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In the Matter of the PGA Filing) Case No. GR-2004-0273
for Laclede Gas Company)

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

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P R O C E E D I N G S

JUDGE DIPPELL: This is Case No. GR-2004-0273, in the matter of the PGA filing for Laclede Gas Company. My name is Nancy Dippell. I'm the Regulatory Law Judge assigned to this case, and we've come here today for a hearing on the actual -- on the actual cost adjustment portion of this case.

We will begin by asking for entries of appearance. Can we begin with Staff, please?

MR. REED: Steven Reed and Blane Baker for the Staff of the Public Service Commission. Our address is P.O. Box 360, Jefferson City, Missouri 65102.

JUDGE DIPPELL: Thank you. Public Counsel?

MR. POSTON: Good morning. Marc Poston appearing on behalf of the Office of the Public Counsel and the public.

JUDGE DIPPELL: And Laclede?

MR. PENDERGAST: Good morning. Michael Pendergast and Rick Zucker appearing on behalf of Laclede Gas Company, 720 Olive Street, St. Louis, Missouri 63101.

JUDGE DIPPELL: All right. I'm going to first begin, I had a conversation with Mr. Pendergast last week, I believe it was Wednesday, about some highly confidential information and whether or not it needed to be designated as such, and I believe that Mr. Zucker is going to clarify for us maybe what information we might be able to declassify in this case, so we can hear the issues more openly.

MR. ZUCKER: I think that we will be able to declassify all of the information, with the exception of information where there's a specific producer named and a specific deal, and that type of information we're talking about could be -- can be found in Mr. Sommerer's direct testimony, in his Schedule 4. And obviously if any other testimony of that type comes up, that would also be considered highly confidential.

JUDGE DIPPELL: So right now, as far as the prefiled testimony goes, Mr. Sommerer's direct Schedule 4 is the portion that needs to remain highly confidential?

MR. ZUCKER: Yes.

JUDGE DIPPELL: All right. So with that said --

MR. ZUCKER: Well, and Schedule 5 also.

JUDGE DIPPELL: And Schedule 5? Okay.

All right. Well, with that said, then, let's go ahead. We'll go off the record and premark the exhibits, and then we'll be ready to begin with opening statements.

(AN OFF-THE-RECORD DISCUSSION WAS HELD.)

(EXHIBIT NOS. 1 THROUGH 6 WERE MARKED FOR

IDENTIFICATION BY THE REPORTER.)

JUDGE DIPPELL: Let's go ahead and go back on the record. Okay. We premarked the exhibits, and I will remind Staff -- I mean the counsel that if there is anything that looks like we're getting into highly confidential information, please make me aware and we can take care of that, go in-camera if we need to.

I think we're ready to begin with opening arguments. Mr. Reed, are you going to lead us off?

MR. REED: Yes, I am. I was going to use the ELMO, if I could just have a few seconds to make sure it's on correct.

Thank you. Good morning. I'm ready if the Bench is ready.

JUDGE DIPPELL: Please go ahead.

MR. REED: This case is technical and complex, and I hope that in the next couple of days we can break this down and simplify it for the Commission. I know it's taken me quite a while to understand the ins and outs and the depth of the information that will be presented in this case.

In planning its gas supply portfolio for the 2003-2004 ACA period, Laclede Gas Company was imprudent because Laclede purchased a swing gas supply at FOM prices, first of the month prices, instead of daily prices. Laclede customers paid millions they should not have paid. The evidence establishes that Laclede was not really interested in saving money for its customers because Laclede had its eyes on another prize. That was profits from off-system sales. Because Laclede's focus was on these off-system sales, it lost sight of the reasonable and prudent course of action to take and its customers have paid the price.

Laclede will argue that its actions were reasonable given that national storage levels in the summer of 2003 were low and that was putting upward pressure on the price of gas. Laclede will argue that in February of 2003 we saw the highest spike, the highest price of natural gas in history.

Laclede argues that, facing these issues, it could not be expected to change the way it scheduled its natural gas portfolio for the last ten years and could not be expected to change the way it purchased its swing supply portfolio on an FOM basis. Laclede will argue that Staff improperly ignores the customer benefits from off-system sales.

But none of these factors that I've talked about or that Laclede will mention reduce the necessity for Laclede to engage in adequate and careful planning, considering the current state of the natural gas market and especially the current cost of demand charges which are the real subject of this case.

The costs and benefits of FOM pricing versus daily pricing are at issue here. We have to look at current costs for the demand charges for FOM prices, not the historical costs. An analysis has to consider the costs and benefits of the different types of supply. It has to consider them separately in order to really understand the impact of these costing measures, these supply measures on customers.

For the 2003-2004 ACA period at issue here, Laclede relied upon a 1996 study of FOM pricing versus daily pricing when planning its gas supply. The study considered information from a single year, the 1995-1996 winter season. Maybe you could help me get that lit up a little better, could you, while I continue.

I'm going to talk a little bit about the study that I have up here and some of the numbers that you'll see, but what I want to tell you at this point is that the study -- this is the top sheet from a study that Laclede had done back in 1996. The study will show exactly what Laclede designed it to show and no more, and this became the basis for Laclede's structuring of its gas supply portfolio for the next ten years.

Because this study said what Laclede wanted it to hear, it was not revisited until 2005, and that's when Staff actually got a copy of the study. It would be this top sheet, as well as some supporting documentation, but the footnotes to the study declare a couple of obvious flaws. Now, I realize you can't read them from the bench, but I do have copies of these for later in the hearing that we can look at.

The first footnote is that daily scheduling of gas supplies may have differed under a daily pricing scenario versus a first of the month scenario. That's obviously intended to signal whoever takes a look at this study that there are different ways in order to schedule gas, depending upon whether you're purchasing at first of the month price or daily price.

In other words, if you were purchasing gas on a daily basis, you would try to avoid price spikes to the best of your ability. In other words, if you're purchasing gas on a daily basis, you might not buy gas on the same day that you have bought gas on a first of the month basis. In other words, there would be a change in the days that you actually bought gas.

The second footnote indicates that reservation charges would probably decrease if contracts contain daily pricing provisions. What I mean by reservation charges -- or what Laclede means by reservation charges are demand charges. And what you'll see in this study where it compares the FOM pricing to the daily pricing, the same price is actually used for both scenarios. In other words, Laclede has on this study that the demand charge for FOM pricing would be the same as it would be for daily pricing when, in fact, a daily pricing demand charge would be about 12 and a half percent of the cost of an FOM demand charge.

The '96 study doesn't consider the current gas market and the rising cost of producer demand charges for the right to buy gas at FOM prices. Instead, this study considers only historical cost.

What you see on this study is that in 1996 when it was prepared, the demand charges were $4.4 million, but in the '03-'04 period, which is the period we're looking at, they had increased to over 20 million. This should have been factored into the analysis and into the decisions that Laclede undertook in the '03-'04 period.

The study doesn't separate Laclede's gas supply into base load, combo and swing supplies in order to analyze the costs and benefits of using FOM pricing for each type of supply. The demand charges for base load supply at an FOM price are very small, maybe a penny or two per MMBtu. But the demand charges for the combo and the swing supplies, which we'll talk about more in this hearing, at FOM prices are very high, relatively speaking. The study spreads the enormous cost of these combo and swing supply demand charges over the entire gas supply and it doesn't separately consider them.

So the result is that Laclede really has no idea whether any particular type of supply is cost effective or not when basing their decisions upon the study. This '96 study credits customers with a savings for off-system sales, when in 1996 customers received no benefits from off-system sales, and here's what I mean. When you look at this study you'll see a number for commodity costs. The commodity cost will include volumes never meant for customers. So these are volumes purchased by Laclede solely for an off-system sale.

Then Laclede will take the difference between the FOM price that it paid for the off-system sale purchase and it will take the difference between the FOM price and the daily price, which would be higher, and it will declare the difference between these two prices a savings in its study, a savings for customers, a savings for Laclede when, in fact, none of this gas is meant for Laclede's customers at all.

It's only for an off-system sale, and the profits go to the shareholders. Laclede apparently didn't understand this or chose to ignore it because, as I've said, Laclede's eyes were on a different prize. It wasn't customer savings. It was off-system sales.

The study should be current and separate off-system sales, to take these volumes out of the study and out of the consideration in planning its gas supply, so the determination can be made whether customers are receiving any benefit at all from off-system sales or are the customers only paying the fixed costs associated with the off-system sale like the demand charge for the right to buy the FOM gas.

The study should consider scenarios where storage and combo gas are used to avoid price spikes while taking swing supply on a daily pricing basis, as opposed to an FOM price, and the study should be revisited every year because just because FOM pricing was a good idea in 1996 doesn't mean it's a good idea in '03-'04 when demand charges are over $20 million.

Recognizing the obvious flaws in this study, Laclede will now back away from this '96 study, we'll hear in this hearing. Laclede will tell the Commission that its vast experience in the natural gas market means that a formal study of FOM pricing is not necessary. But entering the '03-'04 ACA period, the demand charges were going to be over $20 million and

Laclede knew this up front.

The previous three years these demand charges had hovered around 10 or $11 million, 10 to 12, but in spite of this jump of over $8 million in demand charges for FOM pricing for the Laclede supply, Laclede didn't consider a separate course of action because the '96 study didn't tell them to.

How high would the demand charges have to go before Laclede considered a different course of action? There is no threshold. There is no upper limit. Laclede has never considered the upper limit. The 1996 study declares savings by paying demand charges at any price, which would $30 million a year be too much? Would 40 million? Laclede didn't know in '03-'04. Laclede doesn't know today. Ask them. Ask them how high they have to go. Ask Laclede how high demand charges for each separate type of supply has to go before it's no longer cost effective.

I want to talk about the numbers that were calculated by Staff in its adjustment that was included in the -- I believe it was in the -- no. It was attached to the Brief that Staff had filed in this case. Could you give me slide No. 12?

The focus of Staff's disallowance in this case is the swing supply planning. And this is a copy of that attachment to the Brief that I filed in this case, and I just wanted to run through it quickly so that this may become the topic of conversation in this case.

The swing demand charges in the '03-'04 period were about $4.2 million. That's the first column. So that's the price paid for the right to buy FOM gas for the swing supply. The second column, the swing demand charges on daily pricing, are Staff's calculation of what it would have cost if the swing supply had been obtained using daily pricing. That's a little over $500,000.

The next column, the commodity savings, is a calculation of the savings from buying gas at the FOM price versus the daily price. In other words, you can see here that there was a savings by using the FOM pricing. In other words, had gas been bought on a daily basis for the swing supply, Laclede would have paid $1.6 million more, but this is a very generous calculation because this includes swing supply gas flowing only for an off-system sale. It declares the difference between the gas bought for the off-system sale and the daily price a savings, even though none of this -- even though none of the supply would have gone to customers and no benefit would have gone to them.

This calculation also assumes that Laclede would buy gas on the same day that it bought gas under the FOM pricing scenario when, in fact, Laclede may have rescheduled and attempted to avoid price spikes. The result is Staff's proposed disallowance of over $2 million.

Laclede should not have contracted its swing supply at FOM prices. Because of the fly up in the demand charges up to over $4.2 million just for the swing supply should have signaled Laclede to do otherwise. The only reason Laclede stuck with this FOM pricing on its swing supply was to maximize off-system sales, and the customers paid the price.

JUDGE DIPPELL: Mr. Reed, is the study that you originally had up and the -- what you referred to as Slide 12, are those both parts of the prefiled testimony?

MR. REED: The 1996 study, the first page is, in fact, attached to Mr. Sommerer's direct. And Slide 12, the calculation of the adjustment, I believe is attached to the Brief, the Prehearing Brief that I had filed in this case, Judge.

JUDGE DIPPELL: I just wanted to make sure for the record that that was in there.

All right. Office of the Public Counsel?

MR. POSTON: Good morning. May it please the Commission?

Public Counsel's thankful that the Staff has the resources to analyze the gas purchasing practices of Laclede and the other gas companies in Missouri. And the Staff presents a very compelling case through the testimony of Mr. Sommerer and the Prehearing Brief and statements you just heard from Mr. Reed.

The evidence in this case shows that Laclede Gas failed to respond to market changes and failed to alter its purchasing practices when such market changes made Laclede's existing practices imprudent. Laclede's captive customers should not be forced to pay for these imprudent decisions. Public Counsel concurs with the position of Staff and asks that the Commission issue a decision disallowing the excessive $2 million identified by Staff. Thank you.

JUDGE DIPPELL: Thank you. Laclede?

MR. PENDERGAST: Your Honor, we have a few handouts for the Commission, if we may.

JUDGE DIPPELL: All right. Mr. Pendergast, has this otherwise been made -- is this included in the record anywhere else?

MR. PENDERGAST: It is not.

JUDGE DIPPELL: I'm just going to mark it just for identification purposes as Exhibit No. 7, and the next one we'll mark as Exhibit No. 8. If you could give a copy also to the court reporter.

(LACLEDE EXHIBIT NOS. 7, 8 AND 9 WERE

MARKED FOR IDENTIFICATION BY THE REPORTER.)

JUDGE DIPPELL: Go ahead when you're ready, Mr. Pendergast.

MR. PENDERGAST: Thank you. May it please the Commission?

In the words of Paul Harvey, I'm here to tell you the rest of the story, and contrary to Mr. Reed's comments, it's not nearly as complicated as he would have it seem. Fact of the matter is, what we're here today to address is whether it was imprudent for Laclede to continue a contracting practice that it followed and followed consistently ever since it started purchasing all of its gas supplies in the wake of FERC Order 636.

It was a practice that Laclede had in place and was following before it even had any off-system sales, and it's a practice that Laclede has followed consistently right up until the ACA period under consideration here, and that practice is to pay demand charges on its swing supplies in order to obtain the right to purchase those supplies at first of the month pricing rather than have to purchase those supplies at daily pricing.

Swing supplies are an integral part of our overall portfolio. They effectively allow the company to take as much or as little gas on any given day as it needs to serve the demands of its customers. And since those demands can vary dramatically from day to day, and even hour to hour, based on weather and other factors, it's incredibly important to have those kind of contracts.

And nobody in this proceeding says that there is anything at all inappropriate with having those swing supplies. And up to about a year ago when Staff filed its recommendation in this case, nobody ever questioned whether or not Laclede should be paying demand charges to obtain first of the month pricing. In fact, in 1996 when the Commission approved an incentive program for Laclede, it explicitly recognized that, in addition to the commodity cost in establishing a benchmark against which to measure the company's performance, it was necessary to increase that by a percentage which was reflective of the demand costs that Laclede was paying at that time.

In 2001 when the Commission had a task force issue a commodity gas price report, it was recognized that LDCs at that time were paying demand charges in the range of 2 to 5 percent on their overall cost of gas. And, in fact, in talking about the pros and cons of whether or not to provide incentive for that, one of the cons was that they were concerned that it was such an insignificant amount that perhaps an incentive wouldn't be appropriate because it would detract the company from or the utility from pursuing cost savings in other more significant areas.

So this is something that has been around ever since Laclede began purchasing its gas, and the payment of demand charges to obtain first of the month pricing has a couple of beneficial impacts for customers. One of them is to go ahead and avoid intra-month price spikes. If you go ahead and purchase the swing supplies at first of the month price at $5 and the price during the month, say, goes up to $17 or $19, something which had happened just months before we made a decision to continue this practice, the customer will only go ahead and pay the $5, thus resulting in substantial savings for the customer.

On the other hand, if Laclede does not temporarily need that gas to serve the customers because of what their demands are and there are demands in other parts of the country because the weather may be different, this pricing differential between first of the month and the daily price on the spot market allows Laclede to go ahead and make off-system sales.

Now, Laclede making off-system sales isn't some big secret and it's not a new issue here at the Commission. The fact of the matter is Laclede's been making those off-system sales since approximately 1996, 1995, and it's done it with the full awareness of the

Staff and the Office of Public Counsel. In fact, it was Public Counsel and then Staff who urged the Commission to establish the current treatment of those off-system sales, which is to go ahead and impute a level of them in base rates when the company has a rate case.

The company was perfectly content to have those off-system sales reflected in its PGA and under its incentive program to get to keep a portion of them, but Staff and Public Counsel said, let's put it in base rates until we agree. And not only did we agree, but we indicated that we would go ahead and effectively guarantee our customers, and this was in 2002, an imputed level of almost $4 million in off-system sales capacity release revenue. And of that, about 2.7 million was related to off-system sales.

And at the time we agreed to guarantee customers that offset to their rates, which they continued to enjoy during the ACA period in years after that to our most recent rate case where they got an imputation that went up to 6 million and the right to share in anything that we achieved over 12 million. We asked for and received an agreement from Staff and Public Counsel that no other treatment of those revenues would be proposed in any other proceeding.

Well, what you have right now is a party reneging on that agreement. I don't know whether they don't like the fact that we managed to make more off-system sales than what we imputed in rates, but the fact of the matter is, what they gave on the one hand they're taking away with the other. It's not appropriate, it's not right, and it shouldn't be allowed by the Commission.

Notwithstanding that, this benefit that you get from off-system sales, as well as the price protection that you get, has proved beneficial to customers in the ten-odd years that we have been pursuing this practice. In fact, because it can produce both revenue and go ahead and protect customers from price spikes, it's a unique kind of practice, and it's the kind of practice that over this period, according to both the '96 study that we had done and also according to our daily monitoring of what was happening in the gas supply markets, our evaluation of mounds of data about where prices were going both for demand charges as well as commodity costs, it had gone ahead and actually produced positive benefits for customers.

And that's, I think, a very interesting and instructive thing, because the academic theory is, generally speaking, that when you go out to hedge, which this is doing on daily prices, or if you go out to hedge on monthly or any other, that while it will stabilize prices over the long term, it's going to be more expensive. Well, guess what, we've come up with a mechanism that can provide that price protection and do it with no cost to the customer. Instead of denigrating it, the Staff should be here and Public Counsel should be here endorsing it as something the Commission should go ahead and continue and actively endorse itself.

Well, that's not what we have. Instead we have Staff coming in and proposing the $2 million disallowance. And in support of that $2 million disallowance, the Staff indicates that there was this tremendous increase in demand charges from 2002 and 2003 to 2003-2004. In fact, they have said repeatedly in their testimony and in their Brief that there was nearly a doubling of demand charges.

Well, given what was happening in the rest of the gas markets where you had prices increasing in the daily market by 300 percent in the course of a month, where you had the cost of call options according to a recent report by the Commission over the last five to ten years increasing by tenfold, even a doubling would not seem to be something particularly unusual.

And I don't need to talk to you and tell you where gas prices have been. You've lived them. You know how high they've gotten. You know how high they can go ahead and go on a given day. And to suggest that there's anything unusual about these increases in demand charges is just absolutely ludicrous.

But even if you thought that a doubling was somehow a cause for concern, you wouldn't have to be concerned in this case, because guess what, they didn't double. Okay. Based on Mr. Sommerer's own testimony and the schedules that he had, they went up approximately 70 percent on an overall basis.

Now, I'm all for rounding. I think rounding's great. But a 70 percent increase is not nearly double. Not only that, but if you go ahead and you look at the swing supplies themselves, Mr. Sommerer himself in his testimony says that in evaluating the prudence of these particular contracting practices, you ought to break down these contracts into the various kinds, swing, base load, combination, and evaluate the specific demand charges that you pay on each.

Well, if you do that and you look at what happened with Laclede's demand charges for swing supplies, they went up by 28 percent. Not double, not 70 percent, but 28 percent. I suggest to you in a world where prices were tripling on a daily basis, where commodity costs had gone from $1.50 four or five years ago up to 14 and $15, and even 10 or 11 during the ACA period, that a 30 percent increase doesn't raise any kind of alarms whatsoever.

And I think that's significant, because under the legal standard, which is what we do agree on, for determining whether a prudence adjustment can be sustained, you have to number -- well, first of all, you presume that the expenditure is reasonable and prudent, and then somebody needs to come in and raise a serious doubt as to whether it's reasonable and prudent. And assuming it's raised serious doubt that it's prudent, then the utility has to go ahead and show why, in fact, it wasn't a prudent and reasonable action.

And assuming that it can't do that and it's found to be imprudent, then you have to go ahead and make a determination of whether customers were actually harmed by the imprudent act. Staff's adjustment fails the test on all scores. I submit to you that a 30 percent increase in swing demand charges in an environment where other prices were escalating by far greater amounts than that doesn't raise any kind of question whatsoever. It doesn't raise any kind of doubt whatsoever, let alone a serious doubt.

But if you assume that the very modest increases that Laclede was experiencing in the demand charges for swing supplies compared to what was happening with all other prices in the natural gas market was a cause for concern, then you have to go ahead and look at what actions Laclede took. It's a reasonable person standard, what did they do based on the facts and the circumstances that were known at the time?

And I've given you some handouts out there that will kind of give you a sense of what Mr. Godat, who is our director of gas supply, was looking at in 2003 when he made his determination of whether or not Laclede should continue this decade-old practice.

First thing he looked at was the fact that we've been pursuing this practice for ten years, that nobody up to that point in any ACA proceeding had ever said it was inappropriate. Nobody had ever asked for a particular kind of study. It had gone ahead and been evaluated in a number of GSIP proceedings where establishing benchmarks and doing other things was a specific issue. But once again, nobody indicated that it was a practice that Laclede should not follow.

At the very time he was making this decision, there was a management audit by the Commission's Staff that was specifically designed to look at customer billing and service issues and gas supply issues. No recommendation was forthcoming for them that there was anything wrong with what the company was doing in paying demand charges on its swing supplies. In fact, the Staff had proposed or suggested that we ought to use a competitive bidding process to make sure that we had a robust, competitively determined price. We did that. In fact, we did that during the ACA period, and it produced a robust, competitive price that fully reflected the value of what we were getting in return.

So Mr. Godat was looking at that. They don't have any problem with it. They've never expressed any problem with it. And not only did they not express any problem with it, but the off-system sales revenue that we were able to generate with it, they had no problem back in 2002 grabbing a portion of that, imputing it in rates and using it to go ahead and reduce our cost of service and what our customers had to pay. In fact, they were quite content to go ahead and take the benefits of these transactions.

He was also looking at what had just happened during the previous winter, and I've given you a Gas Daily price guide, and if you'll look at that, you can see that in February of 2003, if you look at the Natural Gas Pipeline Company of Missouri, the first of the month index price was at 5.05. If you go down on the shaded area for Panhandle Eastern Pipeline Company where we also buy gas, first of the month's price was 5.07.

If you turn to the next page, you can see where things have gone by February 26th, 2003, and by that time the price on MGPL, Mid Continent had risen to $17.51, on Panhandle to $18.47. If you want to talk about increases, that's a pretty big increase. I haven't done it whether it's tripling or quadrupling, but it's a lot more than nearly double. So he was looking at that.

What else was he looking at? He was looking at the fact that from a fundamental standpoint, national storage levels were at historically low points. That's exactly the kind of fundamental analysis that the hedging expert hired by Staff in 2002, who had issued a report, said that you ought to be focusing your attention on, fundamental like that, what's happening in the marketplace and what's happening on forward-looking prices when you make these kind of determinations.

So Mr. Godat was concerned, given these huge price increases we'd seen on a daily basis, given the fact that historic -- or that storage inventory levels were at historic lows, that now was not the time to go ahead and give up this valuable hedging instrument that had worked to the benefit of Laclede's customers over the last ten years.

And Mr. Godat wasn't the only one who was concerned about where things were heading in the natural gas market. As you can see from the handout, the Chairman of the Public Service Commission of Missouri also expressed concerns about where prices were heading and where they may go, citing the fact that storage levels were well below the five-year average, and expressing concerns that LDCs would soon start to go ahead and file tariffs to increase their rates. Obviously he painted a rather grim picture of what the future held as far as prices were concerned.

That was followed on June 18th, 2003, by another handout I've given you. It was a letter from Mr. Schwarz, who correctly pointed out that it was a foreboding situation. As he says in his letter, the natural gas market currently has very high prices, and a number of groups suggest that natural gas prices may not go down before next spring and may go even higher. Few factors at this time provide much comfort in this market.

He goes on to say, even -- with even Fed Chairman Greenspan remarking on gas prices and inventories, Staff anticipates continuing inquiries from the Commission and the press this summer. Given reports that storage nationally is 28 percent below the five-year average, Staff expects questions on the Missouri storage and hedging situation. And of course, he asked LDCs what they were doing to go ahead and address this rather grim situation.

Well, what Mr. Godat was doing to address this grim situation was, first of all, staying on top of it, first of all being fully aware of what was happening in the marketplace, not only what had recently happened, but what was happening on the forward-looking market. He was looking at the fundamentals, and he had to make a decision, and the decision was, do I go ahead and continue this practice or do I pick this as the year where I go ahead and discontinue it?

And what he saw were contracts that came in where the price was going from 21 cents to 27 cents or 28 cents. They were increasing by about 7 cents or about 30 percent. And he compared that to what he had just seen in February and March of last year where the price of gas increased from $5 to 17 or $18 an MMBtu. 7 cents, 14 or $15, one could take a look at that, and it's not a difficult exercise, and say that that's an expenditure I ought to go ahead and make.

Now, you pay that 7 cents on all your contract volumes, and so to do a real comparison you have to go ahead and look at what the overall cost is on an annual basis and compare it to the potential price spikes and the value of those that you might be avoiding. I asked Mr. Sommerer during his deposition some questions along those lines, and if prices had gone to $20 and they had held at $20 for 20 days on 40,000 a day worth of gas, which is entirely conceivable, you'd be talking about a $16 million hit for Laclede's customers.

So potential 16 million versus a $4 million expenditure. You want to go ahead and assume it only lasted ten days, then, you know, it's 8 million versus 4 million. Five days, now you're breaking even.

Now, Mr. Godat, unlike Mr. Sommerer, didn't have the benefit of knowing how the weather was going to turn out that year. He didn't know how prices were going to go ahead and turn out that year. But he knew what the possibilities were, and he also knew that, even if those price spikes didn't occur, even if the cold weather didn't occur, he had a good chance of going ahead and selling some of this to off-system customers and therefore defraying the cost and benefiting customers as he had in the past and as they would be subsequently benefited even more in Laclede's next rate case.

So it wasn't a hard question. It's an easy call. And one can only imagine what kind of prudence claims would have been made if, in this environment, Mr. Godat had gone ahead and said, you know, this is the time to go ahead and quit this, I'm not going to go ahead and do it. I'm going to go ahead and leave myself completely vulnerable to whatever the daily market might bring, and it had turned cold and prices had gone up to 20 or $25 and they'd hung up there for 20 days or even longer. I can imagine what kind of prudence arguments would be being made today, and I don't think they would have been very favorable towards the company.

So all in all, I don't think it's even a close case. I don't think that Staff has come anywhere near to meeting its obligation to go ahead and raise a serious doubt, let alone prove that Laclede was imprudent.

And I guess the last thing I'd like to say about this whole study business, first of all, Laclede did not rely on the study. We didn't back away from it. We indicated that we didn't rely on it in our direct testimony, that we relied, as we should have, on what we knew about the current market and where it was heading and what it was doing, and that was one data point maybe, but it certainly wasn't something that we thought was worthwhile to do.

And, quite frankly, I'm not sure if the Staff thinks it's worthwhile to do, because when I asked Mr. Sommerer during the deposition, well, you know, have you ever asked these utilities that are paying these 17 and $18 price spikes whether or not they should have been acquiring demand charges for first of the month pricing in order to avoid it? I mean, it works both ways, doesn't it?

I mean, if we're doing an analysis whether it's a good mechanism or not, we ought to be looking at it both ways, and the answer was that, well, maybe we've orally asked them, but we've never insisted on it. And what that means is, to this day, Staff has no idea, no quantifiable basis, based on the very analysis that they suggest should be done, whether other LDCs in this state would have benefited from using the sort of first of the month pricing contracting practice that Laclede has used for the last ten years.

And I submit to you that when the Staff comes forward and they recommend that you take some kind of action that can have a significant policy impact like this, you ought to have some idea of how it would have worked out if their preference had been employed by other utilities. They don't. That's one more reason why you should reject this adjustment.

Finally, when it comes to the studies, Mr. Sommerer and I go way back. We had a discussion about what kind of studies the Staff did when we first developed a hedging program here in Missouri, and under those circumstances we had agreed to spend $4 million to buy calls on approximately 70 percent of our flowing winter volumes, and Mr. Sommerer was very involved in that process. And I had asked him a number of questions a number of years back about whether or not when he came up with those parameters and decided that $4 million was a reasonable thing to spend, whether he'd done some kind of cost/benefit analysis or some risk assessment.

And what he told me, what he reconfirmed in his deposition was, no, I used my experience, I used my knowledge of the marketplace and I used my judgment on what I thought was a reasonable thing to do. And to this day, Mr. Sommerer will tell you that he thinks he was prudent for doing that, and he was. And so is Mr. Godat when he did the same thing in deciding to continue this long-standing beneficial practice for Laclede's customers. Thank you.

JUDGE DIPPELL: Thank you. Okay. Then I believe we're ready to go ahead and begin with our first witness. Staff?

MR. REED: David Sommerer.

JUDGE DIPPELL: Please raise your right hand.

(Witness sworn.)

JUDGE DIPPELL: Go ahead, Mr. Reed.

MR. REED: Thank you.

DAVID SOMMERER testified as follows:

DIRECT EXAMINATION BY MR. REED:

Q. State your name for us, please.

A. David Sommerer.

Q. You are employed by the Staff here at the Public Service Commission?

A. Yes.

Q. You prepared testimony -- prefiled testimony to be filed in this case, did you not?

A. Yes.

Q. There are three pieces of testimony marked as Exhibits 1, 2 and 3, Sommerer direct, rebuttal and surrebuttal. Is that the testimony that you prepared?

A. Yes.

Q. I think the direct is HC and NP. You prepared both versions?

A. That's correct.

Q. Do you have additions or corrections to that testimony?

A. I do have one change to the direct testimony.

Q. Go ahead, please.

A. That change relates to Schedule 6 of my direct testimony where there's a schedule calculating the Staff disallowance. The Staff subsequently found out that it had included some swing supply demand charges for the summer, which were not related to swing supply. This had an impact on not only the disallowance, but the first column. In the first column, the original schedule states that the total is 4,614,919. That number has been corrected to 4,194,169.

