

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 TRANSCRIPT OF PROCEEDINGS

5 HEARING

6 September 29, 2005

7 Jefferson City, Missouri

8 Volume 1
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10 In the Matter of Southern Missouri Gas)
11 Company, L.P.'s Purchased Gas) Case No.
12 Adjustment Factors to be Reviewed in) GR-2005-0279
 Its 2004-2005 Actual Cost Adjustment)

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16 KEVIN A. THOMPSON, Presiding
 DEPUTY CHIEF REGULATORY LAW JUDGE.
17 JEFF DAVIS, Chairman
 STEVE GAW
18 ROBERT M. CLAYTON, III,
 LINWARD "LIN" APPLING,
19 COMMISSIONERS.
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1 P R O C E E D I N G S

2 JUDGE THOMPSON: Good morning. We're here in
3 the matter of Southern Missouri Gas Company, LP's purchase gas
4 adjustment factors to be reviewed in its 2004/2005 actual cost
5 adjustment. This is Commission Case No. GR-2005-020-- 79,
6 pardon me.

7 My name is Kevin Thompson. I'm the regulatory
8 law judge assigned to preside in this matter. We will begin
9 with oral entries of appearance. Let's start with the
10 company.

11 MR. FISCHER: Thank you, Judge. Let the record
12 reflect the appearance of James M. Fischer and Larry W.
13 Dority, Fischer and Dority PC, 101 Madison Street, suite 400,
14 Jefferson City, Missouri 65101 appearing today on behalf of
15 Southern Missouri Gas Company, LP.

16 JUDGE THOMPSON: Thank you.
17 Staff.

18 MS. SHEMWELL: Good morning, Judge, and thank
19 you. Lera Shemwell and Thomas R. Schwarz, Jr., representing
20 the Staff of the Missouri Public Service Commission, Post
21 Office Box 360, Jefferson City, Missouri 65101.

22 JUDGE THOMPSON: Thank you.
23 Public Counsel.

24 MR. MILLS: On behalf of the Public Counsel and
25 the public, Lewis R. Mills, Jr. and Mark Wheatley. Our

1 address is Post Office Box 2230, Jefferson City, Missouri
2 65102.

3 JUDGE THOMPSON: Thank you.

4 Opening statements, Mr. Fischer.

5 MR. FISCHER: May it please the Commission. My
6 name is Jim Fischer and I'm representing Southern Missouri Gas
7 Company, LP in this proceeding today. I also have with me
8 today, along with my partner, Larry Dority, Randy Maffett, who
9 is the managing partner of the company and Bill Walker, who's
10 involved in the day-to-day decisions relating to gas supply
11 issues. Both gentlemen would be available for questions if we
12 need to have them come forward.

13 We appreciate very much the opportunity to
14 address the Commissioner's regarding our PGA filing and
15 related questions concerning the company's gas supply
16 practices. We had tentatively planned to discuss the
17 company's gas supply situation in agenda meeting in
18 mid-October, however, this hearing gives us an earlier
19 opportunity to visit with you about these important issues and
20 we appreciate that very much.

21 This case involves Southern Missouri's annual
22 winter filing of its PGA and its ACA tariff sheet. As the
23 Commission knows, at this time of the year, the local
24 distribution companies are required to file revisions to their
25 purchased gas adjustment factors to reflect changes in the

1 wholesale cost of gas for the upcoming winter. This winter
2 filing for Southern Missouri is a required filing under their
3 PGA tariff.

4 I notice that the Commission has a very
5 straightforward explanation of the PGA and the ACA process on
6 its websites for consumers. And there is a sheet there called
7 Some Facts About Natural Gas Prices that I'd like to refer to
8 and ask the Commission to take official notice of.

9 I'm not sure, Judge, whether it should be
10 marked as an exhibit or if you want to just take official
11 notice or what's the current practice.

12 JUDGE THOMPSON: We'll go ahead and mark it.
13 This would be Exhibit 1.

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

15 MR. FISCHER: As that website sheet notes, what
16 the wholesale supplier charges the local distribution company
17 is determined in an unregulated market. The prices are
18 determined in an open competition based market. Wholesale
19 prices are subject to wide variations depending upon a number
20 of factors, particularly of supply, demand and weather
21 conditions.

22 As that website notes, the role of the
23 Commission is limited when it comes to rate changes associated
24 with the actual cost of gas. The Commission does not regulate
25 the wholesale supplier rates, of course. The local

1 distribution company must make a filing with the Commission in
2 order to increase or decrease the natural gas rates to reflect
3 those wholesale price changes. And then that fact change goes
4 on to explain what the Staff does when a PGA filing is made.

5 In this case, Southern Missouri Gas filed its
6 PGA tariff sheet on September 15 together with its supporting
7 work papers. The company also met by conference call with
8 Staff and Public Counsel representatives on September 21st to
9 go over the PGA calculations and discuss other gas supply
10 issues, including its hedging activities.

11 On September 26th, 2005, the Staff filed its
12 Staff recommendation recommending that the Southern Missouri
13 Gas tariffs be approved to become effective on October 1st,
14 2005 on an interim subject to refund basis.

15 And, Judge, I'd request for purposes of this
16 hearing that we take official notice of that Staff
17 recommendation. And I've got copies of that for the Bench.

18 JUDGE THOMPSON: Very well. Let's go ahead and
19 mark that as Exhibit No. 2.

20 MR. FISCHER: You should already have that in
21 your file.

22 (Exhibit No. 2 was marked for identification.)

23 MR. FISCHER: I don't want to paper the record,
24 but I want to make sure it's in there, so -- in its Staff
25 recommendation, the Staff stated that the rates on the

1 company's PGA tariff sheet were calculated in conformance with
2 Southern Missouri's PGA clause in its tariffs. I believe this
3 is the legal standard to be applied at this juncture of the
4 case, does the proposed PGA rate conform to the requirements
5 of Southern Missouri Gas Company's PGA tariff. Staff and the
6 company agree that it does.

7 As a part of the ACA audit, the Staff will be
8 ensuring that what the company paid to its wholesale suppliers
9 is, in fact, what it received from its customers. In other
10 words, the ACA proceeding is a true-up proceeding to make sure
11 that the company didn't over-collect or under-collect its gas
12 costs from its consumers.

13 Also, concerns regarding the company's gas
14 purchasing practices would be addressed in that proceeding,
15 but those types of issues are really left for another day
16 after the Staff audit has been completed.

17 At this juncture, however, the Staff reviews
18 the company's calculations and makes its recommendations. The
19 rates are implemented on an interim basis subject to refund
20 pending the outcome of that ACA audit. In this case, as I
21 just mentioned, the Staff has found that the company's
22 calculations conform to the requirements of the approved PGA
23 tariff.

24 Judge, I'm not sure if we need to do this, but
25 I'd also ask that you take official notice of the PGA tariff

1 of the company, which is found on sheets Nos. 20 through 27
2 inclusive. And I've got copies for the record of those.

3 JUDGE THOMPSON: Okay. We'll make that Exhibit
4 No. 3.

5 (Exhibit No. 3 was marked for identification.)

6 MR. FISCHER: As the Commission has noted in
7 press releases involving other LDCs' PGA's rates, current
8 natural gas market prices are at record levels. And I think
9 this is one of the major concerns of this year.

10 On August 31st, 2005, the Commission noted this
11 fact when it issued a press release announcing the approval of
12 Ameren's PGA rate for its eastern system in Phelps County.
13 This system is very near to the Southern Missouri Gas service
14 territory. In that case, the Commission approved Ameren's PGA
15 rate of \$1.31 and some change per CCF, which is slightly more
16 than Southern Missouri's PGA filing of 1.3081 per CCF in this
17 case.

18 I'd ask that the Commission take official
19 notice of the Ameren press release that it issued in that case
20 and I've got a copy for the record.

21 JUDGE THOMPSON: All right. Let's mark that as
22 Exhibit No. 4.

23 (Exhibit No. 4 was marked for identification.)

24 MR. FISCHER: As I mentioned earlier, Randy
25 Maffett and Bill Walker are here today to explain the details

1 of Southern Missouri's PGA filing and they can also address
2 the hedging activities that the company has engaged in to
3 mitigate the price spikes to its customers.

4 Mr. Maffett will explain that Southern Missouri
5 has entered into two hedges known as basis hedges which have
6 locked in discounts off the NYMEX prices for approximately
7 64 percent of the company's expected winter loads, assuming
8 normal weather. Assuming colder than normal weather,
9 approximately half of the winter load will be discounted from
10 the NYMEX prices under these basis hedges. And assuming
11 warmer than normal weather, than approximately 83 percent
12 would be subject to those basis hedges.

13 In addition, the company has one peaking call
14 option in place, which is designed as a reliability hedge for
15 extreme cold weather periods. Randy can also address
16 questions related to the fact that this particular company has
17 no storage of its own on its own system and there is no
18 storage available on its interstate pipeline system that
19 serves Southern Missouri Gas. And, unfortunately, this is the
20 way the situation's been for quite a number of years. Of
21 course, that limits Southern Missouri's ability to use storage
22 as a hedge against price spikes.

23 At the end of the hearing, it will be very
24 important that Southern Missouri Gas Company be allowed to
25 begin collecting on an interim subject to refund basis the

1 projected costs of supplying gas supplies to its customers.
2 As the Commission knows, Southern Missouri merely passes
3 through its gas and transportation costs through the PGA
4 mechanism without earning a profit on those costs.

5 If, for some reason, Southern Missouri was not
6 allowed to reflect its gas cost in its PGA rates, the
7 company's credit worthiness and financial viability could be
8 placed in jeopardy. In that event, Southern Missouri would
9 have to pay its gas suppliers for its gas, but would not have
10 a timely way to reflect those cost in its rates.

11 Such uncertainty could have other unfortunate
12 results including advance payment requirements from gas
13 suppliers, higher short-term interest costs and potentially
14 interruptions in supply. Mr. Maffett is prepared, I think, to
15 explain the severe negative impacts that that could have on
16 the company if the PGA were not permitted to go into effect as
17 proposed.

18 Thank you again for the opportunity to address
19 the Commission today and we look forward to your questions. I
20 can call my first witness or whatever -- Staff may have
21 opening statements too.

22 JUDGE THOMPSON: Thank you, Mr. Fischer.

23 Ms. Shemwell.

24 MS. SHEMWELL: Thank you and good morning.

25 Good morning. May it please the Commission. I'm Lera

1 Shemwell. I represent the Staff. We're here this morning to
2 talk about SMGC's recent PGA gas tariff filing.

3 As you may recall, DTE sold SMGC to Sendero
4 this past spring. This is a small system in southwest
5 Missouri. It serves customers who have the option of going to
6 propane largely. And so being a small system with that kind
7 of competition, the financial viability of this system has
8 always been a concern from the time that the Commission gave
9 the first CCN to build the system. That limits the company's
10 ability to raise its non-gas costs because of the propane
11 competition.

12 I would note Mr. Fischer mentioned the Ameren
13 system, which is Aquila's old eastern system. And it has very
14 high transportation costs because it goes across three
15 pipelines, which is one of the factors affecting their PGA
16 that SMGC does not have.

17 In this case, Staff has recommended approval of
18 the PGA because SMG has filed it in compliance with its
19 tariffs. And that's how the PGA works in this state. It
20 allows gas utilities to charge for natural gas based upon a
21 tariffed calculation of what they expect the future of gas
22 prices to be.

23 They estimate what their natural gas costs will
24 be in the future and then are allowed recovery on an interim
25 subject to refund basis. It's the ACA process that trues that

1 up. And reliability could become an issue if they are not
2 permitted to have the cash flow to purchase these gas supplies
3 for their customers.

4 However, approval in this PGA is not the final
5 decision the Commission will make. When you have a surcharge
6 process like this, the charge goes into effect and the
7 Commission then trues it up later. And that will be the ACA
8 process. That's the safety net in this case. It's a lengthy
9 process, but Staff will carefully review not only the price of
10 gas, but SMGC's purchasing practices. It's also possible that
11 some of their purchasing practices will be -- come up in the
12 GW-2006-0110 case.

13 Staff does have some concerns with SMGC's gas
14 purchasing practices for the upcoming winter heating season.
15 Traditionally, SMGC has used fixed price contracts to hedge a
16 significant portion of their winter supplies. And while there
17 are many definitions of hedging, many definitions even among
18 the Staff, not to mention the people who hedge, Staff believes
19 that the assertion that it has hedged 70 percent of its gas is
20 one that needs some explanation.

21 There are two components to the gas price.
22 Let's say A is the index. For October it just closed at
23 almost \$14 per MMBtu for October. B is the basis adjustment,
24 which is typically 10 to 40 cents. It's risen now to about
25 80 cents. And I believe Mr. Sommerer and Mr. Wood will be

1 discussing that in greater detail.

2 The primary concern, however, is that SMGC is
3 able to supply its customers this winter, that they have
4 enough natural gas. And that's why the Staff is recommending
5 that the Commission approve this PGA in a timely manner.

6 However, Staff does suggest that the Commission
7 may take some action at this time. We recommend approving the
8 PGA. We recommend that you order SMGC to provide
9 informational brochures to its customers on the likely cost of
10 natural gas this winter in real dollar terms, the availability
11 of assistance to pay those bills in that area, the process to
12 file if they cannot pay their bill.

13 SMGC does have a tariff for a level pay program
14 that should be publicized to its customers. It should
15 recommend all energy conservation measures. And if SMGC needs
16 a template for those, there are many out there on other
17 Missouri utility websites.

18 We're also recommending that you order SMGC to
19 report its gas purchase status and over- or under-recovery
20 throughout the winter season to the Commission and put SMGC on
21 notice that it is to come to the Commission promptly to reduce
22 the PGA rate if market conditions put it in an over-recovery
23 situation.

24 We don't know what the gas prices are going to
25 be this winter. Many people are making estimates, but we

1 simply don't know what they're going to be. And also put the
2 company on notice that it's at risk for a prudence review
3 disallowance if it does not follow prudent prices -- prudent
4 purchases of its gas.

5 Staff has brought with us three witnesses this
6 morning, Mr. Tom Imhoff to discuss the PGA and his
7 calculation, to discuss SMGC's tariff if you would like. Dave
8 Sommerer will review the PGA process and describe further
9 SMGC's hedge, what they are describing as a hedge on the basis
10 differential. And Warren Wood is here to discuss the natural
11 gas commodity gas price task force after the 2000/2001 winter
12 plus the natural gas volatility rule and current natural gas
13 prices and trends. Thank you.

14 JUDGE THOMPSON: Thank you, Ms. Shemwell.

15 COMMISSIONER CLAYTON: Ms. Shemwell, I know you
16 have witnesses, so feel free -- if you don't know the answer,
17 just defer. That's cool.

