update
13 documentation, you could have asked for work orders,
14 correct?

15 A I think I may have asked for the work
16 orders in the original data request that we sent to
17 Laclede.

18 Q Well, I guess my question is: After the
19 March 9th update, you could have asked for work
20 orders if you want? You could have asked for a
21 sampling of them if you wanted to see it, isn't that
22 correct?

23 A That's correct.

24 Q And you didn't do that?

25 A I didn't.

1 MR. ZUCKER: Okay. No further questions.

2 Thank you.

3 JUDGE BURTON: Redirect?

4 MR. POSTON: Yes, thank you.

5 REDIRECT EXAMINATION

6 BY MR. POSTON:

7 Q I'm going to work backwards here. I'll
8 start with questions from Mr. Keevil. And I guess
9 those questions about what documents can be verified
10 in a work order that cannot be verified in the
11 company's filings, and can you please explain the
12 difference between those two?

13 A Yes. I guess the answer is everything.
14 For example, we talked about allowance for funds
15 used during construction. In the company's face
16 sheet you don't know how much is in there. You
17 don't know what the cost rates, if they're
18 appropriate. You don't know if they're applying the
19 policy of applying AFUDC to construction projects
20 appropriately. And you get into the -- data has
21 estimated in service dates. You see some things
22 with 2014 when we're in the 2016 time period.
23 There's no actual in service date that shows that
24 that project qualified for ISRS during the period.
25 That's a big issue. Because they could -- and the

1 issue has happened before. They could be putting in
2 plant projects that are already being included in
3 their rate base. I think we had an issue with that
4 in a prior Laclede case and I think I addressed that
5 in the memo that Laclede brought up. So, I mean,
6 you can't -- they don't give you any cost during a
7 work order. But the problem I have is that when I
8 first saw these face sheets with Laclede, and it was
9 during that case, I said this is not anywhere near
10 acceptable documentation. So I arranged to visit
11 the Laclede headquarters, me and two other auditors,
12 and we sat down with Mr. Buck and said this is the
13 type of information I need. And Mr. Buck did
14 provide -- and I don't know how he did it, but he
15 provided work order documentation, the cost and
16 AFUDC capitalization, the different types of
17 contract bonus payments, management overhead, all of
18 those costs that make up the work order he provided.
19 And I was able to review those in that case. That
20 was not provided in this case at all. And there's
21 no way that Staff can verify any cost
22 appropriateness in the data that they review from
23 Laclede.

24 Q You said in response to a question, this
25 might get to what you're talking about here, that

1 the company didn't verify a lot of data, not just
2 the in service date. Do you recall that?

3 A Company didn't verify --

4 Q I'm sorry, that the data does not allow
5 you to verify a lot of data, not just the in service
6 dates?

7 A Right. All the data.

8 Q What other data are you referring to?

9 A I just went through that. All the data
10 that's included in the work order. All the costs
11 that make up the work order total. For relocation
12 projects it includes documentation from the entity
13 that required the relocation. It provides
14 communication, like with MGE, we used to look at
15 letters that they said, hey, MGE, you have to move
16 this, we have to fix this road. And MGE would send
17 back, okay, this thing and whatever -- how it
18 qualified. You got to pay this. And they would get
19 a check, they'd put a copy of the check in the work
20 order. We'd verify that. We'd look at other
21 relocations and say how come you didn't get
22 reimbursed on this? And we'd meet with MGE's plant
23 personnel. She would explain the requirements when
24 and when they are not authorized to get a
25 reimbursements. None of that basic audit type stuff

1 is done in this current audit, ISRS audits.

2 Q You also testified in response to
3 questions from the judge that no auditor would rely
4 on numbers that aren't verifiable. Can you explain
5 why?

6 A Well, I think it was referring to that
7 estimated number that they put in their petition and
8 when they filed, I think, the February 1st
9 petition they put estimates in there for. That's
10 just not -- no auditor would consider that
11 documentation.

