

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of Union Electric                    )  
Company d/b/a AmerenUE for Authority        )  
to File Tariffs Increasing Rates            ) Case No.:  
for Electric Service Provided to            ) ER-2008-0318  
Customers In the Company's Missouri        )  
Service Area.                                        )

DEPOSITION OF JAMES DAUPHINAIS

October 23, 2008

Sheryl A. Pautler, CCR 871

<p style="text-align: right;">Page 2</p> <p>1 QUESTIONS BY: PAGE NO.  2 Mr. Lowery 5  3  4 INDEX OF EXHIBITS  5 NO. PAGE MKD.  6 5 Platts and ICE charts and graphs. 47  7 6 Work papers. 50  8  9  10  11  12 (Whereupon the exhibits were attached to the original and  13 copies.)  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES  2 For AmerenUE:  3 Mr. James B. Lowery  4 Smith Lewis, LLP  5 111 South Ninth Street, Suite 200  6 Columbia, Missouri 65205  7 573-443-3141  8 Lowery@smithlewis.com  9  10 For Missouri Industrial Energy Consumers:  11 Ms. Diana M. Vuylsteke  12 Bryan Cave  13 One Metropolitan Square, Suite 3600  14 St. Louis, Missouri 63102  15 314-259-2543  16 Dmvuylsteke@bryancave.com  17  18 The Court Reporter:  19 Ms. Sheryl Pautler  20 Midwest Litigation Services  21 711 North Eleventh Street  22 St. Louis, Missouri 63101  23 314-644-2191  24  25 Also present:    Mr. John Cassidy</p>
<p style="text-align: right;">Page 3</p> <p>1 BEFORE THE PUBLIC SERVICE COMMISSION  2 OF THE STATE OF MISSOURI  3  4 In the Matter of Union Electric )  5 Company d/b/a AmerenUE for Authority )  6 to File Tariffs Increasing Rates ) Case No.:  7 for Electric Service Provided to ) ER-2008-0318  8 Customers In the Company's Missouri )  9 Service Area. )  10 DEPOSITION OF WITNESS, JAMES DAUPHINAIS,  11 produced, sworn, and examined on the 23rd day of October,  12 2008, between the hours of eight o'clock in the forenoon  13 and five o'clock in the afternoon of that day, at Brubaker  14 &amp; Associates, Inc., 16690 Swingley Ridge Road,  15 Chesterfield, Missouri, before SHERYL A. PAUTLER, a Notary  16 Public and Certified Court Reporter within and for the  17 State of Missouri, in a certain cause now pending before  18 the Public Service Commission in the State of Missouri.  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 5</p> <p>1 IT IS HEREBY STIPULATED AND AGREED, by and  2 between counsel for all parties, that the deposition of  3 JAMES DAUPHINAIS may be taken in shorthand by Sheryl A.  4 Pautler, a notary public and shorthand reporter, and  5 afterwards transcribed into typewriting; and the signature  6 of the witness is expressly reserved.  7 * * * * *  8 JAMES DAUPHINAIS,  9 of lawful age, being produced, sworn and examined on  10 behalf of AmerenUE, deposes and says:  11 [EXAMINATION]  12 QUESTIONS BY MR. LOWERY:  13 Q. Good morning, Mr. Dauphinais.  14 A. Good morning.  15 Q. You've been deposed before; is that correct?  16 A. That is correct.  17 Q. Did you bring materials in response to the  18 subpoena that was issued with the notice of deposition that  19 we gave you?  20 A. Yes.  21 Q. The work papers that you've listed on these  22 materials that you provided me, these have all been  23 provided to the company; is that correct?  24 A. The only thing that was not previously  25 provided were the actual individual e-mails that contained</p>

2 (Pages 2 to 5)

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<p>1 a source of our forward prices we used in our analysis.  2 Those numbers were provided in the spreadsheets previously  3 provided, but we actually added those in as well on those  4 discs.  5 Q. When you say e-mails, you get those forward  6 prices via e-mail from your provider?  7 A. I do, daily e-mails, yes.  8 Q. Okay. Mr. Dauphinais, are you taking any  9 medication or have any physical or psychological  10 conditions -- and don't be offended by that question --  11 that would prevent you from understanding my questions or  12 giving full and complete truthful answers?  13 A. No.  14 Q. If you don't understand a question that I pose  15 or I'm not clear about it, just let me know and I'll  16 rephrase to the best of my ability.  17 A. All right.  18 Q. Ms. Vuylsteke has a right to object. But if  19 she objects, you still, except for matters of privilege,  20 are bound to answer. And the objection will be taken up  21 with the commission if that becomes necessary at some  22 point.  23 When did you first start working -- doing the  24 work on this case?  25 A. It was shortly after the testimony was filed</p>	<p>1 Q. And you agree, like Mr. Brubaker, that flowing  2 them through the fuel adjustment clause is the appropriate  3 structure, correct, if there is a fuel adjustment clause?  4 A. If a fuel adjustment clause is established,  5 flowing them through the fuel adjustment clause is the  6 appropriate approach, yes.  7 Q. Was there something about my description of  8 your assignment relating to off-system sales themselves,  9 not in relation to the fuel adjustment clause, that wasn't  10 quite accurate?  11 A. It's only I haven't taken a position or  12 developed any opinion with regard to whether the company  13 should have a fuel adjustment clause or not.  14 Q. I understand. And I assume like Mr. Brubaker,  15 that you have no opinion about whether or not the fuel  16 adjustment clause should be approved?  17 A. That's correct.  18 Q. And don't intend to take a position or have an  19 opinion about that in this case; is that right?  20 A. That's correct.  21 Q. And who gave the assignment to you?  22 A. Mr. Brubaker.  23 Q. And your assignment has not changed since you  24 were first given it?  25 A. That's correct.</p>
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<p>1 in this proceeding. I don't recall the exact date.  2 Q. What was your specific assignment?  3 A. Specifically to take a look at the company's  4 position in regard to the off-system sales margin which was  5 presented actually as revenues in the testimony.  6 Q. And that was the only assignment, just to look  7 at off-system revenues, slash, margins in this case?  8 A. And their treatment through the fuel  9 adjustment clause.  10 Q. When you say their treatment, explain to me  11 what you mean. In other words, whether they are included  12 or being tracked in the fuel adjustment clause versus not  13 being tracked; is that what you mean by treatment?  14 A. That is correct.  15 Q. So you have two aspects to your assignment, to  16 look at the level of off-system sales revenue, slash,  17 margins that you think is appropriate and look at how those  18 should be handled for rate making purposes, whether in base  19 rates or whether through a fuel adjustment clause if there  20 is a fuel adjustment clause; is that a fair summary of your  21 assignment?  22 A. It's fairly close. In regard to the FAC piece  23 of it, it was a matter of whether if there's a fuel  24 adjustment clause, whether they would flow through the fuel  25 adjustment clause.</p>	<p>1 Q. In the context of arriving at your opinions in  2 this case, did you consider all of the factors or  3 information that you consider to be important to those  4 opinions?  5 A. Yes.  6 Q. Would all such important considerations be  7 reflected in your direct testimony?  8 A. Yes.  9 Q. Are you working on surrebuttal testimony?  10 A. I have not begun drafting. I'm in the process  11 of reviewing the company's testimony, reviewing responses  12 to discovery, considering other testimony of other parties  13 who have filed testimony in regard to this issue in  14 rebuttal.  15 Q. Do you anticipate filing surrebuttal  16 testimony?  17 A. I anticipate I will be.  18 Q. And on what matters do you anticipate filing  19 surrebuttal testimony?  20 A. Off-system sales.  21 Q. In response to what witnesses?  22 A. Mr. Schukar most likely. I don't know if any  23 others will be addressed at that point.  24 Q. What statements or contentions or testimony of  25 Mr. Schukar do you anticipate on filing surrebuttal</p>

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<p>1 testimony on?</p> <p>2 A. At this point, I haven't developed those.</p> <p>3 We're still digesting his testimony and we're getting</p> <p>4 responses to the data request in regard to his rebuttal</p> <p>5 testimony.</p> <p>6 Q. Do you have any initial impressions or</p> <p>7 opinions about your views of the matters presented in this</p> <p>8 rebuttal testimony?</p> <p>9 A. I don't have any developed at this point.</p> <p>10 Q. You have no idea what you're going to say or</p> <p>11 not say about his rebuttal testimony?</p> <p>12 A. No. It's just too early. I haven't</p> <p>13 considered all the facts that will eventually be available</p> <p>14 to me. I've primarily only reviewed the discovery request</p> <p>15 responses that we have submitted.</p> <p>16 Q. I think you gave me one opinion that you have</p> <p>17 rendered in this case, which is essentially the same</p> <p>18 opinion that Mr. Brubaker had rendered. And that is, if a</p> <p>19 fuel adjustment clause is granted, that off-system sales</p> <p>20 should be tracked through the fuel adjustment clause?</p> <p>21 A. Yes.</p> <p>22 Q. That would be one of your opinions in this</p> <p>23 case; is that right?</p> <p>24 A. It has been, yes. It was in my direct</p> <p>25 testimony.</p>	<p>1 Q. You're looking at a table?</p> <p>2 A. Yes. I've turned to highly confidential Table</p> <p>3 3 of my direct testimony which is at Page 8.</p> <p>4 Q. All right.</p> <p>5 A. And what I did is I compared and contrasted in</p> <p>6 this table different projections or historic levels of</p> <p>7 off-system sales margins for the company. All these</p> <p>8 comparisons were done without Taumsauk in place because the</p> <p>9 historic numbers can't possibly include Taumsauk. But they</p> <p>10 are adjusted to include projected capacity revenues for the</p> <p>11 company as contained in the supplemental direct testimony</p> <p>12 of Mr. Schukar.</p> <p>13 Q. So your 64 and a half million dollars is</p> <p>14 essentially the difference between the off-system sales</p> <p>15 margins recommended by Mr. Schukar in his direct testimony</p> <p>16 and the 2008 fuel budget for AmerenUE as of 1/10/2008?</p> <p>17 A. That is correct.</p> <p>18 Q. Do any of the prices that you talk about in --</p> <p>19 the around-the-clock energy prices you talk about in your</p> <p>20 testimony, do any of those relate specifically to the 64</p> <p>21 and a half million dollar difference?</p> <p>22 A. There is some relationship. The company's</p> <p>23 fuel budget forecasts are usually based on a single forward</p> <p>24 price. A single day is picked and that forward price is</p> <p>25 used. And in considering the use of that PROSYM run, that</p>
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<p>1 Q. And that's going to remain your opinion?</p> <p>2 A. That is correct.</p> <p>3 Q. What other opinions have you given in this</p> <p>4 case; what other opinions do you have in this case?</p> <p>5 A. The only other opinion I've had in this case</p> <p>6 is in regard to the level of off-system sales I presented</p> <p>7 as margins that included in the -- either if a fuel</p> <p>8 adjustment clause is granted, the base point for net fuel</p> <p>9 cost for the company or the revenue requirement if an FAC</p> <p>10 is not granted.</p> <p>11 Q. And could you state what your opinion</p> <p>12 regarding the level of off-system sales margins -- I'll use</p> <p>13 margins since that's the opinion you've expressed -- should</p> <p>14 be in this case and how you arrived at that opinion.</p> <p>15 A. The opinion was -- is that the 64 -- the</p> <p>16 revenue requirement or the base point for net fuel cost</p> <p>17 should be 64 and a half million dollars higher than that</p> <p>18 proposed by the company in its direct testimony,</p> <p>19 supplemental direct testimony.</p> <p>20 Q. All right. And that 64 and a half million</p> <p>21 dollars is derived how?</p> <p>22 A. That was derived by looking at several</p> <p>23 different projections and historic levels of off-system</p> <p>24 sales margins for the company. Specifically in my</p> <p>25 testimony --</p>	<p>1 PROSYM run for January 10, 2008, I took a look at what</p> <p>2 forward prices were around that time, versus where the</p> <p>3 forward curve has been over the last several months. And</p> <p>4 this particular day was towards the lower end of the</p> <p>5 forward price curve.</p> <p>6 Q. What was the forward price curve upon which</p> <p>7 this PROSYM run that generated the \$[REDACTED] million of</p> <p>8 margin; what was the forward price?</p> <p>9 A. The Cinergy Hub forward price was on the order</p> <p>10 of around \$60 or a little more than \$60.</p> <p>11 Q. Around-the-clock price?</p> <p>12 A. That would have been an on-peak price.</p> <p>13 Q. That's what I thought. What was the</p> <p>14 around-the-clock price, do you know?</p> <p>15 A. The around-the-clock forward price is</p> <p>16 typically about 77 percent of the on-peak price. There</p> <p>17 isn't substantial trading forward for off-peak products.</p> <p>18 So typically what's done, is looked at, is recent historic</p> <p>19 hourly prices, spot prices, and usually a rate shield is</p> <p>20 then developed to come up with an estimated off-peak</p> <p>21 forward price.</p> <p>22 Q. You said about \$60 was the on-peak price, the</p> <p>23 forward price as of this 1/10/2008 run?</p> <p>24 A. I believe it was -- it may have been around</p> <p>25 \$60. I would have to obviously go back to the curve. But</p>