18 When would the ACA adjustment or the
19 reconciliation take place that you referenced?

20 MS. SHEMWELL: After this winter, they will
21 file in November 2006. That's the closing of the ACA period.
22 Since the companies don't particularly like to respond -- take
23 the time to respond to DRs in November and December when
24 they're buying gas, data requests typically go out in January.
25 Staff reviews all of the natural gas companies in the state

1 during that following year. It is typically somewhere near
2 the end then of 2008 before all that is done.

3 COMMISSIONER CLAYTON: If there is a -- if
4 there is a finding in, say, November of 2006 that -- and this
5 is if. Not making any accusations.

6 If there were a finding of imprudent action on
7 the part of the company or perhaps their buying practices or
8 their hedging practices were not meeting standards expected by
9 the Commission, when would the customers of this system that
10 paid the increased costs over this winter, when would they
11 receive the relief or the benefit of that analysis of
12 imprudence -- the finding of imprudence?

13 MS. SHEMWELL: 2008. But please be sure to
14 check this with David Sommerer. But I believe 2008. That's
15 why we're recommending that the Commission, however, have them
16 report during this winter the under- or over-recovery levels.
17 And the Commission may then order them or recommend that they
18 adjust their prices at that time.

19 Let's say gas -- and again, I have no
20 prediction, but let's say natural gas drops off dramatically
21 for January. They should come in at that point and revise
22 their PGA.

23 MR. FISCHER: Your Honor, could I ask a
24 clarification? I may have misunderstood the year that it
25 would be effective. Did you say 2008?

1 MS. SHEMWELL: Yes. 2007?

2 MR. FISCHER: '7.

3 MS. SHEMWELL: I'm sorry. 2007.

4 COMMISSIONER CLAYTON: Maybe I should just
5 defer. I don't want to put you on the spot.

6 MS. SHEMWELL: I'm not a numbers person.

7 COMMISSIONER CLAYTON: I know. I was told
8 there would be no math too. I'll defer the rest of my
9 questions to Staff. It's Mr. Sommerer and --

10 MS. SHEMWELL: And Mr. Imhoff and Mr. Wood will
11 be available. Thank you.

12 JUDGE THOMPSON: Mr. Mills.

13 MR. MILLS: Good morning. May it please the
14 Commission. I, unfortunately, don't really have a terribly
15 different point of view from either Mr. Fischer or
16 Ms. Shemwell. I think the Staff recommendation in which it
17 concludes that the current PGA tariff filing the Commission is
18 considering today is calculated in accordance with the
19 company's tariff is correct. We have no reason to dispute
20 that.

21 And the way that the PGA process is set up in
22 Missouri, I don't see a terribly useful grounds on which to
23 challenge the Commission's approval of that tariff or from the
24 Commission's point of view, a possible hook on which to not
25 approve that tariff. In Missouri, once tariffs are approved

1 by the Commission they are in force and effect of law, and the
2 Commission can't simply ignore them when it's convenient. And
3 I think that's going to work a terrible hardship on customers
4 of SMG this winter.

5 Having said that I agree with much of what
6 Ms. Shemwell and Mr. Fischer said, I do want to point out
7 several differences that I have. One is actually with the
8 exhibit that Mr. Fischer had marked that is from the
9 Commission's own website in which the Commission states that
10 it encourages natural gas utilities to take steps in their
11 purchasing practices to reduce volatility.

12 That's true as far as it goes, but it doesn't
13 go as far as it should. The Commission actually has a rule
14 that requires natural gas companies to take steps to reduce
15 volatility and to provide price stability. Doesn't simply
16 encourage that. It requires it.

17 And I think you'll find, as you take evidence
18 this morning, that SMG has not complied with that rule. I
19 don't believe that they have taken appropriate steps to reduce
20 price volatility and to provide price stability.

21 And with that in mind, let me address, as
22 Ms. Shemwell did to a certain extent, what the company has
23 referred to as a basis hedge. You know, there's a product out
24 there called mock turtle soup. It may be a good soup, but
25 it's not turtle soup.

1 A basis hedge may be an appropriate thing to
2 do, but it's not a hedge. A basis hedge is simply a fixed
3 discount off of a market price. If the market goes up to \$20,
4 you get your discount off that. If the market drops down to
5 \$2, you get your discount off that. It does absolutely
6 nothing to encourage price stability or to reduce volatility.
7 It's simply a fixed discount off of whatever the market is.

8 That's what we're talking about in this case
9 when you hear the company talk about a basis hedge. It's not
10 a hedge at all. It's a discount based on the source of the
11 gas and the lower price that it is to get that gas delivered
12 than the market price is reflected in the NYMEX.

13 So I think you need to be careful when you hear
14 the company talking about how they've hedged a certain
15 percentage of their gas, that's what they're talking about.
16 They're not talking about anything that protects their
17 customers from fluctuations in the market. They're simply
18 talking about a fixed discount from the market price.

19 Let me also say that I concur with Staff's
20 recommendation that one of the most useful things for
21 customers that the Commission can do in this juncture for
22 customers of SMG is to, at the very least encourage, if not
23 order, SMG to start immediately doing public service
24 announcements, bill inserts, whatever it can to let its
25 customers know what kind of increase it's facing and what

1 that's likely to mean to the customers' monthly bills this
2 winter.

3 That concludes my opening statement. I'd be
4 happy to answer questions, if there are any. Thank you.

5 JUDGE THOMPSON: Thank you, Mr. Mills.

6 Commissioner Clayton.

7 COMMISSIONER CLAYTON: Mr. Mills, I'm sorry.

8 In your initial statement you said that you accept the legal
9 rationale that because the tariffs have been approved, that
10 they have the force and effect of law, that there's nothing
11 that can be done on them -- as long as the PGA adjustments are
12 done in accordance with the tariffs, there's nothing that can
13 be done in adjusting any of these costs.

14 MR. MILLS: Without somehow finding that the
15 tariff is not just and reasonable and rejecting the tariff
16 itself, no, I think that's correct.

17 COMMISSIONER CLAYTON: Does the Office of
18 Public Counsel have suggestions in either doing a rulemaking
19 or changing how PGAs have been done and how they're listed in
20 tariffs?

21 MR. MILLS: You know, the PGAs were first
22 started back in the 1960's when natural gas prices were
23 regulated by the federal government. And in that scenario,
24 what the local distribution company in Missouri had to pass
25 onto their customers was already a regulated price.

1 Over the course of the last couple of decades,
2 those prices have become less and less regulated and now
3 they're not regulated at all, but the PGA process hasn't
4 changed at all. The PGA process still acts as though whatever
5 the utility pays for the price of natural gas is more or less
6 presumed to be prudent.

7 It's passed onto customers and then a year or
8 two years -- if it's a contested case, then it may be more
9 than two years later, any differences between what the cus--
10 what the company paid and what they should have paid in a
11 prudent course of action is then refunded to customers over
12 the ensuing years.

13 And as I said, that worked fine if the price
14 was regulated. There wasn't anything they could do about it.
15 I don't think it's a very appropriate process anymore and I
16 think the Commission should look at doing something to at
17 least increase the risk on the company of bearing the price of
18 their own imprudence in real time rather than two years later
19 after customers have suffered through a winter and paid
20 outrageously high bills.

21 COMMISSIONER CLAYTON: Do you or your staff
22 have specific recommendations on changing the PGA process or
23 updating the PGA process as you've -- I think that's kind of
24 what you're hinting at.

25 MR. MILLS: No. I don't think we do at this

1 point, but we certainly would be willing to look into that if
2 the Commission's willing to consider it.

3 COMMISSIONER CLAYTON: Okay. Thank you.

4 JUDGE THOMPSON: Commissioner Gaw.

5 COMMISSIONER GAW: Mr. Mills, are you
6 suggesting -- I think I understand you to be suggesting that
7 Public Counsel believes that there may be violations of the
8 Commission's rule in regard to hedging going on in this case.

9 MR. MILLS: Yes, I think that's very possible.
10 I think the evidence today may show that.

11 COMMISSIONER GAW: But at the same time you
12 don't think there's anything that can be done about it?

13 MR. MILLS: I don't know that --

14 COMMISSIONER GAW: And that's -- that is not a
15 message that sits well with me. It may be the case, but it
16 doesn't sit well. So give me some idea about -- I mean, it
17 sort of sounds to me like we're talking about watching
18 somebody being shot in the alley and everybody saying, Hey,
19 we'll take care of it and arrest him after he's dead -- after
20 the guy's dead.

21 I mean, I want to know what we're going to do
22 now if there's something wrong here to prevent the crime,
23 which is being used loosely.

24 MR. MILLS: Yes, I understand.

25 COMMISSIONER GAW: But what do we do about this

1 issue now instead of waiting until two years later?

2 MR. MILLS: Well, there are a couple of things.
3 And one thing -- and I think I mentioned this in the agenda
4 meeting on Tuesday. If the evidence in this case or our
5 discovery shows that this company or any of the LDCs have not
6 complied with the rule that requires them to achieve price
7 stability and reduce volatility, my office will file
8 complaints.

9 COMMISSIONER GAW: Okay.

10 MR. MILLS: That should, at the very least, if
11 the Commission finds merit in those complaints and orders its
12 general counsel to seek penalties on the basis of those
13 complaints, encourage utilities to begin paying attention to
14 that rule.

15 However, as you point out, that doesn't do a
16 whole lot of good for the particular PGA tariff that's in
17 front of you now. It is a remedy and a more long-term point
18 of view, but it doesn't do a whole lot of good for, as you
19 say, stopping the shooting in the alley that's going on in
20 front of us.

21 And I don't know -- unless the Commission can
22 somehow tie compliance with that rule to the ability to -- you
23 know, to follow the mechanism that's set out in the company's
24 tariffs, I think those are necessarily two separate actions.

25 I don't know that simply because the company

1 has -- and I will say at this point allegedly acted
2 imprudently in failing to hedge its natural gas prices, I
3 don't think that there's anything in the company's approved
4 tariff that allows the Commission to not pass that through.

5 I think if there was a truly egregious
6 situation in which there was fraud or, you know, some kind of
7 conspiracy, then the Commission could perhaps stop a PGA
8 tariff in its tracks. But without a finding of something of
9 that nature, I don't know that you really have a whole lot of
10 options other than to follow what the tariff says.

11 COMMISSIONER GAW: Well, I appreciate your
12 feedback, but I'm not sure that I am willing to accept it at
13 this point. I would say this, that all of this is, of course,
14 just allegations and statements and --

15 MR. MILLS: It is.

16 COMMISSIONER GAW: -- we haven't heard anything
17 yet.

18 MR. MILLS: Right.

19 COMMISSIONER GAW: But I have a big concern
20 about the concept that the Commission's hands are tied here
21 simply by something that's been filed by the company even if a
22 rule says -- even if the actions are contrary to a rule that's
23 in effect. And so I want -- I want to look at that a little
24 more as time goes on. That's all I have right now. Thank
25 you.

1 MR. MILLS: Thank you.

2 JUDGE THOMPSON: Other questions from the
3 Bench?

4 Mr. Mills --

5 COMMISSIONER APPLING: Not at this time.

6 JUDGE THOMPSON: -- so your position is that
7 the Commission can do nothing except approve this tariff?

8 MR. MILLS: No. I didn't say that. I think in
9 my opening statement I made it clear that I didn't see any
10 clear avenue on which that you could not follow the lawfully
11 approved tariff.

12 And as I just said in my discussions with
13 Commissioner Gaw, the Commission could create a policy that,
14 you know, compliance with the Commission's hedging rule is a
15 requirement for any PGA increase. I don't -- I don't know
16 whether that kind of an approach would stand up in court
17 though.

18 JUDGE THOMPSON: Okay. It seems to me that you
19 as much as said that you believe there is a violation here of
20 the Commission's hedging rule; is that correct?

21 MR. MILLS: I think that the evidence will show
22 that, yes, based on information that I have received from the
23 company in a briefing that the company gave to my office and
24 to the Staff.

25 JUDGE THOMPSON: Why haven't you filed a

1 complaint already?

2 MR. MILLS: Well, that just happened a week
3 ago. And we simply don't have the resources to act that
4 quickly. The record in this case I think will develop quickly
5 into something that can be the basis of a complaint. To try
6 to get the same kind of information through discovery would
7 take longer than it would have -- I mean, then it will to get
8 it in this hearing.

9 JUDGE THOMPSON: I think you also suggested
10 that it is your belief that the company has been imprudent
11 with respect to its gas acquisition practices for this
12 upcoming winter season. Am I correct in understanding that
13 you've indicated that?

14 MR. MILLS: From what I've seen, that's my
15 point of view, yes.

16 JUDGE THOMPSON: So could not the Commission
17 open a prudency proceeding even though the company
18 mathematically is in compliance with the existing tariff that
19 creates the PGA/ACA system? Is prudence something that has to
20 wait until the end of the process?

21 MR. MILLS: Certainly that is how it's set
22 forth in the tariffs. I'd have to go closely through the
23 tariffs line by line to see if there is another alternative.

24 JUDGE THOMPSON: I mean, would you agree with
25 me that as gas prices go up, that the percentage of the

1 rate-paying population that is unable to afford the gas is
2 also going to increase?

3 MR. MILLS: Certainly.

4 JUDGE THOMPSON: And in a cold winter, does
5 that not present a public health problem?

6 MR. MILLS: Could very well. That certainly
7 was a finding that the Commission made after the winter of
8 2000/2001 when it made emergency changes to the Cold Weather
9 Rule.

10 JUDGE THOMPSON: And you don't think that the
11 Commission's present statutory powers permit it to intervene
12 when there is an impending emergency situation?

13 MR. MILLS: Oh, I think they do.

14 JUDGE THOMPSON: Okay. Thank you, Mr. Mills.

15 MR. MILLS: And I think certainly that would be
16 an avenue that the Commission could pursue.

17 JUDGE THOMPSON: In fact, the Commission's
18 authorized to take summary action to protect the public
19 health, is it not?

20 MR. MILLS: That's correct.

21 JUDGE THOMPSON: Further questions from the
22 Bench?

23 Hearing none, Mr. Fischer, first witness,
24 please.

25 CHAIRMAN DAVIS: Judge, can I ask one --

1 JUDGE THOMPSON: Yes, sir.

2 CHAIRMAN DAVIS: -- one question here? And I
3 guess this is a general question that I would ask all the
4 parties here. And I guess I'll start with Mr. Fischer.

5 Mr. Fischer, are there larger policy
6 implications at stake here? And I'm not exactly sure how
7 companies like Southern Missouri Gas, etc., you know, purchase
8 their gas on credit. And I know it's sort of a mechanistic
9 formula that is used.