Q. Mr. Sommerer, instead of running through each one of those individually, I think I have a copy that I'd like to hand you. Let me do that. Would what I handed you be the corrected version of what should be the Staff's calculation of the disallowance?

A. Yes.

Q. And that would include the changes in numbers from what was in your original testimony, correct?

A. That's correct.

MR. REED: Could we just mark that, Judge, as an exhibit?

JUDGE DIPPELL: That would be fine. Exhibit No. 10. It doesn't need to be HC, though, right?

MR. REED: It does not. It was attached to the Prehearing Brief that I filed as well. We'll mark it as 10, and let me hand those out.

(EXHIBIT NO. 10 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. REED:

Q. Mr. Sommerer, would the adoption of Exhibit

No. 10 into your direct testimony make the changes that you believe are required?

A. Yes.

MR. REED: I guess I'd move for admission of Exhibit No. 10, Judge, and ask that it be substituted in the place of -- which schedule was it, Mr. Sommerer, Schedule 6 --

THE WITNESS: Yes.

MR. REED: -- for your testimony.

THE WITNESS: Yes, Schedule 6 to the direct testimony.

JUDGE DIPPELL: Would you like to do that all at once? I don't know if we should admit 10 without 1.

MR. REED: Yes. Correct. And I'd move for admission of Exhibit 1 as well.

JUDGE DIPPELL: Would there be any objection to Exhibit No. 1 as amended by Exhibit No. 10?

(No response.)

JUDGE DIPPELL: Then I will admit Exhibits No. 1HC and 1NP and Exhibit No. 10.

(EXHIBIT NOS. 1HC, 1NP AND 10 WERE RECEIVED INTO EVIDENCE.)

MR. REED: And I'd move for admission of Exhibit 2 and 3 as well, Judge.

JUDGE DIPPELL: Would there be any objection to Exhibits No. 2 or No. 3?

(No response.)

JUDGE DIPPELL: Then I will receive those into the record as well.

(EXHIBIT NOS. 2 AND 3 WERE RECEIVED INTO EVIDENCE.)

JUDGE DIPPELL: Anything further, Mr. Reed?.

MR. REED: No, thank you.

JUDGE DIPPELL: Then we can begin with cross-examination. Public Counsel?

MR. POSTON: No questions.

JUDGE DIPPELL: Laclede?

MR. PENDERGAST: Your Honor, I'd like to offer --

JUDGE DIPPELL: Can I get you to talk into the microphone?

MR. PENDERGAST: I'd like to offer into evidence the deposition that was taken of Mr. Sommerer. I have talked to counsel for the Staff, and they have no objection to offering the deposition. I think it will save us a significant amount of time this morning if we can do that.

JUDGE DIPPELL: May I ask how voluminous

the deposition is?

MR. PENDERGAST: We have gone ahead and done the four page on a sheet, so it's --

JUDGE DIPPELL: Can you talk into the microphone?

MR. PENDERGAST: It's in total 117 pages, but far fewer, only about 30 pages worth of actual material.

MR. REED: I have no objection, but I'd like to -- I'd like the Bench to be clear that I'll have the opportunity to redirect based upon issues in the deposition.

JUDGE DIPPELL: I think that's reasonable. It seems as though you're offering the deposition basically in lieu of cross-examination?

MR. PENDERGAST: In lieu of some cross-examination.

JUDGE DIPPELL: All right. Would there be any objection to Exhibit No. 11?

(No response.)

JUDGE DIPPELL: And I assume you have copies, Mr. Pendergast, which is the deposition of Mr. Sommerer?

MR. PENDERGAST: Yes.

JUDGE DIPPELL: Seeing no objection, I will admit that into the record.

MR. PENDERGAST: How many copies does the court reporter need?

JUDGE DIPPELL: Just one.

(EXHIBIT NO. 11 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

(EXHIBIT NO. 11 WAS RECEIVED INTO EVIDENCE.)

CROSS-EXAMINATION BY MR. PENDERGAST:

Q. Mr. Sommerer, could you identify Exhibit No. 11?

A. I don't believe I have a copy of Exhibit No. 11.

This is a deposition of myself that took place on January the 18th, 2007.

Q. Very good. And does that appear to be an accurate transcript of your answers during that deposition?

A. Except for some minor erratas or typos, I believe it's an accurate transcript.

MR. PENDERGAST: Okay. And, your Honor, I would have no objection to him filing an errata sheet when he's had an opportunity to go ahead and look through it.

JUDGE DIPPELL: Has the deposition been reviewed previous to this and any errata sheets made, Mr. Reed? Do you know?

MR. REED: I know that Mr. Sommerer had the errata and has taken a look at that. I don't know if he had that prepared before today.

JUDGE DIPPELL: If Mr. Sommerer has some specific changes, typos or otherwise, I'll allow Staff to file those. I'll allow Staff to file those up until the transcript is filed.

BY MR. PENDERGAST:

Q. Good morning, Mr. Sommerer.

A. Good morning, Mr. Pendergast.

Q. I don't have all that many questions for you since we did have an opportunity to chat in the deposition, but I do have a couple.

Just to clarify for the record, how much did Laclede's total demand charges on all of its contracts increase from the 2000-2003 ACA period to the 2003-2004 ACA period?

A. Approximately 70 percent.

Q. Okay. And how much did the demand charges paid by Laclede on its swing supplies increase?

A. Approximately 30 percent.

Q. Okay. And during your deposition, you were aware of the fact that the swing supply demand charges had only increased by approximately 30 percent, weren't you?

A. I recall going back and forth on whether that number was 70 percent on a unit basis or some lesser number, so I believe I gave you a range between 30 and 70 percent.

Q. But you weren't sure?

A. That's correct.

Q. You also indicated in your deposition, did you not, that you didn't know at the time you made your adjustment where Laclede's demand charges were as a percentage of its overall gas costs?

A. That's correct.

MR. PENDERGAST: Okay. If I could approach the witness?

JUDGE DIPPELL: Go ahead.

BY MR. PENDERGAST:

Q. Mr. Sommerer, do you recall during the deposition we had a discussion of Laclede's overall gas costs as reflected in its DCCB calculation?

A. Yes.

Q. Okay. And I believe I inartfully asked you some questions that got some numbers mixed up, and I'd like to straighten them out with your help, if I could. What does that show as far as what Laclede's overall gas costs were during the 2004 period?

A. It appears from this worksheet for fiscal year 2004 that the total gas costs were $518,310. I'm sorry -- $518,310,337.

Q. Okay. And can you tell me, looking at the demand charges that you say Laclede -- and I'm talking about overall demand charges -- incurred during the 2003-2004 ACA period, what percentage of that 518 million they would be?

A. Well, it looks like approximately 10 percent of this number would be 52 million, 5 percent would be around 26 million. So just a general ballpark estimate, I would say around 4 percent.

Q. Okay. And we also had a little discussion about historical percentages that have been given in demand charges in the 2001 commodity task force report. Do you recall that?

A. Yes.

Q. And what was the range of demand charges that were being incurred at that time?

A. I believe the report indicated that the range was between 2 and 5 percent.

Q. So this would be within that range, is that not correct?

A. That's correct.

Q. And despite the fact that overall demand charges went up by 70 percent, would the fact that it still falls within this historical range, in your view, be reflective of the fact that commodity costs were also increasing?

A. That is likely the case, yes.

Q. And do you recall Laclede's original GSIP back in 1996 and the benchmark that was established for purposes of measuring the company's performance on commodity costs?

A. I have recollection of the process. I don't know that I know the specific number.

MR. PENDERGAST: If I could approach the witness?

JUDGE DIPPELL: Yes.

BY MR. PENDERGAST:

Q. Mr. Sommerer, could you please identify the document I've just handed you.

A. These appear to be tariff sheets that were effective October 1st of 1996 that related to Laclede's gas supply incentive plan.

Q. Okay. And did that set out the terms and conditions of that incentive plan, including how you calculate various benchmarks?

A. Yes.

Q. And if you can turn to the second page there, does it talk in terms of how you calculate the

commodity portion of the benchmark?
A. Yes, I believe it starts on that second page.
Q. Okay. And how is that roughly calculated?
A. It appears that a benchmark unit gas is established each month for the company's ACA year, and that benchmark was to be equal to the weighted average spot cost of gas as defined in other sections plus 3.2 percent.
Q. Okay. So it was basically the index price plus 3.2 percent; is that correct?
A. That's correct.
Q. Okay. And what was that 3.2 percent for?
A. My recollection is that the 3.2 percent pertained to reservation charges, premiums, producer demand charges, that were related to Laclede's need for flexibility for firm supply, for flexibility of scheduling of those supplies, and first of the month pricing provisions.
Q. Okay. So in other words, they were like the demand charges we're talking about today?
A. I think it was probably a broader number than what we're speaking about today. My suspicion -- my recollection is, is that it also compared prices, if they were discounted to the index price. So the Staff that was

involved in reviewing this would have looked at the relationship between Laclede's index price and whatever discounts or premiums Laclede paid to that discount.

Q. Okay. To get back to my question, is the 3.2 primarily related to the kind of demand or reservation charges we're talking about today?

A. I think, generally speaking, the majority of the 3.2 related to those charges.

Q. Okay. And under the gas supply incentive plan, there was actually a tolerance built in on top of that benchmark, wasn't there, of 104 percent?

A. That's correct.

Q. So in comparing Laclede's performance, it would be compared to a benchmark that was commodity cost plus 3.2 percent, and then you would look at what 104 percent of that was, right?

A. I believe that's correct.

Q. Okay. And, you know, I'm no math wizard obviously, but if it's 104 percent of something that is commodity cost plus 3.2, would that equate roughly to commodity cost plus about 7 percent?

A. I think that's the case, yes.

Q. And what did the GSIP say in terms of if Laclede managed to procure gas within that particular 107 percent, were those purchases deemed prudent?

A. Well, the provision you're talking about is from Sheet 25 and it says, if the company's cumulative actual cost of gas is greater than the cumulative benchmark cost of gas, but less than or equal to 104 percent of the cumulative benchmark cost of gas, the IA account is not affected and actual procurement costs are deemed to be prudent.

Q. Okay. And just to kind of shortcut it a little bit, would that suggest to you that if it was within a range of commodity cost plus about 7 percent, that those procurements or that procurement of gas would be deemed to have been prudently done?

A. I think that's a correct interpretation of the tariff.

MR. PENDERGAST: Thank you. Now, is it okay if I stay back here?

JUDGE DIPPELL: No, that's fine, as long as you speak into the microphone.

MR. PENDERGAST: Will do.

BY MR. PENDERGAST:

Q. Can you tell me, Mr. Sommerer, based on your general understanding, how revenues from off-system sales that Laclede is permitted to retain between rate cases is determined?

A. For what specific time period?

Q. For the ACA period under consideration here.

A. Well, this ACA period relates to the fiscal year ended the 12 months ended September of 2004, and Laclede had a rate case that went in effect, I believe, in October of 2002. So that particular rate case would have had a bearing on the current treatment of off-system sales up until approximately 2005.

Q. Okay. And during that time, was Laclede permitted, in exchange for the imputation that was made during the 2002 case, to retain the net margins or net revenues it was able to achieve through its off-system sales?

A. After the imputation took place, Laclede was allowed to retain the net margin from off-system sales, yes.

Q. Okay. And how is that net margin from off-system sales determined?

A. It can be determined in various ways. The Staff usually looks at an average of off-system sales over a number of years. It will look at the highs and the lows. It's usually looked at in conjunction with capacity release. The gas costs that are associated with off-system sales might be looked at. The particular circumstances that are prevailing during a year that Staff is averaging would be looked at.

But typically the Staff will do an analysis of several historical years in determining what its proposed off-system sales level is.

Q. Okay. And as we talked about during the deposition, the goal of that exercise is to include in rates a representative level of off-system sales?

A. That's correct.

Q. Okay. And I appreciate that answer, but I guess I was looking for something a little more specific, and that's, how do you determine the net margin that is Laclede's to keep between rate cases? I mean, when you make a sale, you generate a certain level of revenue, right?

A. That's correct.

Q. And there's a certain level of cost that you incur to make that sale; is that correct?

A. That's correct.

Q. Okay. And how do you go ahead and determine what cost to assign to that off-system sale to determine what the net margin is that Laclede gets to retain between rate cases?

A. Well, it's started by an analysis of what Laclede has on its books and records, and those books and records reflect what Laclede has allocated to the off-system sale pursuant to the tariffs which governs the transactions, Laclede is to look at the highest cost of gas that is flowing on the system for that particular month.

So Laclede will develop a schedule, I believe it's called the gas cost schedule or something similar to that, that lists the flowing supply that Laclede has on system. Laclede will refer to that and attempt to associate with the off-system sale the highest cost of gas.

Q. Okay. And would it be generally true that if you allocate more cost to that sale, all else being equal, that the net margin that Laclede is able to retain in those revenues would be reduced?

A. Well, I think the sale has already occurred, and the profits have already occurred. So I don't see how you could change the economics of the transaction that has already taken place.

Q. So you're saying that the amount of cost that's allocated to it doesn't have any impact on the net margin?

A. I think once Laclede has allocated the cost and recorded the profits on its books and it's made that report to its external auditors, that's what it's told its stockholders in its financial statements, that profit has been set. There's no string on it other than there's a prudence review on gas costs. But in terms of Laclede's profits, I don't think you're going to find a disclaimer in those financial reports.

Q. Well, let's look at it this way: If Staff came in and they determined that, for example, Laclede hadn't allocated the highest cost gas on the pipeline, there was actually a higher cost gas and that should be allocated to it, would that effectively decrease the net margin that Laclede received from that sale?

A. In that instance, I believe it would.

MR. PENDERGAST: Okay. If I could approach the witness?

JUDGE DIPPELL: Yes.

MR. PENDERGAST: If I could mark this as an exhibit?

JUDGE DIPPELL: Exhibit No. 12.

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

MR. PENDERGAST: Your Honor, if I could temporarily have one of those back.

BY MR. PENDERGAST:

Q. Mr. Sommerer, can you identify the document I just handed you?

A. This appears to be an excerpt of a partial

Stipulation & Agreement from Laclede Case No. GR-2002-356 filed August 20th, 2002.

Q. Great. Thank you. And if I could refer you to the second page, does that reflect paragraph 12 of that agreement?

A. Yes, that page and the page that continues on to page 11.

Q. And you were involved in the negotiations over this particular provision; is that correct?

A. Yes, I was.

Q. Okay. And is it fair to say that this sets forth an imputation of $3,800,000, reflecting off-system sales release pipeline capacity?

A. Yes.

Q. Okay. And can you read the next two sentences and tell me what your understanding is, what they mean?

A. In exchange for this imputation, the company shall be permitted to retain 100 percent of any revenues realized from such transactions during the period the rates established in this proceeding are in effect. It is expressly understood that during such period, no other treatment of such revenues shall be implemented as the result of any action taken in another Commission case, except upon mutual recommendation of the parties and approval by the Commission.

MR. REED: Your Honor, I do object to the witness providing a legal explanation here this morning.

JUDGE DIPPELL: Mr. Pendergast?

MR. PENDERGAST: On second thought, I think the document speaks for itself. We can make whatever arguments we need to make.

JUDGE DIPPELL: Thank you.

MR. PENDERGAST: If I could approach the witness one more time.

JUDGE DIPPELL: Yes.

MR. PENDERGAST: Could I have this marked, your Honor?

JUDGE DIPPELL: This will be Exhibit 13.

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

MR. PENDERGAST: Thank you.

BY MR. PENDERGAST:

Q. Mr. Sommerer, if I could refer you to Exhibit 13, could you identify that document for me?

A. This appears to be an excerpt from a Stipulation & Agreement from Laclede Case No. GR-2005-0284.

Q. Okay. And if I could direct your attention to paragraph 11.

A. Okay.

Q. And I'm not going to ask you for a legal opinion on this, but the first sentence says, the rates recommended herein reflect an imputed level of revenues for the release of pipeline capacity and for off-system sales; is that correct?

A. That's correct.

Q. Do you have an opinion on what that level was?

A. I do not.

Q. Okay. And does this provision also go on to say that in addition to the imputation, that once the company reached $12 million in revenue, they would begin sharing those revenues 50/50 with its customers?

A. Well, I think the term is net revenues --

Q. Right.

A. -- rather than revenues, but I see the provision there.

Q. And is it true, based on your understanding, that once those revenues, net revenues increase above 12 million, that they would be shared 50/50 with Laclede's customers, in addition to whatever imputation was made?

A. That's my understanding.

Q. Okay. And were you involved in review of this particular provision?

A. Yes.

Q. And if I can direct your attention to page 11, the last sentence there says, nothing in this agreement precludes the Staff from proposing adjustments in a future ACA case that Staff deems appropriate, but there is no provision in this agreement that prohibits the company from making any arguments in opposition to a proposed Staff ACA adjustment. Do you see that?

A. Yes.

Q. This would have been in 2005, right?

A. That's correct.

Q. Okay. That would have been after the ACA period that's under consideration here today; is that correct?

A. Yes.

Q. Can you tell me, do you know whether this same language about being able to propose an adjustment in an ACA proceeding appeared in the 2002 Stipulation & Agreement?

A. I don't recall.

Q. Okay. Well, if it did appear, you would expect to see it in the off-system sales paragraph?

A. My recollection is there were at least three stipulations and agreements in that case. It would make sense for the same sentence to appear in the same place, but I can't guarantee that same similar provision didn't appear in some other portion of the Stipulation & Agreement.

Q. But you're not personally aware of this similar language appearing in any Stipulation & Agreement language in 2002?

A. Not specifically, no.

Q. Are you familiar with the Brief that the Staff has filed in this case, the Pretrial Brief?

A. Only generally.

Q. Okay. Do you have a copy of it?

A. No, I do not.

MR. PENDERGAST: If I could approach the witness?

JUDGE DIPPELL: You may.

BY MR. PENDERGAST:

Q. Mr. Sommerer, does that appear to be Staff's Pretrial Brief in this case (indicating)?

A. Yes.

Q. Did you review this Brief before it was filed?

A. I may have reviewed a draft of the Brief or some portions of the Brief. I don't recall reviewing the final content of the Brief.

Q. Okay. Well, if I could refer your attention to page 7 of the Brief. Do you have that?
A. Okay.
Q. Do you see that?
A. Yes.
Q. If you go down under lack of analysis, about five lines down it says, Laclede admits it relied on a 1996 study to schedule gas for 2003-2004; is that correct?
A. That's correct.
Q. And it references Mr. Godat's direct testimony; is that correct?
A. That's correct.
Q. Okay. And to your recollection, I can certainly give you a copy of Mr. Godat's testimony if you don't recall, but didn't Mr. Godat indicate on page 8 of his direct testimony that Laclede had relied on many years of real world experience in the natural gas markets that its practice remained a reasonable one?
A. I'm not sure I have a copy of Mr. Godat's direct testimony.
MR. PENDERGAST: Approach the witness?
JUDGE DIPPELL: Yes.
BY MR. PENDERGAST:
Q. Do you have page 8?

A. Yes, I do.

Q. Okay. And just beginning on page 2, and I'll try and make this quick, but didn't Mr. Godat say he was relying on his daily experience in the natural gas market, that he had continued to go ahead and monitor what was happening in the daily market, that he was aware of what had happened during the winter of 2003-2004 with respect to intra-month price spikes, and that all of these factors were things he relied on in forming his judgments as to whether to continue the practice of paying demand charges on swing supplies?

A. I'm at the top of page 8 where it says, first, at the time these decisions were made, Laclede had every reason to believe, based on many years of real world experience in the natural gas markets, that such was the practice and remained a reasonable one, both in terms of its impact on gas cost and in terms of its usefulness and in stabilizing prices. In fact, a study conducted by Laclede in the winter of 1995-1996 -- then there is some highly confidential --

Q. No longer, please.

A. Okay. Hedge showed that the benefit of buying gas at first of the month pricing outweighed the cost of demand charges. That's at the top of page 8.

Q. Right. And if you keep on reading, it says that since that time, Laclede had continued to monitor this hedging strategy and prior to the subject ACA period had seen no evidence to indicate that such hedging strategy had become imprudent or was not cost effective; is that correct?

A. That's correct.

Q. And then he goes on to discuss the price spikes that had been experienced in the preceding winter; is that correct?

A. That's correct.

Q. So when Staff says in its Brief that Laclede relied on this 1996 study, would it be fair or at least more complete to go ahead and say that that's one of the things that Laclede may have mentioned, but that it relied on a variety of other things as well?

A. That appears to be Mr. Godat's testimony.

Q. Okay. In your Brief and in your testimony, you also talk about various things that had occurred since 1994, is that correct, changes in the marketplace?

A. That's correct.

Q. Enron?

A. Yes.

Q. And increased use of natural gas for electric generation?

A. Yes.

Q. And several other factors; is that correct?
A. That's correct.
Q. Now, in Staff's Brief, I believe Staff indicates that Laclede ignored these factors. And what I'm asking you, is it your understanding that Mr. Godat was unaware of the impact of the Enron collapse, that he was unaware of the fact that natural gas was being used more for electric generation and the other factors that you mentioned in your testimony?
A. That would not be my testimony.
Q. Okay. In fact, are you pretty certain Mr. Godat had a working knowledge of what had happened with Enron and what was happening with the basic supply and demand fundamentals over this period of time?
MR. REED: Objection, calling for speculation.
JUDGE DIPPELL: I'll sustain that.
BY MR. PENDERGAST:
Q. Okay. Well, let's put it this way: You have no basis for concluding that Laclede ignored these factors or Mr. Godat ignored these factors; is that correct?
MR. REED: Your Honor, I object again. The question is completely irrelevant because it's based upon a Prehearing Brief, a legal document that I prepared, not

Mr. Sommerer.

MR. PENDERGAST: Well, your Honor, Staff has made some representations in its Brief. I think I'm entitled to go ahead and ask the witness whether or not there's any evidentiary basis for it.

MR. REED: I think he can explore Mr. Sommerer's opinions and the things that Mr. Sommerer relied upon to form his own opinion, but the Brief is mine. He can ask Mr. Sommerer if he agrees with my statement in the Brief, but those aren't Mr. Sommerer's statement or testimony.

MR. PENDERGAST: Well, your Honor, if Mr. Sommerer doesn't know whether or not -- or doesn't believe that Mr. Godat ignored these factors and he's the one that follows Mr. Godat and what he does on a monthly and annual basis, then I think that that's an item that should be put into the record and put into evidence.

JUDGE DIPPELL: And I think you should ask that question, Mr. Pendergast. I'm not sure that that was the question you asked.

BY MR. PENDERGAST:

Q. Okay. Based on your familiarity with what Mr. Godat does and what his position is, do you have any reason to believe that he was ignorant of or ignored the factors that you discuss in your testimony, such as the

Enron collapse, what was happening with supply and demand fundamentals, so forth and so on?

A. I think it's reasonable to assume that Mr. Godat had knowledge of those factors.

Q. Okay. And would it be fair to say that you would get a lot of knowledge of those factors from reviewing things like Gas Daily?

A. That certainly would be one source of information.

Q. Okay. And are you aware of whether or not Laclede gets Gas Daily?

A. Yes, I believe they do.

Q. Would it be fair to say that Gas Daily has a plethora of information in it regarding what's happening in the marketplace, daily prices, future prices, how those prices have changed?

A. Yes.

Q. Are you aware of whether or not Laclede also receives regular reports from RMI, its hedging advisor?

A. That's my understanding.

Q. Have you had an opportunity to review those reports in the past?

A. In the past I have reviewed those reports.

Q. Okay. And did they have a variety of

information in them about both current and future market conditions and how they may impact various kinds of hedging decisions?

A. Yes.

Q. Okay. Are you aware of other reports that Laclede receives?

A. In general, yes.

Q. Okay. And does it receive other reports from other parties that generally provide information on what's happening in the marketplace, what's happening with prices, where things are heading, what kind of fundamentals may be influencing the marketplace?

A. Yes.

Q. And based on the information that Laclede's provided you in the past and what you know about various reports and that sort of thing, would this seem like a representative amount of material that Laclede might get in a year's time from these various entities?

A. I wouldn't be surprised if that didn't constitute a year's worth of reports regarding gas market fundamentals.

JUDGE DIPPELL: Mr. Pendergast, just so the record is clear, can you kind of describe the stack of materials that you have before you, the size?

MR. PENDERGAST: Yes. The stack of

materials is -- good point, your Honor. Who else can tell? It's yea high. No. It appears to me to be about a foot and a half tall, consisting of binders, including various sheets of material.

JUDGE DIPPELL: Thank you.

BY MR. PENDERGAST:

Q. There's also some discussion in the Brief about not only the doubling, which I think we've established was a 70 percent increase in demand charge, but also about the fact that demand charges, compared to what they were four years ago, had increased from 4 to 20 million or about 500 percent. Can you see that?

A. Could you repeat that question, please?

Q. Yeah. Do you recall in Staff's Pretrial Brief where it talked about how demand charges increased by 500 percent since I think it was 2000, 1999-2000 -- or excuse me, 1998-1999?

A. I generally recall that discussion.

Q. Okay. And I just want to make it clear for the record. Staff proposed no disallowance in 2002-2003 associated with Laclede's payment of 11,000 -- or 11,909,000 in demand charges; is that correct?

A. That's correct.

Q. Nor did it propose any disallowance for the approximate 10.96 million in demand charges in 2001-2002?

A. That's correct.
Q. And the answer would be the same for the 10,955,000 in 2000-2001?
A. That's correct.
Q. Okay. So to the extent that anybody wants to talk about an increase in demand charges, as far as you're concerned, the levels that were achieved and incurred by Laclede for years prior to 2003-2004 were prudently incurred?
A. I think that would be the case, yes.
Q. Okay. Now, on swing supplies, can you tell me in absolute terms what the dollar amount of the increase was from 2002-2003 to 2003-2004?
A. Staff has the absolute dollars associated with swing supply as $4,194,169 for the 2004 time period and $3,605,243 for the 2003 ACA period. That appears to be an increase of approximately $600,000.
Q. Okay. So the prudently incurred swing supply demand charges in the year before were how many dollars less than the 2003-2004 again?
A. In 2002-2003, the swing supply demand charges appear to be approximately $600,000 less.
Q. Okay. And your adjustment is worth how much?
A. $2,055,864.

Q. Okay. So is my math right that you're basically saying that for purposes of what Laclede should have paid for its swing supplies during the ACA period, that it should have been $1.4 million less than what Staff deemed was prudent to pay for swing supplies the year before?

A. I don't think you can make that kind of comparison because the volumes have changed. The mix has changed between base load, combination and swing, the volumes were less in 2003-2004 than they were in 2002-2003, so the absolute magnitude has changed between those two numbers.

Q. So Staff is not recommending that Laclede's demand charges for 2003-2004, the ones that should be disallowed, is more than what the increase in those demand charges were?

A. I would certainly agree that the absolute amount of Staff's adjustment, which is approximately $2 million, is higher than the $600,000 of swing supply demand charges from year to year.

Q. Okay. Now, speaking of this increase in demand charges and what percentage it was, what's your sense of whether during the period that Laclede's demand charges increased from 4 to 20 million, were comparable increases experienced in other segments of the natural gas market?

A. Based upon my experience and what I've seen from other states, I believe that producer demand charges were going up over that time period. There was a substantial increase from the time that Laclede was paying producer demand charges of around 4 or 5 million to the time it was paying 10 or 11 million, and I believe there was an increase in the unit rate, the producer demand charges in 2000-2001. I think there was another increase in producer demand charges that happened during the summer of 2003.

Q. Well, and I guess my question to you is, were other things increasing by comparable levels?

A. Other things as in?

Q. Commodity prices?

A. Yes.

Q. Okay. In fact, if we want to get a sense for those increases, we could look to the Exhibit 1 that was attached to Staff's Pretrial Brief. Do you still have that?

A. I don't think I have a copy of that. Oh, I'm sorry. I do.

Q. And if you could look at page 1 there. And let's just go -- I think it's December of 1999. You can look at the bottom. And that reflects approximately about

$2 an MMBtu; is that correct?
A. That's correct.
Q. And if we move forward to January of 2001, that reflects a commodity price of about $10?
A. That's correct.
Q. That's roughly, what, a 500 percent increase?
A. The difference between the two would be $8, 8 over 2 is 4, so you're looking at a 400 percent increase.
Q. 400 percent increase. Okay. And let me ask you a question. If you were to try and also graph on this same schedule what the daily price had increased to during this period, would you have to go ahead and add another 8 1/2 by 11 page on top of it to get the price spikes that occurred in the daily market?
A. Well, I think there are a couple of data points for a short period of time that rose to 17 or $18.
Q. Okay. So you would need another page, right, if you were going to keep the scale the same?
A. Yes.
Q. Okay. And if you were to look at where prices during this period had increased in areas other than just in the Midwest, say in New York and Chicago, might you need three pages or two additional pages?

A. Well, I think if you start looking at citygate prices, those increases probably went beyond the 18 or $19 range.

Q. In fact, just recently didn't they go up to 30 bucks in New York?

A. I don't recall the exact figure, but I think it was something similar to that, yes.

MR. PENDERGAST: If I could approach the witness?

JUDGE DIPPELL: You may.

MR. PENDERGAST: I'm not going to make an exhibit of this, your Honor.

BY MR. PENDERGAST:

Q. Mr. Sommerer, can you identify the document I've just handed you?

A. This appears to be a joint report on natural gas market conditions, PGA rates, customer bills and hedging efforts of Missouri gas local distribution companies issued February the 24th, 2006.

Q. And you worked on that report; is that correct?

A. That's correct.

Q. Okay. If I could just ask you to turn to page 11, and there on the second paragraph down you discuss what has happened with call options in the last five to ten years; is that correct?

A. That's correct.

Q. Okay. And basically, you indicate that an option with a $4 strike price might have cost about 10 cents an MMBtu five to ten years ago; is that correct?

A. That's correct.

Q. And today, or at least at the time this report was written, that option would go ahead and -- well, not that option, but an option to get a strike price at $15 would cost $1.17; is that correct?

A. That's correct.

Q. That's about, would you agree, a tenfold increase in the cost of call options?

A. Well, on an absolute basis, that's approximately a tenfold increase. You're dealing with different strike prices, different volatility.

Q. Right. That's a tenfold increase to get an option with a strike price of around $15, as opposed to the 10 cent one for $4; is that right?