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1 that's based on my recollection where the curve was setting  
2 around that price.

3 Q. \$60 is a pretty close approximation?

4 A. Yes.

5 Q. So if we took 77 percent of \$60 to get an  
6 approximation of what the around-the-clock price would have  
7 been at that time would be about \$46?

8 A. That sounds about right.

9 Q. You can verify my math if you'd like. 46  
10 sounds about right?

11 A. Yes.

12 Q. So is it fair to say that your 64 and a half  
13 million dollar number is roughly based on a \$46  
14 around-the-clock price?

15 A. Roughly, yes. Based on the assumption that  
16 typically the around-the-clock prices are about 77 percent  
17 of the on-peak prices.

18 Q. And you think that's a pretty fair assumption?

19 A. That's been a pretty good assumption the last  
20 few years.

21 Q. That relationship holds pretty true in your  
22 experience?

23 A. There's some variability, but that's  
24 approximately correct.

25 Q. All right. So two opinions in the case. One,

1 that off-system sales should be tracked through the fuel  
2 adjustment clause if there is one. And, two, that a  
3 normalized level of off-system sales margins, whether it be  
4 used to set net based fuel cost or whether it be included  
5 in base rates as an offset revenue requirement, should be  
6 \$[REDACTED] million. Those are your two opinions in the case;  
7 is that correct?

8 A. Correct.

9 Q. And you don't have any other opinions in this  
10 case that you're expressing; is that right?

11 A. Correct.

12 Q. All right. What documents, materials, or data  
13 did you principally rely upon in arriving at your opinion  
14 about the off-system sales margins?

15 A. I principally relied on responses to data  
16 requests that provided historical off-system sales margins  
17 for the company, looked at the specific PROSYM runs that  
18 were performed by the company for its supplemental direct  
19 case, looked at the fuel budget projections as well. I did  
20 not have access to the PROSYM runs at that time, but we did  
21 have the results of those PROSYM runs reported in the  
22 responses to data requests.

23 Q. As you sit here today, is your opinion  
24 regarding the level of off-systems sales margins the same  
25 as it was when you filed your direct testimony?

1 A. As of right now. I'm still evaluating  
2 Mr. Schukar's testimony. Depending on the result of my  
3 completion of my review, we may -- you know, our position  
4 may change. But as we stand right now, my position is  
5 unchanged from the direct testimony.

6 Q. And if your position changes, that would be  
7 reflected in your surrebuttal testimony; is that correct?

8 A. That is correct.

9 Q. Would you agree that getting -- setting the  
10 level of off-system sales margins is important for setting  
11 UE's rates in this case?

12 A. Yes.

13 Q. Energy prices have a great impact on margins,  
14 off-system sales margins?

15 A. Yes.

16 Q. If I say margins from now on, you'll  
17 understand I'm talking about off-system sales margins; is  
18 that fair?

19 A. That is fair, yeah.

20 Q. With whom did you consult in working on your  
21 assignment in this case and developing your opinions and  
22 testimony?

23 A. The opinions are my own. But I certainly have  
24 others who work under my direction. Mr. Brian Collins is  
25 one of those and he performed some of the analysis under my

1 direction and I certainly bounced various opinions with --  
2 back and forth between him and discussed through those. I  
3 certainly had some discussion with Mr. Brubaker, as well,  
4 bouncing back different thoughts and got his opinion from  
5 his experience and his thoughts and feedback.

6 Q. Nobody except folks within your firm? Did you  
7 seek any outside information or counsel about the validity  
8 of your opinions or basis of your opinions?

9 A. No.

10 MS. VUYLSTEKE: I would object and instruct  
11 the witness not to answer to the extent you're talking  
12 about conversations that would have been attorney/client  
13 privilege.

14 MR. LOWERY: Just to clarify, is Brubaker and  
15 Associates your client or is MIEC your client?

16 MS. VUYLSTEKE: MIEC is our client, our joint  
17 client. But there could be conversations that would be  
18 privileged vis-a-vis MIEC that counsel and Brubaker and  
19 Associates and our clients have had. So I would just  
20 caution the witness not to answer questions in this area.

21 Q. (By Mr. Lowery) Other than conversations  
22 you've had with Ms. Vuylsteke, did you consult with  
23 anybody?

24 A. No.

25 Q. Is it fair to say that off-system sales are an

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<p>1 item that's very difficult to forecast?</p> <p>2 A. Yes. My testimony is there is quite a bit of</p> <p>3 range where it can actually come out, yes.</p> <p>4 Q. A fuel adjustment clause essentially solves</p> <p>5 problems of over or under-recoveries associated with</p> <p>6 forecasting off-system sales margins as long as you include</p> <p>7 the margins in the fuel adjustment cost, correct?</p> <p>8 A. Could you repeat the question?</p> <p>9 Q. A fuel adjustment clause largely solves</p> <p>10 problems of over or under-recoveries associated with</p> <p>11 forecasting off-system sales margins as long as you include</p> <p>12 the off-system sales in the fuel adjustment clause,</p> <p>13 correct?</p> <p>14 A. If a fuel adjustment clause is established, it</p> <p>15 can be used as a mechanism to deal with the uncertainty</p> <p>16 associated with forecasting off-system sales margin levels.</p> <p>17 However, parts of that is looking -- part of that is</p> <p>18 getting still a good estimate of the base point from which</p> <p>19 adjustments are made, especially if it's not a hundred</p> <p>20 percent flow, if you're under or over.</p> <p>21 Q. I understand. But if you're flowing the</p> <p>22 off-system sales through the fuel adjustment clause, then</p> <p>23 if you misestimated the impact of that on the company or on</p> <p>24 the rate payor is a lot less if you're flowing them through</p> <p>25 a fuel adjustment clause, than if you are dealing with them</p>	<p>1 accurately predict the appropriate level of off-system</p> <p>2 sales margins to include in the revenue requirement than it</p> <p>3 is to accurately predict the level of regulated retail</p> <p>4 sales for the revenue requirement?</p> <p>5 A. I haven't made any evaluation of that.</p> <p>6 Q. You just don't have an opinion about that?</p> <p>7 A. I don't have an opinion.</p> <p>8 Q. Are you aware Mr. Brubaker expressed that</p> <p>9 opinion in a KCPL case a couple of years ago?</p> <p>10 A. I'm not aware.</p> <p>11 Q. You don't want to build a level of margin into</p> <p>12 rates that's too high, do you?</p> <p>13 A. You don't want to build a margin into rates</p> <p>14 that's either too high or too low.</p> <p>15 Q. Fair enough.</p> <p>16 Off-system sales revenues and margins are --</p> <p>17 they're a very large item in UE's revenue requirement, are</p> <p>18 they not?</p> <p>19 A. Yes.</p> <p>20 Q. Would you agree that a fuel budget in a single</p> <p>21 year -- and a fuel budget includes off-system sales for</p> <p>22 this purpose; do you understand that?</p> <p>23 A. I understand.</p> <p>24 Q. Do you agree that a fuel budget in a single</p> <p>25 year is not based upon a normalized level of generator</p>
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<p>1 just in base rates, correct?</p> <p>2 A. That I would agree with, yes.</p> <p>3 Q. It's not likely to have the same kind of</p> <p>4 impact on customers missing out on higher off-system sales</p> <p>5 or the company suffering from off-system sales, is it?</p> <p>6 A. That's correct.</p> <p>7 Q. I mean the risk that a particular level of</p> <p>8 off-system sales that would be included in utilities</p> <p>9 revenue requirement that the utility will either fail while</p> <p>10 rates are in effect to achieve that level or it will</p> <p>11 achieve a level that's higher than you said if you're just</p> <p>12 dealing with base rates, that risk is pretty high, isn't</p> <p>13 it?</p> <p>14 A. I haven't attempted to measure the risk. But</p> <p>15 certainly it's on the order of tens of millions of dollars.</p> <p>16 Q. Right. Either way, right?</p> <p>17 A. I haven't evaluated whether there's more</p> <p>18 upward or downward risk.</p> <p>19 Q. It's tens of millions of dollars either way</p> <p>20 though; would that be fair to say? I mean one dollar of</p> <p>21 price movement of UE amounts to \$10 million, right?</p> <p>22 A. If the base is set perfectly with regard to</p> <p>23 forecast, yes, it could be up or down tens of millions of</p> <p>24 dollars.</p> <p>25 Q. Would you agree it's more difficult to</p>	<p>1 outages either planned or unplanned?</p> <p>2 A. I don't know. I haven't taken a look at that.</p> <p>3 Q. You haven't considered whether fuel budgets</p> <p>4 are based on normalized outage schedules or unplanned</p> <p>5 outage rates; you've made no consideration of that?</p> <p>6 A. No. All I've looked at is that the company</p> <p>7 develops a fuel budget and they do it one manner and maybe</p> <p>8 use a different manner apparently for developing their</p> <p>9 estimate of that fuel cost for the rate case.</p> <p>10 Q. Do you agree outages, whether they're planned</p> <p>11 or unplanned, can have a significant effect in off-system</p> <p>12 sales margins in a given year?</p> <p>13 A. Yes, I agree with that.</p> <p>14 Q. And you agree units can experience forced</p> <p>15 outages unexpectedly?</p> <p>16 A. Yes. Certainly within a certain band --</p> <p>17 certain classes of generation can be predicted. You cannot</p> <p>18 predict exactly when you're going to have forced outage and</p> <p>19 exactly how long it's going to be. But over a period of</p> <p>20 time, it's possible to project a certain general behavior.</p> <p>21 But specific outages cannot be predicted.</p> <p>22 Q. Would you agree that if a forced outage occurs</p> <p>23 during hours or days of weeks when margins might otherwise</p> <p>24 have been high, the so-called expected off-system sales</p> <p>25 margins for that year could be cut significantly?</p>