10 And, you know, I just want to make sure that
11 our tinkering around here doesn't necessarily affect, you
12 know -- I don't want to send a whole ripple through the
13 industry that's going to cause, you know, gas suppliers to not
14 loan Missouri gas LD-- or not allow Missouri LDCs to have gas
15 on credit or something for this winter.

16 MR. FISCHER: Yes, Mr. Chairman. There are
17 huge policy implications to suspension of a PGA for a company
18 like Southern Missouri Gas Company or any other LDC in the
19 state.

20 In the event that we could not pass through on
21 a timely basis the costs of the gas, we would have no way that
22 we could get the money from our consumer so that we could pay
23 the huge gas costs that these folks have to pay every winter.
24 And then we would be expected to pay the gas costs, but not
25 have a way to have it reflected in the rates of the company.

1 In that event, very quickly the companies will
2 be in a position of not having the cash flow to pay those
3 bills. It's going to wipe out their net income very quickly.
4 The credit worthiness of the company will be called into
5 question. The gas suppliers will be calling for up front
6 payments of their gas costs. And it very much could, in some
7 cases, indicate that these companies won't be able to get the
8 gas supplies that they need.

9 Now, the Commission has looked at all these
10 implications as recently as I think 2003, whenever the PGAs
11 were changed. In 1996, there was a large investigation into
12 the PGA process. The Commission found it really -- the
13 process was appropriate. The court in a case that I can cite
14 to you, has reviewed that and approved that.

15 And basically the Commission found that it
16 doesn't have a very good alternative other than the PGA. It's
17 appropriate that we continue to use this process. If we have
18 questions about gas purchasing practices or whether there's
19 been some other issues related to whether there's an
20 over-collection or an under-collection, that's what the ACA
21 process is designed to do. And that's what we will be doing
22 in this case.

23 I wasn't prepared today to try a complaint case
24 against the -- whether this company has allegedly violated the
25 gas -- natural gas price volatility rule. Our position would

1 be that certainly they have not. They have considered all the
2 matters that they need to consider that are required under
3 that rule. There's not a statement in that rule of what you
4 have to do in order to mitigate these spikes.

5 It does say you do need to consider different
6 mechanisms. And whenever I put Mr. Maffett on the stand, he
7 will go through and indicate that they considered those and
8 they've come to a conclusion based on his analysis about
9 what's the most appropriate thing to do with these very unique
10 and unusual market conditions.

11 But if the Commission does entertain the idea
12 of tinkering with the tariffs, I believe you can't change
13 those tariffs without having a look at the tariffs themselves
14 that complain against those tariffs because these companies
15 are complying with the PGA process that's been mandated really
16 since 1962 by the Commission. And it's been tinkered with
17 over the years. Every time there's a spike in the natural gas
18 prices, we take a look at it.

19 But I would urge the Commission before you do
20 any tinkering, to look at the major policy problems that would
21 create if we end up suspending the company's ability to pass
22 along these gas costs on a timely basis.

23 These companies, of course, don't make any
24 money on the gas costs. They only make money on the
25 investments that they make for distribution. And their net

1 incomes are very small relatively to the 70 to 80 percent of
2 the gas costs that they have to basically front for their
3 consumers during the wintertime while they're collecting these
4 costs through the PGA. And we can go through that on the
5 stand.

6 But, yes, my answer to you, Mr. Chairman, is
7 there are huge policy issues if the Commission would decide to
8 change the process. And I would certainly urge you to think
9 very carefully before you did that. And I will be happy to
10 answer questions.

11 CHAIRMAN DAVIS: Let me just -- let's go to
12 Ms. Shemwell and to Mr. Mills in no particular order and find
13 out if they concur with that analysis. Mr. Schwarz wants to
14 jump in here.

15 MS. SHEMWELL: Speaking for me will be
16 Mr. Schwarz.

17 MR. SCHWARZ: Mr. Chair, if I might, my name is
18 Tim Schwarz. I'm deputy general counsel and I would
19 appreciate the opportunity to respond on behalf of Staff.

20 I would concur, I think Staff would concur with
21 Mr. Fischer that there are considerable credit implications
22 for Missouri LDCs should the Commission disallow a PGA filing
23 that has been made in compliance with the PGA clause.

24 I think it would be particularly problematic
25 for the smaller LDCs, SMGC, Fidelity, Missouri Gas Utilities,

1 which is -- has just recently taken over the operations in
2 Hamilton and Gallatin the city fathers abandoned. I think
3 that particularly the smaller LDCs would face concerns.
4 Obviously the larger utilities have greater financial
5 resources to meet those kinds of contingencies, although there
6 would certainly be, I think, impacts felt by all utilities.

7 So to that extent, I think that, yes, a
8 decision to, on whatever basis, reject an otherwise lawfully
9 filed PGA would have ramifications particularly for the
10 smaller companies. It would also affect obviously
11 reliability.

12 That is, if suppliers, marketers are no longer
13 confident of the ability of the LDC to timely pay bills, they
14 might simply decline to provide service. I'm sure that there
15 are credit reliability conditions in, you know, gas supply
16 contracts that the suppliers would be looking at.

17 JUDGE THOMPSON: Thank you, Mr. Schwarz.

18 Mr. Mills.

19 MR. MILLS: I certainly am not as intimately
20 familiar with the details of SMG's financial situation as
21 Mr. Fischer. I don't -- it doesn't seem to me intuitively
22 obvious that if the Commission disallows a certain portion of
23 this increase, that SMG will necessarily not be able to meet
24 the cash flow necessary to continue buying gas. I suppose
25 that's possible. It's something the Commission should look

1 at.

2 But I wouldn't automatically jump to the
3 conclusion that this company or any company in Missouri must
4 have every penny of a PGA increase that it asks for at the
5 time it asks for it in order to stay solvent.

6 But in terms of the Chairman's broader
7 question, certainly there are -- yeah, there are large policy
8 implications to not approving a PGA tariff that was -- that
9 was filed and calculated in accordance with the company's
10 tariffs. I can't recall a time when the Commission has done
11 that. And I think it certainly would be a major seed change
12 in the Commission's approach to these. And, of course, that
13 would have significant policy considerations. Depending on
14 exactly what action the Commission took, you know, they could
15 be huge implications or minor implications.

16 JUDGE THOMPSON: Thank you.

17 Further questions?

18 MR. MILLS: And if I may -- and you all may not
19 be able to answer this, but from the order setting the
20 hearing, it was my understanding that the basis of this
21 hearing was primarily to determine whether or not the
22 Commission should approve the tariff as filed. And it seems
23 to me from some of the questions of the Bench, that the
24 Commission is looking at much broader issues than that more
25 simple issue; is that correct?

1 JUDGE THOMPSON: Well, let me just read to you
2 from the corrected order setting hearing, paragraph No. 2. It
3 states, The parties shall appear with suitable witnesses who
4 are prepared to offer testimony, stand cross-examination and
5 reply to Commissioner questions on all issues relevant to the
6 PGA tariff filed by Southern Missouri Gas Company on
7 September 15, 2005.

8 Certainly it refers to the PGA tariff as the
9 starting point, but you'll note it states all issues relevant,
10 which is pretty broad.

11 MR. MILLS: Okay.

12 JUDGE THOMPSON: So if there are no further
13 questions from the Bench, Mr. Schwarz?

14 MR. SCHWARZ: If I might, one item that I -- or
15 one point that I would like to suggest additionally is what
16 would be the Commission's basis for making some adjustment or
17 disallowance to a PGA filing?

18 That is, if not using the data and methodology
19 set out in the PGA tariff, what then does the Commission use
20 to form the basis for what gas prices should be? I mean, do
21 you strike the filed amount by a nickel or a dime or a quarter
22 or a dollar or two dollars? I think that you run into real
23 problems with those sorts of questions as well.

24 JUDGE THOMPSON: Commissioner Appling?

25 COMMISSIONER APPLING: Mr. Schwarz, I

1 understand exactly what you're saying. I don't have a legal
2 argument for what you're saying, but I do certainly have an
3 opinion here.

4 This is not a time for any company to come
5 before the Public Service Commission today with the price of
6 gas and what's going on with gas -- and I'm not indicating
7 with my statement that it is -- to be monkeying around with
8 the price of gas right now. That will not be looked upon by
9 this Commissioner very favorable.

10 So what I would like to hear here today that
11 the Staff, that OPC has done everything that they needed to do
12 to make sure that this company -- what they're putting forward
13 is the best that they can do and if that PGA is needed, then
14 it's justified. I can support that if it's justified, have no
15 problem with it.

16 But this is not a time -- and I say again to
17 everybody in this room, this is not a time to be talking about
18 increasing the cost of the gas unless we have real
19 justification for doing it. End of message.

20 JUDGE THOMPSON: Thank you, Commissioner.

21 Mr. Schwarz, the Commission hasn't done
22 anything yet and the Commission's here to find out what the
23 information is and what the situation is that underlies this
24 PGA increase, which I think you'll agree is large.

25 And with that in mind, I will ask Mr. Fischer

1 to call his first witness.

2 MR. FISCHER: Thank you very much, Judge. I
3 would call Randy Maffett to the witness stand.

4 JUDGE THOMPSON: Mr. Maffett, spell your last
5 name for the reporter, please.

6 THE WITNESS: M-a-f-f-e-t-t.

7 (Witness sworn.)

8 JUDGE THOMPSON: Please take your seat.

9 You may inquire.

10 MR. FISCHER: Thank you, Judge. Before I begin
11 my direct, I mentioned a Court of Appeals case which I didn't
12 have a cite and I'd like to just put that into the record.
13 There was a case called State ex rel. Midwest Gas Users
14 Association versus the Public Service Commission. And it's
15 cited at 976 S.W. 2d 470, opinion issued June 2nd, 1998.

16 That gives a very large discussion of the
17 history of the PGA, the most recent reviews of the PGA and the
18 fact that the Commission found that the PGA should not be
19 eliminated. The Commission finds the PGA mechanism is an
20 effective way to handle the risks associated with short-term
21 fluctuations in the price of natural gas.

22 That's certainly an important case that I'll be
23 looking at in the closing if we -- or briefing or whatever.
24 But I appreciate that.

25 RANDAL MAFFETT testified as follows:

1 DIRECT EXAMINATION BY MR. FISCHER:

2 Q. With that, I'd like to proceed and ask
3 Mr. Maffett to state his name and address for the record.

4 A. Randal T. Maffett. Business address is 1001
5 Fannen Street, suite 550, Houston, Texas 77002.

6 Q. Mr. Maffett, by whom are you employed and in
7 what capacity?

8 A. I'm the president and CEO of Sendero Asset
9 Management, which is the managing partner for Southern
10 Missouri Gas Company, LP.

11 Q. Before we began the hearing, Miss Shemwell
12 indicated she had a copy of your resume. And perhaps it would
13 be easier to just introduce that into the record as your
14 background rather than going through that on the stand.

15 JUDGE THOMPSON: Okay. This will be Exhibit
16 No. 5.

17 (Exhibit No. 5 was marked for identification.)

18 BY MR. FISCHER:

19 Q. Mr. Maffett, does that appear to be a
20 reasonable copy of your resume?

21 A. Yes, it does

22 MR. FISCHER: Your Honor, I'd ask that that be
23 introduced into the record.

24 JUDGE THOMPSON: Any objections to the receipt
25 of Exhibit No. 5?

1 Hearing no objections, the same is received and
2 made a part of the record of this proceeding.

3 (Exhibit No. 5 was received into evidence.)

4 BY MR. FISCHER:

5 Q. Mr. Maffett, as a general managing partner of
6 Southern Missouri Gas Company, were you involved in the filing
7 of the company's PGA on September 15, 2005 in this case?

8 A. Yes, sir, I was.

9 Q. Were you also involved in the development of
10 the supporting work papers which were filed in this case?

11 A. Yes, sir, I was.

12 MR. FISCHER: Judge, the filing of the tariff
13 and the supporting work papers were done to initiate this
14 case. I can make a copy of those an exhibit and introduce
15 them into the record at this time if that's appropriate or
16 take official notice of them.

17 JUDGE THOMPSON: I think it's easier to treat
18 them as exhibits. So if you have copies, let's do that. This
19 will be both the tariff and the work papers?

20 MR. FISCHER: Well, the work papers were filed
21 as proprietary, so I don't --

22 JUDGE THOMPSON: Let's make the tariff itself
23 Exhibit No. 6 and let's make the work papers proprietary
24 Exhibit No. 7.

25 (Exhibit No. 6 was marked for identification.)

1 MR. FISCHER: And the work papers.

2 (Exhibit No. 7P was marked for identification.)

3 BY MR. FISCHER:

4 Q. Mr. Maffett, I'm not going to ask you to go
5 through these work papers at this time, but is it correct that
6 these work papers include the company's calculations of its
7 PGA and the ACA factors that were filed in this case?

8 A. Yes.

9 Q. And were they calculated in conformance with
10 your tariff --

11 A. Yes.

12 Q. -- your PGA tariff?

13 A. Yes, sir.

14 Q. Okay.

15 MR. FISCHER: Judge, I'd ask the admission of
16 the PGA tariff filing and the work papers.

17 JUDGE THOMPSON: Do I hear any objection to the
18 receipts of Exhibits 6 or 7?

19 Hearing no objections, the same are received
20 and made a part of the record of this proceeding.

21 (Exhibit Nos. 6 and 7 were received into
22 evidence.)

23 CHAIRMAN DAVIS: Judge, can I interrupt here
24 for a second?

25 JUDGE THOMPSON: Absolutely.

1 CHAIRMAN DAVIS: I know Mr. Maffett is excited
2 to get on with his testimony here, but we do have an agenda
3 meeting scheduled for 9:30 and the whole purpose of bringing
4 Mr. Maffett here was so that we could ask him questions and
5 everything.

6 So what I would like to do is ask the
7 indulgence of the parties, since we have one Commissioner
8 calling in from out of state, if we could go upstairs, have
9 our agenda meeting, if we could recess, you know, for a short
10 period of time. And I will try to fly through things up there
11 and get back down here as soon as possible.

12 JUDGE THOMPSON: That's fine, Mr. Chairman. We
13 will recess the hearing at this time and return when the
14 agenda meeting is concluded, which I don't think will be too
15 long. Thank you very much. We're in recess.

16 (A recess was taken.)

17 JUDGE THOMPSON: Very well. We'll go back on
18 the record. Mr. Fischer.

19 MR. FISCHER: Thank you, your Honor.

20 BY MR. FISCHER:

21 Q. I think whenever we adjourned, Mr. Maffett, we
22 were just about to start discussing the development of your
23 gas supply strategies for the year. And I think I believe I
24 asked you if you'd been involved in the development of the
25 company's gas supply purchasing practices this year?