A. Yes.

Q. So ten times more expensive and a lot less protection than what you got five or ten years ago; is that correct?

A. Well, first of all, you have to recognize that the $4 was a relatively high price spike ten years ago. In an environment of $2 gas prices, a $4 option may have been what's known as out of the money, which means it was protecting you against a large array of price volatility. So I can't totally agree with your characterization.

Q. Well, I'm just trying to get the Commission a sense of how dramatically prices in other segments of the market have increased. And would it be fair to say that, based on this depiction of the price performance call options, that they have increased by tenfold to get a strike price that's approximately, what, almost four times higher than what it was five or ten years ago; is that correct?

A. Well, the premiums certainly have gone up significantly for higher strike prices. I can agree with that.

Q. You can agree with that?

A. Yes.

Q. And you also -- it also mentions in here just commodity prices, is that right, and it talks about five to ten years ago they were in the $1.50 to 3.50 range; is that right?

A. That's right.

Q. And then as of February 7, 2006, they were

$8; is that correct?

A. That's correct.

Q. And of course, they've gone up even more since then; is that correct?

A. Well, this was from March of 2006, and I think prevailing prices right now for the winter of '07-'08 are around $7, so I don't know that they've gone up all that much from $8.

Q. Well, let me rephrase it. Have they been higher than the $8?

A. Yes.

Q. How high?

A. In the first of the month market, depending upon what region of the country you're looking at, I believe they've been as high as $12 an MMBtu.

Q. Okay. And just general terms, 7 or 8 times higher than their lows when they were at $1.50?

A. Yes.

Q. In fact, on page 23, you indicate -- the report indicates that over the past ten years the price of natural gas on the unregulated wholesale market has increased from an average annual price of approximately $2 an MMBtu to nearly $15 an MMBtu; is that correct?

A. Which page are you on?

Q. Page 23.

A. That's correct.
Q. Okay. And that would be more than a 500 percent increase; is that correct?
A. That's correct.
Q. If I could turn your attention to page 8 of the report, I'd like to ask if you agree with the statement, the first sentence where it says, hedging for natural gas LDCs can be defined as the management of the natural gas portfolio to mitigate adverse upward price volatility, i.e, the use of both physical positions and financial instruments to avoid a total reliance on spot market purchases or a market based index. Do you agree with that statement?
A. Yes.
Q. Can you tell me, Mr. Sommerer, are swing supplies more likely to be used when it's cold and demand is up?
A. I think all other things being equal, that's probably the case. Swing supplies could be accessed in Laclede's case to facilitate an off-system sale, they could be accessed to balance their combination agreements or to make some adjustment in their storage, but I think the design of swing contracts is generally to meet colder than normal weather.
Q. Okay. And when you do experience colder

than normal weather, all things being equal, generally speaking, are -- well, demand will be up and generally will prices be up?

A. I think when it's colder than normal and demand is up, that will put upward pressure on prices, so, generally speaking, you would expect prices to go up with demand.

Q. And just your basic knowledge of what the fundamentals have been and what weather has been over the last nine or ten years, would you generally say that by and large weather's been warmer than normal?

A. Well, I recall that question from the deposition, and I went back to double check some of the temperatures that were in play over the last ten years, and I would say the majority of winters have been warmer than normal. You do have some winters that are colder than normal. Examples of that would include the winter of '94-'96, '96-'97, 2000-2001 and 2002-2003.

Q. Okay.

JUDGE DIPPELL: Mr. Pendergast, how are you doing on your questions? Are you nearing an end?

MR. PENDERGAST: Maybe 15, 20 minutes. Maybe.

JUDGE DIPPELL: Okay. Well, in that case, let's take a short break. We're going to take a break until about 11 o'clock by that clock in the back. Let's go ahead and go off the record.

(A BREAK WAS TAKEN.)

JUDGE DIPPELL: Go ahead and go back on the record. We've returned after our break, and Mr. Pendergast, you may resume your questioning.

MR. PENDERGAST: Thank you, your Honor.

BY MR. PENDERGAST:

Q. Mr. Sommerer, you mentioned that the 2002-2003 winter was colder than normal; is that correct?

A. That's correct.

Q. Do you know how much colder than normal it was?

A. Numbers that I have for 2002-2003 say that it was a half percent colder than normal.

Q. Okay. And while I understand that you've expressed concerns about the study that Laclede did comparing first of the month pricing with non-first of the month pricing, but do you recall what savings Laclede's study showed for that year?

A. The 2005 study?

Q. Yes.

A. I'm looking at HC Schedule 5-5, where for October of 2002 to April of 2003 Laclede's study was showing a savings of $12,235,265.

Q. Okay. And if we go to 2003-2004, can you tell me what the weather was like during that period compared to normal?
A. That appears to be warmer than normal.
Q. Do you know by how much?
A. Approximately 11 percent.
Q. Just so I and the Commission fully understand your adjustment, I think earlier Mr. Reed put up a diagram or a table of what the Staff's adjustment is. There was $1.6 million in an offset that the Staff gave to the demand charges; is that correct?
A. That's correct.
Q. And what did that 1.6 million represent?
A. That represented the difference between first of the month pricing and daily pricing for the '03-'04 time frame.
Q. Okay. And when you say the difference between daily pricing and first of the month pricing, was that for gas sold to Laclede's on-system customers?
A. That's correct.
Q. Okay. And if you had included the comparable amounts associated with off-system sales, and I understand your position that that shouldn't be counted, but what would those savings be under those circumstances?
A. I don't believe I have those numbers with

me.

Q. Do you know how much you excluded associated with off-system sales?

A. I know the off-system sales were removed for that period. Actually, I may have the '03-'04 numbers. I have the swing contract off-system purchase volumes for the '03-'04, 4,951 MMBtu.

Q. Okay. But you don't know what differential between first of the month pricing and daily pricing was associated with those volumes?

A. If you could just stand by, I'll see if I have that. We made the calculation. I don't know if I have it with me. I don't think I have the calculation with me.

Q. Okay. Fair enough. I just want to ask you a couple questions about the study that you say Laclede should have done, and we had a little discussion about that during the deposition, and is it fair to say that even if Laclede had done an updated study, say, in 2002-2003, that if it had done it like it had done it in 1996, that study wouldn't have been sufficient to establish Laclede's prudence in your review; is that correct?

A. That's correct.

Q. In fact, to establish prudence in your review, Staff would have had to conduct the study in the manner that you proposed in Staff's recommendation and in your direct testimony; is that correct?

A. That's correct.

Q. And when did Laclede have the benefit of receiving that particular formula for how a study should be done?

A. I don't believe the Staff communicated any specific recommendation regarding Laclede's study.

Q. So the first time we would have seen it would have been when Staff filed its recommendation in this case and when it filed its testimony in this case?

A. That's correct.

Q. And that would have been several years after Laclede made its decision to continue its practice of paying these demand charges on swing supplies?

A. At least two.

Q. At least two. And just briefly, you've indicated before that it is important to go ahead and not only protect against monthly price spikes but also daily price spikes; is that correct?

A. That's correct.

Q. And do you know whether in the updated comparative analysis that Laclede did, regardless of whether it relied on it or not, it cured the concern that

Staff had with respect to reservation charges and how they were expressed?

A. I believe that Laclede did include some estimate of daily demand charges versus reservation charges. The Staff still has a criticism on the fact that Laclede's demand charges are over time. They don't reflect the current level of demand charges. Obviously they are not split by base load, combo and swing, which is another criticism that Staff has.

Q. And it's that split that would have shown that Laclede's demand charges for swing increased by about $600,000; is that correct?

A. That's correct.

Q. Okay. Or on a volumetric basis about 30 percent, a little bit less than 30 percent?

A. Well, I think on a unit basis we've calculated 70 percent.

Q. In your Staff recommendation, you said 28 percent, did you not?

A. This was based upon a comparison of the dollars, the dollar increase, but I recall that the producer demand charges for swing were higher not only in terms of the ultimate rate, but also the MDQ, the maximum daily quantity, the volumes were higher in '02-'03.

Q. Well, did they increase from approximately

21 cents to 27 cents?

A. The increase that we calculated on a unit basis for '03-'04 was 35 cents approximately, and for '02-'03 was 21 cents. That's an increase of approximately 14 cents or 67 and a half percent.

Q. That's on swing supply?

A. Swing supply, yes.

Q. What contracts did you look at?

A. I'll have to go highly confidential for this.

MR. PENDERGAST: Okay. If we could, your Honor.

JUDGE DIPPELL: All right. Is there anyone present that cannot be a part to highly confidential information?

(No response.)

JUDGE DIPPELL: I have muted the streaming.

(REPORTER'S NOTE: At this point an in-camera session was held, which is contained in Volume 3, pages 83 through 90 of the transcript.)

JUDGE DIPPELL: And you can continue with your questions, Mr. Pendergast.

MR. PENDERGAST: Thank you.

BY MR. PENDERGAST:

Q. Mr. Sommerer, you indicated in a little discussion during the deposition about the use of storage as a way of avoiding intra-month price spikes. Do you recall that?

A. Yes.

Q. And would it, in your view, that storage should be primarily used for reliability?

A. That should be its primary use, yes.

Q. And are you aware of other LDCs that have tried to use storage to mitigate price spikes?

A. Yes, I am.

Q. Okay. And, in fact, has Staff previously criticized other utilities for utilizing storage, particularly early in the year, to try and mitigate daily price spikes?

A. Well, I think in general we have had that criticism. I mean, if you're talking about using storage to mitigate daily pricing, that's a common practice in Missouri for most LDCs.

Q. Well, if you use storage, say, in November/December to mitigate what appears to be a price spike in those months, do you run the risk that you won't have that storage gas available to meet an even higher price spike, say, in January or February?

A. Well, certainly if you consider a possible issue where an LDC may not have any other hedging in place for the rest of the winter or has very little hedging in place, financial hedging or fixed pricing in place, then the storage as a pricing tool or a hedge becomes amplified. So if you've gone through the storage in November and December to meet loads and, yes, maybe even to avoid some early price spikes, that's one less tool that you have.

Q. And, in fact, has that happened before?

A. I think the Staff did have an issue with MGE regarding that issue, yes.

Q. Okay. And that was a situation where storage volumes were used earlier in the winter and the price of gas climbed even further later in the winter and that storage wasn't available to offset that even higher price spike; is that correct?

A. That was one of Staff's criticisms, yes.

MR. PENDERGAST: Okay. If you could just give me a moment. I don't think I have any further questions. Thank you, your Honor.

JUDGE DIPPELL: Thank you. Are there any

Commission questions for Mr. Sommerer? And again, basically the direct testimony, Exhibit 1 is still marked as HC, but it's mainly just Schedules 4 and 5 that remain HC in there, Commissioner, and if you should ask a question that gets into HC specific information, I'm sure Mr. Pendergast will alert us to that if we need to go in-camera. Do you have questions?

COMMISSIONER MURRAY: Yes.

JUDGE DIPPELL: Go ahead.

QUESTIONS BY COMMISSIONER MURRAY:

Q. Good morning, Mr. Sommerer.

A. Good morning.

Q. I want to ask you about your Exhibit 10 that was a substitute for one of your schedules in your direct testimony.

A. I believe I have that.

Q. Okay. I need you to go over that with me so that I'm clear on my understanding of it. It appears that, okay, the first column, swing demand charges, first of the month pricing, shows the amounts that were paid for that they were the demand charges paid for to be able to have first of the month pricing for each of those months; is that correct?

A. That's correct.

Q. And then the second column, daily pricing, would have been an amount that would have -- would that have also had to have been paid in order to participate in daily pricing and, if so, why?

A. When you're contracting for swing supply, you not only have the option of contracting on a first of the month basis or daily basis, but you also are paying the producer something to make sure that that supply is flexible.

Q. So you just order what you need?

A. You just order what you need.

Q. All right. Then your next column shows the savings or cost resulting from first of the month pricing; is that correct?

A. That's correct.

Q. And there was an actual savings over the first of the month pricing of 1.6 million approximately?

A. Actually, in this particular case, for the '03-'04 period, there was a savings related to having first of the month pricing rather than having daily pricing.

Q. Okay. And that amount was the total in that third column?

A. That's correct.

Q. And then the fourth column is where you took the cost or took the total from the first column and subtracted from it the total from the second column; is that correct?

A. That's correct.

Q. And then subtracted from that the first of the month pricing savings to arrive at your 2,055,864?

A. That's also correct.

Q. And that is the amount you're suggesting should be disallowed for this ACA period; is that right?

A. Yes.

Q. Okay. And then on the chart below on that same exhibit, the monthly daily pricing and first of the month pricing are set out there so that it shows exactly where you got the 1.6 million; is that correct?

A. That's correct.

Q. Now, would it have been possible for the actual savings from the first of the month pricing to have exceeded 4.1 million?

A. That is possible, yes.

Q. Okay. And if that had been the case, would you be recommending a prudence disallowance?

A. No.

Q. Would you be saying that it was imprudent but that there was just no harm done to the customers?

A. Yes.

Q. Okay. And how would you have determined that it was imprudent?

A. Well, we would have looked at the management decision-making process at the time when a decision was made, we would have asked what Laclede was looking at during the summer of '03 when it was making its decision. We would have looked at the market fundamentals at that time to see what Laclede had available to it and the sort of studies, if Laclede did studies, we would have taken a close look at that. So we were trying to take a look at the decision-making process as it took place when the decision was made.

Q. And when did you know that that process was taking place?

A. Well, we would have known, I'm sure, at some level that Laclede was planning for its '03-'04 supplies in the summer of '03. You realize just because Staff is familiar with the planning process that LDCs usually start anywhere from the spring to the fall prior to the winter. So you would have known they were looking at their contracts.

Q. Do you have any discussions with the companies at that point in time?

A. I think there are ongoing discussions because the annual actual cost adjustment process is an annual review. At any given time you may be discussing the company's purchasing practices. I think over the last couple of years the Commission has asked the companies to come in and make presentations, and usually the companies will make a presentation to the Staff as well as the Commission.

I'd also have to say that these issues come in rate cases. Laclede has proposed several incentive plans over the years, and so you're certainly talking with the company or doing discovery at that time.

Q. So would it be accurate to say that Staff was aware at the time that Laclede was making these decisions to pay the demand charges for first of the month pricing that the Staff was aware of that?

A. I think the Staff was aware of Laclede's practices, and these practices of tying first of the month price using demand charges are longstanding with Laclede. So we were certainly aware of that general practice. What we were not aware of was the price that the demand charges were rising to.

Q. And when did you become aware of that?

A. I think the most significant awareness of that would have happened during Laclede's 2005 rate case where we asked a Data Request for the history of Laclede's producer demand charges, and we recognized that there was a very significant increase for the demand charges related to the '03-'04 time period. So I think that would have been one of the first instances that we recognized that.

Q. Does a high demand charge for first of the month pricing indicate that if the price is higher to lock in first of the month pricing, would that indicate that it is more likely that daily pricing will exceed first of the month pricing?

A. No. I think it's more of an indication that there is a perception from those who are agreeing to these types of instruments that there may be more risk, more volatility potentially, because these producer demand charges at a certain level can be viewed almost like an option, a call option, and those are financial instruments that offer you a certain amount of price protection.

But those are priced based upon the prevailing natural gas market, how high prices are, just on an absolute basis, and also the volatility of the market as well. So there's some analogy to price insurance that, the more likely you are to have potential catastrophe, I think the more will be demanded from those who supply the insurance for premium.

Q. So that there is some pricing for risk, the risk is higher, the price is likely to be higher?

A. That's true.

Q. Now, risk doesn't always materialize, does it?

A. That's also true.

Q. So that if you say the -- doing an analogy of insurance, insurance is a hedge against risk, is it not?

A. Yes.

Q. And you pay a certain amount to avoid the potential of that risk being realized; is that correct?

A. That's correct.

Q. And generally to insure against risk would be considered prudent, would it not?

A. I think it depends upon the premiums involved, the cost involved of insuring the risk, what the deductible is, whether the insurance is even available, and whether there are alternatives to those premiums.

Q. Okay. I just want to go back to your Exhibit 10 again for a minute, and we may not even need to refer to that exhibit, but if you take the other -- assume the other scenario happened here, that Laclede rather than paying the demand charges for first of the month pricing had paid the swing demand charges for daily pricing, their actual -- in column 3 on your Exhibit 10, it would have been -- rather than a cost savings that they experienced for first of the month pricing, it would have been a cost increase of $1.6 million that they would have paid for daily pricing; is that right?

A. I believe that's correct.

Q. And then would Staff be suggesting that that was imprudent?

A. We believe the decision-making process was imprudent. However, you measure the damages based upon what actually happens, and that's really what's going on through this table is a measurement of the actual damages.

Q. Okay. So you -- what did Staff -- what does Staff suggest that Laclede should have done for this ACA period?

A. The Staff believes that the company should have conducted a cost/benefit analysis that appropriately isolated the various types of supply for Laclede considering the current producer demand charges and not including volumes related to off-system sales. The Staff further has commented that with regard to the actual scheduling of the supplies, there should have been some consideration given to the avoidance of price spikes when the study was done.

Q. And the result of that analysis would have been what course of action?

A. Since the analysis was never performed, we believe that it is likely for swing supply demand charges the result would have been daily pricing. However, we don't have the analysis. It wasn't done by Laclede, nor did Staff conduct the analysis.

Q. So that would go back to the scenario I was talking about earlier where they would have locked in the daily pricing?

A. Could you clarify that, please?

Q. Well, on your Exhibit 10, you show a column there for swing demand charges daily pricing at an amount of 524,000?

A. Yes.

Q. So if they had done that, then they would have paid the $524,000 to lock in the daily pricing, and they would have paid an extra 1.6 million for daily pricing over first of the month pricing; is that correct?

A. That's correct.

Q. So wouldn't that amount have been somewhere near the $2 million that you're suggesting be disallowed?

A. Well, the total level shown in column 1 is approximately 4.2 million producer demand charges associated with first of the month pricing. It actually represents the actual demand charges that Laclede paid during that time period.

Q. That's not what I'm asking. I'm asking in the scenario that you suggested probably would have been the likely outcome of cost/benefit analysis, that Laclede would have contracted for daily supply, they would have paid for that in order to lock in -- they would have paid a swing demand charge for daily pricing of $524,271; is that correct?

A. I think that that would have been the swing demand for that period, yes, or something similar to that.

Q. And then in addition to that, they would have paid $1.6 million more for the actual gas commodity supply; is that right?

A. For that particular time period, that's correct.

Q. So they would have -- that's 2-point-some-odd -- 2-point-some million dollars, is it not, that they would have paid for that daily pricing?

A. That's correct.

Q. And that's -- is that the number there that you're suggesting be disallowed? Is that -- is that another way to figure your disallowance?

A. No.

Q. But it is fairly close to the difference that would have been paid under the two scenarios, is it not?

A. Well, the '03-'04 table that you're looking at is not a cost/benefit analysis. It's a comparison of what Laclede did versus the result that would have happened had they chosen daily pricing.

Q. Weren't the customers benefited by the off-system sales related to these same swing gas supplies? Did they receive a monetary benefit for those swing gas supplies?

A. At some point it's likely some benefit would have been imputed in a rate case. These swing gas supplies that you're referring to are for '03-'04. That particular case to incorporate any off-system sales in prior years would have not been effective until the fall of '05, and so arguably there probably is some level of off-system sales related to these swing supplies, some subset of what was imputed that are indeed related to the off-system sales.

Q. So where does Staff take those customer benefits into account when calculating the suggested disallowance?

A. The Staff has not taken off-system sales into effect when calculating this disallowance.

Q. Why not?

A. The imputation results from an averaging of off-system sales, some years are high, some years are low. It's almost impossible to know what's included in the settled number. The settled number includes capacity release, so you have to make an assumption about how much of the imputation is related to capacity release. Then you have to make a further assumption about how much of the off-system sales that was imputed in the rate case was related to combination agreements and base load agreements, which in Staff's view comprise the majority of off-system sales.

And therefore, because Laclede has not separated these numbers in the past, it's an extremely cumbersome process to go back after the fact, based upon the material that Staff has, to attempt to guess what the off-system sale benefit related to this number is.
It would be speculative.

Q. Do you have past cases in which that number has been determined?

A. Not between base load, combination and swing, no.

Q. Now, this has been a practice, this locking in of first of month prices for some ten years; is that correct?

A. That's correct.

Q. And Staff's position is that for this ACA period during the time in which Laclede was determining what method of price mitigation to pursue, that it should have rethought that longstanding practice and for this particular year have determined that it was not a prudent course of action; is that what you're saying?

A. I think the Staff believes that it would have been appropriate for other years to update their analysis, but certainly this is the first time that Staff made adjustment for the '03-'04 period.

Q. Doesn't our rule, our natural gas price volatility mitigation rule recognize that prudent practices aimed at greater price stability may occasionally result in prices higher than the spot market prices?

A. Yes.

Q. So wouldn't you really have to have a crystal ball to be able to determine that this course of action was going to result in higher prices?

A. Well, I think you have to make a decision based upon the facts as you know them. No one knows where gas prices will go. You do know going into the winter, however, what your producer demand charges are, and that's known because Laclede does a request for proposal and gets bids from different producers for the various types of supply, base load, combination and swing.

So this is something that you know with some degree of certainty. What you don't know is what the ultimate price spike is going to be during the subsequent winter. So you would hope that the company would do an analysis going into the winter, that would be a reasonable cost/benefit analysis to make that decision.

Q. And did you have an analysis going into that particular time period showing that the spot prices were going to be as they turned out to be?

A. We have no analysis that would have noted what the spot prices turned out to be. We had no forecast of that nature.

Q. Do you have any analysis predicting any pricing for that time period?

A. I'm sure we have been aware of the various industry analyses that are out there. Gas forecasts are prepared by the federal government. They're prepared by private industry groups. They're not known for their reliability, but I'm sure Staff would have been aware of those forecasts.

Q. Did you look at those to see how they compared to the actual?

A. That's something that's generally noted by Staff. I'd have to say that it's done more often in the context of an electric case where there's some issue of what the appropriate gas price should be on a going-forward basis and how reliable forecasts are. We really use the forecast on the natural gas side to help us understand what the market is doing and give us some perspective of what the LDCs have done.

Q. Okay. In Exhibit 12 -- do you have that in front of you as well? Do you have a description of Exhibit 12? It was a partial Stipulation & Agreement in GR-2002-356.

A. Yes, I have that.

Q. On page 10, Mr. Pendergast asked you a question regarding the language in paragraph 12 that, in exchange for this imputation, the company will be permitted to retain 100 percent of any revenues. And then the next sentence, it is expressly understood that during such period, no other treatment of such revenues shall be implemented as a result of any other action as a result of any action taken in another Commission case except upon mutual recommendation of the parties and approval by the Commission. Do you recall being asked about that?

A. Yes.

Q. Now, this is referring to the period during -- during the period the rates established in this proceeding are in effect. Were the rates established in that proceeding GR-2002-356 in effect during the relevant ACA period at issue here?

A. Yes.

Q. Now, if you would look at your surrebuttal testimony, page 5, the top of page 5, your answer there, you say that Mr. Godat misses the point. Staff is not asserting that the company could have used storage gas and propane to avoid acquiring any swing supply. Do you see that?

A. Yes.

Q. Did I read that correctly?

A. Yes.

Q. But then if you go back to page 2 of your surrebuttal testimony, and you look at, let's say, line 16, you state, Laclede fails to consider using its storage resources and/or first of month supply from its base load and combo supply contracts to avoid swings in the daily price of natural gas. The idea of using storage and other first of month supply to avoid some or all of the impacts of daily spikes is not only logical, it's totally consistent with economically dispatching supply while managing the overall supply portfolio during the winter months to address reliability. Did I read that accurately?

A. Yes.

Q. It appears to me as I read that that you are indicating that storage should have been used.

A. Certainly with regard to the practice of having daily price exposure, you would want to use the storage reliably, but you would also want to be consistent with that reliability to avoid the price spikes to the extent that you could.

Q. So you were, in your characterization of Laclede's actions as imprudent, suggesting that there was something wrong with the way they were handling storage as well; is that correct?

A. In the context of their cost/benefit analysis, Laclede did not assume any attempt to avoid daily price spikes, which seems unreasonable to the Staff, so that's what this criticism is aimed at.

COMMISSIONER MURRAY: I think I have exhausted my questions. Thank you.

JUDGE DIPPELL: Thank you. Commissioner Clayton?

COMMISSIONER CLAYTON: Thank you.

QUESTIONS BY COMMISSIONER CLAYTON:

Q. Almost good afternoon, Mr. Sommerer. I have some questions to follow up on some of the cross-examination, as well as Commissioner Murray's questions.

First of all, you just suggested in talking with Commissioner Murray that a cost/benefit analysis should have been completed by the company; is that correct?

A. That's correct.

Q. When would that cost/benefit analysis, when would it have been conducted, any time prior to 2003, or is there a particular time you can identify when it would have been appropriate?
A. I think certainly in the summer and early fall of 2003, one should have been updated.
Q. Okay. And what information during the summer of 2003 suggests to you that that cost/benefit analysis should have been completed?
A. Laclede was aware through its request for proposal process that producer demand charges were increasing and had not done a study since May of 1996. So based upon the staleness of that data in the '95-'96, study, based upon the fact that the study was only a one-year study and based upon the fact that the producer demand charges were going up, I believe that Laclede should have updated the '96 study.
Q. Okay. In the RFP responses, did Staff have an opportunity to review those responses?
A. During the course of the ACA review, yes.
Q. Okay. And did those responses to the RFP suggest the spike at the -- whatever the level is that's on the graph behind you? What level of price did those RFPs suggest in the summer of 2003?
A. The RFPs did not provide what the level of

commodity prices would be. Laclede -- this may be going into highly confidential information.

Q. Try to stay public, and without talking about specific numbers if possible, then stop yourself. We'll go into HC if we have to.

A. Okay.

Q. Try to answer as much as you can publicly.

A. Well, the way the Laclede RFP process works is, they will ask for various commodity pricing formulas. You won't know what the commodity price is until after the winter is over with.

Q. Well, is it possible to suggest that different formulas would be either asking for a first of the month mechanism versus a daily pricing method?

A. Yes.

Q. Okay. And are there others? Are there other types of pricing?

A. Certainly you would possibly encounter fixed pricing, so you know what the price is before you go into the winter. There could be seasonal pricing, but very common pricing relates to daily.

Q. So Laclede issues an RFP that requests proposals on varying types of pricing, maybe four, five, maybe more, the items you just referenced, correct?

A. Actually, Laclede's RFP tends to usually be focused on a particular pricing mechanism called first of the month pricing. That is the predominant way that Laclede prices its first of the month --

Q. Do you want to go HC? I don't know what the hand gestures were.

MR. PENDERGAST: That's fine.

COMMISSIONER CLAYTON: For those not seeing, there are all kinds of hand gestures. They could have been worse hand gestures.

BY COMMISSIONER CLAYTON:

Q. So Laclede only does the one method; is that what you're saying?

A. For commodity pricing, that's generally the case. I will have to say, though, that the demand charges are a separate part of their RFP and they'll usually break that down into the types of supply.

Q. So you've got demand charge and you have commodity cost?

A. Exactly. You and I have been talking about commodity, which is the biggest share of the gas supply cost.

Q. Okay. We've been talking about commodity?

A. We've been talking about commodity on this chart. This is a chart of daily from --

Q. That's the commodity price right there (indicating). That doesn't have the -- okay. Thank you. That's helpful. Is that a public document right there?

A. Yes.

Q. Okay.

A. I believe it is.

Q. What is that document? Does it have an exhibit number?

MR. REED: It will, Commissioner. That got up there by accident when I pushed a button, but it's just a daily index indices of the prices from '98 through 2003.

JUDGE DIPPELL: The commodity prices.

MR. REED: Yes.

JUDGE DIPPELL: And it is a public --

MR. REED: I believe so.

JUDGE DIPPELL: -- document? Okay.

BY COMMISSIONER CLAYTON:

Q. Well, then, I need to ignore that document because really the commodity pricing shows savings, did it not, in this time period?

A. That's correct.

Q. Okay. So commodity -- looking at commodity prices shows a cost savings, not an increase in costs, which is only part of the analysis, correct?

A. That's correct.

Q. All right. So focusing on demand

charges -- I'm glad you pointed that out. I feel silly for raising it.

Focusing on demand charges, when the RFP was issued, in your prior answer were you suggesting that the RFP, the response does not have a dollar amount associated with the estimated demand charge?

A. I believe that's correct.

Q. Is there a range?

A. Yes. The RFP will deliver to the company a unit rate for the demand charge, and it's a fixed charge so it's applied to a certain maximum daily quantity.

Q. So it's -- the demand charge is connected to a quantity. Is it by CCF or is it by --

A. It's by MMBtu.

Q. Okay.

A. And you will know for a particular contract what that quantity is. You just won't know what the number is in total.

Q. So you have an estimate. Is it more or less an estimate?

A. It's really a contract-by-contract estimate, you could call it, by producer on what your demand charge will be.

Q. So the RFP comes in, and there are no estimates in terms of what the cost per unit is going to be, correct?

A. You know what the producer demand charge is at the time you get the response to the RFP.

Q. So do you get the cost at the time of the RFP?

A. You get the unit cost and MDQ, and by multiplying those two numbers together for that contract, you can come up with the dollar amount.

Q. Okay. So at the time that RFP was issued, you're saying that Laclede was aware that there was going to be a spike during that winter heating season?

A. Yes.

Q. Okay. At that point, what are you suggesting that Laclede should have done?

A. Recognizing that producer demand charges were going up and also recognizing that it had been some six or seven years since it had done a cost/benefit analysis, Laclede should have updated its cost/benefit analysis, it should have refined it, recognizing that there are different types of supply. That's a Staff recommendation.

Q. Do we have a graph that would be similar to what was behind you that I've been looking at for the last three hours that actually reflects changes in demand charges? Is there one that's compiled?

A. In my testimony, you have a graph of overall producer demand charges that Laclede paid ACA period by ACA period for a number of years.

Q. For a number years of -- what exhibit is that?

A. That would be in my direct testimony.

Q. Direct testimony, page 10, is that the graph you're talking about?

A. Yes.

Q. Okay. So in the summer of 2003, you're saying the RFP would have shown that higher amount, significantly higher than the prior year, the response to the RFP?