12 Q How about the work order face sheets that
13 you refer to?

14 A No.

15 Q Were those verifiable?

16 A No.

17 Q Why is Mr. Buck's sworn statement not
18 enough?

19 A Well, under general accepted auditing
20 standards, which is the profession's basic standards
21 for auditors, they require -- they require CPAs, but
22 it should apply to all auditors, to have an attitude
23 of professional skepticism. And that means several
24 things. But one of the things it means is you don't
25 assume the information is correct. Nor do you

1 assume that it's dishonest or incorrect. You go in
2 with no bias and say, okay, I want to see if this
3 data is correct and just by having a number on a
4 piece of paper is not sufficient data. You go to
5 the source documents, you see the original
6 documents, and that's the data you need to verify if
7 the documentation's correct.

8 **Q Okay.**

9 A That was done for many years. It was done
10 for many years.

11 **Q And did I hear you testify that in prior**
12 **MGE ISRS petitions that you did audit that you**
13 **looked at 80 percent of the actual work orders?**

14 A Yeah, I don't know the exact number but I
15 think that sounds about right.

16 **Q And so, is that different than what the**
17 **Staff's 75 percent that they looked at? I mean, is**
18 **the Staff's 75 percent looking at the actual work**
19 **order or something different?**

20 A No, we looked at actual work orders. And
21 they're Manila folders with stacks about that for
22 work orders, so we go to MGE and we'd have a table
23 full and we'd spend a lot of time there in meeting
24 with their plant personnel to discuss it. Staff
25 doesn't look at that data any more. So when I say

1 80 percent of the work order costs, Staff does
2 75 percent in this case of the face sheet.

3 Q I believe in questions from the judge and
4 from Commissioner Kenney referred to a chart that
5 you had up there. Can you explain, what is that
6 chart?

7 A Yes, I did an average of Laclede and MGE
8 ISRSs since the first ISRS to the last. For
9 example, this is Laclede, the chart, it's in my
10 rebuttal testimony and what it did, simply --

11 MR. ZUCKER: Then I'm going to object to
12 it. I don't know where this comes from and how
13 it relates to the question -- previous questions.

14 MR. POSTON: I believe, Judge, you
15 asked -- or you asked him a question when he
16 brought that up in a response and I believe
17 Commissioner Kenney also referred specifically to
18 those charts in his questioning.

19 JUDGE BURTON: I'm going to allow it for
20 this specific purpose and we'll at least consider
21 it as an offer of proof whenever it comes to
22 whether or not to strike that exhibit from the
23 record. I think he's just questioning him about
24 it rather than just referring to it being
25 admitted.

1 A Yes, the analysis is very simple. It's
2 for each ISRS case. I took the amount that The
3 Commission ordered for the ISRS and I divided that
4 by the length of period for the ISRS period. For
5 example, January 1st, 2004 through September 30,
6 2004, 273 days. I took the ISRS amount, divided by
7 that to get an ISRS cost per day for the period.
8 And in the beginning, you know, with Laclede and
9 MGE, they were, you know, pretty similar. They're
10 like 6,000, 9,000, 10,000 and then something
11 happened around a period of 2011, 2012, they
12 start -- these costs started skyrocketing. Now
13 you're looking at 17,000, 26,000, 29,000, 30,000.
14 Compared to 5,000, 6,000.

15 Now, this analysis on its face doesn't
16 prove anything. But what it should do for Staff if
17 it had time, and Staff claims it has time, it should
18 do this type of analysis to find out why these costs
19 are skyrocketing. That would be a basic audit step
20 the Staff does not perform. And I think the
21 customers are interested to know why their ISRS
22 charges are going up substantially by -- you know,
23 what's causing it? And those questions have not
24 been answered. And they should be.

25 MR. POSTON: Judge, I would like to have

1 these marked and entered. Obviously they have
2 been referenced several times here and I think to
3 make the record complete they should be in the
4 record.

5 JUDGE BURTON: Is it one page or two?

6 THE WITNESS: It's a total of four.

7 JUDGE BURTON: Did you want this all to be
8 part of one exhibit?

9 MR. POSTON: Yeah, that's fine.

10 JUDGE BURTON: Okay. So we'll have
11 Exhibit 15, graphs prepared by Mr. Hyneman, is
12 that correct?

13 MR. ZUCKER: Your Honor, if we're going to
14 consider this new information, then I would like
15 an opportunity to cross-examine Mr. Hyneman on
16 it.

17 MR. POSTON: Judge, there's no new
18 information. This is directly out of Commission
19 cases. It's just been put into a graph form.
20 There's all it is.