1 A. Yes, sir, I have.

2 Q. Could you briefly explain to the Commission
3 Southern Missouri Gas Company's winter load profiles,
4 including a discussion of normal, cold and warm weather
5 profiles?

6 A. Yes, sir. The volumes vary on a monthly basis,
7 but in total for the five winter months, November through
8 March, a normal winter, which is based off historical data, is
9 about 590,000 decatherms or MMBtus.

10 The analysis that we used for a cold winter
11 increased that about 29 percent to 760,000 MMBtus. And that's
12 based on using Springfield weather data for the past 30 years
13 picking the coldest month in any of those 30 years and
14 applying that to that five-month period.

15 For warmer than expected winter, it's a
16 reduction of about 22 percent, 460,000 MMBtus, and that's
17 using the historical -- Southern Missouri's historical data
18 taking into consideration the lowest throughput for each of
19 the five months, November through March.

20 Q. Okay. Would you also explain for the
21 Commission the nature of your company's hedging strategy for
22 this year? And particularly discuss this concept of a basis
23 hedge and how it works.

24 A. Correct. This past summer, as we were watching
25 the market's volatility increase, we made two decisions to

1 enter into what are called basis hedges to where we're locking
2 in differentials for the physical cash market relative to the
3 NYMEX financial market.

4 The first one was 59 cents below NYMEX, which
5 was executed on July 26, 2005 for roughly 190,000 MMBtus of
6 winter -- winter demand or expected demand. The second one
7 was at a differential of minus 98.5 cents relative to NYMEX
8 for another 190,000 MMBtus and that was executed on
9 September 2nd, 2005.

10 Considering that the -- they're both the same
11 volume, it represents an average of about 79 cents discount to
12 NYMEX. When you -- when you compare that to a normal, cold or
13 warm winter, it represents roughly 64 percent, 50 percent and
14 83 percent respectively.

15 MR. FISCHER: Okay. In order to demonstrate
16 that, I'd like to ask that an exhibit be marked.

17 JUDGE THOMPSON: Okay.

18 COMMISSIONER GAW: That would be helpful. And
19 may I ask a quick question because I just didn't hear it.
20 What was the first differential?

21 THE WITNESS: Was 59 cents below NYMEX.

22 COMMISSIONER GAW: 59 cents. And the second
23 was 98.5?

24 THE WITNESS: Yes, sir.

25 COMMISSIONER GAW: Thank you.

1 (Exhibit No. 8 was marked for identification.)

2 BY MR. FISCHER:

3 Q. Mr. Maffett, I've placed in front of you
4 Exhibit No. 8, which is identified as SMGC's winter gas
5 requirements, November 5 -- November '05 to March '06. Are
6 you familiar with this exhibit?

7 A. Yes, sir.

8 Q. And was it prepared by you or under your
9 direction?

10 A. It was prepared by Bill Walker, our manager of
11 gas control.

12 Q. Okay. Does it accurately demonstrate what it
13 purports to show, in your opinion?

14 A. Yes.

15 MR. FISCHER: Your Honor, I'd ask for admission
16 of Exhibit 8 and then I'll ask some questions about it.

17 JUDGE THOMPSON: Any objections to the receipt
18 of Exhibit No. 8?

19 Hearing no objections, the same is received and
20 made a part of the record of this proceeding.

21 (Exhibit No. 8 was received into evidence.)

22 BY MR. FISCHER:

23 Q. Mr. Maffett, using Exhibit No. 8, could you
24 explain the basis hedging that you were just talking about and
25 how that works in terms of this exhibit?

1 A. Yes. Basis hedges, as I said earlier, are
2 basically an instrument utilized to lock in the differential.
3 And the differential in some cases can be positive for some
4 markets relative to what is generally considered a widely
5 traded or a very liquid index or benchmark such as Henry Hub.

6 This summer -- historically when we've looked
7 at Southern Missouri's supply basins and the historical basis
8 differentials to NYMEX, when you go back to 2000 through 2002,
9 three calendar years, those basis spreads ran anywhere from
10 about 3 cents above NYMEX to 37 cents below NYMEX and tended
11 to average around 15 cents below NYMEX. For Jan '03 through
12 Dec '04, they ranged from 12 cents below NYMEX to 84 cents
13 below NYMEX, averaging about 35 cents below NYMEX.

14 So when you look at the five-year historical
15 basis of our supply region relative to NYMEX, the average is
16 about 23 to 25 cents below. And in June, July of this summer,
17 we were now seeing basis spreads in the 50 to 60 cents range,
18 which for that period of time were all-time highs on the basis
19 spreads, as were the NYMEX prices.

20 Q. Okay. And then as the summer progressed, then
21 you did a second basis hedge. Would you explain the situation
22 at that time?

23 A. Again, from the time frame of the first
24 execution on July 26th at 59 -- NYMEX minus 59 to the second
25 one on September 2nd at NYMEX minus 98 1/2, that NYMEX had

1 obviously continued to climb as well we all know today. You
2 have the effects of Hurricane Katrina that were already being
3 significantly felt. And again, the basis, once again, blew
4 out to an all-time high.

5 At that point in time, again, we felt it was
6 prudent to take an opportunity to lock in these all-time high
7 discounts to the NYMEX index.

8 Q. If we look at Exhibit 8, would you explain what
9 the top column above the first line -- the line that goes from
10 left to right would demonstrate that I believe is the --

11 A. The top -- the top row?

12 Q. -- the top third -- right. The one that would
13 deal with your warm weather load at 460,000 for the winter.

14 A. Correct. Well, the column 1 represents the
15 estimated monthly throughput. Column 2, the NYMEX, and this
16 was prepared on September 6th, represented the current NYMEX
17 strip for each of those months on that day.

18 The basis 1 and the basis 2 represent the
19 volumes that I referenced before, the two 190,000 MMBtus
20 contracts. And then the basis price -- basis 1 price, if you
21 notice above it, it says minus 59 cents. So essentially what
22 is -- that column is doing is taking the NYMEX price for that
23 month, subtracting that basis or adding that negative basis
24 differential to create the first basis price. Same thing for
25 the second basis price. You notice the minus 98.5 at the top.

1 And so then we sub-- we subtract out what would
2 be the remaining gas supply requirements and we labeled that
3 the unhedged volumes. And the next column shows an estimated
4 basis, which at that time was the best indicator in the market
5 that we had on September 6th when we were putting this data
6 together.

7 Again, you just -- the next column, the
8 unhedged price, represents NYMEX minus the estimated basis to
9 generate now the last -- or the second -- the three second to
10 last columns each incremental pieces, total monthly cost and
11 then the last column representing the total cost.

12 Q. And if you go to the middle column, would it be
13 correct that this would demonstrate the same facts related to
14 a normal winter load?

15 A. Yes.

16 Q. And then if we go to the lower columns, this
17 would be the demonstration of the effect if we were talking
18 about a colder than normal load; is that correct?

19 A. Correct.

20 Q. And I believe -- could you again cite what the
21 percentages are of your -- you believe your load is hedged on
22 a warmer, normal and a cold weather winter scenario?

23 A. On a warm scenario, I believe it was
24 83 percent. On a normal scenario, roughly 64 percent. And on
25 a cold scenario, about 50 percent.

1 Q. And so is it correct that that percentage of
2 your load, looking at those three different load profiles,
3 would reflect what percentage of your load is going to be
4 discounted from the NYMEX?

5 A. At locked in differentials, which at that time
6 were all-time highs.

7 Q. Would you explain why you decided to employ
8 these two basis hedges this year?

9 A. As the management group for Southern Missouri
10 and I were looking at the market fundamentals, the market
11 dynamics, we were -- and talking with our suppliers and number
12 of market participants, we were seeing very bearish signs in
13 the market.

14 You had NYMEX that was beginning to trade at
15 all-time highs from one month to the next. We had a
16 relatively light winter '04/'05 season. There was residual
17 gas that was left in storage all across the country. The
18 current summer storage injection rates were in line with
19 normal historical projections, 80 to 90 CCF per week per EIA's
20 information sources.

21 We had -- again, the basis was widening every
22 month, which is an indication that the cash -- the physical
23 cash market is disconnecting or uncorrelating with the
24 financial derivative market, i.e., NYMEX. So all of these
25 things, to us, were pointing towards a very bearish overpriced

1 market without market fundamentals.

2 Throw on top of that that for most of the
3 summer there was a significant lack of long-term sustainable
4 weather-driven demand. And what we saw were prices on NYMEX
5 that were at all-time highs and at any point had we chose to
6 lock in, we would have been locking in, at that point, the
7 record price. Keeping in mind that we don't have the luxury
8 of locking in on August the 5th, August 1st prices.

9 As -- typically in this market as absolute
10 prices retreat and you see NYMEX -- if NYMEX were to start
11 coming back down, it's very usual to see the basis begin to
12 shrink. And so basis is both an absolute term and a relative
13 term to the market itself. And as the absolute price of the
14 market begins to retreat, the basis will begin to retreat.
15 And that's evidenced by the five-year historical data that I
16 quoted earlier.

17 Q. Let's assume for the moment that the prices do
18 go down beginning, say, in January of this year. Having
19 locked in these basis hedges, can you explain what the effect
20 will be on your cost of gas?

21 A. It's -- you know, without speculating on the
22 absolute movement in those markets and assuming that the basis
23 did shrink, then as we see prices fall, having the trigger
24 with these locked-in basis differentials will allow us to
25 significantly beat what would then be -- what we would expect

1 the market to then be.

2 In other words, if we see prices retreat from,
3 say, 13, 14 dollars on NYMEX, it's very rational to expect
4 that the basis is going to shrink from 80 or 90 cents down
5 back to more normal levels, maybe 30 to 50, 60 cents.

6 Q. Now, assuming the other way, that the gas
7 prices continue to rise, what is the impact on having locked
8 in the basis hedges that you've done on the prices that you're
9 going to pay relatively to the NYMEX at a risen level?

10 A. Well, our prices will continue to rise, but our
11 basis spreads are locked in. So we will still be buying at a
12 significant discount to the market, but our prices do have
13 upward volatility.

14 Q. So I understand you also employed another
15 hedging strategy, one that I believe you called peaking call
16 options?

17 A. Correct.

18 Q. Could you explain what that peaking call option
19 is and how it works?

20 A. Correct. A peaking call option is really more
21 of a reliability tool. And it's to -- it's to provide the
22 company and its customers protection against supply
23 disruptions and/or severe market conditions.

24 And so -- give me two seconds. Trying to get
25 the exact date. I don't have the exact date on when we -- we

1 executed the peaking call option, but we purchased a physical
2 call for up to 5,000 MMBtus per day for up to any 10 days
3 during the period November through March. And that would be
4 priced at a gas daily midpoint for the Southern Star Central
5 Gas pipeline index plus 2 cents.

6 And, again, this is -- this is designed to
7 protect against supply disruptions, to protect against severe
8 sustained cold temperatures that could create operational
9 problems with the flow of gas from the supply basin to the
10 customers.

11 Q. In her opening statement this morning, I
12 believe Ms. Shemwell indicated that the primary concern with
13 Staff was having enough gas. Does this particular peaking
14 call option help address that concern?

15 A. It definitely does. When you look at -- when
16 you look at that our normal winter base load day is somewhere
17 between 5,000 and 7,500 MMBtus per day and an absolute
18 sustained peak for us is right around 10,000, that represents
19 approximately a 50 percent hedge. And I use the word "hedge"
20 loosely here because it's a reliability hedge, it is not a
21 price hedge.

22 Q. Would you briefly explain also Southern
23 Missouri Gas Company's historical practices with regard to its
24 gas supply strategies, recognizing that you have only become
25 associated with the company during the last year?

1 A. Right. During the last 90 days.

2 Q. 90 days.

3 A. We -- we Sendero's partnership acquired the
4 company in May of 2005. And so my -- my response to that
5 question is based upon what I've been told and not necessarily
6 what I was there to see.

7 But my understanding is that typically the
8 company would hedge anywhere from 50 to 70 percent of its
9 normal expected winter demand utilizing a dollar cost
10 averaging approach using fixed price physical contacts.

11 Q. Okay. Is it correct you made your gas supply
12 decisions in the summer of this year?

13 A. It is.

14 Q. Would you explain the market fundamentals and
15 pricing dynamics of the gas market at the time you made your
16 gas supply decisions?

17 A. Certainly. Again, as stated earlier, we were
18 seeing lack of current weather demand, we were seeing storage
19 that was already prematurely full, and this is per EIA
20 industry statistics reporting. We were seeing injection rates
21 that were at expected levels, which would indicate that
22 storage would be full again prematurely.

23 Once that storage reaches its capacity
24 prematurely, now you would have a lot of gas that doesn't have
25 a home. It either has -- gas has two places to go -- well,

1 three if you consider flare, but it can go to the customer, it
2 can go into storage or it can go to a flare.

3 So if storage is full and demand is off and the
4 producers, as we all know in this -- in this price
5 environment, are pumping as much as fast as they can to take
6 advantage of the cash flow benefits, there was a potential to
7 have a real disconnect between what we were seeing in the
8 physical market today and what we were seeing in the financial
9 market on NYMEX.

10 Q. Just for the record, a flare is when you just
11 burn it off into the atmosphere?

12 A. Yes, sir.

13 Q. Okay. Well, can you elaborate on your analysis
14 of the important factors driving that gas market and why that
15 drove you to the strategy that you chose?

16 A. Sure. Again, I think we -- we've touched on
17 this a little bit, but the lack of weather driven demand, the
18 storage situation. One of the things that's very difficult to
19 assess in this market, and this has come about most recently
20 in the last couple of years, is the impact that the hedge
21 funds have on the financial futures market.

22 You've got non-market participants,
23 non-physical market participants. They do not take physical
24 deliveries, they do not supply physical supplies, they don't
25 provide hedging instruments for the physical players. They're

1 strictly profit speculators that control billions and billions
2 of dollars that are pouring into these funds.

3 In recent years we've seen the funds power
4 stretched to a limit to where they can literally drive prices
5 up against a wall over and over and over as recently evidenced
6 by yesterday's market. There was a lot of short selling going
7 on. The -- at the end of the day, the shorts had to cover
8 their positions and the October contract rolled off yesterday
9 I believe up over a dollar.

10 Q. Has that contributed to the volatility of this
11 market, do you believe?

12 A. Without a question.

13 Q. While you were making your pricing decisions or
14 your gas supply purchasing decisions, did you consider natural
15 gas storage options?

16 A. Southern Missouri Gas does not have access to
17 any storage. We do not have any storage on our system. And
18 we're only fed by one pipeline, the Southern Star Central Gas
19 Pipeline system. Southern Star has not had any firm storage
20 capacity available since October of 1993, which was two years
21 before Southern Missouri was built.