A. I certainly think Laclede could have extrapolated the ultimate dollars. I'm not sure that Laclede does a request for proposal for all of their supply. They may negotiate part of their supply, so ultimately that's a later process. But what Staff is suggesting is there's general indication from the RFP that producer demand charges were going up by a significant magnitude.

Q. Why did you say, certainly I think they should have known? What information is in there that would suggest this?

A. Well, you're used to paying a unit rate from the prior year for swing supply of around 20 -- 21 cents on average for swing supply, and you notice that it's going up to 35 cents in the '03-'04 time frame.

Q. Would it have been possible at the same time in summer of 2003 to do an RFP for daily prices for daily demand charge costs?

A. Yes.

Q. So that's identifiable information six months in advance?

A. Potentially, although I believe Laclede waits a little bit longer before it starts to finalize its request for proposal, but potentially you could do an earlier RFP.

Q. Okay. Your chart goes back to 1998-1999. Did you evaluate any numbers prior to that period?

A. I think Laclede's study from the '95-'96 period may have had the demand charges related to it or at some point we found what those were. My recollection is they were around 4 and a half million dollars.

Q. Okay. Has any review been done for the periods following 2003-2004?

A. The Staff has completed its ACA recommendation for the 2004-2005 time period. We asked Laclede to update its analysis. We also have recommended disallowance for the 2004-2005 ACA.

Q. For the same reason?
A. Yes.
Q. Okay. Now, when the RFP is done during the summer of 2003, does the RFP also come back with a commodity price? You've got your demand charges. Does it also do the commodity cost?
A. It will come back with exactly what Laclede asked it to come back with. I guess maybe there's an occasional anomaly where a producer wants to offer something, but they're trying to meet Laclede's request for month --
Q. So did it include a commodity price or no?
A. It basically included first of the month pricing for various pipes.
Q. For various pipes, including the commodity cost?
A. Including the formula that it says, we want to pay to the index. There's no actual commodity cost shown.
Q. Okay. Was it possible in the summer of 2003 to determine the differences in commodity cost by either first of the month pricing versus daily pricing?
A. Those differences would not be known until you actually experienced the winter.
Q. So if you got the higher estimate for

demand charges during the summer of 2003, you're suggesting that there is no counter provision suggesting an offsetting reduction in cost for the commodity?

A. That's correct.

Q. So there's no way to estimate what the price will be under either pricing mechanism?

A. That's correct.

Q. I think earlier you stated that -- I think you stated that there was no way to evaluate the gas purchased through swing purchases that were used for off-system sales. Is that accurate? Was that part of your testimony?

A. I think generally that's the case. When I said no way, I think it's more accurate to say that it would be extremely cumbersome and very difficult using the information that Staff had at its disposal. That information is simply not kept in that manner.

Q. So we can't say for sure whether the swing demand charges were basically providing gas for off-system sales one way or the other? We cannot -- or you're not able to establish that?

A. I'm not able to establish that, that's correct.

Q. Okay. Is first of the month pricing out of the ordinary in general with Missouri LDCs? Is it an odd way of doing gas or is it, generally speaking, an acceptable useful method of doing swing demand purchases?

A. Well, I'm glad you clarified and said swing demand purchases because that does make a difference. First of the month pricing for swing supply is relatively unique to Laclede.

Q. First of the month pricing for swing purchases?

A. That's correct.

Q. Can I infer from your statement that others use daily pricing for swing or do they just use a different assortment of purchasing methods?

A. For swing supply, when a company does contract for swing supply, the prevailing practice in Missouri is to price the swing at daily, daily pricing.

Q. Okay. What does Laclede get, what benefit do they have of using a first of the month pricing? And I'll go further and ask the question, if an RFP comes back and suggests a significant increase in demand charges for swing purchasing, what other elements would go into the decision for Laclede in deciding whether to move forward with that type of swing purchasing?

A. Well, besides what we've already discussed in terms of the general market factors and the risk of daily pricing.

Q. So let's just touch on them just very briefly. You've got some stability or avoidance of volatility with prices going up and down?

A. Correct.

Q. Now, is that necessarily a benefit to Laclede?

A. Well, certainly given the fact that no LDC likes to go before the Commission with a high PGA rate, it's not good for competitive reasons.

Q. Some don't mind, by the way.

A. You may -- some may mind less than others, yes.

Q. Okay.

A. But you would hope that that incentive would be there. The company is looking at this to try and keep gas costs as low as possible, but you also have to recognize that there is a competing factor that is always there. It's not even in the background. I think it may be in the foreground in some instances, and that's the ability to profit from off-system sales.

This has been a very lucrative area for Laclede over the years, and the Staff has been aware of it. It's been handled in incentive plan cases. It's been handled in rate cases. And so certainly I'm sure if Laclede is looking at this, looking at trying to maximize profits, looking to --

Q. But wouldn't they maximize more profits if they looked at a daily price versus first of the month? What benefit do they get -- what benefit do they get by choosing the more expensive method in this instance, if we accept that we -- that they knew that the prices were going to be significantly higher?

A. Because there's a general recognition that, in many circumstances, off-system sales are made possible by the ability to have that first of the month pricing. After the first of the month, something's going to happen to the daily market. It will either be higher than the first of the month price that Laclede has or it will be lower. And for a contract like a swing contract that you can turn up, so to speak, to meet either your on-system demand or off-system demand, it gives you an incredible ability to market that gas.

Q. Because you know what the price is going in. You don't have to wait to make spot purchases. You know what the price is going to be, whether it's higher or lower, and then they will in turn know how to price it?

A. Well, they have a known quantity of gas available for sale in the off-system market at a known price, and so if people are willing to pay the daily price in the off-system market and the daily price is higher, there's an opportunity for an off-system sale.

Q. Well, if we don't know that this gas was used for off-system sales, how is that relevant to this discussion?

A. Well, I think the way the Staff approached it was you have to look at the appropriate amount of producer demand charges to your system for your on-system customers without regard to potential profit or some imputation that you may have had in a rate case. That is why Staff didn't consider the off-system sales. That coupled with the fact that it is very problematical to go back and reopen a black box settlement for an imputation that was made up of various things and various types of supply and start to make assumptions about what particular dollar came from swing supply.

Q. There were two stipulations and agreements that were submitted. I don't know if they were exhibits or not. Are they exhibits, the two stips?

JUDGE DIPPELL: They were marked as exhibits, yes.

BY COMMISSIONER CLAYTON:

Q. One is Exhibit 13 and one of them is Exhibit 12. Do either of those stipulations address a mandate on the company for prudent behavior in its gas purchasing, do you know? Were you a part of either of these prior cases?

A. Yes, I was a part of both cases, and I think, generally speaking, prudence was brought up in the on-the-record presentations, and I don't recall whether it was in 2005 or 2002, but I think questions from the Bench tried to make sure that the parties knew that prudence in all respects was still on the table, that the actual cost adjustment process was in no way limited in terms of looking at prudent or imprudent costs.

Q. So at no time would the company be held to a standard other than making prudent decisions from the Staff's point of view?

A. That's correct.

Q. Okay. Is the gist of this case from Staff's perspective that -- I think what I'm doing is trying to summarize what we've been talking about here, so it's going to be a lousy question, and I need you to try to answer it.

A. Okay.

Q. Basically, the company is making these swing purchases that would be in general for off-system sales, and that by using this method of pricing, it is more to their benefit than daily pricing, and by doing that it has placed an additional -- can we mention the dollar -- the dollar amount that's in your chart here has been then given ratepayers to cover. Is that basically what Staff is saying?

A. To a certain degree. I would have to clarify a little bit to say that swing pricing -- swing supply contracts are needed by Laclede, and they have always needed swing supply contracts. So they're not going out, getting swing supply contracts for the sake of off-system sales.

Our concern is look at the daily pricing versus the first of the month pricing, do a cost/benefit analysis, and if you don't do one, you're going to be at risk for that disallowance. And part of the benefit for Laclede in all of this is, yes, there's an off-system sale benefit, and whether the customer has benefited from the off-system sales from swing supply, I think the measurement of that is highly problematical and Staff has made no allowance for that.

Q. Would it, in your opinion, have benefited Laclede if it had secured a lower swing demand charge through an alternative mechanism? If the price they paid would have been lower, that would have benefited Laclede as well as the ratepayer, would it not, or no?

A. Well --

Q. And then explain.

A. -- the purchased gas adjustment, generally speaking, is a dollar-for-dollar pass-through of gas cost. So we do have a bit of a disconnect between the way that off-system sales are handled in the context of a rate case and the gas costs that make those off-system sales possible.

There are a couple of exceptions to that. There is an incentive program that's still in effect at Laclede to where it can receive some reward if it dispatches first of the month supply in an efficient manner. However, I'd say generally there's no profit margin in the purchased gas adjustment clause to Laclede, save for perhaps the incentive plan.

Q. So the answer to my question is that it wouldn't matter which method that they purchased under because it's a pass-through. Was that how you just answered my question?

A. From a financial standpoint, I don't think there --

Q. From any standpoint. I don't know if it makes any difference.

A. Well, since it is a pass-through, Laclede has the risk of a prudence disallowance. I think generally Laclede would have in its interest the desire to keep gas costs as reasonable as they can be, but competing with that interest is the upside of off-system sales. And so all other things being equal, I think Laclede's certainly going to try to maximize off-system sales. And the cost related to making off-system sales happen are basically dollar-for-dollar pass-throughs.

Q. This -- maybe if I'd write down these exhibit numbers as we went along, I wouldn't be asking these questions. On Exhibit 10, is this your chart?

A. This is the direct testimony.

Q. This is Staff adjustment revision, an Excel spreadsheet, Exhibit 10HC?

A. I have it.

Q. I think you were talking with Commissioner Murray about it.

A. Yes.

Q. I want to follow up. I think Commissioner Murray asked you this. On the top chart, I have labeled the columns A, B, C and D, just working across the top from left to right.

A. Yes.

Q. If column C, if that total amount in that column would have been sufficient to make the bottom total column zero or a wash, would Staff still consider using this type of pricing as imprudent?

A. Well, I think if column C would have been zero, you would have had a larger adjustment and we would still be here today.

Q. If C were zero, but if C were big enough to make D zero, I mean, this was a gamble that came back on the commodity price offset the demand charge, we wouldn't be here today, would we?

A. That's correct. You may have what Staff believes was an imprudent process, but you wouldn't have any damages, which is the purpose of this table.

Q. Right. Right. Okay. Now, is there any way to answer this question: If a table like this on Exhibit 10 were compiled for the last five or six years, what is the total of the net effect in the total of column D, would it have been over the years? Would it have varied? Would it have been positive? Would it have been negative, gone back and forth? Would it ever have reached the dollar amount that is in there right now under mechanism? Was there analysis that was run?

I know I'm asking a bunch of questions. I throw all these out. Answer as you feel you are able to answer.

A. Okay. For the historical years, Laclede had not broken out its supply by base load, combination and swing, which is absolutely necessary to conduct this analysis or an analysis that the Staff was proposing Laclede make. And that may sound like something that seems reasonable for the Staff to have pulled together.

However, if you don't keep the supply labeled in that way from the start, it's a cumbersome, time-consuming process, and in fact, many hours, many Staff hours went into just looking at the 2003-2004 time period. It was a painstaking approach of going through gas producer contract by marketing contract to try and establish what was swing supply.

Q. So Staff had to do all this additional work, this information wasn't supplied off by itself or on an individual line, you-all had to extract this at that time to find a possible level of imprudence?

A. Well, the Staff after a couple of attempts finally did receive a database of daily pricing and actual purchases that Laclede bought from the producers, very large, large database. However, those particular data components were not flagged by base load, combination and swing, and it required a process outside of what Laclede was providing in any electronic way to go through and identify or flag or label what was base load, combination and swing.

Q. What would have caused or what did cause the Staff to look at this, if the data is not sitting out on the front page of the work papers? What raised the red flag that Staff should spend so much time looking for this information?

A. Well, as I discussed with Commissioner Murray, there was a point in the 2005 rate case that we noticed historically the producer demand charges were going up. And we asked for a cost/benefit analysis to prove out that that was a reasonable decision given the move from, let's say, $12 million to $20 million in annual producer demand charges. That's from that earlier graph in my direct testimony.

And Laclede provided a Data Request response to that question, and it basically was simply the '95-'96 cost/benefit analysis and little more than that, and within that, we took a lot of time, we tried to get to the detail. We tried to understand it. We called Laclede. We met with them. We asked further Data Requests. We tried to refine this particular study to the best that we could.

We went as far as we could with it, but that's a relatively old study that was done back in May of 1996. Laclede didn't have the work papers associated with the study or the underlying data, from what I could tell or from what we received. But it was a Staff deliberative process over time where we were asking ourselves, what does this study really mean? What's in it? And someone, I'm sure, recognized that we had base load supply in the study, we had swing, but we couldn't tell what it was. Swing supply isn't used all the time. It's used infrequently in a warmer than normal winter. It's not used nearly as much as base load supply is.

And so we wondered whether or not the payment of the fixed demand charge, which you pay regardless of whether you take the gas, might have a different outcome when you were looking at these commodity prices. So it was during the work we did on Laclede's studies, both the 1996 study and the after the fact study Laclede did in 2005, that we came to the recognition that you really have to separate these supply packages. They're different. Base load's taken evenly every day. You know you're going to take it.

Q. Okay. Is it possible that in the summer of 2003 -- I'm asking if this is possible or likely -- that in the summer of 2003 when the response to the RFP came back suggesting higher than normal swing demand charges, that Laclede would have had information suggesting that commodity costs would have fully offset those increased costs? Is that possible, improbable, likely, unlikely?

A. I think the record shows that Laclede and the Staff was concerned about the absolute magnitude and volatility also of pricing going into the '03-'04 winter. So I think generally you can say there was some concern out there, and you've seen it here over the years. There's continued concern when you're in the summer and you see high prices and you see some other fundamental factors that may lead to high PGA rates, those general factors are known to the company and to the Staff.

Q. But I'm talking about the potential savings of the commodity costs from using first of the month pricing versus daily pricing. Is it possible that the company would have been aware of potential savings in your column C on Exhibit 10, that that amount was going to be higher, that they anticipated in good faith that that amount was going to be higher to offset the other charges? Is that information, is that type of information out there at that time in summer of 2003, or is there absolutely no way for anyone to know what that amount would be?

A. I think in order to know it with any degree of confidence, you would have to know how the winter will happen. And in August of 2003, there is no telling -- there may be some long-range forecasts, but --

Q. But there's going to be a difference -- potentially there's a difference between the first of the month commodity pricing and the daily commodity pricing. Is it possible to estimate that that difference will be sufficient to offset the demand charge increases?

A. Short of going through a cost/benefit analysis, using history, several years worth of history, I think that's really what you have. You have the producer demand charges, what the producers want to cover you, and history. That's really --

Q. Does history suggest, though, that the commodity pricing -- and I may be asking a question that doesn't make any sense, and I apologize if I'm asking one. But is the difference -- does history tell us that the commodity price for first of the month pricing is significantly less or always less or most of the time is less than daily commodity pricing that would rise to the level to offset the increase in demand charges? Am I making the question clear?

A. That's very clear.

Q. Does history tell us something about that?

A. Well, I think Laclede's cost/benefit analysis has history within it.

Q. From '96?

A. From 1996, that one year. And after the fact has history, too, which is somewhat illustrative at least on a very high level of what first of the month pricing is versus daily pricing. But really what you're asking, I think -- correct me if I'm wrong -- is for swing pricing. It's a different analysis, because you not only have to know just on an absolute basis whether first of the month pricing is better or worse than daily pricing.

Q. Do you know, in general, does history tell us that swing commodity first of the month versus daily purchasing, does history tell us that one is always higher or lower than the other?

A. No. And here's the basis of this no. If that were the case for base load agreements, where you're sitting across the table from the producer and you're negotiating with them head to head --

Q. See, you're changing -- you're going to base, not swing?

A. Yeah, but base load is a good example of what you would need to pay if you had a bias towards daily pricing or first of the month pricing.

Q. Okay.

A. And I think this is how the conversation will go between the producer and the LDC. It's what demand charge, Mr. Producer, you're going to charge me. And you're going to come back and say, well, it's a base load deal, I'm not going to charge you anything. But let's say for the sake of argument you want a 10 cent producer demand charge. As an LDC I'm going to come back and say -- hopefully having done an RFP, I'm going to say, that's crazy. Gas costs can go up, they can go down.

The producer says, oh, they always seem to be pretty wild and you're asking me to do a lot. And I fear that they may be going up. Now, of course, I own the well head supply, so I like it if they go up. But you're asking me to insure, so I'm going to come back to you and say, I think more often than not daily pricing is worse than first of the month pricing.

And the LDC goes back and says, it seems like daily pricing could go up, it could go down, it could be warm, it could be cold, it could come up for a while, it could go down for a while. It seems like it's pretty well an even probability. And the producer comes back and says, well, the demand charge is basically zero for base load, and that's -- that is standard practice for first of the month pricing.

If there was a strong belief that daily pricing was always higher, usually higher, most of the time higher than first of the month pricing, you would be asking for some compensation as a producer for that right because now you're giving up something in the day market. And the producer would just as soon sell -- sell daily gas if it's going to be always higher or usually higher. But it's getting the first of the month price, and that price is also unlimited.

Q. I'm not sure if it's answering my question. I understand what you're saying. I'm not sure if it's answering my question. I'm going to try to ask it this way and then I'm going to stop because we all have lunch approaching.

Exhibit 10, column C, your total number, at the bottom of column C, this is the commodity savings parentheses cost for first of the month pricing. If we were to do an analysis for each of the winter heating seasons between 1996 and the present, would it be your estimation that that in general would be a positive or a negative number in each of the years?

A. I think in cold winters, colder than normal, generally speaking, the number would be positive, and I think in warmer than normal winters, generally speaking, you would find the number to be negative. The daily prices would be lower than the first of the month.

Q. Lastly, the amount of the disallowance, is there any way to quantify what that means in terms of a residential customer's bill in the big scheme of things? What is the impact on the customer's bill for that dollar amount in the revised Staff adjustments?

A. Using approximately 600,000 residential customers for Laclede, and this may be a little bit low, you would simply on an annual basis take the $2 million and divide it by the 600,000 customers, and that number just with that simple --

Q. So it'd be $3 a year divided by 12?
A. On a monthly basis, that's correct.
COMMISSIONER CLAYTON: Divided by 12 months. Okay. No other questions. Thank you for your patience.
JUDGE DIPPELL: Commissioner Appling?
QUESTIONS BY COMMISSIONER APPLING:
Q. Mr. Sommerer, you're lucky today because I sit between two smart Commissioners and all the questions are asked by the time they get down to me, but it's also lunch time. I have one quick question.
Go back to your direct testimony on page 10. You have a chart there that talks from '98 through 2004. Was there a cost/benefit analysis done on the data that you have for 2000 and 2001 or was that too far in the thought process?
A. Laclede had a cost/benefit analysis that was done in May of '96, and it did not update that analysis until the summer of 2005. So there was no cost/benefit analysis for that particular jump.
Q. And Laclede wasn't charged anything for almost doubling that year?
A. That's correct.
COMMISSIONER APPLING: Okay. Thank you very much, sir.

JUDGE DIPPELL: Commissioner Murray, do you have another question?
COMMISSIONER MURRAY: Yes.
FURTHER QUESTIONS BY COMMISSIONER MURRAY:
Q. I did have one last thing, and it was just right exactly what Commissioner Appling was zeroing in on. And I did a little calculation while I was sitting here, and I think that that jump from the demand charges first of the month between '99-2000 and 2000-2001 was about 45 percent compared to the jump for the current, the ACA period that we're looking at now 2003 -- '03-'04 of about 40 percent, and I'm wondering, why did Staff not challenge Laclede for the 2000-2001 ACA period?
A. Well, I would have two answers to that. The first is that Laclede was probably under a gas supply incentive plan during the 2000-2001 period, which often precludes or greatly limits prudence evaluations.
Q. Okay. And your second reason?
A. And the second reason is, even if there wasn't an incentive plan, I have to say that the Staff was focused on the extremely high commodity pricing and the hedging practices of LDCs, and I just have to say that it was not a focus of Staff's audit back in 2000-2001.
Q. I'm sorry. Go through that second reason one more time.

A. The Staff during the 2000-2001 ACA review had been given really a mandate from the Commission to go in really on an expedited basis and answer the question, what are the LDC hedging practices? Did they do a reasonable job in looking at the various types of hedging instruments? And the Staff resources really were concentrated on that particular area. I did not think there was a lot of Staff analysis done with regard to producer demand charges for that reason. And then I would point out that the incentive plan in place would have precluded a disallowance had the Staff been able to devote the resources.

Q. Okay. I guess I don't understand your second reason, why that would have differed from what Staff would be looking at today.

A. It was probably the nature of the Commission's request to expedite these reviews.

Q. So Staff would not have made even any statement to Laclede at the time that it appeared that there was something less than a prudent practice being done at that time?

A. If the Staff was aware of an imprudent practice, I think we would have brought it up to the company. But you're really looking at the largest issues in Staff's view for a particular ACA audit and you're putting your resources where you believe they best can be devoted.

Q. And for 2000-2001, what was the result of that first of the month hedging? Do you know?

A. It varied by LDC. I think that you have some LDCs that were somewhat exposed to the first of the month pricing. I don't recall there being any significant issues with daily pricing and the exposure to daily pricing. The Staff did make a disallowance I believe in several of the cases, not against Laclede, but there were two or three LDCs where adjustments were made for a failure to consider hedging.

Q. Okay. But you don't know where the dollars came out on 2000-2001 for Laclede?

A. In terms of their FOM philosophy, all we have is the after the fact comparison that Laclede made in 2005 where it considered all its contracts.

Q. And what did that show for that ACA period?

A. In Laclede's 2005 study, and this is on HC Schedule 5-5, October of 2000 through April of 2001, Laclede has a savings of 16,388,028, but I do have to say that there was a larger or that was subsequently found in that number, so I'll have to go to Mr. Godat's surrebuttal testimony where he recalculated the number as a savings of 7,922,753.

Q. Okay. Had that number been shown a cost for first of the month demand charges, would Staff have recommended a disallowance?

A. Given the fact that there was an ACA incentive plan in effect during that period, we couldn't have recommended a disallowance.

COMMISSIONER MURRAY: Thank you. Thank you, Judge.

JUDGE DIPPELL: Commissioner Clayton?

FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

Q. One question. Just tell me about the gas supply incentive plan, give me some dates and just a little bit of information about that.

A. Laclede's incentive plan was first instituted in the winter of 1996-1997. It has changed forms and elements many different times over the years. Ultimately 2000-2001 was the last year of Laclede's overall incentive plan. It was discontinued, with perhaps the possible exception of an Office of Public Counsel incentive plan that was instituted in 2002.

During 2000-2001, to the extent that Laclede was able to purchase within various benchmarks, the Staff would be precluded from prudence reviews. I believe in 2000-2001 Laclede had a specific element that was dedicated toward producer demand charges, and to the extent that Laclede beat those benchmarks, I think it was questionable whether a prudence disallowance could have taken place.

COMMISSIONER CLAYTON: Thank you.

JUDGE DIPPELL: Okay. Mr. Sommerer, I actually have just a couple questions for you myself.

QUESTIONS BY JUDGE DIPPELL:

Q. On page 19 of your direct testimony, and I'm going to make sure I'm looking -- at line 16 through 20, and I just want to make sure that that information is not still highly confidential. I'm discussing Laclede's marketing affiliate. I'm going to look to Mr. Pendergast to -- is information about Laclede's marketing affiliate.

MR. PENDERGAST: Yeah. We prefer to keep that confidential.

JUDGE DIPPELL: All right. Then I just won't ask that question. It's probably not important. Okay. Never mind, then. That answers my questions.

I think we'll go ahead, then, and break for lunch, and when we return, we'll go to recross and redirect. So let's break until 2. We can go off the record.

(A BREAK WAS TAKEN.)

JUDGE DIPPELL: Let's go ahead and go back on the record. I believe we're up to further cross-examination based on questions from the Bench, and Mr. Poston indicated that he might not be able to return after lunch, so he's waiving any cross-examination he has. Anything from Laclede?

MR. PENDERGAST: Just a few questions, your Honor.

RECROSS-EXAMINATION BY MR. PENDERGAST:

Q. Mr. Sommerer, you were asked some questions regarding off-system sales, I think by both Commissioners Murray and Clayton, and in response to those questions I believe you indicated some difficulty in determining what level of off-system sales benefits were created for Laclede's customers as a result of its payment of demand charges on its swing supplies. Does that sound about right?

A. Yes.

MR. PENDERGAST: Could I approach the witness?

JUDGE DIPPELL: Yes.

MR. PENDERGAST: I'd like to mark this as an exhibit, your Honor.

JUDGE DIPPELL: Exhibit No. 14. Is this a confidential exhibit?

MR. PENDERGAST: Yes, this would be confidential since it does mention specific suppliers.

JUDGE DIPPELL: Okay. 14HC then.

(EXHIBIT NO. 14HC WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. PENDERGAST:

Q. Mr. Sommerer, do you recognize what I just handed you as work papers that Staff provided in support of its adjustment in this case?

A. Yes.

Q. And I'd like to direct your attention to page No. 1, and it says at the top without swing volumes, and is the purpose of that to exclude those swing volumes that were associated with off-system sales?

A. I believe it is, yes.

Q. Okay. And if you exclude those volumes associated with off-system sales, you arrive at a savings of 1,614,034; is that correct?

A. That's correct.

Q. And is that tied back to your revised Exhibit 10, I believe it was, that showed the same number under commodity savings for FOM pricing?

A. That's correct.

Q. Okay. If we turn the page, it says all volumes at the top; is that correct?

A. That's correct.

Q. And do those volumes include the off-system sales volumes that were excluded on the first page?

A. Yes.

Q. Okay. And that also provides a savings number at the bottom, does it not?

A. Yes.

Q. And what is that savings number?

A. 3,987,541.

Q. Okay. And these would be the savings you would have calculated had you excluded the volumes that swing supplies were used -- the off-system sales volumes that swing supplies were used to make; is that correct?

A. Actually, I think the number you quoted earlier, the 1.6 million, would have been without the off-system sales; whereas, the 3.9 million would be with the off-system sales.

Q. I'm sorry. If I said excluded, I meant included.

A. Yes, that's correct.

Q. Okay. And if we look and try and isolate what the off-system sales amounts were, would we subtract 1,614,034 from 3,987,541?

A. That would be the off-system sales impact from the first of the month versus daily analysis.

Q. Okay. And what would we -- what number would we end up with if we subtracted the 1,614,034 from

3,987,541?

A. That number is approximately 2.4 million.

Q. Okay. And does that exceed the 2,055,000 Staff adjustment?

A. Yes.

Q. And can you tell me, Mr. Sommerer, the winter of 2003-2004 I think you had indicated was warmer than normal?

A. That's correct.

Q. Do you have any opinion had the weather during that winter been normal as opposed to, I think you said, 11 percent warmer than normal, how much of these swing supply volumes that were used to make off-system sales would have been used to offset the cost of gas for Laclede's customers?

A. No, I do not.

Q. Okay. Would it be your view that more of them would have been used for Laclede's customers under that scenario?

A. That's a reasonable assumption.

Q. I just wanted to ask you a couple of additional questions regarding off-system sales. Was Laclede paying demand charges on its swing supplies prior to the time it started making off-system sales?

A. I think that was the case, yes.

Q. Okay. And originally those off-system sales were reflected in the company's PGA, were they not?
A. Well, I think there were various time periods in the early to mid 1990s when Laclede started buying gas where the off-system sales was handled in different manners.
Q. Let me ask you about immediately preceding their imputation into base rates. Were they included in the PGA at that point?
A. They would have been included as part of Laclede's incentive plan.
Q. Okay. And there Laclede got to retain a portion of those off-system sales as an incentive to generate as much off-system sales as possible; is that correct?
A. That's correct.
Q. Okay. And so at that point, the regulatory policy as reflected in the GSIP that had been approved by the Commission was to offer Laclede an incentive to maximize its off-system sales revenue; would that be correct?
A. I certainly think that would have been one of the elements of the policy at that time.
Q. Do you recall, have you ever testified that an LDC has an obligation to maximize its off-system sales?

A. I believe that should be the case, consistent with the recognition that there are costs to make those sales possible.
Q. Okay. Now, when they started getting imputed in base rates, do you recall, was that Laclede's idea?
A. My recollection was that it was a proposal by the Office of Public Counsel and that the Staff had two alternatives, and this goes back to the original case where off-system sales were imputed. Staff had a choice of either placing the off-system sales 100 percent to the customer in the PGA clause or imputing some level in the rate case.
Q. Okay. And ultimately Staff agreed to an imputation in base rates?
A. Well, I think the issue may have actually been litigated, and the Staff had both of those choices, and the Commission decided that imputation was the correct method.
Q. Okay. So the Commission decided it based on recommendation that may have been made by Public Counsel, but not a recommendation that had been made by Laclede?
A. That's my recollection, yes.
Q. Okay. So to the extent that there's any

concern about the fact that Laclede retains this revenue between rate cases and it's difficult to go ahead and determine precisely what amount has been reflected in base rates, that's not because of a regulatory policy or a regulatory practice that Laclede proposed, is it?
A. That's not my recollection.
Q. You indicated that you had your first concerns about increasing demand charges in Laclede's 2005 rate case; is that correct?
A. That's correct.
Q. Do you ever recall advising the company that no more off-system sales revenues should be imputed in base rates because we shouldn't be paying demand charges to get first of the month pricing?
A. I do not recall that conversation.
Q. Okay. And the upshot of it was that some amount was imputed in base rates, correct?
A. That's correct.
Q. Okay. Do you recall what Staff proposed be included in base rates in that case?
A. Are you referring to the 2002 case?
Q. No. The 2005 case.
A. No, I do not.
Q. Okay. But whatever that imputation was, Staff was amenable to having customers get the benefit of

it in that rate case and thereafter; is that correct?
A. I think the Staff was amenable to having an imputation in that case. That was the Staff's position.
Q. Are you aware that Mr. Godat has previously indicated that there was 6 to $7 million worth of off-system sales imputed?
A. I think I've heard him testify to that effect.
Q. Do you have any basis for disagreeing with that number?
A. Well, that number was developed in a settlement. I'm not exactly certain that it was ever stated or agreed to, and certainly there was some credit that was given to the cost of service as part of that overall settlement. However, I don't know that there's a specific number related to off-system sales and capacity release for that case.
Q. You were also asked a number of questions about your cost study, and just to be clear, you have not asked other LDCs to provide a cost study showing that their payment of daily prices has been more favorable than paying first of the month to avoid those daily prices would have been; is that correct?
A. I have asked verbally the LDCs in Missouri whether those studies have been prepared, but I don't

recall any formal discovery or formal request asking for those studies.