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<p>1 A. If it's in a period where a substantial 2 portion of off-system sales margins are coming and it's a 3 significant generator outage, yes.</p> <p>4 Q. The converse is generally not true; lots of 5 additional megawatt hours don't usually show up in a given 6 year from what was expected, isn't that true, to make 7 off-system sales? We don't suddenly have a big jump in 8 availability at power plants in a given year, do we?</p> <p>9 A. When estimates are made, some assumptions are 10 made in regard to the level of outages that are likely to 11 occur. That's reflected usually in a forecast. So greater 12 availability could lead to greater off-system sales.</p> <p>13 Q. Greater availability probably would lead to 14 more off-system sales, wouldn't it?</p> <p>15 A. Greater availability would likely lead to 16 greater levels of off-system sales.</p> <p>17 Q. But my question was, it's unusual for a 18 company to suddenly have a substantial increase in the 19 megawatt hours that its plants are capable of generating in 20 a given year, a step change in the amount of megawatt hours 21 that those plants can generate, unless it goes out and buys 22 a new plant, correct?</p> <p>23 A. For an individual unit, yes. But it can't be 24 looked at that way. You have to look at it as if you have 25 superior performance over a large number of plants; that</p>	<p>1 periods.</p> <p>2 Q. Are margins typically slimmer during the off 3 peak than during the on peak?</p> <p>4 A. I made no evaluation of that.</p> <p>5 Q. You don't know.</p> <p>6 Let's take an example. Let's assume there's a 7 cool snap in the Midwest that lowers loads for many of the 8 midwestern utilities. They may all have more generating 9 capacity from which megawatt hours could be produced, but 10 because of all those loads went down because of the cool 11 snap, the supply of the electricity has gone up; is that 12 fair?</p> <p>13 A. Yes.</p> <p>14 Q. Under those facts, power prices consequently 15 may have gone down, right?</p> <p>16 A. Yes.</p> <p>17 Q. And those lower power prices may render 18 dispatching certain units uneconomic or at least trim the 19 margins they could make from off-system sales, right?</p> <p>20 A. For some units. For others, there may be new 21 opportunities to make sales because their need of load has 22 been reduced.</p> <p>23 Q. And I think my question said those lower 24 prices may render certain units uneconomic, right?</p> <p>25 A. Yes.</p>
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<p>1 is, lower forced outage rates than expected and that could 2 have a significant impact.</p> <p>3 Q. UE has very high equivalent availability 4 across its fleet right now; isn't that true?</p> <p>5 A. I haven't made an examination of that.</p> <p>6 Q. So you really haven't considered whether or 7 not UE's fuel budget in 2008 was based on normalized level 8 of outages or what level of equivalent availability the 9 fleet has at all in that budget; is that right?</p> <p>10 A. No. What I know is UE does a projection of 11 what it believes it needs in fuel based on those runs, 12 those PROSYM runs. And I would expect them to consider 13 outage levels and forecasting levels of outages and 14 reflecting what they would typically expect in those 15 forecast runs that they do with PROSYM.</p> <p>16 Q. But you have no idea whether or not those 17 levels are normal over a time, over a multi-year period?</p> <p>18 A. No. I've made no examination of that.</p> <p>19 Q. Would you agree that a substantial percentage 20 of UE's margins have historically been generated from sales 21 of energy during off-peak hours?</p> <p>22 A. I've made no specific evaluation of that. But 23 considering many of the sales come from the fact that UE is 24 rich in coal fired and nuclear generation, I would expect 25 that a good proportion of them would come from off-peak</p>	<p>1 Q. If you can't economically dispatch a unit, 2 then volumes from that unit are not going to be generated 3 and they're not going to be sold off-system, right?</p> <p>4 A. Right. If the unit is not selected to 5 dispatch, that's correct.</p> <p>6 Q. Would you agree that a fuel budget for a 7 single year is not based upon weather normalized loads that 8 account for weather over a 30-year period?</p> <p>9 A. Can you ask the question again, please?</p> <p>10 Q. Would you agree that a fuel budget for a 11 single year is not based upon weather normalized loads that 12 account for weather over a 30-year period?</p> <p>13 A. It depends on the assumptions that are chosen 14 by the party making the forecast.</p> <p>15 Q. What about UE's 2008 fuel budget?</p> <p>16 A. I haven't evaluated whether they made that 17 assumption, used normalized or they used some sort of 18 projection of weather over that year.</p> <p>19 Q. So you didn't evaluate normalized outage 20 levels and you didn't evaluate normalized loads, weather 21 normalized loads when you made your decision to rely upon 22 the 2008 budget for your margin number; is that correct?</p> <p>23 A. That is correct.</p> <p>24 Q. Would you agree in a given year, weather can 25 have a material effect on native load?</p>

7 (Pages 22 to 25)

Page 26	Page 28
<p>1 A. Yes.</p> <p>2 Q. Or that weather can effect generation levels</p> <p>3 like hydroelectric generation levels?</p> <p>4 A. Yes.</p> <p>5 Q. Would you agree that weather can have a</p> <p>6 material effect on the off-system sales that are made?</p> <p>7 A. Yes.</p> <p>8 Q. So a reason that off-system sales can be</p> <p>9 volatile is because the volumes of energy available can</p> <p>10 vary greatly from year to year?</p> <p>11 A. That's certainly a contributor, yes.</p> <p>12 Q. Volumes of energy can vary from day to day,</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. From hour to hour?</p> <p>16 A. Yes.</p> <p>17 Q. If it gets real hot, then in general, native</p> <p>18 load customers will need more energy resulting in less</p> <p>19 energy being available to sell off system, correct?</p> <p>20 A. Correct.</p> <p>21 Q. If it's cooler than normal, we may have more</p> <p>22 off-system sales, right?</p> <p>23 A. I agree with that.</p> <p>24 Q. Would you agree that market prices for energy</p> <p>25 in a particular region and loads in that same region will</p>	<p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. We therefore need to weather normalize energy</p> <p>4 prices we use to model off-system sales, don't we?</p> <p>5 A. Can you ask that again, please?</p> <p>6 Q. We therefore need to weather normalize energy</p> <p>7 prices we use to model off-system sales, don't we?</p> <p>8 A. I would agree with that.</p> <p>9 Q. Because if we don't do that, we might</p> <p>10 overstate the model off-system sales margins, correct?</p> <p>11 A. I would agree with that.</p> <p>12 Q. Do you agree that Ameren UE's native load for</p> <p>13 the first half of 2008 was lower than normal, as</p> <p>14 Mr. Schukar indicated in his rebuttal testimony?</p> <p>15 A. I'm still evaluating whether I agree with that</p> <p>16 or not. So I don't have an opinion at this point.</p> <p>17 Q. What information are you lacking to draw that</p> <p>18 opinion?</p> <p>19 A. I just haven't gone to the extent of looking</p> <p>20 at that at this point.</p> <p>21 Q. Mr. Schukar indicates that that was about a</p> <p>22 hundred thousand kilowatt difference -- Strike that.</p> <p>23 Do you agree that 2008 has been one of the</p> <p>24 wettest years on record in Ameren UE's service territory?</p> <p>25 A. I don't know.</p>
Page 27	Page 29
<p>1 tend to be higher during a period of hot summer weather and</p> <p>2 would tend to be lower during a period of cool summer</p> <p>3 weather?</p> <p>4 A. All other factors remaining the same, yes.</p> <p>5 Q. So regional energy prices and regional loads</p> <p>6 have a relatively strong correlation with each other; is</p> <p>7 that fair?</p> <p>8 A. I haven't performed any analysis in regard to</p> <p>9 correlation. I would say that they tend to follow each</p> <p>10 other, but there are other factors that affect marketplaces</p> <p>11 besides just the weather.</p> <p>12 Q. But regional loads certainly affect regional</p> <p>13 energy prices?</p> <p>14 A. Yes.</p> <p>15 Q. And there certainly is -- it's intuitive, is</p> <p>16 it not, that there's some material correlation between</p> <p>17 those two things; isn't that true?</p> <p>18 A. I would agree with that, yes.</p> <p>19 Q. It's generally true, is it not, that if it's</p> <p>20 hot in a region, it's going to be hot in UE service</p> <p>21 territory?</p> <p>22 A. Depending on the size of the region. Because</p> <p>23 depending on what side of a funnel boundary you're on,</p> <p>24 there could be a significant difference in temperatures.</p> <p>25 Q. In rate making, we weather normalize loads,</p>	<p>1 Q. Do you watch the weather? I mean I'm just</p> <p>2 asking have you heard the weatherman say that this is the</p> <p>3 fifth wettest year on record in the state of Missouri?</p> <p>4 A. Earlier this year, certainly. And you are</p> <p>5 jogging my memory. I've forgotten it has been in the news.</p> <p>6 I don't know if it's the wettest record for UE. But</p> <p>7 certainly there -- especially the earlier part of this</p> <p>8 year, I believe and then through the spring, certainly</p> <p>9 we've had record rain fall, so.</p> <p>10 Q. You're unwilling to say that it's been an</p> <p>11 unusually wet year here in Missouri? I'm not trying to</p> <p>12 argue with you. It just seems like a fairly obvious point</p> <p>13 to me.</p> <p>14 A. No. I had forgotten these reports. I would</p> <p>15 agree that it's been a wet -- far wetter than normal year</p> <p>16 in Missouri.</p> <p>17 Q. Do you agree UE hydro generation has been a</p> <p>18 lot higher than normal this year?</p> <p>19 A. I don't know that, but I would expect it to</p> <p>20 be.</p> <p>21 Q. You're not disputing Mr. Schukar's rebuttal</p> <p>22 testimony about that; you just haven't verified it yet?</p> <p>23 A. Yes.</p> <p>24 Q. I mean you've been provided work papers and</p> <p>25 information that would show whether or not in fact there's</p>

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1 319,000 megawatt hours of additional generation of  
2 hydroelectric above normal levels or not, correct?

3 A. I just received the work papers a few days  
4 ago. But I would presume there would be sufficient  
5 information for me to verify that there.

6 Q. And I take it you're not at this point  
7 disputing the higher margins of 18 million cited by Mr.  
8 Schukar in his rebuttal testimony that were caused by the  
9 combination of lower than normal native loads and higher  
10 than normal hydro generation, but you just haven't been  
11 able to verify it yet?

12 A. Yes, that's fair.

13 Q. Do you agree that UE is limited in the volume  
14 of megawatt hours that it can sell forward -- Let me  
15 rephrase that.

16 Do you agree that there's some limitations on  
17 UE's ability to hedge forward its off-system sales?

18 A. Yes.

19 Q. Does about [REDACTED] of those volumes maybe up  
20 to a year out sound right to you?

21 A. I really haven't looked at that.

22 Q. You read that in Mr. Schukar's testimony,  
23 didn't you?

24 A. I believe he said that.

25 Q. You understand that UE can't hedge all of

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1 those off-system sales because of uncertainty about native  
2 load obligations, right?

3 A. I understand that.

4 Q. That makes sense, right?

5 A. I agree.

6 Q. Do you contend UE could or should hedge more  
7 than that?

8 A. I have no contention at this point in regard  
9 to that.

10 Q. Either in terms of the volumes that UE hedges  
11 or the time period forward that UE hedges those volumes  
12 forward; you have no opinion, contention, disagreement,  
13 agreement one way or the other about either of those  
14 subjects?

15 A. Not at this time, no.

16 Q. Do you have some reasonable expectation you're  
17 going to have opinions about that?

18 A. I'm certainly going to look at the details of  
19 Mr. Schukar's testimony in that regard. Once I've done  
20 that and looked at the work papers, I may develop an  
21 opinion from what I see or I may have the same situation I  
22 have right now, which is I currently don't have a  
23 contention.