22 Q. So that's really not a good option for you this
23 year?

24 A. It's -- it's not at this point. Not until
25 someone develops more storage.

1 Q. Did you also consider fixed price contracts?

2 A. We did.

3 Q. Would you explain why you chose not to use
4 fixed price contracts this summer?

5 A. Again, as stated earlier, we could have locked
6 in at any point during this analysis period. And by doing so
7 on that day, we would have been locking in at all-time high
8 prices. And our view was that the market was over supplied,
9 the hedge funds were driving the financial prices to the wall
10 and that there had to be a correction coming in August and
11 September. What we didn't count on were the effects of
12 Katrina and Hurricane Rita back to back.

13 Q. Did you also look at call options as a
14 possibility?

15 A. We -- we did. And essentially our peak day is
16 a call option. However, companies like Southern Missouri Gas
17 do not have all of the financial resources to utilize
18 financial derivative products. The credit requirements and
19 collateral requirements to execute those can be very, very
20 expensive.

21 Given that we compete head to head with propane
22 in a very, very real but unlevel playing field, we have every
23 incentive in the world to keep all of our cost structure as
24 low as possible. And that includes even looking at storage
25 should storage ever become available. That's just another

1 incremental cost that goes onto our total cost of service
2 that's passed through to our customers.

3 Q. Ms. Shemwell, in her opening statement, also
4 expressed the position that the Staff would expect the company
5 to lower its PGA rate in the event that the market turns south
6 or goes down. Does the company agree with that and is it in
7 your interest to do that?

8 A. Absolutely. Again, for the reasons I just
9 cited. We compete head to head with propane. A lot of the
10 larger LDCs, particularly in the large cities, don't have
11 that.

12 So in addition to the regulatory oversight, the
13 prudence review, the ACA audit, we have a thing called free
14 market/free enterprise competition and it's very, very real.
15 In fact, when you look at our rate-base, we actually charge --
16 our customers' rates our actually lower than what the
17 theoretical entitlement would be on that rate base because we
18 feel that there's a competitive threshold that we cannot
19 cross.

20 Q. In fact, did you lower your PGA rate last
21 summer whenever prices started coming down?

22 A. I believe we did. Again, that was prior to my
23 taking ownership and management of the company.

24 Q. As you made your pricing -- or purchasing
25 decisions, did you also consider collars?

1 A. We -- we talked about collars. And it's an
2 interesting concept. There was a -- a comment made earlier
3 about potentially being in violation of Rule 4 and then it
4 made reference to collars. And I believe Rule 4, paragraph 2,
5 specifically refers to sub-- subparagraphs C and D refer to
6 call options and collars as some of the pricing structures,
7 mechanisms and instruments.

8 That's a very broad -- very broad statement in
9 that a costless collar is actually two call options. It is
10 a -- or two option contracts. It is the combination of a call
11 option, which is a cap, buying a call, and selling a put,
12 which is a floor. So on one hand you have to buy the call; on
13 the other hand, you have to sell the put.

14 The offsetting revenues -- or the offsetting
15 exchange of monies for the premiums is what makes it
16 quote/unquote costless. However, what's not generally known
17 in the market is they're not symmetrical. So if the market is
18 at \$12 today and you want to buy a \$14 call, the costless put
19 option is not going to be \$10. It's probably going to be \$4,
20 \$5. They're not symmetrical.

21 So it's important to understand that a collar
22 in and of itself still allows price volatility as does a call
23 option. All it is doing is putting outer boundaries at some
24 predetermined point.

25 Well, we could have bought call options at

1 20 bucks and that wouldn't do us any good in a \$13 market or
2 we could have had a costless collar that was at 16 on the call
3 and \$4 on the put. And, again, all of the volatility that
4 we're seeing in the market today would be realized by the
5 consumer.

6 Q. Are you suggesting that the collar really was
7 not a strategy that you thought was in the best interest of
8 your company then?

9 A. It -- at that time we did not, that's correct.

10 Q. Did you also consider outsourcing or other
11 agency agreements as a way to mitigate price spikes?

12 A. No. Primarily because when I went through the
13 application process to acquire this company, Staff led us to
14 believe that it was very, very important that gas control be a
15 function that was managed internally within the company.

16 Q. Okay. What about futures contracts? Did you
17 look at futures contracts?

18 A. No, sir. We don't have the financial
19 wherewithal, as stated earlier, because of the credit and
20 collateral requirements.

21 Q. If the Commission did suspend this tariff,
22 would that have an effect on your credit worthiness?

23 A. Dramatically.

24 Q. What about financial swaps and options from
25 other over-the-counter markets? Did you look at those?

1 A. No, sir. It's -- it's the same as for the
2 futures markets.

3 Q. And then are there other tools that can be
4 utilized in the market for cost effective management of price
5 and usage volatility that you looked at?

6 A. Well, again, we -- we looked at fixed price
7 contracts. We did talk about collar structures. We talked
8 about call options. We executed a call option more for a
9 reliability issue than a price issue. The basis swaps or
10 basis hedges that -- that we put in place.

11 Q. So you would characterize that basis hedge as
12 another tool that should be looked at?

13 A. Definitely.

14 Q. And one that you did look at?

15 A. (Witness nodded head.)

16 Q. Okay. Mr. Maffett, have you read the Staff's
17 recommendation in this case?

18 A. I have.

19 Q. Okay. Do you agree with the Staff's
20 recommendation when the Staff recommends that Southern
21 Missouri Gas Company's tariffs be approved to become effective
22 October 1st, 2005 on the basis that the rates are interim and
23 subject to refund?

24 A. Yes, sir, I do.

25 Q. Okay. There's an Attachment C to that Staff

1 recommendation. And in the remarks section of that exhibit,
2 the Staff seems to assume a typical residential customer uses
3 approximately -- or I guess 888 CCFs during the winter season.
4 Are you familiar with that?

5 A. I'm familiar with that attachment, yes.

6 Q. And the proposed increase in rates, according
7 to that attachment, would be \$460.07 for the winter season.
8 Do you believe that the typical residential customer on
9 Southern Missouri Gas system uses that much gas in the winter
10 season?

11 A. No, sir. Our historical data indicates that
12 it's closer to about 442 CCF.

13 Q. If we use 442 CCFs per winter season, what is
14 the dollar impact of the proposed PGA increase on the typical
15 residential customer on the Southern Missouri Gas system?

16 A. When you compare that against the winter '04
17 PGA rate which was in effect a year ago, it would be, I
18 believe about \$171 a month, which is about a 28 percent
19 increase.

20 Q. Okay. Do you have that number for the total
21 winter season?

22 A. I don't have that handy, no, sir.

23 Q. Okay.

24 A. And that factors in, you know, the total bill.

25 Q. Okay. Just looking at that, would it be

1 approximately \$228?

2 A. Well, that was -- that was I think using the
3 comparison against the current PGA rate of 7-- 790 per MCF or
4 79 cents per MCF.

5 Q. So you're saying that's what the increase would
6 be from the current PGA rate?

7 A. Correct.

8 Q. But you're suggesting, if I understood your
9 answer, that actually the winter rates last year were higher
10 than they are currently; is that right?

11 A. Correct. That's correct.

12 Q. And based upon last winter's rates, how much of
13 an increase are we really talking about?

14 A. About \$171.

15 Q. Okay.

16 A. 28 percent, I believe.

17 Q. Mr. Maffett, have you reviewed the financial
18 impact on the company if the increase in this case was
19 suspended for some reason?

20 A. Yes, sir.

21 Q. Would a suspension of the tariffs have an
22 impact upon your company's ability to pay for its gas
23 supplies?

24 A. It would have a dramatic impact. Because of
25 the typical industry lag between account receivables and

1 account payables, a one-month delay would create approximately
2 150- to 200,000 dollar shortfall, which cumulatively would
3 grow to over \$550,000 by the end of November.

4 This would have dramatic effects on us in the
5 sense that it would, A, use up most of our -- all of our
6 working capital. It would eliminate our ability to install
7 and develop new facilities to grow our system and grow our
8 business. It would reduce and eliminate our -- it would
9 jeopardize our credit standing in the industry and we could be
10 forced by suppliers to have to start either prepaying or
11 issuing expensive letters of credit.

12 Q. Have you also looked at what a two-month delay
13 might do or any longer than one month?

14 A. The -- a two-month -- I can't say I've got
15 those numbers right off the top of my head, but a 30-day delay
16 in the approval of this filing results in a two-month lag in
17 implementation. Because we're a small LDC, we don't have the
18 resources and the capabilities to prorate and do multiple
19 meter readings in a month.

20 Therefore -- and we bill on a weekly cycle. So
21 25 percent of our customers are billed for each month. Well,
22 it would take us four full billing cycles to even begin the
23 next billing cycles. And then you have your -- your AR -- or
24 account receivable and account payable lag and that's where
25 you generate basically a 60- to 90-day cash drain that would

1 seriously jeopardize the company's financial integrity.

2 Q. Would you elaborate on that a little bit and
3 explain how -- if the Commission delayed this beyond
4 October 1st by just a few days, what impact would that have on
5 when you could actually begin collecting it from your
6 customers?

7 A. Yeah. Roughly we would not actually begin
8 receiving the funds until the first of December.

9 Q. Okay.

10 A. So two months lag in the cash flows.

11 Q. And that's because you don't prorate bills and
12 under your tariff, you're required to lag it?

13 A. Well, it's just that and the combination of the
14 industry -- the payment cycle in the industry lag.

15 Q. Okay.

16 A. Generally, you pay suppliers on -- on invoice
17 plus 10 and your customers aren't billed and then they have
18 invoice plus 30 days to pay. So it creates about a 55-day lag
19 time between payables and receivables.

20 Q. As you enter the winter heating season, would a
21 suspension of the tariffs have an increasing effect upon your
22 financial --

23 A. Absolutely.

24 Q. Do you think a suspension of your PGA tariffs
25 in this case might also have implications for the rest of the

1 LDC industry in this state?

2 A. Yes, I do.

3 Q. Would you explain that?

4 A. Well, let me -- let me provide one more
5 specific for Southern Missouri. And not only -- not only
6 would the cash flow and the pressure on working capital be
7 felt first hand, but it -- at the end of the -- the next
8 12-month cycle, we would end up adding to our existing
9 roughly -- and I'm using general numbers -- \$230,000 ACA
10 under-collected balance would grow to approximately \$590,000.

11 That would put us in serious jeopardy again for
12 the future with respect to our ability to compete head to head
13 with propane, which already has an unlevel playing field, and
14 has the ability since they're not regulated with respect to
15 promotional practices and so forth. It would already make it
16 even more difficult.

17 Q. Are you saying a delay would basically increase
18 your under-collected balance for next year and double up next
19 year on the winter heating?

20 A. It would more than double the ACA
21 under-collection.

22 Q. And that would have an impact upon your ability
23 to compete with propane next year?

24 A. Absolutely. The company experienced this, I
25 believe it was in 2001, where their ACA I think grew to

1 roughly \$780,000. And it's literally taken from 2001 to 2005
2 to work that ACA imbalance down now to roughly I think 3 cents
3 per CCF.

4 Q. Given the impacts that you would experience if
5 the Commission suspended your PGA in this case, would it
6 surprise you to learn that the Missouri Commission in an MGE
7 case might have found that the elimination of the PGA/ACA
8 mechanism could result in large windfall profits to Missouri
9 Gas Energy at the expense of ratepayers or losses so large as
10 to threaten the financial viability of Missouri Gas Energy?

11 A. If I'm hearing you correctly, that would not
12 surprise me.

13 Q. Okay. During the Staff's opening statement,
14 Ms. Shemwell mentioned a few things that I wanted to ask you
15 about. I believe she recommended the tariff be approved. And
16 you would agree with that; is that correct?

17 A. Yes, sir.

18 Q. I think she also mentioned that there should be
19 a customer education process. Would you give the Commission
20 your thoughts about that and how you feel?

21 A. Yes, sir. A couple of weeks prior to the
22 Commission -- to I believe it was Staff Wes Henderson's letter
23 requesting the outline and presentation of our gas supply
24 strategies, we had actually taken the initiative on our own to
25 send a information brochure out with our monthly billing cycle

1 to all of our customers informing them and trying to educate
2 them that Southern Missouri Gas Company does not make any
3 profit on the purchase and sale of natural gas and that gas
4 market -- or gas prices were at all-time highs and we expected
5 those prices to continue.

6 It would be our intent to do a -- take a
7 similar step subject to the PGA being approved, specifically
8 stating what the new rate is, why it was increased and, again,
9 reiteration some of the key fundamentals that we do not make
10 profit on the supply of gas.

11 Q. Are you also planning to do a specific customer
12 notice on the increase, assuming the Commission does grant it
13 in this case?

14 A. Yes. And I would like to add that while some
15 utilities send out a nice brochure on the back that says you
16 ought to check your insulation and check your connections and
17 keep your doors closed and turn your thermostats down,
18 Southern Missouri Gas has always, I believe, provided free of
19 charge to its customers not just the -- the outline, but we
20 actually do the work for them. We will actually come inspect
21 the safety of their home. And, again, that's -- that's a
22 function of having to compete head to head with propane.

23 Q. And, again, I believe Ms. Shemwell indicated
24 that if the gas market does go south and the prices come down,
25 they would expect that the company come in and revise their

1 PGA rate downward on a timely basis?

2 A. As quickly as possible.

3 Q. And would you agree to do that?

4 A. Absolutely.

5 Q. And is that in the best interest of your
6 company?

7 A. Without a doubt.

8 MR. FISCHER: I probably missed something, but
9 I would like to tender the witness for cross or questions from
10 the Commissioners at this time, Judge, if it would be
11 appropriate.

12 JUDGE THOMPSON: It would be appropriate.
13 Thank you, Mr. Fischer.

14 We're ready for cross-examination,
15 Ms. Shemwell.

16 THE WITNESS: Judge, is it possible to get a
17 glass of water?

18 JUDGE THOMPSON: Absolutely. Why don't we take
19 a five-minute recess so Mr. Maffett can get a glass of water.

20 COMMISSIONER CLAYTON: Three minutes.

21 (A recess was taken.)

22 JUDGE THOMPSON: Okay. We can go back on the
23 record.

24 CROSS-EXAMINATION BY MS. SHEM WELL:

25 Q. Good morning, Mr. Maffett. I'm Lera Shemwell.

1 I represent the Staff. Mr. Maffett, your resume has been
2 entered into evidence and marked as Exhibit 5 and it's quite a
3 lengthy resume. Do you show any experience purchasing gas for
4 a local distribution company?