Q. And once again, you don't recall ever receiving any such studies?

A. The only study the Staff has received was from a non-jurisdictional utility.

Q. Okay. None from Missouri?

A. None from Missouri LDCs.

Q. Okay. And in that regard, is there any price, intra-month price for whatever period of time that would be high enough where you would ultimately want an LDC to provide that kind of study to verify that exposing yourself to daily price spikes as opposed to FOM pricing is the way to go?

A. I think it's an appropriate question for all LDCs.

Q. Okay. And, you know, we've talked a lot about the '96 study and we've talked about the updated one, but would it be fair to say that as far as Missouri LDCs are concerned, Laclede Gas Company is the only company that's ever done any kind of analysis that compares first of the month pricing with the costs of exposing yourself to the daily price spikes, that you're aware of?

A. It's the only study the Staff has received.

Q. Okay. Do other LDCs get first of the month quotes in their bids or in response to their RFPs?

A. Yes, I believe they do.

Q. I -- we had some discussion, too, about swing supplies and whether or not there was any -- well, what the magnitude of the increase was, and I think you said 70 percent; is that correct?

A. That's correct.

Q. Okay. And you were stating that on a volumetric basis, right?

A. That was on a per unit basis.

Q. Per unit basis. And just so the record is clear, the total dollar amount that Laclede spent on swing supplies compared to the prior ACA period increased by approximately $600,000; is that correct?

A. That's correct.

Q. And given your view that Laclede shouldn't be spending any demand charges on first of the month pricing for its swing supplies, if Laclede kept that increase down by putting fewer of its supplies, swing supplies under first of the month pricing, you wouldn't say that's a bad thing, would you?

A. I would want to look at the facts and circumstances surrounding that decision.

Q. Okay. Let me see if I understand that.

You're saying that, from your perspective, you would prefer that Laclede not have any swing supplies under first of the month pricing and paying demand charges to do it, but you'd have to look at whether reducing the amount was okay?

A. I would say, all other things being equal, that that decision probably would make sense. Again, you would want to take a look at how Laclede managed those daily supplies.

Q. Well, in any event, however it was accomplished, whether it was putting fewer volumes under FOM pricing, fewer swing volumes, or it was keeping the price lower, the fact of the matter is it increased from 3.6 million to 4.2 million; is that correct?

A. That's correct.

Q. Okay. And that's what percentage increase?

A. A little less than 20 percent.

MR. PENDERGAST: Thank you. I have no further questions.

JUDGE DIPPELL: Thank you. Is there redirect?

REDIRECT EXAMINATION BY MR. REED:

Q. Mr. Sommerer, I want to take you back to Exhibit 14 that Mr. Pendergast gave you just a few minutes ago. You've calculated the difference between the total on page 2 and then on page 1 as 2.4 million. Mr. Pendergast had asked you whether that number was larger than Staff's proposed disallowance. Is that in any way significant to somehow mitigate the proposed disallowance that Staff has of $2 million?

A. No, I don't think it's relevant to any mitigation. The number of 3.9 million includes the off-system sales related to FOM versus daily, and that number really is reflective of simply that, the first of the month versus daily for those off-system sales. It doesn't even reflect Laclede's profits during that time period. There's no way of separating it out between base load, swing. And, in fact, whether the customer benefited by that particular amount is highly questionable.

Q. Tell us why you took these off-system sales volumes out of your proposed disallowance.

A. The off-system sales volumes as Laclede has them recognized in its studies reflect first of the month versus daily pricing. It might be somewhat indicative of the profits that Laclede made. They may have made less than that. They may have made more in some periods. However, it's not related to Laclede's on-system customers in terms of procuring the supply and finding out what the difference between first of the month and daily pricing is for the on-system customers.

Q. You have a first of the month price and the daily price rises above that. That would create an opportunity for an off-system sale, correct?

A. Correct.

Q. So if you have -- if you have your swing supply on FOM pricing, the daily price rises, and let's suppose that an -- that a purchase was made for a volume of gas by Laclede specifically for an off-system sale. All right?

A. Okay.

Q. The customers would not see that gas, correct?

A. If the purchase or the nomination was made for an on -- no, an off-system sale, then the nomination would be associated with an off-system transaction. The gas would not be allocated to the on-system customers.

Q. But in terms of the studies that Laclede has prepared, they do consider this off-system purchase, this volume of gas purchased specifically for an off-system sale and calculated a savings; is that correct?

A. That's correct.

Q. Who pays the fixed demand charges for the ability to make that off-system -- that purchase specifically for an off-system sale?

A. Ultimately those charges are passed through the purchased gas adjustment clause and charged to the customer.

Q. What generally is the purpose of swing gas?

A. Swing gas is to meet the requirements of a company's on-system customers in times of fluctuating demand. It usually is the last supply that's purchased. It's brought on in conjunction with base load, which is already flowing, and it often acts in conjunction with storage to meet peaking demand.

Q. And in Missouri, how do other LDCs generally price the swing gas, daily or FOM?

A. Other LDCs in Missouri generally price their swing supply using a daily pricing mechanism.

Q. Do the other LDCs have the level of off-system sales that Laclede has?

A. No.

Q. Do you know what percentage of Laclede's swing gas went to off-system sales?

A. For what time period?

Q. For the '03-'04 period at issue in this case.

A. Staff has calculated swing off-system purchase volumes as a percentage of total off-system purchase volumes at 23 percent.

Q. All right. I want to hand you an exhibit that I think should be marked as No. 15.

(EXHIBIT NO. 15 WAS MARKED FOR IDENTIFICATION.)

JUDGE DIPPELL: Do any of these numbers need to remain confidential?

MR. PENDERGAST: Your Honor, I don't know that they need to remain confidential, but I may object. Is this in the record already?

MR. REED: This is not in the record.

MR. PENDERGAST: Obviously this is -- this is redirect, and what's happening here is an entirely new schedule that we haven't had an opportunity to review is being presented that we won't have an opportunity to go ahead and cross-examine on. And I think it's inappropriate on redirect to be introducing this kind of new evidence, and obviously prejudicial to the company as well.

MR. REED: Well, it's -- shall I respond, Judge?

JUDGE DIPPELL: Go ahead, Mr. Reed.

MR. REED: It's very technical, as I had indicated earlier, and in order for the Commission to understand, we've set forth a lot of the numbers that underlie Mr. Sommerer's testimony, which I plan to take him through. For instance, I've just elicited the number, the 23 percent as the percentage of swing gas that went to off-system sales. That sort of a question obviously is in response to many of the questions on cross-exam. This sets forth and explains how Mr. Sommerer came to the 23 percent.

MR. PENDERGAST: Well, you know, perhaps it's too late to object to that as well, but throughout the day Mr. Sommerer had indicated that it was a highly problematical exercise to try and determine what amount of off-system sales were associated with swing supplies and what weren't, and now all of a sudden on redirect we're getting, you know, everything we were afraid to ask for and then some.

And it just seems to me that it's highly inappropriate to be entering these new numbers or trying to enter these new numbers into evidence at this late date.

JUDGE DIPPELL: I'm trying to grasp exactly what these numbers are. Mr. Reed?

MR. REED: Yes.

JUDGE DIPPELL: Why is this particular exhibit just being presented now? What prohibited it from being part of Staff's direct?

MR. REED: Well, I don't know if this was prepared at that time, frankly. In anticipation of some of the questions that may come up on cross-examination of Mr. Sommerer, this is some of the information that I thought would be important to explain the case, and so the Staff had prepared this exhibit for my benefit primarily.

JUDGE DIPPELL: Okay. I'm -- I'm going to go ahead and allow you to -- you haven't actually offered this exhibit yet, right?

MR. REED: I have not. You know, I don't know at what point I would. Primarily this is the basis for some additional questions that I want to take Mr. Sommerer through at this point in time in order to explain what -- part of what underlies Staff's proposed disallowance. I think this would make it more clear to the Commission as I work through these questions.

MR. PENDERGAST: Well, your Honor, I certainly always want to make things more clear for the Commission, but at the same time, I think we do have the right to have this kind of information presented in the normal course of the procedural schedule.

As I said, up to this point, the answer we've gotten is it's extremely problematic to try and determine what off-system sales were associated with what. Haven't gotten any answers to those questions other than what Mr. Sommerer was willing to say in response to a work paper that Staff had gone ahead and provided.

And now we're getting very detailed information that purports to go ahead and provide answers to all those questions, and we're getting them without the benefit of us being allowed to review it, think about it, and ask some intelligent cross-examination questions, assuming those questions are needed. And I just think that, you know, when you're talking about redirect, when nobody else has a chance to weigh in, it's just not an appropriate thing to do.

And as far as giving a clear view to the Commission, without the benefit of that, I think it gives a one-sided view of what one party wants to go ahead and say without the opportunity for anybody else to test it.

JUDGE DIPPELL: Mr. Reed, I'm going to go ahead and allow you to ask your questions. I'm going to -- I may also allow Laclede to do some further cross based on this exhibit.

MR. REED: Yes, Judge. Thank you.

JUDGE DIPPELL: Go ahead.

BY MR. REED:

Q. I wanted to go back to my question, Mr. Sommerer, about that portion of off-system sales that came from the swing supplies, and you had responded 23 percent, correct?

A. That's correct.

Q. Do you know how much Laclede earned in profit in off-system sales for the '03-'04 period?

A. For the '03-'04 period, it appears that Laclede's net margin related to off-system sales was $8,301,370.

Q. I want to walk you through a calculation, Mr. Sommerer. The 23 percent number that you had mentioned a few minutes ago, that portion of swing supplies used for off-system sales, 23 percent of 8.3 million would be 1.9 million, correct? I have a calculator if you would like to borrow it.

A. Yeah, that would be -- what percentage are you looking for?

Q. Looking for the 23 percent of 8.3 million.

A. That looks to be 1,917,616.

Q. All right. Mr. Sommerer, the point is that of the total off-system sales profits Laclede generated, the 8.3 million, 23 percent or 1.9 million came from the swing contracts, correct? Did you follow my question?

A. Yes, I did. I'm not sure if you can make that total extension because 23 percent of the volumes were related to swing volumes.

Q. All right.

A. Whether or not 23 percent of the revenues were related to the swing volumes, we would have to know what net margins were associated with that particular percentage.

Q. Well, I want you to follow with me. If we take the number 23 percent is that part of off-system sales generated from swing contracts, that would leave 77 percent as generated from the base load and the combo contracts, correct?

A. I think that's generally correct, yes.

Q. In other words, Laclede can make off-system sales and make profits from the base load and the combo contracts?

MR. PENDERGAST: I'm going to object. He's leading the witness.

JUDGE DIPPELL: Sustained.

BY MR. REED:

Q. Do you follow my question regarding that percentage of off-system sales margins being generated from base load and combo contracts?

A. Yes.

Q. All right. So if 23 of 8.3 million is 1.9 million, that leaves how much having been generated from the base load and combo off-system sales volumes?

A. Approximately $6,392,055.

Q. All right. Now, there's been discussion about the revenue imputed from the 2002 rate case from off-system sales and capacity release that was in effect for the '03-'04 ACA. I believe that number was 3.8 million, correct?

A. Yes.

Q. Do you know how much of the 3.8 million was meant to come from off-system sales?

A. The number was never split between capacity release and off-system sales. I think you can make some speculation about general percentages and how they make up the 3.8 million, but there's not a specific number.

Q. Were you a part of -- there was an agreed-upon number of 3.8 million, correct?

A. Correct.

Q. Were you a part of somehow arranging or trying to determine how much should come from capacity release and how much from off-system sales?

A. Yes.

Q. All right. What was your proposal for what should come from off-system sales?

A. My recollection is that the total Staff number in that case started out at approximately 4.3 million, and the Staff had looked at capacity release and may have used a more current number, a relatively lower number for capacity release of about 1.7 million.

Q. So at least according to -- at least

according to those numbers, more than half of the 3.8 million would appear to come from off-system sales?

A. That's correct.

Q. Would you say 2 to 2.5 million?

A. I would say that would be the range, yes.

Q. All right. Now, if we look back at the 6.4 million in off-system sales net margins that was produced from the base load and combo supplies, if Laclede used only those two sources of supply to make off-system sales, they would certainly reach the 2 to 2 and a half million dollar imputation with just those two sources?

MR. PENDERGAST: I'm going to object. Leading.

JUDGE DIPPELL: Sustained.

BY MR. REED:

Q. Would Laclede be able to reach its revenue imputation through only the base load and combo supplies?

A. Making the assumption that the margins for swing, combo and base load were relatively equally distributed, and realizing that approximately two-thirds of the off-system sales were related to base load, combo and swing, I would certainly say that the $6 million would more than offset.

JUDGE DIPPELL: Your Honor, I'm going to object to that. Move to strike that answer because he's saying assuming that the revenues were evenly distributed. He's indicated he doesn't know how the revenues would have been distributed, and I think under those circumstances, providing that kind of -- there's no foundation for that sort of guesstimate.

MR. REED: I think that's an issue for the Commission's determination in terms of what credibility they assign to the answer. There's nothing objectionable about the answer.

MR. PENDERGAST: Aside from the fact that it has no evidentiary foundation, it's based on an assumption that he's indicated he's got no way of determining?

JUDGE DIPPELL: I'm going to overrule the objection.

BY MR. REED:

Q. Mr. Sommerer, the point I'm trying to get at is whether, through the base load and combo off-system sales, Laclede could reach that level of revenue that was imputed in the rate case, 2002?

A. I don't think the spreadsheet analysis that you're referring to gives a per unit breakdown that you would need to answer that question definitively. This worksheet takes 23 percent of the total revenues based upon a volume relationship between swing, off-system volumes and total off-system volumes, and that percentage, if applied to the 8.3 million, drives the number that we've discussed. However, I do not see a breakdown for the net margin related to swing supply.

Q. I think -- so I understand, Mr. Sommerer, the 23 percent of the swing volumes that were used for off-system sales, are you saying that we don't know how much net margin that actually generated, correct?

A. That's correct.

Q. All right. Mr. Sommerer, would you -- let's see. The swing supply demand charges for the '03-'04 period were 4.2 million; is that right?

A. That's correct.

Q. And what volume of the total swing supply that was taken by Laclede went to off-system sales?

A. Are you asking what percentage of the off-system sales, what percentage of the total swing supply volume was off-system sale related?

A. Yes.

Q. That number appears to be approximately 52 percent.

Q. I'm sorry. I didn't understand your response. 52 percent of what?

A. The swing contract off-system purchase volumes for '03-'04 were 4,158,951. The total swing contract volumes for both on-system and off-system were 8,037,250.

Q. And you said 52 percent. What does that relate to?

A. The swing volumes that were used for off-system purchased volumes were approximately half of the total swing volumes purchased.

Q. All right. And how much did customers pay for -- in order to obtain all of those swing volumes?

A. The demand charges associated with swing supply were $4,200,000.

Q. And what percentage of that gas, the swing supply gas did the customers use?

A. Approximately 50 percent.

Q. If you assume that 23 percent of Laclede's off-system sales profits were generated from this swing supply --

MR. PENDERGAST: I'm going to object, your Honor. There' absolutely no foundation in the record. Mr. Sommerer has testified that he can't determine what that is because he doesn't know what the net margins are associated with any particular volume. And I think asking him to assume and give an answer when there's no foundation that there's any basis for the assumption is objectionable.

MR. REED: Well, Mr. Sommerer had indicated he was uncomfortable with my characterization of the total dollar amount generated from the 23 percent swing volumes, and so what I'm asking him to do as an expert is to assume this hypothetical that I'm giving him.

So the assumption provides the foundation that Mr. Sommerer was unsure of previously. If my assumption, my hypothetical is not accepted by the finder of fact, that can be factored into the credibility determination and the persuasiveness of the testimony.

MR. PENDERGAST: Your Honor, he's supposed to go ahead and make a determination on whether there's any basis for the hypothetical. Mr. Sommerer's going to go ahead and be done testifying here in a few minutes, and he can't go ahead and verify it.

JUDGE DIPPELL: I'm going to allow him to ask a hypothetical. The objection's overruled.

BY MR. REED:

Q. I want to try to rephrase, Mr. Sommerer. The hypothetical is, if 23 percent of the 8.3 million came from sale of swing supply volumes, right, that's the basis for my hypothetical, which you argued with me about that earlier?

A. Correct.

Q. All right. If we assume that, then the assumption would follow that 77 percent of those profits, the 8.3 million, came from sales of base load and combo supplies.

MR. PENDERGAST: Leading.

MR. REED: This is part of the hypothetical, the assumption, Judge. So I need to finish it before I ask the question.

JUDGE DIPPELL: You may finish it. You're just asking him if he understands your hypothetical?

MR. REED: Yes. I'm putting the hypothetical to him to make sure he understands that.

BY MR. REED:

Q. Did you understand the second aspect of that?

A. That if 23.1 percent of the volumes, off-system sales volumes were related to swing supply, is it also true that --

Q. I'm not asking you if it's true, Mr. Sommerer. I'm asking you to assume that 77 percent of the profits, the $8.3 million profit came from the combo and the race load supply.

A. I think that has the same issue that we discussed earlier, which is, it's one thing to say 23 percent of the volumes from off-system sales came from swing supply, total off-system volumes, 23 percent came from spring supply. It's another thing to look at the dollars and ask, even hypothetically, what level of net margin the 8,301,307 is related to swing supply. And that number may be available, but I don't see it as part of this spreadsheet.

Q. All right. If my witness is going to fight me on the hypothetical, I better not get into it.

Mr. Sommerer, can you tell me, if Laclede had used daily pricing for swing supply and foregone any off-system sales from its swing supply, how would you then compute what customers had saved?

A. Let me make sure I understand your hypothetical. If Laclede would have priced their swing supply using a daily mechanism?

Q. Yes.

A. How much do I believe the customers would have saved in that situation?

Q. Yes.

A. I think that analysis is in the schedule that we've discussed today regarding Staff's disallowance.

Q. Be specific, Mr. Sommerer.

A. Well, Laclede would have incurred $524,271 worth of demand charges.

Q. If there had been no off-system sales from the swing supply volumes, how much would that have reduced

Laclede's profits or net margins from off-system sales? Can you say?

A. I think we know that 23 percent of their volumes for that period, the '03-'04 period, would have not been available for an off-system sale for swing supply. And then to go further than that, you could make an assumption that that was the percentage of the total that would have been reduced from Laclede's profits that year of the total of 8,301,370. You could make that assumption. However, that's purely on a volumetric -- volumetric split of what's base load, combination and swing for the entire net margin.

Q. If you -- if in your opinion Laclede should have gone to daily pricing for the swing supply, how do you know whether they're going to meet the revenue imputation or not, the sum portion of $3.8 million?

A. Well, I think it's a reasonable assumption to make that the majority of the profits are related to base load and combination, and it would far have exceeded the imputation for that year.

Q. So you believe they still would have made their revenue imputation and gone beyond that even without pricing the swing supply at FOM and paying demand charges?

A. Yes.

Q. You were asked today about a task force report that identified that paying 2 to 5 percent of total gas costs for demand charges was appropriate. Do you remember that?

A. Yes.

Q. I think that there was a calculation done regarding the 20 million in demand charges being about 4 percent of Laclede's total gas costs. Is that it?

A. Yes.

Q. Have you calculated the swing demand charges as a percentage of the total swing costs?

A. I can do that now.

Q. Would you, please.

A. It's approximately 20 percent.

Q. Is that in line with the task force recommendation?

A. Not with the 2 to 5 percent, no.

Q. There was testimony about the increase in demand charges, and in particular the increase in swing supply demand charges and discussion about whether that was 30 or 67 percent. Do you remember that?

A. Yes.

Q. Were the volumes different between '02 and -- '02-'03 and the '03-'04 period for swing supply volumes?

A. Yes.

Q. How were they different?

A. The volumes for swing supply in '02-'03 were greater in all months except for April. They were greater in '02-'03 rather than '03-'04.

Q. The volumes were greater the year before, correct?

A. That's correct.

Q. Do you know how much greater?

A. Well, on a monthly basis, in '02-'03, for November we had 97,500 capacity. These levels may be highly confidential.

Q. Have you calculated the totals between the two years, Mr. Sommerer? I don't intend for you to do that. It's a lot of numbers right now. But I'm asking you, have you done that?

A. I may have at some point, and I may have it here, but I can't put my hands on it.

Q. In terms of the total price for those swing demand charges between the '03-'04 period and the prior year, what was the -- the difference I think discussed was there was a $600,000 increase from the '02-'03 year to the '03-'04 year, correct?

A. That's correct.

Q. But there were smaller volumes in '03-'04 year, correct?

A. That's correct.

Q. And Staff had calculated the percentage increase per unit, I believe?

A. That's correct.

Q. And was that the 67.5 percent that you had talked about?

A. Yes.

Q. Does Staff consider FOM, first of the month pricing, do they consider that hedging?

A. No.

Q. Why not?

A. The first of the month price is unknown at the time that it's negotiated. It's basically a formula. You don't know what the number is until it's been published in an industry newsletter. The price is not only unknown, but there is really no effective limit on how high it can go, and, in fact, it is the predominant price that LDCs attempt to hedge against with their gas hedging policies.

Q. Mr. Pendergast had asked you about a joint report on natural gas market conditions, PGA rates, hedging efforts in Missouri that was found with Case No. GW-2006-0110, and I wanted to direct your attention to page 9 of that joint report. Do you have that in front of you?

A. Yes.
Q. Could you look to the bottom of page 9?
A. I'm there.
Q. I'd like you to read that last sentence on page 9 that goes over into page 10.
A. Starting on page 9, the Staff and Public Counsel emphasize here their position that first of the month, FOM, index pricing is not a hedge, although other parties have contended it is since it fixes the cost of gas for a fixed period of time.
Q. Mr. Sommerer, the next paragraph talks about using fixed price contracts, including a risk of being above the market. What does that mean?
A. Well, once a fixed price contract is signed, the commodity price could be lower or higher than the ultimate index price that's seen in the market.
Q. Is there volatility in the FOM market?
A. Yes.
Q. How would you compare it with the volatility in the daily pricing market?
A. Both markets are extremely volatile. The daily market has exhibited higher absolute prices than the first of the month market. It has to be remembered, however, that the first of the month market once posted is effective for 30 days, where the experience with the daily

market and price spikes has shown that the price spikes usually are short lived.

Q. How are FOM prices set?

A. FOM prices are set by an industry survey of actual deals that are done during something known as bid week. Bid week is approximately the last four to five days preceding the month that the gas is scheduled to flow. The deals are sampled by McGraw Hill or another industry newsletter, and the sample eventually becomes the first of the month index.

Q. And if during bid week the prices are rising or spiking, how does that affect the FOM price that follows with the following month?

A. The FOM index would incorporate those price spikes.

Q. Let me ask you about a scenario wherein let's assume the FOM price is set relatively high because the prices might spike during midweek, but then in the following month the daily gas prices begin to fall. Do you follow me?

A. Yes.

Q. Now, Laclede's -- Laclede's base load, combo and swing all set at the FOM price, correct?

A. That's generally correct, yes.

Q. If the FOM price is set up here and the daily price is below, will Laclede still have to buy the gas at the FOM price?

A. If the gas has been scheduled, Laclede will have to buy at the FOM price.

Q. What about is there -- is there a situation, let's take the swing supply, and the FOM price is set but the daily price falls lower. You might assume it's warmer, the demand is down. Do you follow me?

A. Yes.

Q. Will Laclede still have to pay demand charges on the swing volumes that it had contracted for?

A. Yes.

Q. How are those calculated?

A. Those demand charges are fixed charges that are based upon the maximum daily quantity. It's basically the capacity of the contracts for swing supply. It usually is a unit rate that is multiplied times the maximum daily quantity times the days in the month.

Q. Give me an example, Mr. Sommerer.

A. If the swing demand charge was 50 cents per MMBtu, and it was for a package of gas of 10,000.

Q. 10,000 per what?

A. Per day. That's the maximum daily quantity. You would take the 10,000 times 30 days in a month times 50 cents and you would get $150,000 for the demand charge.

Q. And Laclede would have to pay that amount whether any swing gas were taken at all?

A. That's correct.

Q. You had indicated in your testimony in response to questions that Laclede studies should consider current demand charges instead of historical. How would that change the analysis?

A. I think you would end up with having cost even with Laclede's combined analysis rather than benefits, because as we've seen, the producer demand charges for the '03-'04 period were approximately $20 million, and that level experienced on an annual basis would outweigh the savings.

Q. You had indicated in testimony that there was a disallowance produced for the '04-'05 period based upon the same issue as we have before us in this case. Do you know what the demand charges are for that year?

MR. PENDERGAST: I'm going to object. That's in a subsequent ACA proceeding. If we want to start talking about it, I think that's fine, but we'd like the opportunity to if we're going to start litigating that now.

JUDGE DIPPELL: I'm sorry. Mr. Reed, what was your question?

MR. REED: I think I'll withdraw the question and ask something else.
JUDGE DIPPELL: Okay.
BY MR. REED:
Q. Were you present when we took the deposition of Mr. George Godat of Laclede Gas Company?
A. Yes.
Q. Do you recall when I asked him the level of producer demand charges, whether they were going up or down?
A. Yes.
Q. Mr. Godat said they're not going down?
A. Correct.
Q. If we look at producer demand charges currently, they appear to be around 20 million at least, correct?
A. That was for the '03-'04 period, yes.
Q. Have you taken a look at the 2005 study that Laclede produced and assumed that the producer demand charges were 20 million a year as they appear to be now?
A. I don't believe I've made that comparison.
Q. The 1996 study that's been discussed included a footnote that pricing daily gas may -- you may have to reschedule or redispatch I think is what you call it; is that right?

A. That's correct.
Q. Has Laclede made any attempt in any study to redispatch its purchasing based on daily price?
A. Not to my knowledge.
Q. Why would this be important in Staff's belief to follow up on, to study?
A. Well, I think if you use Laclede's actual purchases as they've done in their cost/benefit analysis, you've done that under a first of the month pricing regime, which means Laclede would be indifferent about daily price spikes. You could have potentially more volumes that you are purchasing in a period of price spikes than you would under a daily cost regime.
Q. When was the 1996 study provided to Staff?
A. During the 2005 rate case.
Q. Do you know why it wasn't -- you didn't have it before then why? Do you know?
A. I do not know.
Q. Had you asked for studies that would have supported their ACA cases in the past?
A. I would have hoped that Staff's general data request process, which is well over 100 data requests now, and asked for all material studies and reports and documentation, would have yielded this study.
Q. In terms of redispatching or rescheduling

the days upon which you buy gas, and considering the use of storage the meet daily price spikes, would withdrawing gas from storage for a few days deplete Laclede's storage resources?

A. You would always have to recognize the constraints, but to the extent that you did not violate any of the tariff constraints or the design constraints, then that certainly would be an option to look at.

Q. Do any of Laclede's studies consider limited withdrawal from storage during price spikes and how that might affect their gas supply portfolio?

A. No.

Q. Could Laclede buy gas when the daily price was low in order to help manage storage?

A. Yes.

Q. Did Staff -- were you aware of how much demand charges Laclede would pay for the '03-'04 ACA before that winter season?

A. No.

Q. But that would be -- would that be information that Laclede had available to them?

A. Yes.

Q. In other words, they would know what they're going to pay for demand charges?

A. They would have a strong indication from their request for proposal.

Q. The imputation to base -- the imputation in revenue for the 2002 rate case was 3.8 million for off-system sales and capacity release. I think that Mr. Pendergast had discussed the 2005 rate case where those numbers were up to 6 to 7 million. Do you remember him asking you about that?

A. Yes.

Q. What's driving the level of these off-system sales, Mr. Sommerer?

A. Laclede's actual experience in the off-system sales markets. I'm sure that if the imputation was that much higher, that's an indication that the averages and the history the Staff was looking at showed an increasing trend or a higher level than the 2002 rate case.

Q. Could I have just a moment?

Have you discussed with Laclede how high these demand charges can go or should go before they take another course of action?

A. I think we've expressed that, given these types of increases, we believe that Laclede should be evaluating and reevaluating its philosophy.

Q. Have you received any indication from Laclede about, in their opinion, how high should the demand charges go for swing supply, for instance, before they change course and move to daily pricing?

A. Well, I think that this was discussed in perhaps one or two meetings with Laclede, and I think I heard it brought up once again in the deposition of Mr. Godat. I do not know that they had a level that would be a total cap or limit to the amount of demand charges before they change their strategy.

Q. In your opinion, Mr. Sommerer, if the demand charges came back down, began to fall, could it be cost effective to use the FOM pricing for the swing gas?

A. Certainly.

MR. REED: That's all.

JUDGE DIPPELL: Thank you. Mr. Pendergast, would you like to ask any questions about Exhibit No. 15 of Mr. Sommerer?

MR. PENDERGAST: Thank you.

FURTHER RECROSS-EXAMINATION BY MR. PENDERGAST:

Q. Mr. Sommerer, did you prepare this document?

A. This document was prepared by one of my staff.

Q. Okay. Did you review it?

A. Yes.

Q. Okay. And just to be very clear here, there's nothing on this document that would indicate what the actual net margins were associated with various kinds of volumes; is that correct?

A. That's correct.

Q. Okay. So it is not possible, given the absence of that information, to determine anything definitive with regard to where the net margins in off-system sales came from at least as far as any specific amounts?

A. That's correct.

Q. You were asked a question about whether or not Laclede could have still potentially made the imputed level I guess in 2002 utilizing contracts other than its swing supplies. Do you recall that?

A. Yes.

Q. If Laclede had not used its swing supplies, would levels of off-system sales have been reduced?

A. Yes.

Q. And for purposes of its next rate case in 2005, would you have had lower historical numbers to average together to come up with an imputation?