21 JUDGE BURTON: It's still being presented
22 as evidence here. But first, let me go ahead and
23 see -- it's being offered. Are we going to hear
24 any objections to the admission of Exhibit 15?

25 MR. ZUCKER: I'll object to it. I mean,

1 this is the same document that's in his rebuttal
2 testimony, I believe. Is that right?

3 THE WITNESS: That's correct.

4 MR. POSTON: That alone doesn't make it
5 objectionable. Like I said, it's been asked
6 about from questions from the bench. He's
7 explained what it is, where he got the numbers.

8 JUDGE BURTON: I believe he'd held it up
9 but I haven't actually seen it. Could I see the
10 exhibit to -- I'm going to take these with the
11 record for right now and parties can brief them
12 with objections to Exhibit 11.

13 MR. POSTON: You're saying object to both
14 at the same time if there's objections to this
15 one?

16 JUDGE BURTON: Yes. And The Commission
17 will rule on the admission of both Exhibits 11
18 and 15 as well as 13 and 14.

19 MR. ZUCKER: Am I allowed an offer of
20 cross?

21 JUDGE BURTON: You are. But I don't --
22 are we concluded with the redirect?

23 MR. POSTON: No.

24 JUDGE BURTON: Okay.

25 MR. POSTON: But, I mean, if he wants to

1 go ahead and do that now and then I can resume my
2 redirect, that's fine. If it's an appropriate
3 place to do it.

4 JUDGE BURTON: Let me go ahead and let you
5 finish your direct and then we can address that,
6 unless there aren't any further questions you
7 have on this.

8 MR. POSTON: Then I would have an
9 opportunity to redirect on his questions?

10 JUDGE BURTON: Well, that would still be
11 an offer, correct? We'll do that all at the same
12 point so it will still be marked in the
13 transcript.

14 (OPC Exhibit 15 marked.)

15 Q (By Mr. Poston) Mr. Hyneman, why didn't
16 you do an audit in this case?

17 A OPC is overwhelmed with rate cases right
18 now and did not have resources to devote to the ISRS
19 cases.

20 Q Why is it appropriate to bring forward the
21 depreciation reserve and deferred tax but not the
22 plant additions?

23 A Because the plant additions are the plant
24 dollars that are in the petition. And those dollars
25 are -- the company in base rates is currently

1 recovering depreciation, expense and recovery of
2 taxes on those. So it's important that during the
3 period before the ISRS is in effect, that you
4 eliminate the double recovery. You don't want to
5 have the ISRS recovering dollars and base rates
6 recovering the same dollars. So you set the ISRS
7 revenue requirement as opposed to the date as it
8 goes in effect. And that's just -- just general
9 rate making policy.

10 **Q And those -- those balances you're**
11 **bringing forward, are those just based on the plant**
12 **that was in service by February 1st?**

13 A Correct. By in service in the petition,
14 correct.

15 **Q And I believe you testified that you**
16 **believe you helped develop the idea of bringing**
17 **forward those items?**

18 A Yes.

19 **Q The depreciation and the tax -- deferred**
20 **tax?**

21 A Yes, it was a Staff position, but I was
22 part of the development of it.

23 **Q And did any party oppose those?**

24 A Yes, initially, when I filed that position
25 in the MGE ISRS case, and I don't know the number,

1 but Mr. Noack filed an objection. His main concern
2 was that Staff did not explain why it did it, like
3 that. And I probably didn't explain it
4 appropriately to Mr. Noack. I think once we talked
5 about it -- and I can't speak for Mr. Noack -- but
6 he removed the objection and we've been doing that
7 ever since, without him doing ISRS true-ups. So
8 that's the method that we kept doing with MGE during
9 that period.

10 Q Until Laclede --

11 A Laclede acquired them, right.

12 Q There's been talk about this -- don't
13 recall the exhibit number, but it's the big stack of
14 spreadsheets that Mr. Zucker has brought and
15 questioned you on. Do you recall that?

16 A Yeah, I think they were PDF documents,
17 yeah, but they're in Excel format.

18 Q He says those were sent on March 9th,
19 2016, is that correct?

20 A I think that's what he said.

21 Q And is that 37 days into the 60-day
22 review, roughly?

23 A Roughly, yes.

24 Q I think it's maybe a leap year. I don't
25 know. You figure that out. Would you have a better

1 opportunity to review those documents if they were
2 provided with the original petition on
3 February 1st?