24 Q. I'm just curious because there was testimony  
25 about that in Mr. Arora's testimony, Mr. Schukar's

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1 testimony back on April 4 of this year. And I thought  
2 perhaps you might have in that six or seven months have  
3 given some thought to that issue.

4 A. No, I haven't.

5 Q. Hasn't been something that's been important to  
6 you?

7 A. That's correct.

8 Q. Do you agree that if UE at any given time has  
9 [REDACTED] million megawatt hours of off-system sales volumes  
10 unhedged that this injects a lot of uncertainty in what the  
11 actual off-system sales will be in the ensuing 12-month  
12 period beyond that given point in time?

13 A. I don't know if [REDACTED] million is the right number  
14 or to the extent it creates risk. I will say that  
15 certainly because not all of the off-system sales can be  
16 hedged, the forward sales, it does create a significant  
17 risk in regard to UE's off-system sales margin level.

18 Q. And I did preface my question that if [REDACTED] or  
19 XX million megawatt is the right number, then there would be  
20 a lot of uncertainty about what the level of off-system  
21 sales are actually going to be because of exposure to the  
22 spot power market, right?

23 A. It's not just the [REDACTED] million. It's [REDACTED] million  
24 in relation to what. I don't have a relation to what.

25 Q. Well, if I'm standing here today on October

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1 whatever it is, October 23, and over the next 12 months  
2 I've got [REDACTED] or [REDACTED] million megawatt hours unhedged, then what  
3 my off-system sales are going to be between October 23,  
4 '08, and October 23, '09 is pretty uncertain because of  
5 exposure to the spot power markets; isn't that true?

6 A. For that [REDACTED] million, yes.

7 Q. And for that 12-month period, right?

8 A. Yes.

9 Q. Okay. Do you dispute the range of uncertainty  
10 could be as large as [REDACTED] to [REDACTED] million that Mr. Schukar  
11 cited in his rebuttal testimony?

12 A. I haven't evaluated it and I currently don't  
13 dispute it.

14 Q. Does that surprise you that the range could be  
15 that big?

16 A. Well, as I said earlier, you know, around -- a  
17 good forecast number, it could be tens of millions of  
18 dollars higher or lower, so.

19 Q. Would you consider PROSYM to be a good  
20 production cost model?

21 A. Yes. Provided, you know, good inputs -- or  
22 good inputs are used with it, yes.

23 Q. Does it do a good job of simulating the  
24 operation of UE's generation system in your view?

25 A. I haven't looked at UE in specific. But in

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<p>1 general, it does a good job of simulating most utility 2 systems.</p> <p>3 Q. What criticisms, if any, do you have of 4 relying on PROSYM to determine a normalized level of 5 off-system sales for use in setting rates or setting net 6 base fuel cost in a fuel adjustment clause in this case?</p> <p>7 A. As a tool? I have no problem with it.</p> <p>8 Q. What do you -- When you qualify your answer by 9 saying as a tool, tell me what you mean by as a tool.</p> <p>10 A. Well, as a tool, it's only as useful as the 11 inputs put into the tool. So the assumptions are a big 12 driver in regard to how good it is at forecasting 13 normalized level of off-system sales.</p> <p>14 Q. Let me ask you this: If the company, by some 15 stroke of luck, and the company and you were to agree on 16 what the around-the-clock energy price should be in this 17 case, we agree, and we inputted that price into the model, 18 would it be an appropriate way to set off-system sales in 19 this case?</p> <p>20 A. I believe my testimony indicated that that 21 would be a reasonable alternative way of doing it.</p> <p>22 Q. Really, the input you're talking about that 23 there's some disagreement about is about energy price and 24 really no other input that there's really a disagreement in 25 this case; isn't that true?</p>	<p>1 Q. Do you agree that using more than one year's 2 data would mitigate weather-related abnormalities that 3 occur within a particular year?</p> <p>4 A. Not necessarily. The problem is that there 5 has been an upward trend in spot market prices over the 6 past few years since 2002. And if you simply average the 7 prices out, it removes -- it fails to capture that upward 8 trend in prices so it tends to understate the prices. So 9 if that type of averaging is done to try to normalize the 10 prices, they need to be adjusted back up to reflect where 11 prices in the wholesale market are now because of this 12 creeping up trend of prices over time. It's unrelated to 13 weather.</p> <p>14 Q. I think you answered a different question than 15 I asked you though.</p> <p>16 Do you agree however that using more than one 17 year's of data mitigates weather-related abnormalities? 18 You talked about other things.</p> <p>19 A. It cannot -- you cannot -- you cannot mitigate 20 weather-related abnormalities by simply using more than one 21 year's one worth of data.</p> <p>22 Q. If there are weather-related abnormalities in 23 one year in a particular year that don't occur in the year 24 before or the year after, doesn't using more than one 25 year's of data mitigate those particular weather-related</p>
Page 35	Page 37
<p>1 A. That's correct. That's the only element.</p> <p>2 Q. So it's not really -- you don't have a problem 3 with the model, you don't think the model doesn't do a good 4 job, you don't think UE runs the model improperly. You 5 just say the energy price should be X and the company says 6 it should be Y. That's the only disagreement; isn't that 7 true?</p> <p>8 A. That's correct. There's a disagreement on 9 that assumption.</p> <p>10 Q. You think the volumes of off-system sales 11 predicted by PROSYM are reasonable?</p> <p>12 A. They're right in the ballpark, yes.</p> <p>13 Q. Have you expressed all of the criticisms you 14 had about Mr. Schukar's direct testimony or supplemental 15 direct testimony in your direct testimony?</p> <p>16 A. Yes.</p> <p>17 MR. LOWERY: Off the record. 18 (Whereupon there was a lunch break.)</p> <p>19 Q. (By Mr. Lowery) Mr. Dauphinais, we're back 20 after a break. Do you remember where we were?</p> <p>21 A. A little bit.</p> <p>22 Q. All right. Do you agree that it's appropriate 23 to use a weighted average price of the generator LMP at 24 UE's plants as inputs as elements in PROSYM model?</p> <p>25 A. Yes.</p>	<p>1 abnormalities that occur within a particular year?</p> <p>2 A. It does. But it does possibly introduce other 3 abnormalities that have to be adjusted for.</p> <p>4 Q. But the answer to my question is, yes. You 5 may disagree with using more than one year's data because 6 it introduces other things. But in terms of mitigating the 7 weather-related abnormalities in a given year, the answer 8 to the question is yes, isn't it?</p> <p>9 A. It is, again with what I've said, yes.</p> <p>10 Q. Do you agree that generation and transmission 11 outages in the MISO footprint can affect the congestion 12 component of the LMPs that UE can realize at its generating 13 plants?</p> <p>14 A. Yes.</p> <p>15 Q. Do you agree that using more than one year's 16 data would mitigate any abnormal effects within a 17 particular year caused by transmission or generation 18 outages within that year?</p> <p>19 A. Yes, again with the same caveats that I 20 previously mentioned with regard to adjusting for weather 21 abnormalities.</p> <p>22 Q. Do you agree that you need to match the period 23 used to determine dispatch cost with the period used to 24 determine market prices for power?</p> <p>25 A. Yes.</p>

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<p>1 Q. Do you agree that varying loads inject 2 uncertainty in the level of off-system sales? 3 A. Can you say that again, please? 4 Q. Do you agree that varying loads inject 5 uncertainty into the level of off-system sales? 6 A. You'll have to define what you mean by varying 7 loads. 8 Q. The fact that loads from one period to the 9 next can vary in terms of the level of load. 10 A. Ask the question again. 11 Q. Does the fact that loads vary from period to 12 period inject uncertainty into what off-system sales will 13 be from period to period? 14 A. Yes. 15 Q. That must be a better question. 16 A. Well, I understand it with your definition. 17 Q. Do you agree the fact that unplanned outages 18 can vary from period to period also injects uncertainty 19 into what the level of off-system sales can be from period 20 to period? 21 A. Yes. 22 Q. Do you agree that the fact that power prices 23 vary from period to period injects uncertainty into what 24 the level of off-system sales will be from period to 25 period?</p>	<p>1 due to greater supply of capacity in the market? 2 A. It could potentially be, yes. 3 Q. Economics would tell us that that's 4 directionally where prices might go, correct, because of 5 additional supply? 6 A. Yes. But the magnitude of the effect isn't a 7 given. It may be a small decrease or it could be large. 8 Q. Do you agree that a forward price from a given 9 day can vary significantly from a forward price from a 10 different day, taken from a different day? 11 A. Yes. 12 Q. So if I were to -- Well, strike that. 13 You say a normalization of spot power prices 14 may be appropriate. I think you said that on Page 4 of 15 your direct testimony. Do you recall making that 16 statement? 17 A. That's correct. 18 Q. Your direct testimony did not propose any 19 normalization of spot power prices, did it? 20 A. It did not. It proposed instead a 21 modification to the way the company did the normalization 22 of prices as an alternative belief, versus my primary 23 recommendation. 24 Q. Your primary recommendation was just to grab 25 the budget number for the 2008 budget and recommend that as</p>
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<p>1 A. Yes. 2 Q. Is the depth of the capacity sales market 3 available to AmerenUE infinitely? 4 A. No. 5 Q. There's some limit on the amount of capacity 6 AmerenUE can sell, correct? 7 A. There's always going to be some limit for any 8 market participant in regard to selling capacity. There 9 will be some limit to what the market can take. 10 Q. I want you to assume that the Taumsauk plant 11 is operating instead of being out of service as it is right 12 now. Do you agree that just because it's operating does 13 not mean that UE can sell additional capacity in the 14 capacity markets? 15 A. I'm sorry, Jim. You'll have to repeat it 16 again. 17 Q. Assume the plant was operating, the Taumsauk 18 plant was operating. Do you agree that just because it's 19 operating does not necessarily mean that UE can sell 20 additional capacity into the capacity markets? 21 A. I agree. There would have to be market depth 22 to take it. 23 Q. Do you agree that if Taumsauk were operating 24 and if 440 megawatts of additional capacity was available, 25 that the market price at capacity might very well be lower</p>	<p>1 a level of off-system sales margin, right? 2 A. That's correct. 3 Q. But your alternative recommendation was to 4 rerun the PROSYM model using 12 months ending June 2008, I 5 believe, prices, right? 6 A. Yes. But what I would do is be adjusting up 7 the hourly prices that AmerenUE came up with, normalized 8 prices, it would scale them all up. 9 Q. Because the 12-month average in June is a 10 higher average than a 24-month average for '06 and '07? 11 A. Yes. So it would retain the hourly 12 normalization properties that AmerenUE introduced. 13 Q. Are there benefits sometimes to using more 14 than one year's data for arriving at normalized levels of 15 power prices? 16 A. There are benefits from normalization, yes, 17 because of the variations that can occur that we've gone 18 through already today in discussions. 19 Q. So why was your primary recommendation based 20 on essentially a non-normalized situation? 21 A. Well, what it was based on is the company's 22 own fuel budget forecast. Now, fuel budget forecast, in my 23 opinion, had to represent what the company's best estimate 24 of what they would need in regard to fuel and what they 25 were expecting for off-system sales at the time that budget</p>