5 A. Not directly for a local distribution company.

6 Q. I'd like to ask sort of a summary for the
7 upcoming winter season, 2005/2006. You haven't purchased any
8 fixed price contracts. Right?

9 A. That's correct.

10 Q. You have not placed any call options?

11 A. That's not correct.

12 Q. Would you explain that to me?

13 A. Yes. We have one peaking call option with BP
14 Amoco for up to 5,000 MMBtus per day up to 10 days at the gas
15 daily midpoint for Southern Star Central Gas Pipeline plus
16 2 cents.

17 Q. And you have indicated that is really a
18 reliability matter?

19 A. It's still a call option.

20 Q. But it's for reliability rather than price
21 stabilization?

22 A. Correct.

23 Q. What if there are 20 cold winter days? You
24 only have 10 days. Right?

25 A. 10 days at 5 million a day for the call option.

1 Now, that call option would also be, you know, fairly high
2 priced relative to the basis swaps that we've already entered
3 into.

4 Q. And if you take 2,000 one day, does that count
5 for one of your 10 days?

6 A. If we take 2-- can I ask you to say that again,
7 please?

8 Q. If you take 2,000 as opposed to 5,000 on a
9 particular day, does that count for one of your 10 days?

10 A. Yes, it does.

11 Q. Have you purchased any costless collars?

12 A. We have not.

13 Q. Futures contracts, you've not purchased those?

14 A. No.

15 Q. I'm going to hand you SMGC, Southern Missouri
16 Gas Company's, response to Staff recommendation.

17 JUDGE THOMPSON: Thank you. This will be
18 Exhibit No. 9.

19 (Exhibit No. 9 was marked for identification.)

20 BY JUDGE THOMPSON:

21 Q. The Judge has marked this as Exhibit 9. Are
22 you familiar with this document?

23 A. Yes, ma'am.

24 Q. It was filed on July 6th, 2005. Is that after
25 the time that you took control of SMGC?

1 A. It is.

2 Q. I would like to direct --

3 MS. SHEMWELL: Judge, I need to mention that
4 this is or does contain highly confidential information.

5 JUDGE THOMPSON: Okay. Well, in that case
6 let's mark that as HC Exhibit No. 9.

7 BY MS. SHEMWELL:

8 Q. I would like to refer you to page 3. There's
9 hedging, I note that the percentages are highly confidential
10 so we will not mention those and perhaps avoid the necessity
11 to go into in-camera.

12 The second sentence says, Typically, we utilize
13 medium term fixed price physical contracts to hedge the
14 certain percentage of our anticipated winter gas supply needs.
15 And then the next sentence, Historically, we have staged these
16 purchases in increments similar to dollar cost averaging
17 strategy, which also helps avoid making an all or nothing bet.

18 Have I read that correctly?

19 A. Yes.

20 Q. Do you agree with those statements?

21 A. Yes.

22 Q. In this case, you have purchased no fixed price
23 physical contracts. Correct?

24 A. Correct.

25 Q. Nor have you engaged in a dollar cost averaging

1 strategy; is that correct?

2 A. That's not correct.

3 Q. Would you explain your statement?

4 A. Yes. We purchased two basis differentials at
5 varying times based on varying market conditions at various
6 prices and discounts to the market. That was part of our
7 dollar cost averaging strategy.

8 Q. The basis does not actually apply to the
9 cost -- the cost of the flowing gas though. Right?

10 A. Sure it does.

11 Q. Okay. We'll get back to that.

12 MS. SHEMWELL: I'd like to offer this exhibit
13 into evidence, Exhibit 9.

14 JUDGE THOMPSON: Any objections to the receipt
15 of Exhibit 9?

16 MR. FISCHER: No objection.

17 JUDGE THOMPSON: The same is received and made
18 a part of the record of this proceeding.

19 (Exhibit No. 9 was received into evidence.)

20 BY MS. SHEMWELL:

21 Q. Mr. Maffett, as part of the Stipulation and
22 Agreement when you purchased this, was it required that you
23 provide a detailed gas supply plan for Southern Missouri Gas
24 Company?

25 A. It was.

1 MS. SHEMWELL: I would ask that this be marked
2 as an exhibit, Judge.

3 JUDGE THOMPSON: Very well. I'm sorry. What
4 did you describe this as?

5 MS. SHEMWELL: SMGC's gas supply plan.

6 JUDGE THOMPSON: Okay. The first page is an
7 e-mail from Mr. Fischer to the Staff; is that correct?

8 MS. SHEMWELL: Yes.

9 JUDGE THOMPSON: Hang on a minute. This will
10 be marked as Exhibit 10. Is this meant to be HC?

11 MR. FISCHER: Yes, your Honor. I believe the
12 gas supply plan itself is marked confidential.

13 JUDGE THOMPSON: Very well. We'll mark Exhibit
14 No. 10 as highly confidential.

15 (Exhibit No. 10-HC was marked for
16 identification.)

17 BY MS. SHEMWELL:

18 Q. If we could look at page 10, we'll try not to
19 get into any confidential information, but --

20 MS. SHEMWELL: Mr. Maffett, Mr. Fischer, please
21 help me if we're getting into something that's confidential.

22 BY MS. SHEMWELL:

23 Q. Did you prepare this document, Mr. Maffett?

24 A. Myself and the management team.

25 Q. Are you familiar with this document?

1 A. Yes.

2 Q. Under strategies for meeting goals and
3 objectives -- I'm sorry, you provided this in August -- on
4 August 28th; is that right?

5 A. I can't say that -- to the specific date, but
6 I --

7 Q. The memo on the first from Mr. Fischer to Staff
8 has actually a Sunday, August 28th date on it.

9 A. That was ahead of the deadline when it was due.
10 Correct?

11 Q. Paragraph labeled No. 1 on that says that your
12 strategy -- the best strategy to meet your goals is to secure
13 this certain percentage of winter heating gas supply and then
14 this other percentage of summer base load at fixed prices.

15 Would you agree with me there?

16 A. That's what it says, yes.

17 Q. The management will constantly monitor the
18 market to identify the best opportunities to lock in prices
19 and volumes for each respective season.

20 Would that have been for SMGC to lock in fixed
21 price contracts?

22 A. If I could, I would like to refer you back to
23 page 1 of this same document. And if you look at the very
24 last paragraph on page 1, it says that, This document serves
25 as a written guideline with -- which SMGC will utilize to meet

1 its challenges in the coming years. It then goes on to say,
2 It is constantly open to review and will be changed as
3 necessary to anticipate and meet new challenges as they arise.
4 This market is definitely a new challenge.

5 Q. Thank you, sir. On page 10, my question to you
6 was, do you typically buy -- has SMGC typically purchased
7 fixed price contracts to lock in prices and volumes for each
8 respective season?

9 A. That's my understanding, yes.

10 Q. If we look above that in what is labeled
11 chart 4, tell me what this is showing about prices from
12 January 2000 to July of '05.

13 A. Well, it's showing over a five-year -- roughly
14 a five-year period of time that there have been periods of
15 extreme volatility as evidenced in, for example, September of
16 2000 through July of 2001. It's also showing a corrected
17 price for propane on a delivered basis compared to our two
18 classifications of residential tariffs.

19 Q. Would you agree with me that prices are much
20 higher now than they were in the 2001/2002 season?

21 A. Yes.

22 Q. I'm going to hand you what I will describe as
23 Southern Missouri Gas Company's letter to Wes Henderson,
24 executive director of the Commission. It is stamped received
25 September 12th, 2005.

1 JUDGE THOMPSON: Would you like this marked?

2 MS. SHEMWELL: Please.

3 JUDGE THOMPSON: Very well. Exhibit No. 11, is
4 this HC?

5 MS. SHEMWELL: I don't believe so. I will note
6 on the back of that is actually a color version of an exhibit
7 that was entered earlier.

8 If we look at the back sheet of the exhibit
9 that has been marked as Exhibit 11 --

10 JUDGE THOMPSON: Back sheet?

11 MS. SHEMWELL: The back sheet.

12 BY MS. SHEMWELL:

13 Q. Does this plan show any of the impact of any
14 fixed price contracts?

15 A. It is not showing any impact of fixed price
16 contracts.

17 Q. Would you agree with me a basis hedge is
18 different from a fixed price contract?

19 A. Yes, I would.

20 Q. And the item on here that's shown the basis
21 price at the top, it's 59 cents and 95 cents. Correct?

22 A. That's incorrect. It's 59 -- minus 59 cents
23 and minus 98.5 cents.

24 Q. So it's in parenthesis. And that locks in a
25 basis differential. Correct?

1 A. Those are what we transacted, correct.

2 Q. I'd just like to ask you an example question.

3 Suppose that January's really cold and gas is running at \$20
4 an MMBtu. What will your gas price be?

5 A. When you say gas at 20, is that the cash price
6 or --

7 Q. Yes.

8 A. -- NYMEX price?

9 Q. NYMEX.

10 A. Okay. If that's NYMEX, then our price -- part
11 of our load would be 20 minus 59 cents. Another part, 20
12 minus 98.5. And another part would be 20 minus whatever the
13 current spot basis is at that time or plus, could be positive.

14 Q. So the price is still above 19 for all of
15 those?

16 A. Yes.

17 Q. Is the current basis greater -- basis
18 differential greater than 98 cents?

19 A. The prompt month basis is. The 12-month strip
20 for the last seven days through -- through the day before
21 yesterday, because I was on the plane yesterday, the average
22 basis -- I thought I had calculated these averages. It's
23 right around 95, 98 cents. Actually, I'm sorry, that was just
24 for the winter. And that's -- that's what we're looking at is
25 the winter.

1 Q. On this attachment that's marked Exhibit 11, it
2 shows gas supply requirements for warm, normal and cold.
3 Correct?

4 A. Correct.

5 Q. How did you determine cold weather?

6 A. We used the City of Springfield meteorological
7 data for the last 30 years. And for the five months that
8 constitute the winter period, we took the coldest month in
9 each of the last 30 years and applied them to this scenario,
10 which, in our opinion, creates the coldest possibility of
11 winter based on 30-year data.

12 Q. When you were talking about looking at prices
13 this summer and where they might go, did you consider that it
14 was a particularly warm summer and that a lot of electricity
15 is generated with natural gas?

16 A. Well, it was particularly warm during parts of
17 the summer, but if you go back and look at a lot of the
18 analyst reports, Gas Daily, etc., you will see numerous and
19 countless articles about the lack of any weather-driven
20 demand. So there were also long periods of time where it was
21 not extremely warm and the heat was causing intra-day price
22 spikes and we did not believe that that was sustainable.

23 Q. Are you suggesting in July and August that the
24 price of gas was not driven by weather?

25 A. I'm suggesting that it was not completely

1 driven by weather.

2 Q. You had indicated your willingness to do
3 customer education or provide information. And you said that
4 you would inspect your customers' homes. How long would it
5 take you to do that?

6 A. I -- I can't answer that question. It's a
7 service I believe that we've offered for the last five years.

8 Q. Thank you.

9 A. Free of charge.

10 MS. SHEMWELL: Judge, if I have not offered any
11 of the exhibits into evidence, I'd like to do so at this time.

12 JUDGE THOMPSON: Okay. Let's see. We've
13 received Exhibit 9. We've not received Exhibit 10.

14 Do I hear any objections to the receipt of the
15 Exhibit No. 10-HC?

16 MR. FISCHER: No objection.

17 JUDGE THOMPSON: Hearing no objections, the
18 same is received.

19 (Exhibit No. 10-HC was received into evidence.)

20 MR. FISCHER: Would it be appropriate -- I'm
21 not sure we admitted all those exhibits I asked for official
22 notice of and you made them exhibits. Perhaps I could ask all
23 those be admitted if they haven't already.

24 JUDGE THOMPSON: Well, let's finish with
25 Ms. Shemwell's exhibits.

1 Exhibit No. 11, any objections to the receipt
2 of Exhibit No. 11?

3 Hearing none, the same is received and made a
4 part of the record of this proceeding.

5 (Exhibit No. 11 was received into evidence.)

6 JUDGE THOMPSON: Now, for Mr. Fischer we have
7 not received Exhibits 1 through 4. Any objections to the
8 receipt of Exhibits 1, 2, 3 or 4?

9 Hearing no objections, those exhibits are
10 received and made a part of the record of this proceeding.

11 (Exhibit Nos. 1 through 4 were received into
12 evidence.)

13 MS. SHEMWELL: I would like to make one last
14 comment that the Staff is concerned both with reliability and
15 the price of gas. I don't know that one is a more significant
16 concern than another, but certainly we are concerned with
17 both. Thank you.

18 JUDGE THOMPSON: Thank you.

19 Cross-examination, Mr. Wheatley.

20 MR. WHEATLEY: No questions, your Honor.

21 JUDGE THOMPSON: Very well. Questions from the
22 Bench. Commissioner Gaw.

23 COMMISSIONER GAW: I'll pass for just a moment,
24 please.

25 JUDGE THOMPSON: Commissioner Clayton.

1 QUESTIONS BY COMMISSIONER CLAYTON:

2 Q. Mr. Maffett?

3 A. Maffett.

4 Q. Maffett, excuse me. First of all, I want to
5 say thank you for coming up. I think you're from Houston --

6 A. Yes, sir.

7 Q. -- is that right?

8 I appreciate you coming here. It was my
9 understanding you had some conflicts and some difficulties
10 getting here, but I appreciate you coming up and discussing
11 this important issue with us.

12 I will be the first one to admit that I am not
13 an expert when you start talking about different investment
14 options or call options or collars or puts or fixes or things
15 of that nature. And I know that there's a certain amount of
16 reliance that we have to make on experts either on our Staff
17 or in your company in reviewing these things.

18 The first question that I want to ask is, how
19 many customers are being served by the Southern Missouri Gas
20 Company in Missouri right now?

21 A. Approximately 7,000. And that would include, I
22 believe, all of our industrial and large general service
23 customers.

24 Q. How many communities are served by Southern
25 Missouri?

1 A. I believe it's 12 that are currently served.

2 Q. Do you know what those communities are?

3 A. Yes, sir.

4 Q. Could you just read them off real quick?

5 A. I'll try --

6 Q. Do your best.

7 A. -- to do this from memory.

8 Q. I just want to get a general idea of the region

9 and the size of the communities.

10 A. I'm going to work from west to east, if I can.

11 Q. Okay.

12 A. Marshfield, Rogersville, Fordland, Seymour,

13 Norwood, Mansfield, Mountain Grove, Ava, Cabool, Willow

14 Springs, West Plains and Mansfield? Did I say Mansfield

15 already?

16 Q. Well, those --

17 A. That's 11.

18 Q. I was expecting for them all to be kind of

19 clustered together, but you're spread out all over the state?