A. Absent any rearranging of Laclede's combination supplies, I'd say that's accurate.

Q. And as far as percentages, you had indicated that Laclede had paid 20 percent in demand

charges on its swing supplies?
A. Could you give me some additional information on that?
Q. I think you were asked what demand charges were as a percentage of Laclede's swing supplies.
A. That's correct.
Q. Do you know if that percentage has changed over time?
A. I do not.
Q. Okay. And whatever that percentage was, it would have been a percentage that was embedded in the 2 to 5; is that correct?
A. That's correct.
Q. Ands was that 20 percent based on the total gas under the contract or the total gas available?
A. It was based upon the swing demand charges as experienced by Laclede for the '03-'04 winter versus the total producer demand charges for that winter.
Q. So those were actual volumes used or were they volumes available to be used?
A. Volumes available to be used.
Q. And just to be clear, we have this schedule that was prepared that doesn't show the net margins associated with any particular volumes under any particular contracts. But when I asked you with respect

to Exhibit 14, those were the specific first of the month savings associated with off-system sales made with swing volumes; is that correct?

A. Using the term savings as a comparison between first of the month and daily, I would agree with that.

MR. PENDERGAST: That's all I have. Thank you, your Honor.

JUDGE DIPPELL: Thank you. Is there any further redirect?

MR. REED: No.

JUDGE DIPPELL: All right, then. I believe that concludes your testimony, then, Mr. Sommerer, and you may be excused.

I do have -- just kind of a recap here. I have marked Exhibits 12, 13, 14 and 15, and none of those have been offered.

MR. PENDERGAST: Your Honor, I would like to go ahead and offer 11, which is Mr. Sommerer's deposition that Mr. Reed has been kind enough to --

JUDGE DIPPELL: I think 11 was -- 11's already been admitted.

MR. PENDERGAST: Oh, it has?

JUDGE DIPPELL: Yes. It's 12 and 13, which were the two Stipulation & Agreements.

MR. PENDERGAST: Yes. I would like to offer those, as well as Exhibit 14.

JUDGE DIPPELL: Would there be any objection to Exhibit No. 12?

(No response.)

JUDGE DIPPELL: Seeing none, I'll receive that in evidence.

(EXHIBIT NO. 12 WAS RECEIVED INTO EVIDENCE.)

JUDGE DIPPELL: Would there be any objection to Exhibit No. 13?

MR. REED: What was 13 again? I'm sorry.

JUDGE DIPPELL: 13 was the Stipulation & Agreement in GR-2005-0284.

MR. REED: No, no objection.

JUDGE DIPPELL: And then 14HC is -- I'm not exactly sure. What title do you give that, Mr. Pendergast? It was titled without swing volumes and all volumes, but --

MR. PENDERGAST: Yes. I would say impact of first of the month versus daily pricing with and without swing volumes associated with off-system sales.

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

MR. REED: No.

JUDGE DIPPELL: Then I will receive that into evidence.

(EXHIBIT NOS. 13 AND 14HC WERE RECEIVED INTO EVIDENCE.)

JUDGE DIPPELL: And were you intending to offer Exhibit 15 at this time, Mr. Reed?

MR. REED: I believe that I have -- well, Exhibit 10 is in, I believe, and 15 as well.

JUDGE DIPPELL: You are offering?

MR. REED: I am moving for admission at this time.

JUDGE DIPPELL: Would there be any objection to Exhibit No. 15?

MR. PENDERGAST: Your Honor, for the reasons I previously stated, you can consider that a continuing objection.

JUDGE DIPPELL: Okay. Well, I guess since I overruled your previous objection, I'll overrule for the same reasons and receive that into evidence.

(EXHIBIT NO. 15 WAS RECEIVED INTO EVIDENCE.)

JUDGE DIPPELL: All right. Let's go ahead and take a short break and then come back with Mr. Godat.

MR. REED: How long, Judge?

JUDGE DIPPELL: I was just going to take

ten minutes. All right. Come back at 20 'til.

(A BREAK WAS TAKEN.)

MR. ZUCKER: We call George Godat to the stand.

(Witness sworn.)

JUDGE DIPPELL: Thank you. Go ahead, Mr. Zucker.

GEORGE GODAT testified as follows:

DIRECT EXAMINATION BY MR. ZUCKER:

Q. Good afternoon.

A. Hello, Mr. Zucker.

Q. Can you state your full name for the record.

A. My name is George Godat.

Q. And who do you work for?

A. I work for Laclede Gas Company.

Q. And what is your position with that company?

A. Director of gas supply.

Q. And are you the same George Godat who filed direct testimony in this case on September 8th, 2006?

A. Yes, I am.

Q. And rebuttal testimony in this case on October 19th, 2006?

A. Yes, I am.

Q. And surrebuttal testimony in this case on November 30th, 2006?

A. Yes, I am.

Q. And those testimonies are -- have been marked in this case as Exhibits 4, 5 and 6; is that correct?

A. Yes, sir.

Q. And do you have any changes to any of those testimonies?

A. I do want to note one change to my direct. It's something that we've already pointed out in surrebuttal testimony. It is on page 8, where we had done a quantification of the benefits of having first of the month versus daily for the five-year period '98 to 2003. I had listed that as $20 million, and in my subsequent surrebuttal testimony, I had corrected that to 10.96. And that's the only change to my testimony.

Q. Okay. Given that change, if you were asked all the other questions in these three testimonies, would your answers be the same?

A. Yes, sir.

MR. ZUCKER: I move for admission of Exhibits 4, 5 and 6 into evidence.

JUDGE DIPPELL: Would there be any objection to Exhibit No. 4, 5 or 6?

(No response.)

JUDGE DIPPELL: Seeing none, I will receive those into evidence.

(EXHIBIT NOS. 4, 5 AND 6 WERE RECEIVED INTO EVIDENCE.)

MR. ZUCKER: Thank you, your Honor.

JUDGE DIPPELL: Thank you. Since Public Counsel is not present, iS there cross-examination by Staff?

MR. REED: Yes, thank you.

CROSS-EXAMINATION BY MR. REED:

Q. Mr. Godat, good afternoon.

A. Good afternoon.

Q. You're the director of gas supply for Laclede since October of 2003; is that right?

A. That's correct.

Q. And you're responsible for all the analysis that takes place for the gas supply department?

A. That's correct.

Q. You make the majority of Laclede's off-system sales as well, and you do that yourself?

A. Yes, sir.

Q. In other words, you find the customer, arrange the sale and make the sale?

A. That's correct.

Q. You're responsible for decisions Laclede makes for its gas supply contracts each year?

A. I provide -- I work with Mr. Matthews. He's the vice president of gas supply. And I provide analysis for Mr. Matthews, and he and I work together to come up with the portfolios that we present in these cases.

Q. Now, you are responsible, then, for planning Laclede's gas supply portfolio?

A. Like I said, I work with Mr. Matthews for coming up with the volumes that we put in our contract, but once those contracts are in place, I'm responsible for managing those on a monthly and daily basis.

Q. The '03-'04 winter was the first year that you undertook the responsibility for gas supply and transportation contracts?

A. Mr. Skoviak used to be in the position of director of gas supply, and that's who I reported to. I was involved in the process, but that was the first time that he wasn't in a position of director of gas supply, and I was -- I was the primary person responsible for the analysis, that's correct.

Q. You were involved in the request -- the RFPs, the request for proposals?

A. Yes, I was.

Q. I want to just go through the types of gas supply Laclede uses, the primary kinds. There's base load supply. That's gas you take every day, correct?

A. Yes.

Q. And there's swing supply that we've talked about here that allows you to order gas on quick notice, and it can be anywhere from zero up to your MDQ, correct?

A. That is correct. We have the opportunity to buy that gas, but not the obligation, that's correct.

Q. The combination contracts are a little bit different. Can I get into these just a little bit? The combination contracts, they have some aspects of base load and swing? In other words, they have an MDQ, correct?

A. Yes. They have an MDQ just like a base load or a swing would have. They do have 100 percent daily flexibility, but they would have some type of an obligation on either a monthly basis or an annual basis.

Q. An obligation to take a certain minimum amount, correct?

A. That's correct.

Q. All right. Now, for the '03-'04 period, you sent no RFPs for daily pricing?

A. That's correct.

Q. For the base load gas, those demand charges for FOM pricing are very low, are they not?

A. Yes, they are pretty small.
Q. But for combo and swing gas, the demand charges are higher?
A. Yes. They're certainly higher than the base load, that's correct.
Q. The base load demand charges, are they about a penny or two per MMBtu?
A. Yes. They range anywhere from zero to 1 to 2 cents. I would say that's a good characterization.
Q. The swing gas demand charges, though, they can -- I think some of the -- one of the contracts was a 40 cents per MMBtu, correct?
A. Yes. Some of our contracts were in the 40 cent range, and some were in the 27, 27 and a half cent range.
Q. The demand charges on the swing supply, for instance, are charges that Laclede has to pay whether or not it takes any gas on that supply source?
A. That's correct.
Q. So, for instance, if the demand charge on a contract is 40 cents per MMBtu and the MDQ is say 10,000 MMBtu, Laclede would pay 4,000 even if no gas were taken on that contract?
A. What was your numbers again, sir?
Q. 40 cents per MMBtu, and the MDQ was 10,000

MMBtu.
A. That's correct. It would be $4,000 if you assume that that 10,000 was a daily MDQ.
Q. If it were a daily MDQ. Now, that's 4,000 per day?
A. That's correct.
Q. So if that were over the period of a month, that would be 4,000 times 30 days, for instance?
A. That's correct.
Q. Which would be $120,000?
A. Yes.
Q. Those swing contracts are -- the duration is -- they're generally set up for the wintertime, correct?
A. The majority of them are in the winter, that's correct.
Q. November through March, for instance?
A. October through April, I would say.
Q. All right. October through April. Now, you would agree that the price of natural gas can be volatile?
A. Yes, sir.
Q. We've seen it almost $19 per MMBtu. I think that was in February of 2003. Do you know how long it lasted at that price?

A. At the $19 level, it was for a short -- fairly short period of time. I must add that I think the reason for the --the reason it only lasted for a day or two was the fact that we moved into the month of March and the weather turned drastically, and the month of March was about 12 percent warmer than normal.

Q. The 19 -- the time the price approached the $19 per MMBtu, that lasted for a day?

A. At that level, it was about a day. I think if you looked at the month of February on average, it was multi-dollar increases above first of the month consistent that entire month.

Q. The first of the month prices can be volatile as well, can't they?

A. Yes, sir.

Q. If you were to look at a chart of the daily prices versus the first of the month prices, you would see that there are a lot of similarities in the peaks and valleys, wouldn't you?

A. I would say that the general trend is probably the same direction over a period of time.

Q. These FOM prices are set during a bid week at the end of a month prior to the time the FOM gas will flow; is that right?

A. That's correct. About the last -- the last week of a given month prior to the upcoming month, there are fixed price trades that take place over about a week's time, and it is a weighted average of the trades over that one week period.

Q. If the average trades during that bid week are done at a spike price or near a spike price or they're trending upward, the FOM price is going to be set somewhere near that spike price?

A. It would depend on how much volume was actually traded at that price. If the overall gas that was traded during that last weekly period, if it was a small percentage of the overall, it would be considerably less than what that spike would actually be.

Q. But if it were a large percentage of the overall, then the FOM price would be set near the spike?

A. Yes, sir.

Q. Now, you could end up with an FOM price for a month that is actually higher than the daily price of gas for the entire month?

A. Was that a question?

Q. Yes.

A. Yes, that could happen.

Q. Could happen. Once the FOM price is set, Laclede is locked in for the entire month?

A. That's actually the beauty of the swing contracts is they give you the right to buy the gas at first of the month but no obligation. So if -- more than likely if prices are coming off, the weather's going to be warm, and Laclede would not need to take that gas. So even though you have the option at that first of the month price, the swing contract does not obligate you to that price at all. We could actually shut that gas off and purchase gas at the cheaper daily price.

Q. So you could shut the gas off, purchase gas at the cheaper daily price, but nonetheless pay, for instance, $120,000 for demand charges?

A. Yes, you would continue to pay the demand.

Q. If the FOM price is set at say $8 per MMBtu, and on the swing gas, for instance, you're paying 40 cents per MMBtu for the demand charge, the real price of that gas is $8.40 per MMBtu?

A. If you took it on a 100 percent load factor for the month, it would be $8.40, that is correct.

Q. Let's say you have a swing contract where the MDQ is 10,000 MMBtu, the demand charge is 40 cents per MMBtu, and whether you take gas or not, you're going to pay $4,000; is that correct?

A. Are those the same numbers you ran me through previously?

Q. Yes, they are.

A. Yes, it would be $4,000.

Q. Now, let's assume with that that the FOM price is $8, but of the 10,000 MDQ you take only 5,000 MMBtu for that day. All right?

A. Okay.

Q. Now, you're going to pay $40,000 for that gas. That's $8 times 5,000 MMBtu. All right?

A. Okay.

Q. And you're going to pay $4,000 for the demand charge for that day, correct?

A. That's correct.

Q. So the effective price of that gas is really $44,000 divided by the 5,000 MMBtu you actually took?

A. Could you run me through the numbers again? I'll write them down here.

Q. 44,000 divided by -- $44,000 for the gas and the demand charges divided by the 5,000 MMBtu.

A. That's correct.

Q. So the effective price, what I'm suggesting, is actually $8.80 per MMBtu?

A. I would agree with that, but I would think you would have to look to see what the alternative of a daily price would be if you're going to start comparing on a daily basis.

Q. I understand that. I'm just trying to get -- I'm just trying to get to an understanding of what we're talking about with the demand charges and the costs. So what I'm talking about is the FOM price of gas being $8, and based upon the scenario that we talked about, I'm suggesting the effective price of that gas is $8.80 per MMBtu.

A. Yes, under that scenario, but I think I would need to clarify that if it's cost effective to have the contract on, I'm sure we would have it at the full level rather than at the 5,000 level.

Q. I understand that. Now, would you agree with me that FOM pricing provides no price protection as there is no certainty as to the level of the price on the first day of any given month?

A. Could you explain your question a little farther, please?

Q. Would you agree with me that FOM pricing provides no certainty as to the level of the price on the first day of any given month?

A. I would say that just due to the amount of time that I spend in the marketplace prior to coming into a winter, I have a very good feel for what those first of the month indices are going to be set at prior to scheduling my gas supply.

Q. When you set your -- when you enter into these contracts in the fall, though, you have no idea what the FOM prices are going to be later in the year?

A. I would not know that, that's correct.

Q. You wouldn't know the daily price either?

A. That's correct.

Q. Would you agree with me that the value to customers by having an LDC eliminate daily price volatility over a month is unclear?

A. I would say the closest experience that I would have had prior to '03-'04 would have been the experience that we had in '02-'03. The '02-'03 winter was basically a normal winter. And I think if you're going to look at a proxy on a prior period for how your portfolio performed going forward, the closest thing you have to normal would be what you would look at, and I know we had tremendous benefits from our first of the month contracts during the '02-'03 period.

Q. You disagree with me, then, because apparently your opinion is that the value to customers by having an LDC eliminate the daily price volatility over a month is clear? Is that your testimony?

A. I could not give you an exact amount, an exact quantification of what the benefit would be prior to going into that winter period.

Q. I have an exhibit that I want to offer you.

MR. REED: This would be -- what number is next?

JUDGE DIPPELL: New exhibit is 16.

MR. REED: New exhibit is No. 16.

(EXHIBIT NO. 16HC WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

JUDGE DIPPELL: It appears that this has specific pricing and companies on it, so I'm assuming it is a highly confidential exhibit?

MR. REED: Yes.

JUDGE DIPPELL: So 16HC.

BY MR. REED:

Q. I use this -- Mr. Godat please take a look at it. There's been a lot of testimony about the numbers that are on here, but I just want you to familiarize yourself with it while I ask some questions.

A. I'm going to have a general understanding of the exhibit.

Q. Okay. As I said, there's some numbers that we had talked about with Mr. Sommerer earlier. At least it gives you the basis for some of that testimony. So it provides you the opportunity to argue with me if nothing else.

In the '02-'03 ACA period, Laclede paid a total of 3.6 million for swing demand charges, and you can see that on the chart, the second chart there.

A. Actually, I have to disagree. If you look at this quantification, there's several contracts here that have a demand of a --

Q. Of a penny or two pennies?

A. -- penny and two pennies, and these are not swing contracts.

Q. Those are not swing?

A. That's correct.

Q. So if we remove those, how would that affect the reservation charge that's calculated down there .211 per MMBtu? That would reduce or increase?

A. It would make the unit charge considerably higher for the '02-'03 period.

Q. All right. Well, we'll calculate that later, but I understand your concern with that. Now --

A. The other thing I may -- I mean, without -- without actually running through the numbers to verify, I'm just going by what's on the piece of paper in front of me here.

Q. Right. Okay. Now, these are Staff's calculations for the total amount paid for the swing demand charges for '02-'03 and then the '03-'04 year, and you can see how Staff down below calculated the percentage increase of 67.5 percent unit cost increase?

A. Right, which I think is definitely masked by the fact that the base load -- or I'm assuming are base load contracts that were included in the '02-'03 analysis.

Q. Okay. Now, the volumes -- according to this chart on Exhibit 16, the volumes for the '02-'03 ACA period were actually higher than they were for the '03-'04 period?

A. Like I say again, those volumes are considerably overstated by the contracts that were not swing contracts that are included in this analysis.

Q. Would you agree with me that, assuming that Staff has their calculations correct, which I understand that you disagree with, that the increase between the '02-'03 period and the '03-'04 period would be a 67.5 percent increase?

MR. ZUCKER: I'm going to object to that. He's already said that the exhibit is wrong. Assuming that it's right is not just a hypothetical but a demonstrably false one.

JUDGE DIPPELL: I have to agree with him, Mr. Reed. I'll sustain the objection.

MR. REED: That's fine.

BY MR. REED:

Q. Now, I think that you had testified that the percentage increase between one single contract, and I think it was -- I don't want to mention the name, but it was a 30 percent increase, correct?

A. That's correct. Actually, if you lay comparable contracts for '02-'03, there were two different types of contracts that we had for '02-'03, and we had similar structures for '03-'-04. I think if you look at both types, from '02-'03 to '03-'-04, there's about a 30 percent increase in each of those.

Q. Is 30 percent -- would you say that a 30 percent increase per year is standard? Does it happen every year?

A. Probably not on a consistent basis. I would say no.

Q. So is the 30 percent increase an anomaly?

A. Actually, I think, as I'd said before, given the circumstances we were facing at the time, we were pleasantly surprised to only see a 30 percent increase in our swing demand charges.

Q. I want to go back to the scenario that we discussed a few minutes ago about the $8 gas. Do you remember that?

A. Yes, sir. We talked about several scenarios.

Q. Right. Okay. I just want to continue that scenario. We have gas at $8 on swing contract at an FOM price, for instance.

A. Okay.

Q. Now, earlier we had talked about my argument with you that the effective price of that gas is actually $8.80. Do you remember that?

A. That was assuming that on any particular day you only took 5,000 MMBtus, the weighted average --

Q. Right.

A. -- for that day with the demand charge would have been at 8.80, correct.

Q. Okay. So that's the scenario I'm asking you to assume right now.

A. Okay.

Q. The FOM price is $8, and the daily price rises to $8.20. There's value in there for Laclede, correct?

A. There's value in the contract. I wouldn't necessarily say it's value for Laclede.

Q. If you had the swing gas on, I think is how you referred to it, the daily price is up to $8.20, you could take some of that swing gas and sell that off-system, could you not?

A. In the event that we ran through the numbers for our overall supply levels and if we determined that we had excess supply, then I could use that gas to make off-system sales, that's correct.

Q. Okay. And let's say, for example, that you took that $8 gas, FOM price, the daily price is up to 8.20, but you've sold that gas off-system for $8.19 per MMBtu. There would be a profit there, would there not?

A. Associated with that off-system sale?

Q. Yes.

A. That's -- that's correct, assuming that there weren't transportation charges that would have eaten up the margin on that particular deal.

Q. But if my argument that the effective price of that gas is actually $8.80, then there's really no profit in there unless the customers pay the extra 80 cents for the demand charge, correct?

A. Yeah, but I think if you go back to our tariff, it specifically states that the -- the first of the month demand is not a cost that gets loaded into the commodity whenever we make an off-system sale.

Q. I understand that. I understand that's what the tariff says, but the customers do pay the 80 cents, correct?

A. The customers do pay the 80 cents, but I don't know that I would contribute it directly to the off-system sale.

Q. As you enter the '03-'04 period and you're planning to meet the winter demand that year, you did realize that the total producer demand charges had increased by over $8 million?

A. Whenever we got the results of our RFP back, we knew on a per unit basis the increases that we've talked about, and we -- with a quick calculation, you could come up with the $20 million number fairly quickly, that's correct.

Q. So you knew that, correct?

A. Yes.

Q. All right. Now, in 2000-2001 Laclede paid almost 11 million for those producer demand charges? That's a question.

A. Let me pull the chart here real quick. I'm looking for it in Mr. Sommerer's testimony. Assuming Mr. Sommerer's testimony is correct, I would agree with that number.

Q. I've handed you an exhibit I want to mark as No. 17, I believe we're up to. This is the chart that was attached to Mr. Sommerer's testimony, correct?

(EXHIBIT NO. 17 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

THE WITNESS: The one at the bottom appears to be the chart that was in Mr. Sommerer's testimony.

BY MR. REED:

Q. The one at the bottom of the first page of Exhibit 17?

A. That's correct.

Q. The second page is the actual dollar totals for demand charges FOM and demand charges daily, correct?

A. If you assume that the 12 and a half percent was the daily number.

Q. The 12 and a half percent was that number that was given to the Staff by Laclede, correct?

A. That's correct. Then I would agree with that number.

Q. I just want to go through these numbers with you here. 2000-2001, Laclede paid almost for the -- let's see. For the October through September total, the entire year, Laclede paid 10,955,000, correct?

A. That sounds correct.

Q. Then the next year, it was about the same, close to 11 million, correct?

A. Yes, sir.

Q. In the '02-'03 year, it was 11.9 million?

A. That's correct.

Q. And then in the '03-'04 period, it's up to 20.3 million. Do you see that?

A. Yes, sir.

Q. So for three years there it hovers around 10 to 12 million, and then there's an $8 million jump, and you were aware of that?

MR. ZUCKER: I object to the characterization of that. He just went through the exact numbers. There wasn't any number near 10. The numbers were all either 11 or 12, and they are what they are.

MR. REED: I'm not sure what I said.

JUDGE DIPPELL: You characterized it as a jump.

MR. REED: Oh, a jump. I'm sorry. The witness can disagree with the word. That's fine.

MR. ZUCKER: I'm sorry. I objected to where it jumped from.

JUDGE DIPPELL: All right. I'll overrule.

THE WITNESS: I would say it's an increase of about $8 million.

BY MR. REED:

Q. All right. Now, in your testimony, at page 8 of your direct, you refer to a 1996 study that you say showed the benefit of buying gas at FOM price. I'll let you find that so you can follow with me.

A. I would agree with that.

Q. And you indicate further that Laclede had seen no evidence to indicate that such hedging had become

imprudent or was not cost effective, right?
A. Yes, I did say that, but the first half of that sentence says that Laclede had continued to monitor this hedging strategy and prior to the subject ACA had no evidence to consider -- no evidence to indicate that such a strategy was imprudent, cost effective.
Q. There's an $8 million increase. You consider that no evidence of any change?
A. Oh, we definitely knew there was a change in the market.
Q. If you take Staff's number calculated for the unit charge increase of 67.5 percent, would that be no evidence of any change?
A. I hate to comment on it because the number's incorrect.
Q. What about 30 percent, is that no evidence? That's your number, isn't it, 30 percent?
A. The 30 percent -- what's the question about the 30 percent?
Q. Is a 30 percent increase in the demand charges no evidence of any change?
A. No, but like I said, we were actually pleasantly surprised to see that it only went up by 30 percent given the conditions in the market during the summer of 2003.

Q. You were pleasantly surprised, but you sent no RFPs for daily pricing?

A. That's correct.

Q. Page 9 of your testimony.

MR. ZUCKER: Which testimony are we in?

MR. REED: Direct, I believe.

BY MR. REED:

Q. Page 9 I think is where you describe the change in the demand costs for the '03-'04 period as a minuscule increase when compared to the overall cost of gas.

A. I think I was talking about swing supplies in general, and when you look at a 1 percent increase over $514 million of gas costs, I consider that minuscule.

Q. Let's see. The testimony at page 9, beginning with line 9, says the fact that the commodity cost of gas as well as demand costs were rising at this time, and the change in the latter represented a relatively minuscule increase of less than 2/10 of 1 percent when measured against the company's overall gas costs during this period.

What you're referring to is the increase in demand costs?

A. Specifically for the swing supplies.

Q. Do you consider the $8 million increase as minuscule as well?

A. No, that's not what I was trying to address in my testimony.

Q. Is a 30 percent increase in the demand charges minuscule?

A. Like I said, given the circumstances that we were facing going into the '03-'04 winter, I would say that the $1 million increase was minuscule.

Q. So even though there's an $8 million increase in the overall demand charges, so far you're pleasantly surprised and the increase is minuscule; am I right?

A. I've never characterized the $8 million total increase as being miniscule.

Q. Is there a threshold Laclede has set based upon any study that it has done about how high it will go with producer demand charges?

A. You know, that's one beauty of the RFP process is that it saves us from having to make that assumption. We send out the RFP as we start the contracting process, and I knew in a short period of time that the 20 million was a number that I had to consider for '03-'04 along with Mr. Matthews, so I -- I don't know that we would have had to have went through an exercise assuming some higher number than that.

Q. The RFPs were all about the same amount, I take it, about the same cost?

A. Bids were very comparable, that's correct.

Q. So if they'd all come back at 100 million, there wouldn't have been any decision to make, you would have taken the lowest and considered it prudent?

A. I don't think I've ever characterized our position at that time as what you just explained.

Q. Is there information that you can take from the 1996 study that there's been some discussion about that would tell you how high these demand charges can go before there has to be a change?

A. No. I think as I've told before, the '96 study was a data point that we had. I can't say that I really relied on it going into the '03-'04 winter. I think given the circumstances we've talked about, we had -- we just came through the '02-'03 winter, which prices had went -- on the daily basis had went to the $20 level. I think for several months -- several months prior to that peak, we had seen a constant overall trend of upward movement in price. Any time you have that trend, the first of the month contracts provide tremendous benefits.

And I know there's a lot of hype about '02-'03 being extremely cold, but overall it was basically a normal winter. We'd seen storage inventories going into that winter period that were basically in line with historical levels. We come out of that normal winter with storage inventories, I think Staff pointed out in a letter to us, about 30 percent below historical levels.

And I think given the circumstances that continued on through that summer, we were very comfortable. I would go beyond saying comfortable. We didn't see any other alternative to continuing the practice that we had just seen provide tremendous benefits in the '02-'03 winter.

Q. The 1996 study, you didn't rely on it at all?

A. I didn't say I didn't rely on it at all. It was a data point, but I would say that it did not have a big bearing on my decision for '03-'04.

Q. Now, you filed testimony in this case, and in your direct testimony you mentioned the 196 study.

A. Yes, I did.

Q. You wanted to bring to the Commission's attention those things that were important to Laclede's decision, so you mentioned the 1996 study?

A. It's something that we provided to Staff. Staff, I believe it was in 2005, asked if Laclede had ever done any kind of a quantification of the cost versus the benefits of swing versus gas daily, and that was one piece of information that we had sitting out there. So we felt what we should provide that information.

Q. The 1996 study, in fact, became the blueprint for a study that Laclede did in 2005?

A. We took the information, consistent with the information we had done in the '96 study, and we updated it for 2005 just because that was the information we had really available to do the analysis on, that's correct.

Q. Using the same methodology?

A. Yes, sir. Except there was one footnote that on the '96 study, I think it was mentioned earlier, saying that the gas daily cost would be different than the first of the month cost.

Q. Yes.

A. So we attempted to estimate that cost and eliminated that footnote.

Q. All right. Now, the 1996 study used one year of data, but the 2005 study used five years, correct?

A. That's correct.

Q. The 2005 study -- well, let me ask this. The '96 study was the most recent formal study that you had of FOM versus daily prices as you entered the '03-'04 period?

A. It was the only formal quantification of the cost versus the benefits in a summary format that we had to turn over, that's correct. I must stress a formal study.

Q. That's what I asked was formal study.

A. That's correct.

Q. You had indicated -- let's see. There were problems with the '96 study, weren't there?

A. Could you define problems?

Q. The footnotes indicate that there are a couple things that need to be considered when you're planning your gas supply, right?

A. I wouldn't consider them problems. I think they were just points to note if people were actually looking at those results.

Q. The 1996 study included -- and I think it's attached to Mr. Sommerer's direct testimony -- the reservation or demand charges for the FOM price and the daily price in the study were exactly the same, weren't they?

A. Yes, sir.

Q. All right. So that's a problem with that study?

A. But I must note that the results were $20 million in savings, and if you assume that the demand charges associated with gas daily were zero, I think the results of the study were indifferent whether they 16 or 20.

Q. Well, instead let's assume that the demand charges were 20 million, like they were in the '03-'04 period, and let's plug that into the '96 study. All right?

A. In place of gas daily?

Q. In place of the FOM demand charges in the '96 study. Have you done that?

A. Are we going to look --

MR. ZUCKER: I'm going to object to that. He's just spent a lot of time, or Staff has today, talking about how stale 1996 is, and now he wants to take a 2003 number and a 2003 market and apply it to the 1996 study.

MR. REED: Can't I do that?

JUDGE DIPPELL: I'm going to overrule your objection, let him pose the question.

MR. REED: I have a copy of the top sheet of that 1996 study. Let's just run through it quickly. This would be Exhibit 18.

JUDGE DIPPELL: This is the same study that's elsewhere in testimony?

MR. REED: Yes. Mr. Sommerer's direct, I believe, one of the schedules.

(EXHIBIT NO. 18 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. REED:

Q. This is what I wanted to do, Mr. Godat. If you look at the top of Exhibit 18 where it says first of the month pricing and it says total 4.4 million for the reservation charge, if you were to plug 20 million into there instead of 4.4, the total would be, instead of 127 million, would be 143 million; is that right?