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<p>1 was put together.</p> <p>2 Q. And understand that budget was based upon a</p> <p>3 forward price curve for 2008 chosen for one day?</p> <p>4 A. It was, but it was taken from the lower end of</p> <p>5 the forward curve when you look at that forward curve over</p> <p>6 several days. That is, it wasn't taken -- this wasn't a</p> <p>7 price grabbed from the spring when forward market prices</p> <p>8 were very, very high. It was grabbed in January when they</p> <p>9 were substantially lower than they were in the spring.</p> <p>10 Q. Would you agree that federal court's vacation</p> <p>11 of CAIR rule -- do you know what I mean by CAIR?</p> <p>12 A. No, I do not.</p> <p>13 Q. Clean Air Interstate Rule; does that ring a</p> <p>14 bell?</p> <p>15 A. Yes.</p> <p>16 Q. I'm going to shorten that to CAIR. Do you</p> <p>17 understand the acronym now, C-A-I-R?</p> <p>18 A. Yes.</p> <p>19 Q. Would you agree that the federal court's</p> <p>20 vacation of the CAIR rule call caused a spike in power</p> <p>21 prices earlier in the summer of 2008?</p> <p>22 A. I do not know and I've asked the company to</p> <p>23 explain the impact -- its experience with impact of the</p> <p>24 CAIR and they've indicated they have performed no analysis</p> <p>25 of that. So I have no knowledge of it and apparently the</p>	<p>1 Q. What have forward energy prices done since</p> <p>2 June, early July 2008?</p> <p>3 A. They have fallen from the high levels they</p> <p>4 were at in the spring.</p> <p>5 Q. Spot prices are also falling since that time?</p> <p>6 A. I've not analyzed that. I do know spot prices</p> <p>7 for July and August -- well, July especially were not lower</p> <p>8 than July of the previous year.</p> <p>9 Q. You wouldn't agree that spot prices since back</p> <p>10 in June, early July, have fallen more through today than</p> <p>11 you would normally expect based on the change in seasons</p> <p>12 from summer to fall?</p> <p>13 A. I haven't done any analysis.</p> <p>14 Q. You just don't know?</p> <p>15 A. I don't know.</p> <p>16 Q. You don't know.</p> <p>17 Isn't that kind of information something that</p> <p>18 might be important as we proceed forward in this rate case</p> <p>19 to try to come up with a reasonable normalized power price</p> <p>20 for setting off-system sales?</p> <p>21 A. That's certainly something to be considered in</p> <p>22 the next couple of weeks.</p> <p>23 Q. So you do intend to look at that in the next</p> <p>24 couple of weeks?</p> <p>25 A. As part of the evaluation of Mr. Schukar's</p>
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<p>1 company does not either.</p> <p>2 Q. Would you agree that there were coal supply</p> <p>3 disruptions in Australia and China that impacted coal</p> <p>4 markets here which in turn may have contributed to</p> <p>5 temporarily higher power prices here this last summer, last</p> <p>6 summer being 2008?</p> <p>7 A. There were coal shortages of the issue spoke</p> <p>8 of and it did have an impact on off-peak prices. I don't</p> <p>9 know that's the exact period, but I know they did occur.</p> <p>10 Q. Would you agree that market speculation in the</p> <p>11 oil markets temporarily raised power prices this past</p> <p>12 summer?</p> <p>13 A. I wouldn't -- I would not agree that -- with</p> <p>14 the speculation. Because I don't have the expertise to</p> <p>15 have analyzed or determined whether there's been</p> <p>16 speculation. I would agree that rising oil prices</p> <p>17 influenced natural gas prices, which influenced electricity</p> <p>18 prices.</p> <p>19 Q. You don't know whether there was speculation</p> <p>20 or not is what you're saying?</p> <p>21 A. Yes.</p> <p>22 Q. If there had been market speculation, that</p> <p>23 might have raised oil and gas prices more, which in turn</p> <p>24 would have, in your view, raised power prices?</p> <p>25 A. Yes, if there was speculation, that's true.</p>	<p>1 rebuttal testimony, yes.</p> <p>2 Q. Is it possible that around-the-clock spot</p> <p>3 prices for 2008 might end up being about the same as they</p> <p>4 were for 2007?</p> <p>5 A. It's possible.</p> <p>6 Q. Do you know what UE's Gen LMPs have done in</p> <p>7 2008?</p> <p>8 A. I know through June they were higher.</p> <p>9 Q. What have they done since June, do you know?</p> <p>10 A. I know July was substantially higher than</p> <p>11 June. And July '08 was substantially higher than July of</p> <p>12 '07.</p> <p>13 Q. Have you taken a look of Mr. Schukar's Figure</p> <p>14 SES-R1 in his rebuttal testimony?</p> <p>15 A. I have seen it.</p> <p>16 Q. Do you recall seeing figure SES-R1, on Page 6</p> <p>17 of Mr. Schukar's rebuttal testimony?</p> <p>18 A. Yes.</p> <p>19 Q. Would you agree the Gen LMPs at AmerenUE have</p> <p>20 fallen off considerably since midsummer?</p> <p>21 A. I cannot tell with this graph. The scale's</p> <p>22 too large and we have too much data being shown here.</p> <p>23 Q. Are you going to take a look at Mr. Schukar's</p> <p>24 work papers to confirm whether or not what I just said is</p> <p>25 true?</p>

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<p>1 A. Yes. I requested them in discovery and we've 2 since received them a couple of days ago. We're also going 3 to independently look at MISO LMP data. 4 Q. Just for clarification, you received them 5 right after the testimony was filed as part of the work 6 papers that were produced. 7 A. I did not receive the work papers until two 8 days ago. They're voluminous and I received them on a CD. 9 Q. Are you familiar with published forward price 10 data from Platts and forward price curves that Platts and 11 ICE put together? 12 A. Yes. 13 Q. You're familiar with a publication called 14 Megawatt Daily? 15 A. Yes, I am. 16 Q. Is that power price data that Platts and ICE 17 report, is that data that's relied upon by industry market 18 participants? 19 A. Yes. 20 Q. And folks in your position? 21 A. Yes. 22 Q. You'd consider that to be a reasonable source 23 of pricing data? 24 A. It's basically the only source available for 25 forward prices.</p>	<p>1 A. It's yellow. That's why. 2 Q. I'm sorry. Yellow. 3 A. Yellow is calendar year '09, yes. 4 Q. That's the on-peak price for -- forward price 5 for calendar year '09? 6 A. Correct. 7 Q. Let's take a look at the July 17. I think 8 I've got those in order. That price was about \$84 per 9 megawatt hour on July 17, correct? 10 A. That is correct. 11 Q. So just for the record, the market expected 12 on-peak prices in 2009 to average \$84 a megawatt hour as of 13 July 17; is that correct? 14 A. Actually, I don't believe July 17 is the 15 day -- \$84 for July 17. I'm sorry. That's not correct. 16 Q. All right. I stand corrected. On June 13 or 17 thereabouts, \$84 was the expected price in -- forward price 18 in 2009, correct? 19 A. A little bit below \$84, but, yeah, 20 approximately. 21 Q. And by July 17, that price had fallen off to, 22 it looks like about \$70, correct? 23 A. That's correct. 24 Q. If you look at the next one, which if you flip 25 to the next page, Mr. Dauphinais.</p>
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<p>1 MR. LOWERY: I'm going to show you what will 2 be marked as Deposition Exhibit 5. 3 (Whereupon the reporter marked Exhibit No. 5 4 for identification.) 5 Q. (By Mr. Lowery) Deposition Exhibit 5 consists 6 of four documents. I'm going to ask you if you recognize 7 those charts and graphs. 8 A. I've seen these charts before. I have not 9 looked at this particular chart -- particular day before. 10 I generally don't follow the Platts reports and Megawatt 11 Daily anymore because they basically cycle every 7 or 14 12 days. They don't give us daily information anymore. 13 Q. You recognize those as being charts from 14 Platts Megawatt Daily? 15 A. Yes. 16 Q. All right. And would you confirm that those 17 four pages are graphs from published information from 18 Platts for July 17, August 15, September 16, and 19 October 15, 2008? 20 A. Yes, they are. 21 Q. Now, would you confirm that the orange line on 22 the graph that's labeled Cinergy Hub, key packages, last 30 23 days, would you confirm that the orange line reflects the 24 average forward energy price at the Cinergy Hub for the 25 on-peak period for calendar year 2009?</p>	<p>1 A. Yes. 2 Q. That's the August 15 forward pricing curve 3 from Platts, correct? 4 A. Yes, it is. 5 Q. Now, by August 15, that forward price for 2009 6 had fallen -- I'll try to take a look here as well -- to 7 around \$70, right? 8 A. That is correct. 9 Q. If you take a look at the September 16 Platts 10 ICE data, by September 16, what had the price dropped to? 11 A. Around \$66 per megawatt hour. 12 Q. About \$66. And if you take a look at the 13 October 15 Platts ICE data, the price by then had dropped 14 to about \$58; is that correct? 15 A. That is correct. 16 Q. Now, to get those prices on equal footing with 17 the prices that one would expect to experience at UE's 18 generation, you've got to take into account the bases, the 19 differential between the Cinergy Hub and UE's generation, 20 correct? 21 A. That is correct. 22 Q. And you actually did that in your direct 23 testimony as reflected in Footnote 3. I believe you used 24 that bases differential adjusted information Table 2; is 25 that correct?</p>

13 (Pages 46 to 49)