20 A. It's roughly -- the system is roughly about

21 150 miles in linear length, so it's really a system of about

22 12 mini-distribution systems with a lot of farm taps and

23 industrial taps.

24 Q. And they are -- they're all served by a single

25 pipeline? They don't have access to any other pipelines?

1 A. That's correct.

2 Q. And that was the Southern Star Pipeline --

3 A. Yes, sir.

4 Q. -- is that correct?

5 Okay. From Marshfield to Cabool to West
6 Plains. This is a big territory.

7 A. It is.

8 Q. Okay. There was some discussion about the
9 level of increase and how much it is from current rates to
10 rates under this PGA adjustment. And I wanted to be clear in
11 what your position was when you were referring to it, because
12 Mr. Fischer brought up some changes or differences in average
13 usage by customers.

14 What was your testimony with regard to how much
15 of an increase this change in the -- in the price for gas will
16 change rates?

17 A. Based -- when you compare the increase to the
18 existing PGA rate, I believe it's about 43 percent.

19 And, Jim, like \$228; is that correct?

20 MR. FISCHER: Your Honor, could I clarify? I
21 believe that number is based upon his testimony that what is a
22 more typical usage level for our customers in that area, which
23 is down from the amount that was used in the Staff rec.

24 JUDGE THOMPSON: We're a little bit informal
25 here, but you need to testify based on what you know. And

1 then if you're mistaken, your counsel will have an opportunity
2 on redirect or through another witness to make any corrections
3 that are necessary. Thank you. Please continue.

4 BY COMMISSIONER CLAYTON:

5 Q. Well, the disagreement is on the amount of CCFs
6 that would be used during a particular season. Correct?

7 A. Yes, sir.

8 Q. Staff used a typical residential customer using
9 approximately 888 CCFs during the winter season and I think
10 your testimony was that it was around 442 CCFs --

11 A. That's correct.

12 Q. -- during the same period?

13 Okay. And Staff had suggested that the average
14 increase for customers using the 888 CCFs would amount to
15 almost \$500 over that period. And your testimony is that
16 the -- using your usage rates would be roughly how much?

17 A. \$228.

18 Q. Now, that's still a 43 percent increase over
19 rates from last year?

20 A. Yes, sir.

21 Q. So even if we normalize --

22 A. No, from current rates.

23 Q. From current rates?

24 A. Not last year's rates.

25 Q. I understand. We're going to get to that.

1 A. Okay.

2 Q. Existing rates today versus Saturday, I
3 suppose. That's the 1st, when the tariff would take effect.
4 Correct?

5 A. Yes.

6 Q. So we're talking about a 43 percent increase
7 regardless of the usage? I mean, if the usage stayed constant
8 before and after --

9 A. Yes, sir.

10 Q. -- it's still going to be a 43 percent
11 increase --

12 A. Yes, sir.

13 Q. -- correct?

14 Okay. Now, what is the difference between the
15 current rates today and the rates that were charged during the
16 winter -- the winter heating season for '04/'05?

17 A. I'm -- I'm working off memory, but I believe
18 the current rate today is 79 cents per CCF. And I believe the
19 winter PGA rate was 92 cents.

20 Q. Okay. So currently it's 79 cents, last winter
21 it was 92 cents, and this coming winter heating season it was
22 a dollar and how much?

23 A. \$1.277 -- or I'm sorry, \$1.30.

24 Q. I'll tell you, I got so many papers up here. I
25 had it marked and I'm not sure where it is.

1 A. It's a dollar -- 1.3081.

2 Q. 1.3081. So \$1.30. Okay. Okay. So we've got
3 a basically a 50 cent increase -- 51 cent increase from Friday
4 to Saturday --

5 A. Yes, sir.

6 Q. -- when the new tariff would kick in?

7 Which is a pretty significant increase, don't
8 you think, for customers?

9 A. It is.

10 Q. Pretty insignificant increase for your guys who
11 have to go out and buy the gas?

12 A. There's no doubt. Keep in mind that the price
13 of gas has doubled in the same period of time. So that's a
14 factor of 2, not 53 percent.

15 Q. Okay.

16 A. Or I'm sorry, 43 percent.

17 Q. I think I said 51 percent. And now if you were
18 to buy gas on the market today, what would the price be? Is
19 this lower than what it would be today if you had to buy it?

20 A. It is below today's costs, yes, sir.

21 Q. It is. Okay. In general, is Southern Missouri
22 Gas satisfied with the way PGA adjustments are made and the
23 ACA adjustments that are made with that process? Is this the
24 best we can do to accurately reflect the price of gas and
25 customers' bills?

1 A. I would respond that -- that given the dynamics
2 that we're -- we have to deal with with a deregulated market
3 on one side and a regulated market on the other, I'm not sure
4 that there is a better mechanism. The difficulty is it is
5 always easy to look back and say we should have done
6 something, you know, three months ago. I would be a very good
7 options trader if I had that capability.

8 Q. So as an owner of an LDC, you have to deal with
9 deregulation on one side and regulation on the other. And
10 they don't always fit very well together?

11 A. And in our particular example, Commissioner, I
12 have to deal with very real and stiff competition.

13 Q. Would you agree with the statement that was
14 made earlier by one of the attorneys that the PGA system that
15 is now in place with some slight modifications has been in
16 place since 1962 or even earlier?

17 A. I'm -- I just don't have the background with
18 respect to Missouri's PGA.

19 Q. You weren't doing this in 1962?

20 A. No, sir, not yet.

21 Q. Okay. Okay. Do you believe the PGA system, as
22 it is set up in Missouri, is outdated and needs to be changed?

23 A. Not necessarily. I just -- I have not had a
24 chance to really -- being this is my first time through it,
25 so --

1 Q. Okay. Your company owns properties in various
2 states; is that correct?

3 A. We own and operate pipelines.

4 Q. Oh, you're a pipeline company. Okay. So this
5 is the only LDC?

6 A. Oh, I'm sorry. I thought you were referring to
7 Southern Missouri Gas. We've been calling the company
8 Southern Missouri. Are you asking me about Sendero?

9 Q. I'm asking -- well, do you work for Southern
10 Missouri Gas or do you work for Sendero?

11 A. I work for Sendero, who is the managing partner
12 of Southern Missouri Gas.

13 Q. Does Sendero operate any gas LDCs in any other
14 states?

15 A. Not at this time, no, sir.

16 Q. Have they in the past?

17 A. No, sir.

18 Q. Does Sendero own other utilities?

19 A. No, sir.

20 Q. Southern Missouri's the only game in town?

21 A. It is at this time.

22 Q. It is at this time?

23 A. I do have private investments that are part of
24 Sendero too that are not affiliated with Southern Missouri.

25 Q. Okay. okay. So you don't have any experience

1 or knowledge of how PGAs or ACAs are done in other states?

2 A. Well, I do have experience and knowledge from
3 other states from prior careers.

4 Q. Do their adjustments work in the same mechanism
5 that the state of Missouri's does?

6 A. Yes, sir. More or less.

7 Q. More or less. Are there any significant
8 differences that would be worthwhile to highlight?

9 A. Not -- not that I'm aware of at this time, no,
10 sir.

11 Q. Doesn't it make sense to do reviews or ACA
12 adjustments -- and I may not get the terminology correct, but
13 it seems to me that it's awfully long to wait until December
14 or November of 2006 to correct any errors or missteps for a
15 season that will soon be getting very cold in the upcoming
16 months.

17 Doesn't it make sense to have adjustments or
18 reviews throughout that time period or perhaps at a sooner
19 date than next year at this time?

20 A. It -- it very well could. I think a lot of the
21 length of time of the process, as Ms. Shemwell referred to
22 earlier, has to do with the inordinate amount of data requests
23 and information that is generally requested by Staff in order
24 to go through the ACA process.

25 Q. You've testified to problems that would arise

1 should the Commission reject or suspend this tariff,
2 especially in financial markets or in your ability to finance
3 gas purchasing or other financing in your business. Do you
4 recall that?

5 A. Yes, sir.

6 Q. Okay. Would it cause a problem to your company
7 if we were to -- and I don't even know if this is possible --
8 to permit rates to change for the month of October while we
9 continue looking at the PGA process for the rest of the winter
10 heating season? Would that cause your company difficulties?

11 A. It would not for the month of October
12 obviously. And it -- I guess it would depend upon at what
13 time was there a delay in November or December. But for, you
14 know, the month of October I believe we would -- we would be
15 okay because we would have more of a real time recovery on our
16 cash outflow.

17 Q. Okay. You mentioned some problems in the
18 pricing of natural gas coming from non-utilities playing in
19 the marketplace -- in the natural gas marketplace. Do you
20 recall that?

21 A. Non-physical market participants.

22 Q. And I think you referred to them as
23 speculators --

24 A. Yes.

25 Q. -- for lack of a better term. There have been

1 speculators I suppose in any business throughout the history
2 of this country.

3 Those folks are people just buying pieces of
4 paper to rights of gas, assuming that the price will go up or
5 down over time?

6 A. Yes, sir. Generally, they trade both
7 exchange -- or they speculate on exchange traded contracts as
8 well as over-the-counter contracts.

9 Q. Are those financial institutions or are they
10 brokerage firms or are they large investment firms? What type
11 of person gets into speculating on natural gas commodities?

12 A. I would say all of the above or any combination
13 of the above.

14 Q. Okay. Is this, in your opinion, the problem of
15 why natural gas prices are so high, because of this
16 speculation?

17 A. I believe it is part of the problem.

18 Q. What other parts of the problem are there?

19 A. Well, we had Hurricane Katrina, Hurricane Rita.
20 We have had spikes caused by the demand for gas-fired
21 generation. I would say that's pretty much --

22 Q. So just weather-related issues?

23 A. Well, some weather-related issues. I think you
24 have to break down the Katrinas and Ritas apart from the
25 typical weather-related demand of temperature.

1 Q. Okay.

2 A. It's also lack of infrastructure too.

3 Q. Meaning not enough pipelines?

4 A. Not enough pipelines, not enough reserves. LNG
5 facilities which have long been potentially capable of
6 relieving some of the supply pressure, you know, the
7 permitting and lead time is tremendous capital expenses, you
8 know, extremely large billions.

9 Q. Didn't you testify that supply had stayed
10 constant from past years for the last several years? Did you
11 testify to that?

12 A. I don't recall testifying to that.

13 Q. Do you know -- do you know? Are supplies down
14 from what they were last year?

15 A. Supplies -- supplies are down. I believe
16 roughly year on year about 1 1/2 to 2 percent in the US.

17 Q. Okay. Is demand up?

18 A. I would say yes. Not having the macroeconomic
19 data in front of me --

20 Q. Well, look at it from your company, from your
21 company's perspective.

22 A. Well, our company is again very different. We
23 have a very interesting customer base who tends to --

24 Q. I'll tell them you call them interesting.

25 A. Yeah. Well, they are interesting.

1 Q. Okay.

2 A. But we have customers who literally will
3 disconnect during the summer and then reconnect again during
4 the winter. So we -- our customer count and our volume usage
5 actually does fluctuate. It's not steady state like maybe
6 some of the bigger utilities.

7 Q. Does that -- those changes in demand cause
8 problems for Southern Missouri Gas?

9 A. Historically they have not, to the best of our
10 knowledge, no, sir.

11 COMMISSIONER CLAYTON: Okay. Okay. I don't
12 think I have any other questions. Thank you for being here.

13 THE WITNESS: Yes, sir.

14 JUDGE THOMPSON: Other questions from the
15 Bench. Commissioner Appling.

16 QUESTIONS BY COMMISSIONER APPLING:

17 Q. I don't suppose there's a question. It's more
18 of a general conversation with you here. I suppose I'm just
19 asking, have you all done everything that you possible -- and
20 this is a healthy increase for your customer. You know that?

21 A. Yes, sir.

22 Q. And I don't go to Wal-Marts anymore because
23 people ask me why the cost of gas and all that. But can you
24 honestly tell me that you all have done everything that you
25 possibly can do and looked at this from every angle that you

1 possibly can look at it and you really truly have to have this
2 kind of increase to start -- to keep moving?

3 A. Yes, sir. Absolutely. Without a doubt. We
4 examined on a regular basis, we had multiple discussions,
5 mul-- intra-day, every week to week. We have a weekly
6 management call and the first and most important part of that
7 call is generally our gas supply situation, what's happening
8 in the gas markets. Because, again, not only does it affect
9 us from a cash flow perspective, it affects us from a
10 long-term viability because we have to compete with propane.

11 And so in order to be competitive and sustain
12 long-term growth to create a steady and stable work
13 environment and a reliable service provider to our customers,
14 it's absolutely critical, yes, sir.

15 Q. Looking into your hat here in the future, what
16 do you see gas -- what's happening with gas in the future
17 here?

18 A. This -- and I hope this would go on the record
19 as -- as, you know, an opinion. I mean, a forward projection,
20 because it's -- it's very difficult to -- to make those.

21 But there is a -- currently there's some
22 projections out there that project a continued erosion in
23 industrial demand process gas. We're seeing chemical and
24 fertilizer plants that are shutting down, being moved
25 overseas. But yet if you look at the GDP growth factors that

1 most of the expert economists predict, overall we should see
2 slight to moderate increases.

3 A few years ago, people were calling for a
4 30 TCF market by the year 2010. Today that market is roughly
5 21 TCF and it has been about 19 to 20 TCF for the last five
6 years. So there's -- there's been slight growth with respect
7 to the home heating, small commercial business, but there has
8 been an erosion in the very large industrial demand processes
9 due to jobs being out-sourced overseas or plants and
10 businesses being closed down.

11 Q. That don't spell a good outlook for this
12 country, does it?

13 A. No, sir.

14 COMMISSIONER APPLING: Thank you very much.

15 THE WITNESS: Yes, sir.

16 JUDGE THOMPSON: Other questions from the
17 Bench. Commissioner Gaw.

18 COMMISSIONER GAW: Thank you, Judge.

19 QUESTIONS BY COMMISSIONER GAW:

20 Q. When did Sendero purchase this company?

21 A. The closing occurred on May 27th, 2005.

22 Q. And was that purchase a purchase of the stock
23 or assets or --

24 A. It was a purchase of the stock. The general
25 and limited partnership interest of Southern Missouri Gas

1 Company, LP.

2 Q. Okay. And Sendero, is it publicly traded?

3 A. It is not, no, sir.

4 Q. And it is -- does it have a primary owner?

5 A. That is myself.

6 Q. Okay. Now, in regard to the company as it --
7 since you purchased the stock, I assume all of the liabilities
8 of the company came with it?

9 A. Yes. It's important -- it's important to
10 correctly identify though that Sendero is just one of the
11 partners. So there's a partnership that purchased the stock.
12 And Sendero is the acting managing partner.