A. The simple math of that would be 143, I would agree.

Q. You take that across and compare it to the daily pricing scenario, and the savings would actually be reduced to 5 million, correct?

A. I would say that it would basically be a break even if you looked at the prices on a first of the month versus daily during the '95-'96, in that market, and you plug in the demand charges in the market where prices are probably ten times what they were then. I would say it would have been basically a break even, I would agree, just the simple math.

Q. I take it you hadn't considered this scenario before today?

A. I had not because, in my opinion, it has no validity whatsoever.

Q. The 1996 study was done based on '95 and '96 data and declared a savings, and then the study was not revisited until 2005 where you did an updated version with more recent information, correct?

A. I think we've indicated that a formal study had not been done. I think given my position and the fact that I'm in the market every day, we had a very good feel for the benefits that these had provided. We just had not done a formal quantification, which is what Staff had asked for.

JUDGE DIPPELL: Before we go any farther, Mr. Reed, Exhibit 18, does that one remain highly confidential?

MR. REED: No. I think that's been declassified.

JUDGE DIPPELL: Has that been declassified?

MR. ZUCKER: I don't have that exhibit. Is that just the '96 study?

MR. REED: Just the top sheet from the '96 study.

JUDGE DIPPELL: It's also what is also Schedule 4-7 of Staff's testimony.

MR. ZUCKER: 4-7. It's okay.

JUDGE DIPPELL: So it is not highly confidential.

(EXHIBIT NO. 19 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. REED:

Q. Mr. Godat, you have a copy, the top sheet of the 2005 study has been marked as Exhibit No. 19. Do you recognize the exhibit?

A. Yes, sir.

Q. Now, if you take a look at this study and you look at the years, it looks like '98 to '99, '99 to 2000, '01 to '02, and you see those numbers are in parentheses, indicating those would have been, rather than a savings, a loss; is that correct?

A. Yes, sir, I would agree with that.

Q. If you had performed the 1996 study in the summer of 1999 instead of the summer of 1996, Laclede would not be using FOM pricing for its supply, would it?

A. I disagree with that statement.

Q. You disagree?

A. Yes, sir.

Q. But the '99 did show a loss of over 4 million?

A. I agree that the -- that October '98 through April '99 alone showed a loss, but I would also note that our weather was about 11 percent warmer than normal that year.

Q. Well, according to the 2005 study, it had been up and down, but on the whole it indicates a savings of 10 million?

A. Yes, sir.

Q. And the off-system sales volumes are in here in the commodity costs, aren't they?

A. Yes, sir.

Q. In other words, there would be volumes, dollars for volumes included in the commodity based on first of the month that were purchased and then sold off system?

A. I would agree with that, but then those would have been the same dollars that we have imputed in our rates, that we would have had imputed in our rates in '03-'04 and again in the rate case in 2005.

Q. Well, there are volumes in here, there are dollars for volumes that went off system, and what you did with those volumes, I assume, is you bought at FOM while the daily price was higher, correct?

A. We would have had some that would have been based on first of the month, when first of the month was cheaper, that's correct.

Q. Right. First of the month is cheaper, the daily price is higher, so there's a volume there that you purchase and then sell off system?

A. I would agree with that.

Q. All right. Now, those volumes, you declare savings in this study for those volumes, do you not?

A. Yes, I do. I guess for the primary reason we were trying to see the overall benefit of our -- what the demand charges themselves were providing. We didn't have them disaggregated by contract type or by whether they were assigned to our on-system customers or off-system customers, because we already had a framework in place to capture those dollars through the rate case process.

So whenever we updated the study, we used the information that we had available at the time, recognizing that those off-system sales revenues had their own place in another part of our regulatory process.

Q. But they need to be taken out of here so we can understand specifically what those volumes are, what benefits the customers receive, if any, correct?

A. I disagree with that.

Q. You disagree?

A. Yes, sir.

Q. So Laclede has no plan to undertake that sort of analysis?

A. The sort of analysis where we look at the volumes without the off-system sales benefit, is that the question?

Q. Take the off-system sale volumes out.

A. I think as long as they're part of the regulatory process where they're captured through the imputation process, I would say that we don't see a big need to take those volumes out of any analysis that we would perform to see how these contracts -- to see the benefits that these contracts provide over time.

JUDGE DIPPELL: Our next exhibit number is 20.

MR. REED: Yes.

(EXHIBIT NO. 20 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

THE WITNESS: Can I add something to that last comment, or am I too late?

BY MR. REED:

A. No. You're too late. Mr. Pendergast or Mr. Zucker will have a chance to ask you.

A. Okay. Thank you.

Q. Mr. Godat, I've handed you what's been marked as Exhibit No. 20, and I've titled this $20 million demand charges at the top left. And similar to what we did with the '96 study, what I've done here is that for the actual first of the month demand, I plugged $20 million in for each year, and then for the gas daily demand at 12.5 percent, you can see I've put 2.5 million in that column. 12.5 percent of 20 million would be 2.5 million.

A. Okay.

Q. Now, in the deposition that we had last week or the week before, you indicated to me that these demand charges are not going down?

A. Since '03-'04, they have not went down, I would agree with that.

Q. In '03-'04 they were over 20 million?

A. The total demand charges were 20 million, I agree with that.

Q. Has Laclede considered the scenario that I put before you in Exhibit No. 20?

A. The only way I would consider this scenario is if I would go back and look at -- I mean, I have not considered it. I guess the main reason I -- to me, I see no validity to it, is unless you went back and assumed the price spikes that we had recently experienced also would have occurred during the times when the daily prices were going up back from October '98 through April 2003 when it was a totally different market.

Q. Now, you've indicated on two occasions now with regard to the studies that I've questioned you about, you see no validity to any of my suggestions, and I take it you see no validity to any of Staff's suggestions regarding these studies?

A. I think that's too broad for me to answer.

Q. All right. Now, Laclede can make off-system sales without using swing supply contracts?

A. There are times, I think, if Staff looked back through the -- our GSC schedules, your gas cost schedules that they use to determine how much swing was used for the '03-'04 period, I think that they would find that there were times when base load or combo was used for a sale. But I would also add that any time a swing purchase was used for a sale, had the swing not been available, our overall sales would have been decreased by that amount.

Q. I talked to Mr. Sommerer about the percentage of swing volumes used for off-system sales which were calculated by Mr. Sommerer and Staff at 23 percent. Would you agree with that number?

A. If the schedule was correct, which I have not had any opportunity to validate, I would -- based on the numbers that were provided on that, I would agree that 23 percent of the overall volume would have been assigned, would have been attributable to the swing contracts.

Q. So the swing contracts would make up about 1/5 -- 1/5 to 1/4 of Laclede's off-system sales volumes?

A. I guess to extend that on further, you characterize the remaining volumes as being made through base load or combination?

Q. Correct.

A. Correct. I think if Staff would look back at our schedules, a large majority of those were spot purchases that were made and incremental sales that were made to get value for transportation capacity and were not made with our base load and combo contracts.

Q. Well, you make the off-system sales. Tell us what percentage of off-system sales are used with base load and combo contracts.

A. It's not a number that I carry on the top of my head. I would say, in general, it's a pretty small percentage.

Q. Have you ever analyzed what that percentage is?

A. It varies so much with weather and pricing scenarios that that is not -- can't say that -- well, I know I haven't because we don't designate our volumes assigned to the sales by those different types of contracts.

Q. Wouldn't Laclede still have made its revenue imputation from off-system sales in '03-'04 without these swing contracts being contracted at FOM prices?

A. You know, I couldn't say that we would have made our imputation level. I know that the amount that would have been under review in the '05 rate case would have been decreased by whatever amount that they would have been decreased by in the '03-'04 case.

Q. Shouldn't Laclede know -- shouldn't Laclede know whether you have to have these swing contracts at FOM prices in order to make the revenue imputation from off-system sales?

A. I think we'd know that we're at risk. Whenever the imputation was put in place, I think as Mr. Pendergast alluded, it was not Laclede's choice of how to handle those revenues in the rate case whenever they were put under that regulatory framework. I think we provide a reliability report every year to the Staff that shows in the design scenario we utilize 100 percent of our storage assets on our system and on the pipeline system where we hold the storage capacity, and we run our supply levels 100 percent during the entire winter period.

So under that scenario, I would say we would not have any supply available to make an off-system sale and it would be impossible to make our imputation amount. That's why I believe that we are at risk for those dollars.

Q. I'm sorry. Could you repeat the last part of that? Without what you could not make any off-system sales?
A. If we're running our supplies at 100 percent to met our on-system requirements, which we do in our design scenario, we would have no gas available to make an off-system sale.
Q. I understand that. There wouldn't be any excess capacity to make an off-system sale, correct?
A. That's correct.
Q. All right. So --
A. The other thing I might add to that is --
Q. I'd appreciate it if you wouldn't. Let me ask the next question. In terms of Laclede's reliability, are you then planning so that you'll have this excess gas available to make the sales from your swing contracts?
A. No, that is not something that we plan for.
Q. If the swing demand charges were $4.2 million for '03-'04, but if you had used daily pricing for the swing supplies, the demand charges would have been about $500,000; would you agree?
A. Yes, I would agree that that would be in the ballpark.
Q. Now, if you had used the daily pricing for swing -- you have to assume with me here -- the customers

would have saved $3.7 million in demand charges. Would you agree with that?
A. For what period?
Q. '03-'04.
A. Where's your 3.7 million number coming from?
Q. I took 4.2 million for the FOM demand charges and subtracted 500,000 for the daily demand charges.
A. The daily demand alone, the decrease sounds about right, yes.
Q. About 3.7 million is what I calculated the customers would not have to pay if you used daily pricing for your swing supply.
A. Right. If all you were considering was demand, I would agree with that.
Q. And if you used daily pricing for your swing supply, there were still opportunities for off-system sales because I think earlier you testified about spot pricing, that was the majority?
A. In times when prices -- like the scenario that you had ran through where prices, the first of the month price is set and the weather is warmer than normal and the first of the month gas is no longer higher than the -- or I'm sorry -- cheaper than the daily price, and

if there was some value associated with our transportation capacity, we would make an incremental purchase at the daily price on the field zone area of that transportation capacity and move that to a city gate area and get value for that transport. And those numbers would be -- also be listed in those off-system sales volumes.

Q. If, as you say, Laclede didn't rely on the 1996 study or just considered -- if Laclede didn't rely on the 1996 study to prepare its '03-'04 portfolio, then there would be no quantitative analysis of FOM versus daily pricing available for Laclede, correct?

A. I would say in a formal study, no. On a quantitative basis, I think given my position and given the benefits that I'd just seen from the '02-'03 period that were provided from our first of the month swing contracts, I think I had lots of proof that the benefits way more than outweigh the costs.

Q. Well, in '02-'03, how much did Laclede make on the off-system sales?

A. I don't know specific to swing contracts.

Q. The demand charges are going up by $8 million. That's a pass through to the customers through the PGA; isn't that right?

A. Yes, sir.

Q. Laclede can still make the off-system sales when the FOM price is below the daily price, and the customers will pay the fixed demand charges, correct?

A. Assuming that the customers do not need it for on-system demands, then the regulatory framework would allow us to take that gas and sell it off system to capture that value, that's correct.

Q. Isn't it true that about half or more than half of these swing contract volumes are destined for an off-system sale?

A. I would disagree with that statement.

Q. Have you prepared some analysis to tell us what percentage, what part of those swing volumes go to off-system sales?

A. I think if you look at -- I looked at some numbers for the '03-'04 period -- or I'm sorry -- yeah, for the '03-'04 period, the weather was about 12 percent warmer than normal. And I know Mr. Sommerer went through his quantification where he determined that about 4 million MMBtus of that swing supply was used for an off-system sale.

Q. Yes.

A. If you look at how much warmer Laclede was than normal for that year, which since the information that we provided to Staff, it looks at what we consider a normal for a given month and what we experienced, we were about 6.5 million MMBtus less than normal for that period. So I think it's a very fair assumption to say that the majority of those swing contracts, swing volumes had we even experienced normal weather would have been used for our customer needs.

Q. Well, in the '03-'04 year they were not, though?

A. Based on 12 percent warmer than normal, they were not, I agree with that.

Q. In your -- in Laclede's reliability report that you prepare, with a cold wither scenario, are your supply contracts flowing at maximum volumes every day of the winter for the on-system customers?

A. I would guess probably a 95 to 99 percent level.

Q. 95 to -- 90 to 95 percent of your total MDQ from all the gas sources are flowing every day?

A. I would say that's pretty close. When you get into the April time frame, it may be something less than that. I think if you looked at the heart of the winter, November through March, it's probably close to 90 to -- I'm sorry. I think I quantified it as 95 to 100 percent.

MR. REED: I'll stop there.

JUDGE DIPPELL: Thank you. Commissioner

Clayton, do you have questions?

COMMISSIONER CLAYTON: I do.

QUESTIONS BY COMMISSIONER CLAYTON:

Q. Sir, I want to make sure I pronounce your last name correctly. Would you pronounce it for me.

A. Godat.

Q. Godat. That's pretty easy.

A. Yes, sir.

Q. Okay. Mr. Godat, quickly, were you in the room when I asked questions of Mr. Sommerer earlier today?

A. Yes, I was.

Q. I want to first off verify that what occurs with Laclede as it prepares for winter heating season is that it does prepare request for proposals during the summer months; is that correct?

A. It's something that we've done almost every --

Q. It's a yes or no.

A. Currently we do, yes.

Q. You do. In 2003, did you do an RFP in preparation of the winter heating season?

A. Yes, we did.

Q. Okay. Is the description of the RFP by Mr. Sommerer relatively accurate in explaining how the RFP is designed and how questions are asked of potential

bidders?
A. Are you talking currently or for the '03 period?
Q. 2003, the period in question.
A. Yes. It does include base load volumes, which Mr. Sommerer described, combination volumes and swing volumes.
Q. And it does address swing volumes. Okay.
A. All at first of the month prices.
Q. And when the RFP is issued, does it -- in addressing particularly the swing volumes, does it specify whether that demand will be met by first of the month pricing versus daily prices versus some other method of pricing the commodity?
A. The '03-'04 RFP was based on first of the month.
Q. First of the month. There were no other alternatives put in the RFP for servicing Laclede's needs for swing volumes?
A. I believe during '03-'04 those were the only three services that we requested.
Q. And, Mr. Godat, how long have you been with Laclede?
A. Fifteen years in January.
Q. And have you been in a similar capacity as

you are right now for that 15-year period?

A. I came into the gas supply division in October of '96, and I started as doing the scheduling function on a low level.

Q. Okay.

A. And over time I've worked into my current position.

Q. Okay. So ten years you've been in the gas purchasing area of Laclede?

A. That's correct.

Q. Okay. What a coincidence, back to 1996. That's a date we've been talking about quite a bit today.

A. I must admit, I was pretty green in '96.

Q. I understand. We're all green at some time.

Okay. So you are familiar with how gas purchasing has been done since 1996?

A. Yeah. Overall, yes, I would agree with that.

Q. Is there a hesitation or -- that wasn't supposed to be a trick question.

A. I mean, the first year or so I was definitely just doing the administrative function. So during the first year, year and a half, my knowledge was considerably less than what it is now.

Q. Okay. Did you participate in the drafting of the RFP for the winter heating season '03-'04?

A. Yes, I did.

Q. And are you familiar with the responses that came from that RFP?

A. Yes, sir.

Q. Okay. When the responses came back, did you -- do you recall noticing any significant differences in the responses that you had seen in prior winter heating seasons?

A. You know, we'd seen an increase. I think we had talked about earlier, on an overall basis they were increases similar to what we had seen in prior years when there were some pretty major changes in the gas supply marketplace. I think I'd stated that we were actually pleasantly surprised that the demand on the swing contracts themselves had increased by a small amount is what they actually did.

Q. Do you recall what the increase on the demand charges were for swing volumes between '02-'03 and '03-'04? Do you remember the increase on the demand charges?

A. Yes, if you look on a unit basis, we have a couple different kinds of swing contracts. The volume profiles are different. And if you laid apples to apples, a swing contract with a similar provision in '02-'03 to '03-'04, one type went from a unit charge of 21 cents to 27 and a half, which was roughly the 30 percent increase we've talked about, and the other type went from 32 cents to 40, which is a similar increase.

Q. Okay. And you say that was a similar increase from previous years? Did I hear that correctly?

A. I think the percentage increase was similar to what we had seen a couple years prior, yes.

Q. And was that for several years where increases had been seen of that size or just one year?

A. I think it's where there had actually been a pretty major change in the marketplace, similar to what happened like in 2000-2001.

Q. So you did -- you had a substantial increase in 2000-2001? Do you recall?

A. On a percentage basis, yes, it was comparable, actually a little bit higher than what we saw for going into the '03-'04 winter.

Q. Okay. And how about '01-'02, was there an increase that year? Do you recall?

A. If you don't mind, I'll pull the numbers out in front of me here.

Q. Sure, if it's readily available. If you have to dig too far, let me know.

A. No. They're right here. We didn't see a huge change, much of a change at all I'd say from 2000-2001 through 2002-2003.

Q. So those years there was -- it was pretty constant for about three years, three winter heating seasons I guess would be the best way to describe it?

A. Yes, I would agree with that.

Q. Okay. So you had a sizeable increase from '99-2000 and 2000-2001, and then it stayed relatively constant, fluctuated a little bit for the next three years, and then the winter season at issue in this case, it went up these 30 percent, 25 percent figures that we talked about earlier?

A. That's correct.

Q. Okay. Now, when the RFP responses came back and you saw 30 percent, you said that you were pleasantly surprised, you thought they were going to be greater than that?

A. Yes, we did. If you would look, while we were -- I'm not sure. Were you on the Commission at that time in '03-'04?

Q. Yes, I would have been.

A. Okay. I think it's obvious in the literature that we review and the information that we were receiving from all the parties that we were talking to and information in the -- just in the media even from the concerns that were being imposed by both the utility companies and all of the commission staffs and the commissioners themselves over what potential for price spikes that were going to happen during the '03-'04 winter.

Q. Now, do price spikes for the commodity correspond? Is there a direct relationship between the commodity prices and demand charges? Because what you're talking about is the commodity. At issue in this case is demand charges, correct?

A. Right. I think the demand charge definitely factors in the likelihood of the price spikes that are going to occur.

Q. Does a demand charge go up relative to a commodity price?

A. I would say in general, as the underlying commodity goes up, the demand goes up.

Q. Okay. Is it -- is the proportion -- or is it directly proportional? Meaning is the increase in the commodity a certain percentage compared to the demand charge that goes up or is it -- are you following what I'm asking? Is there a financial or a numeric figure that you can connect those two charges?

A. I would say it's probably not linear if those were the only two components that you look at, because the volatility in the market is another indicator, and then the -- the company's actually offering the service also assess what market conditions are with national storage inventories being one of those, because that kind of gives them an indication of how much supply is going to be available in a cold scenario.

Q. Okay. So supplies are going down, demand goes up, the commodity price goes up and the demand charge goes up, and that's what you're looking at during the summer months of 2003 as you look forward to the winter heating season?

A. That's correct.

Q. That is the perfect storm that was coming together at that point; is that a fair description?

A. I would agree with that.

Q. Now, you noticed the 30 and 25 percent. You say you were pleasantly surprised, but you would agree that those are significant increases when compared to the previous three years when there have been no increases and in some cases decreases?

A. I mean, I can't say that we weren't concerned about the overall level. I mean, it's going from the -- overall from the 12 to 20 raised concern. I think the cost at issue at this case, the swing contract specifically, I think Mr. Sommerer had quantified them as 3.6 million in '02-'03, and I think I pointed out in my testimony where we had actually -- even given the 30 percent increase, we reduced them beyond those levels. I think the quantification Mr. Sommerer made was they went from 3.6 million to 4.2 million, which is less than 30 percent increase.

Q. So you were -- I mean, Laclede is concerned when prices go up? I mean, you see a 30 percent or a 25 percent increase on a specific type of charge, it's something that would raise a red flag, you'd be concerned about it because you -- does Laclede want prices to go up that significantly in a given year?

A. High prices aren't good for Laclede.

Q. So no, Laclede wouldn't want those prices to go up, correct?

A. Yes, that's correct.

Q. Okay. Good. Well, I'm glad, because if it was the opposite, then I would have a concern.

So you see these prices going up by these significant amounts. Was there any discussion within Laclede that perhaps we need to look at a different vehicle for coming up with these swing volumes rather than first of the month pricing?

A. You know, we knew about what a gas daily charge would be. I'm sure there was probably some discussion, you know, as to whether 20 million was too high. Then we look back at the -- like I say, given the circumstances we had at the time and the overall panic in the market, and we looked at the '02-'03 period and we seen the benefits that we received because of those and how low the storage inventories had came out even given a normal winter.

I think if you look through all the information we were looking at, everyone was very concerned that the supply was not keeping up with demand, and that those issues were only going to be magnified going into the '03-'04 winter. And given those circumstances, I know we -- I can't say that we wouldn't have considered going to gas daily, but we definitely thought that paying the demand was the prudent thing to do at the time.

Q. What is the downside of Laclede seeing these numbers and saying, we're going to do an RFP that tests first of the month pricing, daily pricing, and there were several other types of pricing. I'm not going to pretend that I understand each type of RFP. But what is the downside? What would be a problem with Laclede asking for various types of proposals?

A. You know, I don't see a downside. Like I say, I think in general we knew what a gas daily contract would cost. You know, it would be a small percentage of the overall demand that a first of the month would cost. And I think given the --

Q. Let me make sure I understand. The demand charges would be less for a daily purchase?

A. The demand charge would be less for a daily purchase, that's correct. Whenever we send out the RFP, we want timely responses, and I think based on the three services that we had, and as many different locations as we buy gas, it's tough enough for a supplier to look at the RFP and give you accurate numbers based on the information that we want.

I think to muddy it up with services that at the time we -- we have a general feel for what the cost will be but we don't really think we'll use them, we didn't feel it was a worthwhile exercise to have the suppliers --

Q. Would there have been cost -- excuse me. I'm sorry to cut you off.

Would there have been cost associated with doing additional RFPs? Would it have cost Laclede any funds to do the extra paperwork?

A. Minimal.

Q. Minimal cost?

A. Yes, sir.
Q. Has -- is Laclede still utilizing the same method that it did in preparation of the winter season '03-'04 today?
A. Now our RFP does have a gas daily component.
Q. Okay. So you do have it in there now?
A. Yes, sir.
Q. You just didn't think it was appropriate back in summer of 2003?
A. That's correct.
Q. When did Laclede change its policy?
A. We first put it in the RFP for the '05-'06 winter period.
Q. Okay. Had this complaint been filed prior to changing that policy? Do you recall?
A. We did not have the recommendation in this particular case at that time.
Q. The recommendation on the ACA filing is what we're talking about?
A. That's correct. We did --
Q. So you-all changed the policy before Staff filed the recommendation?
A. That's correct.
Q. Okay. So if Laclede decided unilaterally

to make the change, what led to making the change?

A. You know, it was a host of factors. As we discussed, the demand charges came up in the '05 rate case where Staff had first started asking for the specific quantitative analysis, looking at first of the month versus gas daily. I think at that same time we basically had a fundamental change in the market that took place again during the summer of 2005 due to the hurricanes. We had seen increases in the market due to factors that we had not seen in the past.

Q. In '03, was there some -- I don't recall, but was there some event that occurred in '03 that caused prices to go up?

A. We basically experienced a normal winter. I think the winter before on a national basis was probably 5 or 6 percent warmer than normal, and St. Louis was about 16 percent warmer than normal. So we actually experienced normal weather, and we saw that the national storage inventories were not able to meet that demand, and I think it really came out that there was a problem with the supply/demand balance.

Q. Okay. So Staff starting to ask for different -- different types of data and asking for the gas purchasing analysis to be provided in a different method, that was one factor that lead to Laclede making a change, correct?

A. Yeah. Like I say, it was the first time we had known that Staff had concern of us buying first of the month demand, supplies at first of the month demand.

Q. Well, was Laclede aware that because it was doing first of the month for at the very least these two periods, was it aware that the demand charges were significantly higher and thus the pass through was going to be significantly higher for Laclede's customers?

A. We knew that if you just looked at the demand charges themselves, the cost was higher. But I think as we've said, we've always considered as a percentage of overall gas costs and thought that they were definitely in line with what we had done in prior years.

Q. So the method was the same, but the impact was different, though; would you agree with that?

A. Right. The impact if you look at the demand charge alone would have been higher.

Q. What else should you look at other than the demand charge, the commodity cost?

A. That's correct.

Q. So if you net that out, you still have a significant amount of money that's higher than -- that Laclede would be seeking recoupment of? Even if you netted out with cost of commodity, you'll still have this -- I don't know if it's public -- the figure that's in question? You still have a significant amount of money that's still left?

A. I'm sorry. Could you -- I didn't follow your question.

COMMISSIONER CLAYTON: Is the number public?

MR. PENDERGAST: Yes.

COMMISSIONER CLAYTON: The 2 million? So I say it. Okay. Good. I'm glad it's public. For those listening, I may have made a mistake.

BY COMMISSIONER CLAYTON:

Q. So basically, even if you net out the demand charges and the commodity costs, it's still $2 million in excess than what would have been due under the daily purchasing for '03-'04?

A. That's if you completely ignore the benefits that were derived from off-system sales that later got imputed into our base rates in the '05 rate case.

Q. But those are already imputed regardless of --

A. I know, but they went into the factors that derived the imputation in the 2005 rate case.

Q. Okay. Is it Laclede's position that the swing volumes that are at issue for '03-'04 were used for off-system sales?

A. I would agree that a portion of those were used for off-system sales.

Q. What portion? Do you know? Can you break it into a more specific figure than just a portion?

A. You mean a portion of the overall swing that was taken?

Q. I'm talking about the swing that's at issue. I know the longer we use these terms, I'm going to lose you and I'm not going to be able to follow you. But the swing volumes we're talking about here, the price differential, was that volume used, that swing volume used for off-system sales? You said a portion of it was used for off-system sales, and I asked you could you give me a particular percentage of that swing volume that was used to serve off-system sale customers?

A. I think if you look during '03-'04, the volume that I've got assigned to on-system customers versus off-system was about 50/50.

Q. And that's for swing and -- it wouldn't be base, but that's for your swing volume, 50/50?

A. Swing volume alone. I might also add, that was during the period when it was about 12 percent warmer than normal.

Q. So then that would mean that 50 percent would go to just the native load customer?
A. That's correct.
Q. Okay. So changes were implemented for the '05-'06 winter?
A. Yes, sir.
Q. And now we're in '05-'06, '06-'07, and so you're still doing the swing daily pricing and the first of the month pricing?
A. Yes. Our portfolio has a combination.
Q. All right. I don't know if this is public or not, so stop me, somebody. Can you tell me -- I don't think it's relevant, so I'm not even going to ask the question. I'm going to show restraint. Unlike others that you see around here, I'm going to show restraint and not ask the question.
Has Laclede since done a cost/benefit analysis to establish what is the most appropriate RFP process for swing volumes?
A. You know, we updated -- in 2005, we updated it through the '04, basically the spring of '05. At the same time we were updating it for '03-'04. Since that time we have not. I still disagree that going back and looking at the historical numbers based on -- especially the winters that we have experienced have been so much

warmer than normal. If you want to get any kind of valid outcome, you have to assume that you have different weather conditions.

Q.   There was a statement earlier today by Mr. Sommerer, and I don't know if you were in the room when he said it. He made a comment that the Staff is looking perhaps more aggressively at hedging practices and gas purchasing practices of LDCs, particularly in light of increased gas costs and because the Commission has been taking a more active interest in hedging. Were you in here when he made that comment?

A.   Yes, sir.

Q.   Okay. Has Laclede changed its -- made any changes in response to those suggestions that the Commission has made with regard to the Commission having a desire of aggressive hedging strategies to limit price volatility?

A.   Yes. They all become of interest after the 2000-2001 run up. That's when the Commission task force was put in place.

Q.   Yeah, but we really got mad after I got here. I don't know about what happened in 2000-2001.

A.   We actually got very aggressive after that time. For the '02-'03 period -- actually, up and to the '02-'03 period, we had an amount that was in our --

approved in our tariffs for how much we could spend for financial hedging protection. That was through the use of call options. Like I say, I went through '01-'02. In '02-'03 those tariffs expired because they were associated with an incentive price stabilization program, and the Commission I don't think was interested in authorizing specific levels, so we went to our board of directors and got an $8 million amount authorized to spend in our hedging program.

And we also went from just a call option program where we also started buying futures contracts on basically the same volume that we had bought with the 8 million before, we were buying about half the amount of coverage because half of that was covered with futures contracts which don't have a premium associated with them.

And then whenever we came into the '03-'04 summer, the price run-ups that we had talked about were going on. The costs I think Mr. Pendergast had pointed out, the cost to buy those call options had increased so much that we went back to our board and got that amount increased from 8 million to 15 million.

And since that time, we continue to have a very aggressive financial hedging program that we feel has complemented our physical portfolio.

Q. Do you have at your disposal a copy of

Exhibit 10? Exhibit 10 is a Staff prepared swing demand charge adjustment revision. It's got two charts on it, highly confidential.

A. I don't think that I do.

Q. Have you seen this document yet?

A. Yes, I have.

Q. You have seen it?

A. Yes, sir.

Q. I want to ask you in your capacity for the past ten years, or at least as far back as you recall, what -- generally speaking, are you able to give me an idea of the net effect of first of the month pricing after taking into consideration the commodity costs? And I refer you to Exhibit 10 because this has -- on the top graph it has the four columns, and I identified them as A, B, C and D. Column C offsets the demand charges from first of the month pricing with cost savings on the actual commodity.

Can you give me some idea what the net effect has been on first of the month pricing during -- during the history prior to the '03-'04 season? And when I say I'm asking for the history, I want to know the net effect, which I guess would be the total in column D. Does it go back and forth? Is there a cost or a savings back and forth over the years by using first of the month

pricing? Are you able to tell me?
A. Yeah. I mean, based on the numbers that we had put together --
Q. Is there an exhibit that has that? Maybe I ought to ask that.
A. Right. We had provided -- actually, Staff provided it as an exhibit in their direct testimony. They provided a study that we had given to them in 2005 where we quantify the costs and benefits over that five-year period prior to '03-'04.
Q. And that's just on swing volumes taking a net of the commodity savings?
A. No. That was with -- that was all of our volumes.
Q. Total, the combination, the swing and the base load?
A. That's correct.
Q. So we don't have one -- we don't have one with just a history that involves just swing volumes?
A. That's correct.
Q. Is it your testimony that total purchasing, that there's a net benefit during this winter heating season? Was there an offset in either base or combination purchasing that would have offset this increased $2 million cost?