4 A Again, could you repeat that question? I
5 was trying to calculate the date, so --

6 Q Okay. Would you have a better opportunity
7 to review these documents if you had a full 60 days
8 to look at it?

9 A What documents were you referring to?

10 Q The documents that Mr. Zucker brought up
11 to you and had you look at, the MGE spreadsheets?

12 A Right. It's very difficult to audit a
13 moving target. To me it's a very, very difficult.
14 And when you have a limit of 60 days, I don't see
15 how it could be done. It's a moving target. If
16 Laclede went up to its outside auditors and said,
17 Okay, we want our end of year financial statements,
18 I think they have a fiscal year, September 30th.
19 We want to update that a couple months, you know, we
20 want you to audit at, you know, December, they would
21 laugh at us.

22 MR. ZUCKER: I'm going to object to that
23 as hearsay. Speculation, also. Yeah, he didn't
24 hear anyone say it.

25 JUDGE BURTON: I'll sustain it on the

1 speculation.

2 Q (By Mr. Poston) There was questions for
3 you about the past recommendation that you issued
4 that included true-up in it or updates?

5 A Right.

6 Q How can you reconcile that; your testimony
7 here today and that recommendation?

8 A I was directed to accomplish the audit.
9 Mr. Oligschlaeger directed me to include the
10 true-ups. I didn't have an option. I had to.

11 Q And to follow along with that, there is --
12 is there an option after the 60 days to continue the
13 review or is the 60 days the total length of the
14 review that's possible?

15 A Well -- and that's a very good question.
16 Because the 60-day limit in the statute is limited
17 to Staff. I don't think it limits any other party
18 to do a review past that. Is it theoretically
19 possible for OPC to conduct an audit starting 60
20 days after the true-up February month is filed and
21 do a 60-day review for that period? Cut into the
22 120 total time period, but I don't know if that
23 would be -- would it be an option that OPC could
24 look at and still maintain 60 days from review after
25 the final work order has been included?

1 Q But there wouldn't be an opportunity for
2 like the procedure we've got going on here, though?

3 A I think it would make it very, very tight,
4 yes.

5 Q I believe this was questions from
6 Mr. Keevil. I believe you said that depreciation --
7 the adjustment you did for depreciation reserve and
8 tax -- and deferred tax and the audits that you did,
9 you said that's not a true-up. Can you explain
10 that, what you mean by that?

11 A No, it's not a true-up in any sense. It
12 takes the plant that was included in the petition
13 and makes a revenue requirement based on that plant,
14 which includes the depreciation reserve and
15 accumulated deferred taxes, and sets that rate base
16 revenue requirement as close as possible to the in
17 service date. And the main thing is to prevent the
18 detriment of double recovery. I think that's the
19 main reason behind it. But it's just, you know,
20 it's just -- that's the purpose of it. It's not a
21 true-up, you know, a true-up, of course, involves
22 all components of a revenue requirement, not just
23 the cost increases.

24 MR. POSTON: I think that's all I have.

25 Thank you.

1 JUDGE BURTON: Okay. At this time I
2 believe we have the offer of proof for Exhibit 15
3 and, Mr. Zucker, you wanted to do the cross?

4 MR. ZUCKER: Yes, thank you, Your Honor.

5 FURTHER RECROSS-EXAMINATION

6 BY MR. ZUCKER:

7 Q Very quickly, Mr. Hyneman, you noted an
8 increase in ISRS costs starting around when?

9 A For which company?

10 Q For Laclede Gas.

11 A I think the significant increase started
12 and consistently in Case GO-2011-0361. That was the
13 highest dollar amount there. \$12,870 per day.
14 That's the highest amount except for I think one
15 month prior, one prior case. So it was probably in
16 the 2011 time frame.