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<p>1 A. That is correct.</p> <p>2 Q. And you applied a ratio of .887 to those</p> <p>3 Cinergy Hub prices to get the UE prices that you report in</p> <p>4 Table 2?</p> <p>5 A. That sounds about the right magnitude.</p> <p>6 MR. LOWERY: Let me show you what's been</p> <p>7 marked as Deposition Exhibit 6, I believe.</p> <p>8 (Whereupon the reporter marked Exhibit No. 6</p> <p>9 for identification.)</p> <p>10 Q. (By Mr. Lowery) Do you recognize Deposition</p> <p>11 Exhibit 6?</p> <p>12 A. Yes. This is my work paper for the</p> <p>13 calculation of the bases.</p> <p>14 Q. Do you recognize -- my handwriting is never</p> <p>15 that great to read. Do you recognize that I've written the</p> <p>16 file name that you had named this file on the bottom of</p> <p>17 that page?</p> <p>18 A. Yes, that is correct.</p> <p>19 Q. Would you confirm that your bases differential</p> <p>20 that you used .887?</p> <p>21 A. Yes.</p> <p>22 Q. So let's look at \$58 forward price for 2009</p> <p>23 that we have. To put it on equal footing with the prices</p> <p>24 UE would expect at the generator, we'd have to multiple</p> <p>25 that by .887, correct?</p>	<p>1 this is being driven by generally a need to generate cash</p> <p>2 and all commodities are falling very rapidly right now in</p> <p>3 the current market situation. So these forward prices may</p> <p>4 in fact understate the current fundamentals of the market.</p> <p>5 Q. They may and they may not, right?</p> <p>6 A. There -- they may or may not, but there is a</p> <p>7 lot of discussion along the lines of they may be</p> <p>8 understating the fundamentals of the market.</p> <p>9 Q. But whether they are or they are not, when you</p> <p>10 apply the bases differential, you're about 7 or \$8 below</p> <p>11 the average of the spot price for July '07 to June '08,</p> <p>12 correct?</p> <p>13 A. Using these -- these latest prices, yes. But,</p> <p>14 again, the other thing I would hesitate to do is just one</p> <p>15 price when we're on a downward sloping market. We're using</p> <p>16 the lowest price on a downward sloping market. When I --</p> <p>17 when I use and selected the off-system sales margin</p> <p>18 recommendation, I picked a forward market projection that</p> <p>19 the company did where we're not at the high price forward</p> <p>20 prices in the spring in recognition that that would be</p> <p>21 overstating the situation.</p> <p>22 So when you use forward prices, you have to be</p> <p>23 careful. You cannot just pick one day. But if you pick</p> <p>24 one day, you need to pick one that's conservative for what</p> <p>25 you're trying to estimate so it doesn't overstate what</p>
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<p>1 A. It would put it approximately on the right</p> <p>2 footing. I would want to update this for a later period.</p> <p>3 This was a one-year period, I believe ending in 2008. So I</p> <p>4 would want to update it, but that's probably in the right</p> <p>5 ballpark.</p> <p>6 Q. You're just saying the .887 might be .872 or</p> <p>7 .895, but it's going to be in the ballpark. The bases</p> <p>8 differential is not going to be significantly different; is</p> <p>9 that fair to say?</p> <p>10 A. That's correct.</p> <p>11 Q. So if we multiply the \$58 forward price by</p> <p>12 .887, just an approximation, I understand it could change a</p> <p>13 little bit, we would get a price -- I'm going to let you</p> <p>14 verify my numbers just so no one can say that I was making</p> <p>15 these numbers up. If we take .887 times the \$58 forward</p> <p>16 price for 2009, we get an on-peak price of 51.44, do we</p> <p>17 not?</p> <p>18 A. That's correct.</p> <p>19 Q. If we look at your Table 2, 51.44 is</p> <p>20 considerably less than the average of the 2006 and 2007</p> <p>21 spot prices that you reference in Table 2; isn't that</p> <p>22 correct?</p> <p>23 A. It's the -- yes, that's correct. I would warn</p> <p>24 that these forward prices that we're seeing now represent a</p> <p>25 sell-off and there is discussion in the marketplace that</p>	<p>1 you're trying to estimate. To pick today's low prices in</p> <p>2 the forward markets, in my opinion, would be to understate</p> <p>3 what spot prices are likely to be in the future. You need</p> <p>4 to look back more than the last few days. You need to look</p> <p>5 back at a few months and average them together.</p> <p>6 Q. If we were to apply -- and I understand what</p> <p>7 you just said. But at this point the forward price of --</p> <p>8 the market at this moment in time or at least as of</p> <p>9 October 15, I guess it would be, the market as of October</p> <p>10 15 expected the on-peak price for 2009 to be \$58, correct?</p> <p>11 A. Yes. The market consensus on that day was</p> <p>12 that, yes.</p> <p>13 Q. You're just saying the market consensus might</p> <p>14 change tomorrow, it might change the next day. But on that</p> <p>15 day, it expected the price to be \$58 in 2009, right?</p> <p>16 A. Yes. Because on individual days we can see</p> <p>17 behavior that's driven by facts that are beyond</p> <p>18 fundamentals. We saw this in some of the forward prices</p> <p>19 shortly after the hurricanes two years ago. And we may be</p> <p>20 seeing this now on a downward slope instead of an upward</p> <p>21 slope.</p> <p>22 Q. You don't know when that downward slope might</p> <p>23 end, do you?</p> <p>24 A. I don't know when the downward slope will end;</p> <p>25 that's correct.</p>

14 (Pages 50 to 53)

1 Q. Mr. Brubaker this morning in fact talked about  
2 changing economic conditions. And when we were talking  
3 about whether fuel prices are going to continue to go up,  
4 he said, well, I don't know. The economy and demand is  
5 falling off and industrial production may fall off, not  
6 sure where the economy is going. So in fact, this downward  
7 slope may in fact sustain itself for some time; isn't that  
8 fair to say?

9 A. It may or may not. It's certainly a leading  
10 indicator where spot prices may go.

11 Q. If in fact it does sustain itself, then the  
12 use of an around-the-clock price of around \$46, which is  
13 what the 2008 budget was based upon, would substantially  
14 overstate the power prices UE could expect to achieve in  
15 2009, wouldn't it?

16 A. It may, yes.

17 Q. Because if we -- after we apply the bases  
18 differential, this \$58 forward price for '09 and then apply  
19 the reasonably accurate ratio of 77 percent to the on-peak  
20 price to get an around-the-clock price, you can again  
21 verify my math, but if we take 51.44 times .77, we get an  
22 around-the-clock price of \$39.60, don't we?

23 A. Yes. Again, that's based on these forward  
24 prices actually being realized.

25 Q. The mathematics was correct though, right?

1 A. Yes.

2 Q. If the forward prices that the market expects  
3 today of \$58, adjusted for the bases differential between  
4 Cinergy and UE's generation and adjusted to predict at  
5 least an approximation of what the around-the-clock would  
6 be, then UE might very well only realize \$39.60 or  
7 thereabouts around-the-clock in 2009, not \$46, right?

8 A. That's correct.

9 Q. If that were to happen, UE would undershoot  
10 off-system sales margins by -- or off-system sales  
11 revenues -- excuse me -- by something on the order of  
12 \$ million, correct?

13 A. Margins may. There would be an offsetting  
14 effect in purchased power and natural gas cost.

15 Q. Let me just get an answer to my question to  
16 begin with. If I said margins, I should have said  
17 revenues.

18 But if the around-the-clock price ends up  
19 39.60, not the roughly 46 that was assumed in the budget  
20 that you're relying upon, then the revenues from off-system  
21 sales, putting aside what fuel prices or power purchases  
22 might do, the revenue from off-system sales would be off by  
23 about \$ million at 10 million megawatt hours a year,  
24 correct?

25 A. I'm not going to say \$ million and this is

1 why. A few things have to be taken into consideration.  
2 One is the forward sales; those are not going to be  
3 affected by the change in prices. That piece is going to  
4 be fixed. And, second, the revenue -- for example, my  
5 recommendation was an adjustment to margin, but revenues  
6 are different. So I can't calculate \$ million from what  
7 you're putting forth here.

8 Q. We'll try it again because I said revenues. I  
9 didn't say margins. I understand that they're different.

10 A. Yeah.

11 Q. Let's assume for purposes of my question that  
12 UE has about 10 million megawatt hours a year to sell off  
13 system, which you previously agreed is a pretty close  
14 approximation to what is normal; is that right?

15 A. I don't believe I agreed to that at all.

16 Q. Well, the record will reflect whether you did  
17 or not. Let's assume that 10 million megawatt hours is  
18 about the volume of off-system sales UE has per year.

19 A. All right.

20 Q. Let's assume that approximately million of  
21 those are hedged.

22 A. All right.

23 Q. That leaves about, can we say, million  
24 unhedged. I guess it's but just for round  
25 figures; is that fair?

1 A. Sure.

2 Q. If the around-the-clock price ends up being 6  
3 or \$7 a megawatt hour lower, then off system revenues, I'm  
4 not talking about margins, revenues are going to be million  
5 million less than they would be based upon the price in  
6 the 2008 budget that you're relying on for making a margin  
7 adjustment, correct?

8 A. Six to \$7 lower?

9 Q. I'm sorry. I think I did do the math wrong.  
10 million times \$6, more like \$ million, right?

11 A. Yes.

12 Q. \$ million lower off-system sales revenues?

13 A. I agree with that.

14 Q. You'll agree with that.

15 Do you know just in approximate numbers for  
16 every dollar of off-system sales revenues approximately,  
17 how much margin UE makes on average?

18 A. No, I do not.

19 Q. If we were to look at your Table 3 and average  
20 some of those numbers, would that give us a rough  
21 approximation? If we divided the margin in the revenue  
22 across those different scenarios, would that probably give  
23 us a rough approximation of what percentage of the revenue  
24 is represented by margin?

25 A. Yes. But I will say that ratio may vary

1 depending on which scenario we're looking at.

2 Q. But if we average those, would you agree that  
3 that would be at least a fair approximation of what the  
4 margins -- what percent of revenues are represented by  
5 margins?

6 A. If we averaged all these cases together?

7 Q. Yes.

8 A. Yes. That would be a fair estimate.

9 Q. Why don't we do that real quick. We take  
10 [REDACTED] and divide it into [REDACTED] wouldn't we, to get the first  
11 ratio?

12 A. Yes.

13 Q. Is that 54.7 percent?

14 A. Yes, it is.

15 Q. And to get the next one, we divide [REDACTED] into  
16 [REDACTED] 48.1?

17 A. Yes.

18 Q. And the next one would be [REDACTED] divided by  
19 [REDACTED] 49.2 or 3, you pick.

20 A. 49.3.

21 Q. 49.3. [REDACTED] into [REDACTED] 58.4?

22 A. Correct.

23 Q. And the last one [REDACTED] divided by [REDACTED]  
24 58.9?

25 A. I would call it 59.0.

1 Q. Fair enough. So if we add those together and  
2 divide by five, on average, margins are about 53.9 percent  
3 of revenues; is that right?

4 A. Yes. And the spread of the numbers is such  
5 that I think that's a reasonable estimate, yes.

6 Q. So if we go back to the \$40 million of  
7 revenues that UE might undershoot if prices end up being  
8 39.60, not the \$46, then margins are going to be down about  
9 21 and a half million dollars, right?

10 A. Margins would be down by that amount. But,  
11 again, I would caution there would be an offset of the  
12 revenue requirement or the net fuel cost because UE's  
13 purchase power cost and natural gas fuel cost would fall.  
14 So there would be some offsetting amounts.

15 Q. Those offsets wouldn't fully offset those  
16 lower margins, would they, given UE doesn't purchase a  
17 whole lot of power and its gas fired generation is only  
18 about 2 or 3 percent of the energy that it produces?

19 A. I would agree with that.

20 Q. The offset would be fairly minor in relation  
21 to the \$21 million, wouldn't it?

22 A. Minor, but significant enough that it needs to  
23 be taken into consideration.

24 Q. A couple million dollars, a few million  
25 dollars out of that 21 million at most?

1 A. Five at most, I'd say.

2 Q. Five at most.

3 Now, Mr. Schukar has updated his prices in his  
4 rebuttal testimony, has he not?

5 A. Yes, he has.

6 Q. And that around-the-clock price is 43.57; is  
7 that what you recall? And we can take a look if you don't  
8 remember.

9 A. It sounds right.

10 Q. Why don't we take a look to make sure. And  
11 your alternative price is 44 -- 44.73?

12 A. That is correct.

13 Q. Take a look at Page 19, Line 4, I believe it  
14 is, of Mr. Schukar's rebuttal testimony. Is 43.57 the  
15 price that he's recommending -- the around-the-clock price  
16 he's recommending for establishing off-system sales in this  
17 case?

18 A. Yes, it is.

19 Q. Would I be correct that a 43.57  
20 around-the-clock price would imply roughly \$56.50 on-peak  
21 price using the 77 percent ratio that you previously  
22 indicated was reasonable?

23 A. That is correct.

24 Q. And this 43.57 price, it's already taking into  
25 account the bases differential between Cinergy and UE,

1 correct?

2 A. Yes.

3 Q. So if we didn't take that bases differential  
4 into account, that 43.57 around-the-clock price would imply  
5 probably an on-peak price probably north of \$60, correct?

6 A. At Cinergy?

7 Q. Yes.

8 A. That's the right order of magnitude. It may  
9 be a dollar higher or a dollar lower.

10 Q. If we took 56.50, divide it by .887, we'd get  
11 \$63.69, correct?

12 A. Correct.

13 Q. Wouldn't you agree that Mr. Schukar's updated  
14 price, in light of the market's expectations for 2009, is  
15 not at all unreasonable?