A. Specific to '03-'04?

Q. Uh-huh.

A. Are you considering off-system sales in or out?

Q. I don't think I'm talking about off-system sales. I'm talking about on the supply side.

A. Yeah. I mean, his $2 million number excludes all off-system sales benefits. So if you included the off-system sales benefits, there would actually have been a savings of about $400,000.

Q. If you include off-system sales you mean?

A. If you include the volumes of swing contracts that got used for off-system sales, there would have been about a 4 to $500,000 savings rather than a charge, and I can't say that I've done that looking at the combo.

Q. That's on the sales side. How about on the expense side, if you were to take -- and this may be -- I may be barking up the wrong tree here. If you take into consideration base load purchasing and combo purchasing, the demand charge -- I'm going to scrap the question because I don't think it makes sense. I'm on the record saying that.

If the Commission were to find that Laclede was not prudent in this method, and you have to make that assumption, what do you believe the appropriate ratemaking treatment should be if we found an imprudent decision?

A. I'm not sure that I understand your question.

Q. What do you think we ought to do to you if we think you're not prudent, is the question? What do we do?

A. Given the fact that I think I'm prudent --

Q. I know it's hard. It's hard. None of us want to admit that we're wrong. I'm not asking you to admit. But what I do want to know is, what is the appropriate path we should take if we feel first of the month pricing is imprudent?

A. I guess under this given scenario, assuming that the off-system sales benefits are backed out, if you determine that Laclede was imprudent given the set of circumstances, and you wanted to make Laclede pay the $2 million, I think that there would have to be some recognition of a decrease of an imputation that would have occurred in the 2005 rate case, because I think it would have been double dipping.

Q. Okay. If the Commission finds that Laclede was not imprudent in its gas purchasing for '03-'04, say we make the decision that we don't think you-all were out of line with the information you had at the time, how does this Commission send a message to Laclede that maybe at the time that was an acceptable method or perhaps there wasn't, perhaps we didn't send strong enough signal, perhaps there's been a change in policy, how does this Commission send a message to Laclede that we want every step taken to mitigate volatility, mitigate price spikes and to keep gas costs at a reasonable level, as reasonable as possible under the circumstances, if we find -- how do we send that message to Laclede if we find that you made perhaps the right decision at the time, but going forward, how do we emphasize that we want --

A. You know, I think you guys have made it clear that volatility is something that you want taken out of the -- taken out of our portfolios as much as possible through the policy statements that you've put out. I think Laclede takes that edict very serious. That's why we've kept our first of the month strategy as part of our portfolio, because we think it is very effective in reducing volatility.

Q. But it's part of a portfolio. You don't rely on it solely now like you did before?

A. That's correct.

Q. So you agree that in hindsight it could have been done better, but at the time you're saying that --

A. Well, I mean, even during '03-'04 we definitely didn't solely rely on it, because, you know, as early as the late '90s we had a pretty aggressive financial hedging program that was in addition to our physical portfolio, and I think we really expanded that between the 2000-2001 period and the 2003-2004 period.

So I think that we were taking every measure that we could to try to reduce volatility for our customers.

Q. Laclede is interested in reducing the volatility in the gas purchasing, but is Laclede also interested in keeping prices as low as possible on the commodity side and the demand charge side? I mean, that benefits everyone. Would you agree with that?

A. Right.

Q. Laclede has a commitment to keep those prices down?

A. I would agree with that.

COMMISSIONER CLAYTON: I don't have any other questions, Judge. Thank you.

JUDGE DIPPELL: Thank you. Commissioner Appling, do you have questions?

COMMISSIONER APPLING: I think Commissioner Clayton has probably emptied the bucket here today and asked all the questions, so I don't think I have any questions. I did have one or two, but he asked those questions you to satisfactory to me. So I have no other questions, Judge.

JUDGE DIPPELL: Thank you.

QUESTIONS BY JUDGE DIPPELL:

Q. Mr. Godat, in your Exhibit No. 5, on page No. 5, this is a very --

A. What document?

Q. This is just a clarification question. Oh, I'm sorry. Your rebuttal testimony, which has been marked as Exhibit No. 5. On page 5, you talk about meeting peak days late in the winter season on line No. 8. I just wondered if you could tell me what you consider to be late in the winter season.

A. You know, really once you get past middle of January or if you look at how our storage resources are kind of used other time, there's a little bit of flexibility in our portfolio early in the winter, but once you get into the January/February time frame, we do pretty much utilize our resources to the fullest extent possible.

And when you get -- if you look at our design scenario, February 18th is what we consider a late peak cold day, and that's what we use for design purposes. So I guess if you tied it back to our reliability studies, the middle of February would definitely be a late peak cold.

Q. Okay. And the first of month pricing contracts, those are for the whole winter season or, I mean --

A. They're usually shaped, our -- if you look at our portfolio, our usage is shaped based on, you know, November is not as cold as December, January. Kind of December through January -- or I'm sorry. December through February is fairly flat usage, and then the off-peak months, March and April go down.

So if you look at the shaping on our contracts, we pay for a higher MDQ, which basically means we have more gas available during the peak when it's the coldest than we do in the off-peak months. So there's definitely a shaping to our contracts based on how much weather you would expect in any given month through the winter period.

Q. But the contract as a whole is for the whole season? I mean, you couldn't contract for the month of January at first of month pricing and then do the month of February at daily pricing, for example?

A. It is possible to do that.

Q. It's possible?

A. Yes, it is.

Q. But when do you have to set those

contracts?

A. We typically set them prior to November. I mean, there are times we've put stuff under contract as late as middle of November.

Q. And then my other questions are just about whether or not something -- information in that same piece of your testimony should remain highly confidential, and I don't know if you're the person to that answer that or if Mr. Pendergast should. But page 12 is again some information about your marketing affiliate, the bottom there at lines 15 through 17.

A. Was that in my direct or my surrebuttal?

Q. It is in your rebuttal, page 12.

MR. ZUCKER: Yes, I think we would like that to remain. I'm sorry I didn't identify it earlier.

JUDGE DIPPELL: That's all right. It's been a little -- our declassification has been helpful but a little confusing at times. Okay. Well, what I will do is I'm going to remark No. 5 as highly confidential since it contains that piece. And then also --

MR. ZUCKER: Then will we need to give the NP version of that to the court reporter?

JUDGE DIPPELL: Yeah, that would be helpful. Also back up on page 4, and actually on 3 and 4, on page 3 at line 20 and 21, I didn't know if those specific -- if those numbers were supposed to remain highly confidential.

THE WITNESS: Those are our peak day. It's kind of the min and max during the winter period.

JUDGE DIPPELL: I don't think it's been otherwise released.

MR. PENDERGAST: If we could keep it confidential, we'd appreciate it. Thank you.

JUDGE DIPPELL: Okay. And then the next page at the top, there's a specific peak -- potential peak day requirement in January. I didn't know if that should remain.

MR. PENDERGAST: No.

JUDGE DIPPELL: Those can be. Okay. That's all the questions I have. Is there any further cross-examination based on questions from the Bench? Mr. Reed?

MR. REED: Yes, just a few.

RECROSS-EXAMINATION BY MR. REED:

Q. Mr. Godat, I you responded to Commissioner Clayton that about 50 percent of the swing volumes went to off-system sales and 50 percent to the customers, correct?

A. During the '03-'04, that's correct.

Q. Yes. All right. Regarding the adjustment, Staff's propose adjustment, the disallowance, you had indicated that if the swing -- if the swing off-system sales were credited in the disallowance, there would be a $400,000 savings. Was that your testimony?

A. My testimony was if you take the commodity savings for the first of the month pricing, Mr. Sommerer's quantified it as 1.6 million. I think we provided copies of the work papers that showed if you leave the off-system sales volumes in there, that's 3.9 million.

Q. Yes. I remember that.

A. The additional dollars would more than offset the cost that Staff is showing should be disallowed in this case, the $2 million.

Q. But those are for -- those are for volumes that go to off-system sales --

A. That's correct.

Q. -- correct?

So if you included them in the disallowance calculation, the customers receive no benefits from those off-system sales volumes, correct?

A. What I said is that if you include them in here and have Laclede pay for them, those are the same dollars that they use to come up with their imputation in the 2005 rate case.

Q. What were the -- what were the net margins off of the swing volumes, the 50 percent of the swing that was used for off-system sales?

A. You know, I haven't quantified the net margin, but if you look at the benefit, because if you make an off-system sale, some benefit might be from transportation value, but any off-system sale that we would have made, the margin would have been decreased by the difference in these two calculations that you made.

Q. Do you have an estimate of the margin generated by the swing off-system sales?

A. I do not.

Q. Nothing, you don't know?

A. Not the overall -- not the net margin associated with these particular volumes. If we had not had first of the month pricing, you would have lost this 2 and a half million dollar benefits that Mr. Sommerer's excluded, and had transportation values still been there, then that's value that possibly could have been quantified through other measures.

Q. You would have lost the two and a half million dollar amount that Mr. Sommerer included, what was that? What does that mean?

A. The 2 and a half million dollars that Mr. Sommerer excluded, because he says that the off-system sales volumes should not be included in this cost/benefit analysis.

Q. You're saying --
A. Those are true dollars that we would have came straight from Laclede.
Q. So at least two and a half million dollars came from the swing contract volume off-system sales, is that what you're saying?
A. I would agree with that.
Q. You would agree with that. The total off-system sale profit for the '03-'04 year were 8.3 million, correct?
A. I don't have that number in front of me.
Q. Let's assume for a moment that they are.
A. Okay.
Q. Let's say you subtract out the 2 and a half million in profits that came from swing contract volumes for off-system sales.
A. Okay.
Q. That would leave $5.8 million profit from off-system sales not related to the swing supply contracts, correct?
A. If that was what was associated with them, that would be correct.
Q. So with regard to the revenue imputation, even if the entire 3.8 million were off-system sales and none of it was capacity release, the 5.8 million would

more than bring Laclede whole for the $3.8 million revenue imputation, correct?

A. It would for the amount that was imputed in the '02 rate case.

Q. In the '02 rate case. In fact, there would be $2 million left over that would be profit directly for the shareholders, correct?

A. But like I said, these -- where these -- where these dollars are relevant are when the imputation took place in the '05 rate case.

Q. And so my point is that for the -- for the profits generated from off-system sales from volumes other than swing supply, that $5.8 million, 42 million above the $3.8 million revenue imputation, it would appear that the swing contract volumes for off system sales were not even necessary to meet the revenue imputation. Wouldn't you agree with that?

A. Given that set of circumstances, I would agree.

Q. And for the swing contract volumes, the demand charges at FOM pricing were $4.2 million that the customers paid that they didn't have to because you didn't have to have those swing volumes at FOM to make the off-system sales?

A. I think we said before we don't buy the swing contracts to give us the ability to make off-system sales, but if you take those swing contracts away, the amount of value created by those contracts for off-system sales directly reduces the amount that Laclede made from those off-system sales. And if that were the case, then that should have been considered in the '05 rate case also.

MR. REED: That's all.

JUDGE DIPPELL: Thank you. Is there redirect?

MR. ZUCKER: Yes, your Honor.

REDIRECT EXAMINATION BY MR. ZUCKER:

Q. Good afternoon again, Mr. Godat.

A. Hello, Mr. Zucker.

Q. Let me first address something that Commissioner Clayton was asking you. Which one do you consider a hedge, the first of month pricing or the daily pricing?

A. First of the month pricing.

Q. Okay. And let me use the board right here real fast. If you assume you're on daily pricing, okay?

A. Okay.

Q. And you buy an option or a futures contract for let's say the month of December, and you buy that contract with a strike price of $8, that allows you to

lock the price at $8; is that correct?
A. Was that a call option you said?
Q. Yes.
A. Financial?
Q. Yes.
A. That would give you the right to buy it at $8, that's correct.
Q. Now, let's say at the end of November prices close for the first of month price for December at $6. Okay. What is your option worth?
A. It would expire worthless.
Q. Okay. It would be worth nothing?
A. That's correct.
Q. And you would lose what you paid for it?
A. That's correct.
Q. But that option was a hedge, right?
A. That's correct.
Q. Okay. Now, let's say during the month of December prices go to, let's say, 10 to $15 for several given days.
A. Okay.
Q. Now, does your $8 option give you a hedge against those daily price spikes?
A. No, it does not.
Q. But I thought you said when you bought the

call option at 8, that limited your price you would be buying gas at to $8?

A. That protection expires once the option position expires, which is several days prior to the first of the month.

Q. Okay. So is the call option then lined up with the first of month price?

A. Could you elaborate.

Q. Well, in other words, does it protect you against this price going up?

A. Yes. It would be a financial offset to your physical portfolio that would benefit you if the NYMEX went off higher than what your call option was priced at. But once you get into the month, once that contract has expired, it no longer provides you any protection.

Q. So if during the month daily prices go up and you're on daily pricing, you have to pay those prices?

A. That's correct. If you don't have a first of the month contract tied to what your call option was based on, if you instead are based on a daily price, then you would pay those spikes on the daily market.

Q. And how do you hedge yourself against those spikes?

A. With the first of the month contracts that we've been discussing in the case.

Q. Okay. So in this case, if you had bought a first of the month contract and the price went to 10 or $15, what would you be paying for gas during those days?

A. You would still be paying the $6.

Q. And --

JUDGE DIPPELL: Just before you move on, I'll just clarify that you mentioned this price and you were referring to first of month price.

MR. ZUCKER: Yes. Thank you, your Honor.

BY MR. ZUCKER:

Q. Do you have Exhibit 16HC in front of you?

A. Could you describe it, please?

Q. This is the comparison of swing supply reservation charges between '02-'03 and '03-'04. You talked about it with Mr. Read. I'll bring one to you, if I may.

A. I did find it.

Q. All right. And you identified the shaded items in the '02-'03 ACA as non-swing items; is that correct?

A. That's correct.

Q. Okay. And would you do some quick math with me. If you add up the total reservation charges of those four items, would you say it roughly comes to about

$45,000?

A. Yes.

Q. Okay. And if you subtract that 45,000 from the 3,605,000, that comes to about 3,560; is that correct?

A. That's correct.

Q. I'm sorry, 3,560,000. Is that more correct?

A. That's more correct.

Q. Okay. And do you see the first row of that part, the '02-'03 ACA, you bought approximately 1.9 million in reservation charges at 32 cents?

A. I would agree with that.

Q. And the rest of the reservation charges are all around 21 cents; is that correct?

A. That's correct.

Q. Okay. So that would leave -- if you subtracted, that would leave the 21 cent part at about 1.6 million?

A. Okay.

Q. And so you're buying there 1.9 million at 32 cents and 1.6 million at 21 cents, is that --

A. I would agree with that.

Q. Okay. And so if you kind of split the difference there, based on the fact that there's slightly more at 32, it should come to right around 27 cents as the average reservation charge per MMBtu?

A. I would agree with that.

Q. Okay. And then if you look at the top there at '03-'04, would you be willing to round that amount to 36 cents?

A. Yes, I would.

Q. Okay. And then if the -- the additional amount there, and this is all rounding, then the percentage difference then would be an additional 9 out of 27, which would be somewhere around 33 percent that you testified to; is that correct?

A. Yes, I would agree with that.

Q. Okay. Do you have Exhibit 14HC in front of you? It was called without swing dollars on the front.

A. No, I don't believe I had a copy of that.

Q. Mr. Pendergast is going to bring that one to you. Would it be accurate to say the front page of that exhibit is swing volumes without off-system sales?

A. I would agree with that.

Q. In other words, the number at the bottom that's shaded 1.6 million is the savings Laclede achieved by buying first of month versus daily on swing volumes not counting off-system sales?

A. I would agree with that.

Q. And is the second page where it says all

volumes, does that mean all swing volumes?
A. That would be correct.
Q. So that would be swing volumes without off-system sales and the swing volumes with off-system sales?
A. That's correct.
Q. So if I subtract the second page from the first page, I would know what the savings were on swing volumes with off-system sales; is that correct?
A. That's correct.
Q. And that number would be roughly 2.4 million?
A. Yes.
Q. And so the total savings as shown at the bottom of the second page is 3.987541; is that correct?
A. That's correct.
Q. And the amount that Staff now says was spent on first of month demand charges for that year is approximately 3.6 million; is that correct?
A. I think the total was 42 if you back out the amount that was associated with gas daily.
Q. Right.
A. Is that the calculation?
Q. Yes, sir. Yes.
A. Yes, then it would be the number that you

had talked about.

Q. So that's the amount of demand charges associated with first of month on swing?

A. That's correct.

Q. 3.6?

A. Yes.

Q. And so this number here, which is roughly 4 million in benefits, is more than the 3.6 million in those demand charges?

A. That's correct.

Q. You talked some with Mr. Reed and Commissioner Clayton about the '02-'03 year. Do you recall that?

A. Yes, sir.

Q. And do you recall what the demand charges were during that year?

A. Roughly 12 million.

Q. Excuse me. Roughly 12 million?

A. Roughly 12 million.

Q. Thank you. And do you recall what Laclede put down as its -- as its savings for that year?

A. The analysis that we provided showed, if you looked at the benefits of first of the month versus daily and then backed out the 12 million in demand, the result was about a $12 million benefit.

Q. And that $12 million benefit is over and above the $12 million in demand charges paid?

A. That's correct.

Q. So the gross revenues received on those volumes -- on those volumes was 24 million, adding the 12 and the 12 together?

A. Yes. I would say the net benefit exclusive of demand would have been about 24 million.

Q. Okay. And how does that compare with the demand charges requested by the producers the next year?

A. The savings is actually a little higher than what producers were offering for the '03-'04 winter period.

Q. And was '02-'03 a cold year, normal or warm?

A. You know, it was perceived as cold just because we had had so many years prior that were warm, but actually I think Mr. Sommerer attested to it also, it was basically a normal winter.

Q. Okay. And so in a normal winter, if you had savings of 24 million, how did you view demand charges of 20 million in the next year?

A. Like I said, we -- we definitely had concern over the 20, but given the circumstances that we knew at the time, you know, we felt market conditions in the summer of 2003 were worse than what they were going into the winter of '02-'03, and we had realized what the benefits were during that '02-'03 winter just from managing the portfolio on a daily basis. So we had every reason to believe that the increase in the demand charges were prudent, and like I said, specifically to the swing contracts, we were actually really surprised to see that they'd only went up by the 30 percent.

Q. In the summer or fall when you agreed to FOM pricing, would you know what, let's say, a January first of month price is going to be?

A. No, sir.

Q. Would the producer know what a January first of month price is going to be at that time?

A. No, they would not.

Q. So neither of you know?

A. That's correct.

Q. When you buy an option or a futures contract, do you know what the strike price is?

A. Yes, I do.

Q. Does the producer know what the strike price is or the seller of that contract?

A. Yeah. We actually do it through the financial market. The seller would know what the strike price is.

Q. In response to a question from Mr. Reed as to which was more volatile, daily versus first of month, you said they were both volatile. Do you have an opinion as to which one is more?

A. I think there's no question that the daily market is much more volatile than the first of the month market.

Q. Commissioner Clayton asked you about coming up with other types of questions on the RFPs to see what the bid might be for a daily priced contract.

A. That's correct.

Q. Is that information that you would have when you get an RFP on a first of month contract?

A. Like I said, I think in general we knew about what the cost of those would be. You know, we knew it was a fairly small percentage of what the first of the month contracts would cost.

Q. And when you say a fairly small percentage, do you mean for the commodity overall or just for the demand charges?

A. I think we estimated them about 12 percent of what the first of the month demand would have been.

Q. Okay.

A. I think we would have had a good feel for that at the time we were contracting for the first of month supply.

Q. Would the commodity change, commodity price?

A. I'm not sure I understand your question.

Q. Okay. You're talking about just the demand charge changing between a first of month contract and a daily contract?

A. That's correct.

Q. Okay. So if the producers were asking for an average of 36 cents in '03-'04 for demand charges on first of month contracts, what might they have been asking for on daily contracts?

A. Based on the 12 and a half percent, it would have been about 4 and a half cents.

Q. And so that gives you a good idea about the difference between the two?

A. That's correct.

Q. Excuse me a second while I continue to look through my notes.

MR. ZUCKER: Permission to approach the witness?

JUDGE DIPPELL: Go ahead.

BY MR. ZUCKER:

Q. Mr. Godat, do you recognize the sheet I just handed you?

A. Yes, I'm familiar with it. It doesn't have an effective date, so I'm -- let me see. Actually refers to the --

Q. Does it say original sheet No. 43 at the top?

A. Yes.

Q. If I told you this was a specimen tariff that accompanied the 20021 rate case stipulation, that's why it doesn't have a date on the bottom.

A. Yes. Actually, I noticed the case number here and realized it was associated with what come out of the '02 rate case.

Q. Could you read under recordkeeping, could you read the sentence about halfway down starting with "this information".

A. This information will include the location of sale, volume sold, sales price, total revenue from the sale, the unit commodity cost of gas used for the sale, unit transportation costs to point of sale, and any other costs or reductions associated with the sale, avoided penalty costs, and total cost associated with the sale.

Q. Anywhere in that sentence did you see demand charges included in the calculation?

A. No, I did not.

Q. Are you familiar with the -- with what's actually Exhibit -- it's Exhibit 12, a 2002 stipulation excerpts on off-system sales.

A. Yes. I remember discussing it. I didn't receive a copy of it earlier.

Q. Let me see if I can summarize that arrangement, and you tell me if you think I've summarized it correctly. The deal was that customers would be given a $3.8 million imputation in rates guaranteed, and that Laclede would keep 100 percent of all of its off-system sales and capacity release. Does that sound correct?

A. Yes, sir.

Q. And is there anywhere in there that the $3.8 million is a cap on what Laclede can realize?

A. No, there's not.

Q. And, in fact, didn't we hear that morning that off-system sales are encouraged?

A. Yes. I think that they've always been encouraged to make sure that we get any value for our assets at times when customers don't need them.

Q. Do you have your surrebuttal testimony in front of you?

A. Yes, I do.

Q. Can you look at Schedule 1 for me, which is the same as Exhibit 19. Is that the five-year study that you performed?

A. Yes, it is.

Q. And you performed that study after the '03-'04 ACA year, correct?

A. That's correct.

Q. Did that study confirm or surprise you? Did the outcome of that study confirm what you thought or differ from what you thought?

A. I would say generally it confirmed the results that I would have thought came out of that time period.

Q. Okay. So if you looked at October 1999 to April 2000, that year it appears that demand cost about 5.9 million; is that correct?

A. That's correct.

Q. And was that a warmer than normal, normal year or colder than normal in terms of weather, if you recall?

A. Actually, I've got the numbers here. I'll just look at them. You said '99-2000?

Q. Yes, sir.

A. Weather in St. Louis was about 16 percent warmer than normal.

Q. Did you say 16?

A. That's correct.

Q. And I guess sometimes 16 percent can be considered a little and sometimes it can be considered a lot. In terms of weather, where does that stand on the scale?

A. I would say it's considered a lot. I mean, looking back, the 2001-2002 was also about 16 percent warmer than normal, and on an overall demand basis, that reduces our on-system requirements tremendously.

Q. And so that would promote -- that would leave you extra capacity?

A. That's correct.

Q. And give you more opportunity for off-system sales?

A. Yeah. But you would have more volumes available because customers wouldn't need them. Whether or not -- just looking at first of the month versus daily, whether or not it was beneficial would depend on what was going on in the market at the time.

Q. So in '99-2000, the demand charges were 5.9 million, but your loss over there on the far right is only 1.4 million?

A. That's correct.

Q. So you were able to reduce the cost of insurance, so to speak, by about 4 and a half million dollars; is that an accurate statement?

A. Yes. I think it's -- because we are so active in the off-system sales market, trying to capture value for the assets when we don't need them, I think that's why you'll see we basically came very close to paying for those first of the month premiums through our actions in the off-system sales market, even in warmer than normal years.

Q. And in a colder than normal year, let's say, let's talk about what would happen in that scenario. Would you tend to have more on-system sales or off-system?

A. You would have more on-system. You would have more of your swing volumes go to your on-system customers.

Q. And would prices tend to be lower, the same or higher in a cold winter?

A. In a cold period, which there was a chart up earlier, I think you can see that during cold periods the overall trend in prices is upward. And even if you don't have a major price spike, any time there's an upward trend in prices, the first of the month prices provide tremendous benefits.

It's like a stair step. Each time it takes the next step over the next 30 days, you're buying gas at the first of the month price. And it may raise $2 one month. If you have the first of the month rights, you pay the lower price. If the weather continues to be cold, the next month may go up $2, yet you still avoid that $2 increase. So I think in a cold period, the first of the month way more than pays for itself due to the increasing costs in the daily market.

Q. And as prices go up in a cold winter, do customers tend to use the same, more or less gas?

A. More gas.

Q. So then the customers need the protection more?

A. That's correct.

Q. If you had a design winter -- I think you talked about this earlier with Mr. Reed -- what percent do you think of your volume would be on-system versus off?

A. I think I'd characterized it as, especially for the November through March period, 95 to 99 percent of the -- of our contracted-for supply would be going to our customers.

Q. Okay. You testified that you saw a change in the market starting with the 2000-2001 winter; is that correct?

A. That's correct.

Q. If you look at your Schedule 1 to your surrebuttal testimony, also known as Exhibit 19, what do you see for those -- that year and the two following in terms of savings versus costs?

A. For the 2000-2001 winter, we quantified a benefit of $8 million.
Q. Okay.
A. Then if you go to '02 where it was considerably warmer than normal, we actually showed, rather than having a savings, it was a cost of 3.3 million.
Q. Okay.
A. And then in '02-'03 where we basically experienced normal weather both in St. Louis and nationally, we quantified a benefit of $12.2 million.
Q. Okay. So I added those three numbers up, the plus 8, the minus 3.3 and the plus 12.2, and I got plus 16.9. Does that sound right to you?
A. Yes, I would agree with that.
Q. So for these three winters cumulatively, your cumulative savings over and above your demand charges was almost 17 million; is that correct?
A. Right. Based on this analysis, that is correct.
Q. And what would you have expected the sellers of the first of month pricing to do given those three results in the last three years?
A. Yeah. Based on market conditions that we had at the time, especially coming out of the '02-'03

winter and seeing how low the storage inventories had went, even given normal weather and all the factors that we had at the time, that's why -- I mean, I think I'd indicated that we had expected to see the increase in the first of the month demand charges.

MR. ZUCKER: Okay. If I could just have one minute. I'm finished, your Honor. Thank you, Mr. Godat.

THE WITNESS: You're welcome.

JUDGE DIPPELL: Okay. I believe, Mr. Godat, that concludes your testimony, and you may be excused.

THE WITNESS: Thank you.

JUDGE DIPPELL: Let's take care of just a couple housekeeping things. First of all, on my list I still have Exhibits 16HC, 17, 18, 19 and 20 as not actually being offered into the record. Is that correct?

MR. REED: It is not, Judge. I plan to move for admission right now, please, of 16 through 20.

JUDGE DIPPELL: Okay. Would there be any objection to Exhibit 16HC?

MR. ZUCKER: No, your Honor.

JUDGE DIPPELL: Then I will receive it into the record.

(EXHIBIT NO. 16HC WAS RECEIVED INTO

EVIDENCE.)

JUDGE DIPPELL: Any objection to Exhibit 17?

MR. ZUCKER: What is that one?

JUDGE DIPPELL: That's actually -- I think it's already in the record. That's actually part of Mr. Sommerer's direct.

MR. REED: It is.

MR. ZUCKER: Then I don't object to it a second time.

JUDGE DIPPELL: Exhibit 18 is the 1996 study, the first page.

MR. ZUCKER: I don't object to that a second time.

JUDGE DIPPELL: And 19 also the 2005 study, page 1.

MR. ZUCKER: Same non-objection.

JUDGE DIPPELL: And No. 20 I believe is actually something new and different titled $20 million demand charges.

MR. ZUCKER: One moment, please. Could we add to this document a footnote that said this is hypothetical?

JUDGE DIPPELL: I think it's obvious from Mr. Reed's presentation with the witness that it is a hypothetical.

MR. ZUCKER: And that these demand charges don't reflect accurate demand charges for those periods?

JUDGE DIPPELL: Mr. Reed, do you agree with that statement?

MR. REED: Yes.

JUDGE DIPPELL: Okay. I believe that's obvious from the testimony when it was presented, that these were numbers Mr. Reed stuck in there.

MR. ZUCKER: Subject to those conditions, we don't object.

JUDGE DIPPELL: I will receive it in evidence.

(EXHIBIT NOS. 17, 18, 19 AND 20 WERE RECEIVED INTO EVIDENCE.)

JUDGE DIPPELL: I also don't have Exhibits 7, 8 and 9. Those were the demonstrative exhibits you used in your opening statement. I assumed you didn't want to offer those.

MR. PENDERGAST: No.

JUDGE DIPPELL: Okay. I think that takes care of all the exhibits. Briefing schedule. The transcripts I believe are on a regular ten-day, ten business day turnaround, so they should be back in here by the 13th of February at the latest. I believe this has been covered pretty well in the Prehearing Briefs and the testimony, so I think one round of Briefs will be adequate. And standard is 20 days after the transcript. That would be March 5th. Does anyone have a strenuous objection to March 5th as a brief date?

(No response.)

JUDGE DIPPELL: Seeing none, I will order that unless I hear some specific whining to the contrary. You can file errata sheets to the deposition by February 13th, if there are any. And I will also do an Order trying to set out the declassification just so that it's clear on -- so people don't have to dig through the transcript to figure it out.

MR. ZUCKER: Thank you, your Honor.

JUDGE DIPPELL: Okay. Anything else before we go off the record?

MR. PENDERGAST: I just want to thank you, your Honor, for being vigilant and notifying us when you saw some things that we should have caught ourselves. Thank you.

JUDGE DIPPELL: No problem. Thank you you-all. Be careful going home. We can go off the record.

I N D E X

EXHIBITS INDEX