17 Q Okay. And are you aware that in 2010
18 there was a gas explosion in San Bruno, California?

19 MR. POSTON: Objection. He's assuming
20 facts that are not in evidence.

21 JUDGE BURTON: Sustained.

22 Q (By Mr. Zucker) Well, was there an
23 explosion in San Bruno, California in 2010?

24 A I don't know the date, but I heard of an
25 explosion, yes.

1 Q And in early 2011, there were -- were
2 there two explosions in Pennsylvania?

3 A I don't know.

4 Q And would you be surprised to know that
5 the ISRS safety work accelerated after those
6 incidents?

7 MR. POSTON: Objection. Again, he's
8 assuming facts not in evidence in his
9 questioning.

10 JUDGE BURTON: Overruled.

11 A Could you repeat the question?

12 Q (By Mr. Zucker) Would you be surprised to
13 know that the ISRS costs accelerated after those
14 incidents?

15 A If Laclede believed that it had
16 potentially safety issues similar to the ones that
17 happened and it needed to address those, then I
18 could see that Laclede may increase its replacement
19 of those two mains or whatever type of projects.

20 Q Or cast iron mains?

21 A Cast iron mains, yes.

22 Q And the same thing would happen for MGE
23 after Laclede's purchase of them? Would you be
24 surprised to hear that?

25 A I mean, if you have some kind of

1 documentation that says we need to accelerate our
2 ISRS projects because of an explosion out in
3 California, that would be something I think would be
4 good to be in the case. If -- you know, if that's a
5 valid reason. I'm not saying that you did that or
6 didn't do it. I just don't know. And the purpose
7 of this chart is to raise questions. Not
8 necessarily to say, hey, you've been imprudent.
9 Your costs are going out the roof. Raise questions
10 to find out why these costs are increasing. And
11 that may be one of them.

12 MR. ZUCKER: Okay. Thank you.

13 JUDGE BURTON: Any redirect as part of an
14 offer of proof for Exhibit 15?

15 MR. POSTON: Yeah.

16 FURTHER REDIRECT EXAMINATION

17 BY MR. POSTON:

18 Q Does an explosion in California cause pipe
19 here to be any less safe than it was previously?

20 A No.

21 MR. POSTON: That's all.

22 JUDGE BURTON: Okay. And I believe that
23 concludes our offer of proof. It also concludes
24 the taking of testimony. Thank you very much.
25 Mr. Hyneman, you are excused.

1 Some housekeeping. Let's verify the
2 exhibits that we have that are offered and
3 admitted into the record. I have Exhibits 1, 2,
4 3, 4, 5, 6, 7, 8, 9, 10, and 12 as currently
5 being admitted with no objections. We have
6 Exhibit 11, which is the rebuttal for Mr. Hyneman
7 which was offered and we have a pending motion to
8 strike portions of that testimony and the
9 attachments and I know we had discussed at the
10 beginning of today's hearing, which seems so very
11 long ago at the moment, you, Mr. Poston, having
12 an opportunity to submit a response and I'm sure
13 Mr. Zucker would like an opportunity for reply.

14 Let's take a look at the calendar at this
15 moment to see. I don't believe that we're going
16 to be needing the transcript for that portion of
17 debriefing. I would say let's try to have your
18 response by the end of day tomorrow, is that
19 sufficient, Mr. Poston?

20 MR. POSTON: And this is response to just
21 which part?

22 JUDGE BURTON: This is to the motion to
23 strike Exhibit 11, the rebuttal.

24 MR. KEEVIL: And you combined that with
25 15, right?

1 JUDGE BURTON: Yes. I was just going
2 through, Mr. Keevil. We also have the Exhibit 15
3 which we have the offer of proof which were the
4 graphs, the four pages of documentation that were
5 also included, I believe, as an attachment of
6 Mr. Hyneman's rebuttal. And I'll provide that
7 right now to the court reporter.

8 MR. POSTON: And that one is marked as?

9 JUDGE BURTON: Exhibit 15. There are four
10 pages to Exhibit 15. So since it includes the
11 same material and same issues, a little bit
12 different in the presentation, let's have that
13 addressed in the response and replied to the
14 motion.

15 MR. POSTON: So that's for Exhibit 11, 15,
16 and 13?

17 JUDGE BURTON: 11 and 15.

18 MR. POSTON: Just 11 and 15. Okay. Then
19 how about --

20 JUDGE BURTON: Exhibits 13 and 14.
21 Exhibit 13 is the March 9th work papers for
22 Laclede. Is that an accurate way to describe
23 Exhibit 13?