16 A. I haven't come to that conclusion. I'm still  
17 reviewing his testimony.

18 Q. Would you agree that it very well may be that  
19 you come to the conclusion that his recommendation is  
20 entirely reasonable?

21 A. It's a possibility. But, again, I haven't  
22 come to that conclusion at this point.

23 Q. But you're considering in good faith whether  
24 or not it might in fact be reasonable; is that true?

25 A. That's correct.



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1 Q. Because you would agree that some fundamentals  
2 in the market may very well have changed since earlier  
3 2008; would you agree with that?

4 A. I would say that things have changed since my  
5 testimony was filed and that needs to be considered as an  
6 input in reviewing what Mr. Schukar has proposed in his  
7 rebuttal testimony.

8 Q. When you looked at a trend that ended in  
9 June 2008, you were picking a point in time when prices had  
10 run up considerably; isn't that true?

11 A. I guess I disagree with the framework of the  
12 question. I didn't -- I don't agree that a price trend  
13 ended in June for spot prices.

14 Q. You agree spot prices have fallen off  
15 considerably since June; isn't that true?

16 A. In relation to what was in May? I guess I'm  
17 confused.

18 Q. Would you agree that spot prices have fallen  
19 off since June, more than one would expect, just because of  
20 seasonal differences?

21 A. I do not know that.

22 Q. You don't know.

23 The 43.57 price that Mr. Schukar recommends  
24 and 44.73 price that you indicate as an alternative if the  
25 PROSYM model is rerun, that is still your opinion, correct,

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1 at least at this moment?

2 A. Yes.

3 Q. That's only a little more than a dollar  
4 different, correct?

5 A. Yes.

6 Q. Which means that your off-system sales  
7 recommendations revenues on the revenue side, and  
8 Mr. Schukar's, is only about 10, \$12 million apart; is that  
9 true?

10 A. It may be.

11 Q. We're talking about a disagreement in the  
12 context of off-system sales revenues of \$ [REDACTED]  
13 of only [REDACTED] percent, correct?

14 A. It's on that order of magnitude.

15 Q. You can't be all that sure you're right and  
16 Mr. Schukar is wrong about what prices are going to be, can  
17 you?

18 A. We pick -- we need to pick the most accurate  
19 number we can. We don't know what the real number will be.

20 Q. Because predicting off-system sales is pretty  
21 difficult business, isn't it?

22 A. It's a difficult business.

23 Q. If in fact when you do your examination it  
24 turns out that spot prices since June have fallen off  
25 considerably not just due to seasonal changes, I understand

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1 that the seasons would naturally cause some fall-off from  
2 prices from the summer to the fall. But if in fact it  
3 turns out that those spot prices have fallen considerably,  
4 then prices through June can't very well be a known  
5 immeasurable change for setting rates, can they?

6 A. Please repeat the question.

7 MR. LOWERY: Read it back.

8 (Whereupon the reporter read back the previous  
9 question.)

10 A. The prices through June are a component into  
11 determining what a valid known immeasurable adjustment  
12 would be. If prices have fallen since June significantly,  
13 that is another input. Both inputs would be used in  
14 utilizing in determining what the proper known immeasurable  
15 would be.

16 Q. (By Mr. Lowery) I think if I could rephrase  
17 what you just said, if I don't say it right, I'm sure  
18 you'll tell me. If there's been a considerable fall-off  
19 from those spot prices through September or October,  
20 whenever it is that you look at them, that would be just as  
21 much of a known immeasurable change as looking at it just  
22 through June; isn't that fair?

23 A. It is. It will have to be considered whether  
24 there's an abnormality or a trend going on I guess. That's  
25 one of the things that will have to be evaluated.

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1 Q. I take it you have not updated your analysis  
2 for data through September 30?

3 A. I have not.

4 Q. But you're planning to?

5 A. Yes.

6 Q. Your Table 2 on Page 6, the range between the  
7 high and the low prices that you show there is about \$20,  
8 right?

9 A. For all of the prices here? No. It's about  
10 \$30.

11 Q. I'm sorry. I stand corrected. It's more than  
12 \$30. It's about \$30. Not more, but about \$30?

13 A. That's correct.

14 Q. \$30 -- \$30 of price uncertainty generates  
15 quite a lot of uncertainty in what the level of off-system  
16 sales revenues might be; isn't that fair to say?

17 A. Yes.

18 Q. If we look at just March 19 to August 19,  
19 you've got three different values. You've got a range of  
20 about \$20 there, right, just within a five-month period?

21 A. That's correct.

22 Q. Is there -- there's no reason to expect that  
23 the range of variation might be smaller for the rest of the  
24 given 12-month period, is there?

25 A. For forward price, this type of variation

17 (Pages 62 to 65)

1 would not be unexpected.

2 Q. And your schedule JRD-1, it reflects a range  
3 varying by about [REDACTED] megawatt hours varying from high  
4 to low; is that correct?

5 A. Correct.

6 Q. And so that's additional volume of uncertainty  
7 on top of the price uncertainty we were just talking about,  
8 correct?

9 A. Yes, it is.

10 Q. Is it fair to say that none of us know that  
11 energy prices --

12 A. I'm sorry. I would note some of the variation  
13 from the lowest to the highest on schedule JRD-1 is in fact  
14 related to the refueling outage, I believe, for Callaway.  
15 That would have an impact on volume, significant impact on  
16 volume.

17 Q. But there is some volume uncertainty; you'd  
18 agree with that?

19 A. There is some volume uncertainty.

20 Q. Some, quote, normal volume uncertainty?

21 A. Correct.

22 Q. None of us know what energy prices are going  
23 to be starting March 1 when rates for this case go into  
24 effect; is that fair to say? If we did, we could all go  
25 make a lot of money.

1 A. That's correct.

2 Q. None of us know how many megawatt hours of  
3 off-system sales UE is going to make during the first  
4 12-month period post March 1, '09, correct?

5 A. No one knows the exact.

6 Q. Or the next 12-month period; we don't know  
7 what prices are going to be, we don't know what volume is  
8 going to be, correct?

9 A. We don't know exact amount. Certainly bands  
10 can be put around it on expectation.

11 Q. From a price prospective, the band is probably  
12 going to be pretty wide, is it not?

13 A. As we discussed, plus or minus tens of  
14 millions of dollars.

15 Q. You state on Page 4, Lines 1 to 4 of your  
16 direct testimony, that UE's fuel costs are substantially  
17 immune to spot price variations, correct?

18 A. Can you give me a line?

19 Q. Line 1 to 4 on Page 4.

20 A. Yes, I do.

21 Q. It follows then that UE's fuel costs are not  
22 correlated with the spot markets for fuel or for power,  
23 correct?

24 A. That's generally correct, yes.

25 Q. And since UE's off-system sales depend to a

1 great extent on what power prices do, then UE's fuel prices  
2 which are substantially immune from these spot price  
3 variations aren't very well correlated with off-system  
4 sales, correct?

5 A. In the overall picture, yes. A portion of it  
6 is; that is, the purchased power cost and natural gas cost  
7 are. But the remainder of the costs are not. And as we've  
8 discussed, only a small portion of the fuel cost, a  
9 relatively small portion.

10 Q. So a very, very high percentage -- the  
11 correlation does not exist with a respect to a very, very  
12 high percent of UE's off-system sales, correct?

13 A. A high percentage.

14 Q. Probably 90 plus percent, right, or more?

15 A. Somewhere in the neighborhood of 90 percent, I  
16 would say.

17 Q. On Page 6 on Table 2, you provided data on  
18 March 19 to August 19 forward prices for 2009, correct?

19 A. 2008.

20 Q. Well, they're forward prices for 2009, aren't  
21 they?

22 A. In part. It's a rolling 12 months -- it's  
23 rolling 12 months looking forward. So from March 19 --  
24 from March 19, 2008 to --

25 Q. To March 18 of 2009?

1 A. For April '07 -- April '08 through --

2 Q. Right. So the March 19 one goes through March  
3 of 2009. We get out to August 19, 12 months forward, it  
4 goes into August 2009, a combination of forward prices for  
5 the rest of '08 and that part of '09, up to August 18 or 19  
6 or '09; is that right?

7 A. Yes, that's correct.

8 Q. Now I understand.

9 Over that period, the trend in forward prices  
10 is actually decreasing, isn't it?

11 A. By trend, what do you mean? Can you define  
12 that, please?

13 Q. Well, if we look at forward prices on  
14 March 19, 20, 21, and June and July and August, if we look  
15 forward 12 months at each of those points, the trend in  
16 forward prices is actually decreasing, isn't it?

17 A. Over this time period, I believe it went up  
18 and then went down. Towards the tail-end of the curve,  
19 yes, it was going downward for forward prices.

20 Q. If I were to graph those forward prices over  
21 this period, I'm going to end up lower than where I  
22 started; isn't that correct?

23 A. Yes. For this period, yes.

24 Q. Since you initially recommended or are  
25 recommending today, at least as of today, to use the 2008

1 budget as January 10 to set off-system sales in this case,  
2 would you agree that only an updated budget forecast that  
3 takes into account the declining prices we've seen since  
4 June should be used?

5 A. You'd take that into consideration, but it  
6 certainly wouldn't be necessarily based on most recent  
7 prices in October necessarily. But I think you need to  
8 look at several months. I know the company does it on a  
9 single day, but I think the more reasonable estimate would  
10 be looking at several days averaged out.

11 Q. When you recommended use of the 2008 budget to  
12 set off-system sales in this case, were you aware the  
13 company missed its budgeted margins for 2007 by more than  
14 \$ million?

15 A. No, I was not aware of it.

16 Q. You're aware of it now?

17 A. I am aware, yes.

18 Q. And the company budgeted using essentially the  
19 same methodology for 2007 as it did for 2008; isn't that  
20 your understanding?

21 A. There's nothing to lead me to believe there's  
22 anything different.

23 Q. So the company's budget isn't always right, is  
24 it?

25 A. Apparently not.

1 Q. Would you agree that a fuel adjustment clause  
2 mitigates risk of forecasting uncertain quantities like  
3 off-system sales, if you include the off-system sales in  
4 the fuel adjustment clause, the risk to the customers and  
5 the company of missing the off-system sales number?

6 A. Again, if you were going to have a fuel  
7 adjustment clause, the fuel adjustment clause would be  
8 handy in regard to dealing with the risk associated with  
9 off-system sales revenues.

10 Q. Because if we -- if the commission sets  
11 off-system sales at a particular level like it did in the  
12 last rate case and if the company is able to beat that and  
13 we don't have a fuel adjustment clause, the company can  
14 just pocket that money, right?

15 A. Yes.

16 Q. The customers are at risk of missing out on  
17 the up side, right?

18 A. Right. Especially in the fuel adjustment  
19 clause, the company is seeing and able to recover higher  
20 fuel costs at the same time.

21 Q. Well, let's separate the situation. Let's say  
22 we don't have a fuel adjustment clause at all.

23 A. Okay.

24 Q. In that case, if the commission gets it wrong,  
25 customers may miss out on the up side or the company may be

1 punished for suffering the down side, right?

2 A. Yes. But there may be other costs that are  
3 being effected that may be offsetting.

4 Q. Or the company may beat the off-system sales  
5 number and have higher costs in other areas and not be any  
6 better off, right, it goes both ways?

7 A. There's some tie between them. We talked  
8 about the correlation. There's some tie.

9 Q. My only point is, you wanted to point out the  
10 fact that off-system sales might be below target and maybe  
11 the company could save money somewhere else. It could go  
12 exactly the other way, right? The company might make more  
13 money in off-system sales, but it might have rate based  
14 investments or other expenses that went up that offset  
15 every dollar of that?