24 MR. ZUCKER: Yes.

25 JUDGE BURTON: Sufficient for now?

1 MR. ZUCKER: Yes.

2 JUDGE BURTON: We have an objection to the
3 admission of that and we also have an objection
4 to the admission of Exhibit 14, which is the
5 updated ISRS work papers concerning MGE that were
6 also claimed to be provided on March 9th. For
7 Exhibit 13, I believe the only issue we had when
8 it was presented during the testimony, I believe,
9 of Staff's witness was concern about whether or
10 not it was an accurate representation of material
11 that was presented to OPC in that March 9th
12 e-mail.

13 So, I know that we are looking at a tight
14 schedule for you, Mr. Poston. I know I
15 previously stated giving you until 10:00 tomorrow
16 morning but I would like to give you a little bit
17 more leeway for you and your witness to review
18 that. Do you think that would also be something
19 that can be reviewed -- what, 130 pages,
20 somewhere in there -- to verify that it was the
21 document that was presented in the e-mail on
22 March 9th by 5:00 tomorrow, which is
23 April 27th?

24 MR. POSTON: Yeah, we can't verify the
25 accuracy of anything in there other than that was

1 the document that was provided to us.

2 JUDGE BURTON: Yes. And that's for
3 Exhibit 13. That is what I would like. So let's
4 go ahead and say that as well for 5:00 tomorrow.
5 For Exhibit 14, I believe that was the -- that
6 was presented during the testimony of
7 Mr. Hyneman. And so I'm assuming you have some
8 additional objections to that. I will allow some
9 briefing on that. Do you believe that 5:00
10 tomorrow is sufficient to include all that or
11 would you like additional time?

12 MR. POSTON: I would like additional time
13 because there's a lot of authentication issues
14 involved there because no witness has
15 authenticated the document.

16 JUDGE BURTON: Then let's say end of day
17 on Thursday the 28th for briefing on Exhibit
18 14. And I will give a reply time for you as
19 well, Mr. Zucker, or Mr. Keevil as well if you
20 would like to -- you're shaking your head like
21 you don't want to submit a brief.

22 MR. KEEVIL: I was going to say probably
23 not necessary to give me additional time on that
24 one. I'll probably saddle that, as that of the
25 11 and 15 battle as well.

1 MR. ZUCKER: Could Exhibit 14 be treated
2 like 13? In terms of it's the same document as
3 13 and came in the same e-mail as 13?

4 JUDGE BURTON: It was presented in a
5 hearing in a different aspect, so I'm going to
6 treat it differently. So let's say until Friday,
7 end of business day, the 29th, for any replies
8 to any objections to 14 in a brief from OPC.
9 Okay, Mr. Zucker?

10 MR. ZUCKER: Yes, ma'am.

11 JUDGE BURTON: So just again, to clarify,
12 Exhibit 11, OPC's briefing will be due for
13 response to the motion to strike end of business
14 day 5:00 tomorrow as well as any objections to
15 the accuracy of Exhibit 13. And also the
16 briefing -- excuse me, 11 and 15. For the
17 Exhibit 14, which is the MGE updated March 9th
18 work papers and worksheets, that will be briefing
19 end of the day business day on the 28th, which
20 is Thursday for OPC, and replies will be due end
21 of the business day Friday the 29th for
22 Laclede/MGE and Staff, if they feel so inclined.

23 Now, we currently have the briefing
24 schedule due with one round of briefs due on
25 Wednesday, May 4th. I do not believe that that

1 will be changing. So enjoy your weekend,
2 gentlemen, and I believe that the transcript
3 should be available by Thursday the 28th. So,
4 at the latest, we should have the transcript from
5 today's hearing available on Thursday, the
6 28th. Are there any other additional issues we
7 need to address while we are on the record?

8 MR. KEEVIL: Just to clarify, Judge,
9 this -- you mentioned Staff and all this briefing
10 that's ordered by the end of this week. I assume
11 that's optional?

12 JUDGE BURTON: That is always optional.

13 MR. KEEVIL: Thank you.

14 JUDGE BURTON: Should you feel so
15 inclined. Hearing nothing else that needs to be
16 addressed on the record, we're going to go ahead
17 and go off the record.

18 (Ending time of the hearing: 4:01 p.m.)
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