16 A. Depending on how those costs are tied to  
17 correlate to off-system sales margins, yes, there could be  
18 a difference, yes.

19 Q. But if we have a fuel adjustment clause and if  
20 we include off-system sales in it, we're largely mitigating  
21 the right to the customer and to the company of getting the  
22 estimate of off-system sales wrong, aren't we?

23 A. Yes. If a fuel adjustment clause is  
24 established including off-system sales, then it would  
25 achieve that, yes.

1 Q. Do you have any opinions about the level of  
2 ancillary services revenues that UE recommends for  
3 inclusion in it's net base fuel cost in this case?

4 A. No, I don't have any opinion on that.

5 Q. Do you have any opinions about the level of  
6 capacity sales UE recommends for inclusion in the net base  
7 fuel cost?

8 A. No.

9 Q. Do you have any opinions about the level of  
10 Taumsauk capacity sales that UE recommends for inclusion in  
11 the net base fuel cost?

12 A. No.

13 Q. Do you have any opinions about the level of  
14 RSG May (phonetic) coal payments that UE recommends for  
15 inclusion in net base fuel cost, which Mr. Schukar  
16 recommended in his rebuttal testimony?

17 A. I'm studying Mr. Schukar's recommendation as  
18 well as the testimony of staff on the issue and I have not  
19 come to a conclusion as of yet.

20 Q. Are you still studying any testimony related  
21 to ancillary services revenues or capacity revenues or are  
22 you just not going to have an opinion about that?

23 A. I'm looking at Mr. Kye's (phonetic) testimony.  
24 At the moment, I have no opinion.

25 Q. Do you have any particular disagreements or

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<p>1 criticisms at this moment of Mr. Schukar's rebuttal 2 testimony?</p> <p>3 A. No. I'm still studying it at this point.</p> <p>4 Q. You talk about the alternative of AmerenUE 5 rerunning its model, its PROSYM model. At least at the 6 time you filed your direct testimony, you were pointing to 7 the 44.73 price if the company did that. It's my 8 understanding that you're looking at what's going on in the 9 market now and more recent information and your opinion 10 might change about the 44.73; is that true?</p> <p>11 A. That's true.</p> <p>12 Q. Let me ask you this: You indicated some 13 concern about the impracticability of being able to rerun 14 the model based on the right price, whether it's the price 15 you think ought to be used, the price the company thinks 16 ought to be used as part of this case; do you recall having 17 that concern?</p> <p>18 A. The concern was having sufficient time to 19 review those runs and what went into them.</p> <p>20 Q. Let me ask you this: If AmerenUE reruns its 21 model and provides that rerun as part of providing the 22 true-up data on November 7, you understand that the company 23 will be providing true-up data through September 30 on 24 November 7 to all the parties; do you understand that?</p> <p>25 A. I understand that.</p>	<p>1 I got the CD two days ago. But, yes.</p> <p>2 Q. But you're pretty familiar with the outputs 3 and the work papers that Mr. Finnell produces when he runs 4 the PROSYM model, are you not?</p> <p>5 A. Yes, I am.</p> <p>6 Q. I mean this is not something that's foreign to 7 you?</p> <p>8 A. That's correct.</p> <p>9 Q. And unless there was some fundamental change 10 in the inputs, if principally the change was to update fuel 11 prices through September 30 and update energy prices 12 through September 30 just hypothetically, it shouldn't be 13 too difficult if you get the work papers within a few days 14 of November 7, it shouldn't be too difficult to analyze 15 that data and handle a true-up hearing that occurs in early 16 January with respect to data, should it?</p> <p>17 A. I can do it. The only caution is it's not 18 clear what the mode would be in order to respond, if we had 19 a difficulty how we had -- a difficulty with regard to how 20 that was done.</p> <p>21 Q. You understand there's provisions in the 22 procedural schedule for filing true-up testimony in mid 23 December, right?</p> <p>24 A. Is there? I wasn't aware of that.</p> <p>25 Q. If in fact that's the case, wouldn't you be</p>
Page 75	Page 77
<p>1 Q. The company does that with a true-up hearing 2 that's not scheduled until January 6 or 7, why wouldn't you 3 have plenty of time to review the data and work papers and 4 provide any testimony you needed to about that new PROSYM 5 run?</p> <p>6 A. It depends on the details of how the rerun is 7 done. If it's a very clean rerun where that's the only 8 change made and we get the work papers very quickly and 9 it's very clear on what was done and how the inputs were 10 changed, it may be possible. Let me express a concern that 11 depending on what happens, that may not be possible.</p> <p>12 Q. Let's talk about that just a little bit.</p> <p>13 Mr. Finnell reran his models in connection with his 14 rebuttal testimony, right?</p> <p>15 A. Uh-huh.</p> <p>16 Q. And the staff's models and the company's 17 models are in essential agreement except for energy prices, 18 correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And you've gotten Mr. Finnell's work papers 21 from his rebuttal testimony, right?</p> <p>22 A. That's correct.</p> <p>23 Q. You've seen those work papers from various 24 PROSYM runs on a number of occasions, correct?</p> <p>25 A. The most recent ones I have not looked at yet.</p>	<p>1 able to get that November 7 data and work papers within 2 just a few days, take a look at it, and determine by mid 3 December whether or not you have issues with the rerun?</p> <p>4 A. With all the assumptions we've discussed in 5 terms of it's a very clean rerun and the work papers are 6 provided very promptly and there's nothing unusual, it 7 maying be possible. One of the measures -- one of the 8 factors in play now also that wasn't in play before, as 9 you've mentioned, is staff's own runs are real time. And 10 the fact that matched on -- when used common assumptions, 11 the net fuel cost is matched up. So there's a level of 12 confidence that wasn't there when I filed my direct 13 testimony.</p> <p>14 Q. So that level of confidence makes it even more 15 practical to rerun the PROSYM model with updated energy 16 prices if in fact you may come to a conclusion that energy 17 prices need to be different, the company has changed energy 18 price as time has gone on and looked at more recent data. 19 So it's even more practical -- or likely more practical now 20 than it might have been at the time you filed your direct 21 testimony, in your mind; isn't that true?</p> <p>22 A. It's more likely it will work out.</p> <p>23 Q. Do you have any other opinions about the 24 appropriate level of off-system revenues or margins to 25 include in UE's revenue requirement in this case at this</p>

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1 point that you have not told me or that are not reflected  
2 in your pre-filed testimony?

3 A. No.

4 Q. Subject to whatever difference -- Let me start  
5 over: Subject to whatever modifications you might make to  
6 the opinions you've expressed so far in your surrebuttal  
7 testimony, other than that, you've told me all the opinions  
8 that you have with respect to this case; is that correct?

9 A. That is correct.

10 Q. You're working on this case based on hourly  
11 rate; is that correct?

12 A. That's correct.

13 Q. You probably bill at a rate that's a little  
14 lower than Mr. Brubaker's?

15 A. Yes.

16 Q. What's your rate?

17 A. \$195 per hour.

18 Q. Do you have at least a reasonable idea of how  
19 many hours you've spent on this case to date?

20 A. No. I would have to check.

21 Q. You have no idea?

22 A. Order of magnitude.

23 Q. 50, 150, 250?

24 A. I would be surprised if it exceeded 100, but I  
25 do not know.

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1 Q. Fair enough. Mr. Dauphinais, are you familiar  
2 with ICAP?

3 A. If ICAP means installed capacity, yes.

4 Q. No. How about International Capital, PLC, a  
5 power broking firm?

6 A. I'm not aware of them.

7 MR. LOWERY: Never heard of them. All right.  
8 I think that's all the questions I have.

9 Same stipulation about waiving presentment.  
10 You'll read and sign and stipulate that if it's not signed  
11 by the time of the hearing, it will be deemed to be signed?

12 MS. VUYLSTEKE: Yes.

13 (Whereupon signature was reserved.)  
14  
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# 1 CERTIFICATE OF REPORTER

2 I, Sheryl A. Pautler, Certified Court  
3 Reporter, Notary Public within and for the State of  
4 Missouri, do hereby certify that the witness whose  
5 testimony appears in the foregoing deposition was duly  
6 sworn by me; the testimony of said witness was taken by me  
7 to the best of my ability and thereafter reduced to  
8 typewriting under my direction; that I am neither counsel  
9 for, related to, nor employed by any of the parties to the  
10 action in which this deposition was taken, and further that  
11 I am not a relative or employee of any attorney or counsel  
12 employed by the parties thereto, nor financially or  
13 otherwise interested in the outcome of the action.  
14  
15

16 \_\_\_\_\_  
17 Notary Public within and for  
18 the State of Missouri

19 My commission expires April 10, 2009.  
20  
21  
22  
23  
24  
25

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1 I, JAMES DAUPHINAIS, do hereby certify:

2 That I have read the foregoing deposition;

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

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

8 I declare under penalty of perjury that the  
9 foregoing is true and correct.  
10

11 Executed the \_\_\_\_\_ day of \_\_\_\_\_,  
12 20\_\_\_\_, at \_\_\_\_\_.  
13  
14

15 \_\_\_\_\_  
16 JAMES DAUPHINAIS

17 My Commission Expires: \_\_\_\_\_  
18 Notary Public: \_\_\_\_\_  
19 SP/James Dauphinais  
20 In the Matter of Union Electric Company  
21  
22  
23  
24  
25

21 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 Errata Sheet  2 Witness: James Dauphinais  3 In Re: In the Matter of Union Electric Company  4 Upon reading the deposition and before subscribing thereto,  the deponent indicated the following changes should be  5 made:  6 Page Line Should read:  Reason assigned for change :  7  8 Page Line Should read:  Reason assigned for change :  9 Page Line Should read:  Reason assigned for change :  10  11 Page Line Should read:  Reason assigned for change :  12 Page Line Should read:  Reason assigned for change :  13  14 Page Line Should read:  Reason assigned for change :  15 Page Line Should read:  Reason assigned for change :  16  17 Page Line Should read:  Reason assigned for change :  18 Page Line Should read:  Reason assigned for change :  19  20 Page Line Should read:  Reason assigned for change :  21 Page Line Should read:  Reason assigned for change :  22  23 Reporter: Sheryl A. Pautler  24  25</p>	
<p style="text-align: right;">Page 83</p> <p>1 Midwest Litigation Services  2 711 North Eleventh Street  3 St. Louis, Missouri 63101  4 Phone (314) 644-2191 * Fax (314) 644-1334  5 October 24, 2008  6 Ms. Diana M. Vuylsteke  Bryan Cave  7 One Metropolitan Square, Suite 3600  8 St. Louis, Missouri 63102  9  10 In Re: In the Matter of Union Electric Company  11  12 Dear Ms. Vuylsteke:  13  14 Please find enclosed your copy of the deposition of  15 James Dauphinais, taken on October 23, 2008 in the  16 above-referenced case. Also enclosed is the original  17 signature page and errata sheets.  18 Please have the witness read your copy of the  19 transcript, indicate any changes and/or corrections  20 desired on the errata sheets, and sign the signature  21 page before a notary public.  22  23 Please return the errata sheets and notarized signature  24 page to Mr. James B. Lowery for filing prior to hearing  25 date.  26  27 Thank you for your attention to this matter.  28  29 Sincerely,  30  31 Sheryl Pautler  32  33 CC: Mr. James B. Lowery  34  35</p>	

22 (Pages 82 to 83)