13 Q. The other partners?

14 A. CHx Capital Missouri, LLC.

15 Q. CH-- CH what was that?

16 A. CHx.

17 Q. X. Is that a corporation?

18 A. It is a Missouri LLC. CHx Capital Missouri,
19 LLC.

20 Q. Okay. Does that have any meaning, those
21 letters, or is that just the initials?

22 A. That's just the initials. I believe it is
23 the -- it's the generic hydrocarbon compound, CHx.

24 Q. All right. And that's an LLC. So do you know
25 who -- does that have a principle owner?

1 A. It does.

2 Q. Who is that?

3 A. Alex Cramberg (ph.).

4 Q. Is that a Missouri resident?

5 A. No, sir, he's not. Colorado.

6 Q. Colorado. Other partners?

7 A. Michael J. Lewis.

8 Q. Okay.

9 A. And Norma Lewis.

10 Q. Norma Lewis?

11 A. As individuals.

12 Q. All right. And are they residents of Missouri?

13 A. No, sir. Residents of Texas.

14 Q. Residents of Texas. Okay. Anyone else?

15 A. That's it.

16 Q. Shares, how are they split?

17 A. Roughly 95 percent CHx, 3.5 percent Sendero,

18 and 1.5 percent Michael J. and Norma Lewis.

19 Q. All right. Thank you.

20 Now, in regard to the assets of -- and

21 liabilities of Missouri Southern Gas, those -- I assume since

22 you purchased -- since it was purchased with a stock purchase,

23 those just carried on with the company?

24 A. That's correct.

25 Q. Okay. And who is in charge of the gas

1 purchasing of Missouri Southern Gas?

2 A. Southern Missouri Gas.

3 Q. Thank you for correcting me. Southern Missouri
4 Gas.

5 A. Today under --

6 Q. Yes.

7 A. -- myself and Bill Walker.

8 Q. Okay. And Bill Walker's here as well?

9 A. He is.

10 Q. Okay. And do you all consult with others when
11 you're making decisions in regard to gas purchasing?

12 A. Yes, sir.

13 Q. Who do you consult with?

14 A. Bill I think regularly has discussions with One
15 Oak, with BP Amoco, Conoco Phillips, Tenaska Energy Ventures.
16 I consult with a broad range of market participants, 15, 20
17 different companies, because generally we're looking for
18 data -- because NYMEX is not just specific to the Southern
19 Missouri market. We're looking for what's driving NYMEX. So
20 we're trying to understand LNG pricing, we're trying to
21 understand what's driving prices in the northeast, in Florida,
22 California, etc.

23 Q. Are these entities that you mentioned under
24 contract with Southern Missouri Gas?

25 A. We do have contracts with those four entities

1 that I mentioned, yes, sir.

2 Q. Okay. Did you mention just four?

3 A. Yes, sir. BP Amoco, One Oak, Tenaska, and
4 Conoco Phillips.

5 Q. Thank you.

6 A. And can I add --

7 Q. Yes.

8 A. -- that prior to the new -- to the change in
9 ownership, Southern Missouri only had contracts with two
10 suppliers.

11 Q. Okay. Do you consider these entities that you
12 mentioned suppliers or advisors of the contracts?

13 A. I would say both. I mean, we -- we buy all of
14 our supply from them because they basically manage or control
15 most of the physical market on the Southern Star system. But
16 we also use them as data points because they -- most of them
17 are very large corporations that have trading and marketing
18 operations across the country.

19 Q. Do they give you advice or provide you with
20 advice in regard to hedging practices?

21 A. If we ask, they may give us feedback, yes, sir.

22 Q. But that's not part of their contractual
23 relationship with Southern Missouri Gas?

24 A. No, sir, it is not.

25 Q. All right. Are those decisions in regard to

1 hedging exclusively made by you and Bill Walker?

2 A. I would say, yes, and our management team in
3 general.

4 Q. All right. Who do you consider a part of your
5 management team?

6 A. Do you want specific names?

7 Q. How big is the list?

8 A. It's five -- five people.

9 Q. Sure. That would be great.

10 A. Okay. Paul Hill is our accounting manager and
11 controller; Dean Wake is manager of gas sales; Marty
12 Malkowski, M-a-l-k-o-w-s-k-i, is manager of operations; Bill
13 Walker, manager of gas supply; and Mike Lumby, L-u-m-b-y is
14 manager of customer service.

15 Q. Okay. Now, of those individuals, tell me the
16 ones that have had experience in gas hedging practices in the
17 past.

18 A. To the best of my knowledge, Mr. Walker and
19 Mr. Lumby.

20 Q. Okay.

21 A. And I would to a certain degree say Mr. Hill,
22 just from having been involved managing the financials of the
23 company for the last three or four years.

24 Q. Can you describe those -- describe their
25 experience for me?

1 A. Well, Mr. Walker's been managing the gas supply
2 and control function for I believe the last five years.

3 Q. For Southern Missouri Gas?

4 A. Correct.

5 Q. All right.

6 A. Mr. Lumby, prior to joining Southern Missouri
7 Gas, worked with Mobile Natural Gas Marketing. And then
8 Mr. Hill, his experience would have been just in his role as
9 Southern Missouri Gas as the cash flow -- keeper of the cash
10 flow, per se.

11 COMMISSIONER GAW: Okay. Now, is Mr. Walker
12 going to testify?

13 MR. FISCHER: Only if you have questions. We
14 weren't planning to call him, no.

15 COMMISSIONER GAW: Okay. We'll see.

16 BY COMMISSIONER GAW:

17 Q. All right. Describe for me and compare for me
18 the hedging practices of -- to the extent that you know, of
19 Southern Missouri Gas in the past five years to what its
20 hedging practice was for this year.

21 A. Historically, based on what -- what the sellers
22 represented to us is they would typically lock in fixed price
23 contracts for 50 to 70 percent of their expected winter gas
24 demand requirements at varying points in time based upon
25 market conditions, pricing fundamentals at those points.

1 Q. And did at that -- do you know whether there
2 are any exceptions to that general statement about what the
3 past history has been?

4 A. I don't. I do believe that there was -- there
5 was a significant event in 2001, but I do not know the details
6 of that.

7 Q. Perhaps Mr. Walker will know.

8 A. He -- he might.

9 Q. Now, that was not the practice that was done
10 for this winter. Correct?

11 A. Correct.

12 Q. All right. Tell me who made the decisions to
13 do something different for this year.

14 A. Myself and Mr. Walker.

15 Q. Okay. And give me the rationale. I know you
16 probably think you've already done that, but for my benefit on
17 this question, give me the rationale of why you changed the
18 practice that had historically been used by the company.

19 A. Again, we were -- in the -- in the normal time
20 frame we were seeing extreme bearish market signals for the
21 physical cash market relative to the financial NYMEX market.
22 We were seeing storage that was coming out already partially
23 full because of the light winter 2004/2005. Injection rates
24 were continuing at normal, summer rates 80 to 90 BCF a week.

25 We were seeing periods where there was serious

1 or significant lack of weather-related demand. There were
2 just a lot of bearish signals, but yet the NYMEX price was
3 rising. And we also were watching the basis differentials
4 rise to new all-time highs.

5 Again, recognizing that had we locked in fixed
6 prices at any time late July, early August, we would have been
7 locking in at all-time highs, we believed that the market was
8 due for a significant correction between cash -- physical and
9 financial and we thought and hope still that by optimizing the
10 record basis differentials, that we would optimize our
11 ultimate price for our customers.

12 Q. Okay. First of all, has anyone calculated what
13 the PGA would be -- would be proposed for us if the practices
14 of the last several years had been implemented this year?

15 A. No, sir. Because there's no way. I mean, on
16 what day would you have picked to lock in without having the
17 benefit of hindsight today?

18 Q. Well, I'm actually just wondering whether or
19 not there's a pattern in the past that is in regard to the
20 practice that would give us some general idea about where
21 you'd be today if you would continue to engage in that
22 pattern?

23 A. To the best of my knowledge, there was not a
24 pattern, per se. Because a lot of times the -- when the
25 decision's made to lock in, they may have been made

1 opportunisticly when there was a retreat in the market,
2 i.e., just the opposite of we're seeing now of bullish
3 indicators with prices being pushed down.

4 Q. How early generally in the past few years, if
5 you know, did Southern Missouri Gas begin hedging for a
6 particular winter? Was it a few months before? Could it be a
7 year or more before, if you know?

8 A. I -- I don't know specifically. I do not
9 believe it was more than a couple of months.

10 Q. Interesting. Is there some expertise within
11 the individuals that you listed that are making decisions in
12 regard to hedging practices that you would consider to be that
13 which could be marketed as an expertise out to other
14 companies? Do you have -- do you have someone or individuals
15 within the company that you consider of that level of expert
16 in regard to buying practices that other companies might be
17 willing to pay for that expertise?

18 A. Do you mean could any of us get a job working
19 for another company being a gas trader or marketer?

20 Q. Actually, that's a little different, but go
21 ahead and answer the question you asked.

22 A. Yes, I believe.

23 Q. Okay. Now, what I want to know is whether or
24 not on a consulting basis any of those individuals would be
25 able to go out as an individual and be noted for their

1 expertise in such a way -- in gas purchasing in such a way
2 that they would expect to be able to get contracts with major
3 companies?

4 A. I have no way to know that.

5 Q. Okay. In regard to the current propane that
6 you have -- do all those communities that you listed have
7 propane availability?

8 A. Yes, sir.

9 Q. Did this Commission, if you know, change some
10 or give some exemption to rules regarding the ability of
11 individuals to switch back and forth to propane in the last
12 two or three years?

13 A. I don't know.

14 Q. Do you know how this PGA will compare to the
15 price of propane available in your communities?

16 A. Based upon current market prices for propane,
17 it's going to be still competitive, but it does narrow the gap
18 a bit. But the gap has never been very large.

19 Q. Give me an idea.

20 A. If you use a retail propane price today of
21 \$1.50 a gallon, I believe that that equates -- if I had a
22 calculator, I could do some --

23 Q. Yeah. I didn't bring one down with me.

24 A. Can I grab mine?

25 Q. Sure.

1 COMMISSIONER GAW: Judge, is that --

2 JUDGE THOMPSON: Absolutely.

3 THE WITNESS: I'm going to use some just rules
4 of thumb with respect to conversion rates.

5 BY COMMISSIONER GAW:

6 Q. Okay.

7 A. But \$1.50 propane per gallon divided by .0916
8 MMBtus per gallon equates to a roughly \$16.38 price per MMBtu.

9 Q. Okay.

10 A. And with our tariff filed at 13.081 plus the
11 3.57 distribution margin, that puts us at 16.65.

12 Q. So a little above?

13 A. Yes. And, again, that was just using a rounded
14 price at \$1.50.

15 Q. Is that about what the market is on propane
16 today?

17 A. That's one of the last quotes that I saw in the
18 last -- I would say the last five days, but I -- I did not
19 check the last couple.

20 Q. Have your customers been notified about this
21 increase?

22 A. They have not been notified, to my knowledge,
23 of this specific increase, but that an increase in general
24 would be forthcoming, yes, sir.

25 Q. When was that done?

1 A. I would say in the last 30 to 45 days.

2 Q. Okay. How was it done?

3 A. Through a mail stuffer in our billing cycle.

4 So it went to every single customer. It takes four cycles for
5 us to complete the whole gambit.

6 Q. Okay. Help me with that. I didn't quite
7 understand when you say it takes four cycles.

8 A. We bill -- we bill on a weekly basis. So if
9 you take the first week of a month, 25 percent of our
10 customers receive a bill the next week.

11 Q. Now I understand. Would it be fair to say that
12 for this winter Southern Missouri Gas abandoned its
13 traditional hedging strategy in speculation on what the market
14 would do?

15 A. No, sir.

16 Q. Why not?

17 A. Because we did analyze all the tools in
18 compliance with the price risk volatility, Rule 4. We looked
19 at all the tools, we looked all the market data, we looked
20 at -- at our own analysis. We did all the same analysis and
21 decision making. As a matter of fact, I would propose that we
22 probably did more than the prior owners historically did.

23 Q. But you did abandon the former method of
24 hedging, did you not?

25 A. We utilized an alternative form, yes, sir.

1 Q. You abandoned that method that had been
2 utilized in the past by Southern Missouri Gas?

3 A. We utilized an alternative form.

4 Q. Did you abandon it?

5 A. I did not abandon it, no, sir.

6 Q. Okay. So tell me what fixed price contracts
7 you have for this winter.

8 A. We do not have fixed price contracts.

9 Q. So you didn't use it?

10 A. That's what I said.

11 Q. Okay. We can quibble over the use of the word
12 "abandoned" for the next two hours if you'd like, but I
13 suspect both of us have better things to do.

14 COMMISSIONER GAW: That's all I have, Judge.

15 JUDGE THOMPSON: Other questions from the
16 Bench?

17 Hearing none, recross based on questions from
18 the Bench. Ms. Shemwell.

19 RECROSS-EXAMINATION BY MS. SHEMWELL:

20 Q. Mr. Maffett, when you purchased SMGC, did you
21 have, under your purchase agreement, the ability to use
22 Mr. Scott Klemm and his knowledge of past practices? I would
23 note that Mr. Klemm purchased the gas for SMGC and works for
24 DTE, the prior owner. Did you consult with Mr. Klemm?

25 A. We did not for our specific strategies.

1 Q. The stipulation also provides that you will
2 hire a general manager. Have you done that to date?

3 A. We have not.

4 MS. SHEMWELL: Thank you.

5 JUDGE THOMPSON: Are you done?

6 MS. SHEMWELL: I am. Thank you, sir.

7 JUDGE THOMPSON: Mr. Wheatley.

8 MR. WHEATLEY: No questions, your Honor.

9 JUDGE THOMPSON: Thank you.

10 Mr. Fischer, redirect.

11 MR. FISCHER: No questions, your Honor.

12 JUDGE THOMPSON: Thank you. You may step down,
13 Mr. Maffett. Thank you very much.

14 Call your next witness, please.

15 MR. FISCHER: Your Honor, unless the Commission
16 has other questions for the company, we have no other
17 witnesses and we would rest, if that's appropriate.

18 JUDGE THOMPSON: Very well. Now, I understand
19 you also have with you, besides Mr. Maffett, the other
20 gentleman behind you?

21 MR. FISCHER: Yes. Mr. Bill Walker is also
22 with us if the Commission has some questions you'd like to
23 direct to him.

24 JUDGE THOMPSON: And do I understand from
25 Mr. Maffett's testimony that Mr. Walker has, in fact, been

1 doing the hedging for Southern Missouri Gas for the last five
2 years?

3 MR. FISCHER: He's been on the management team
4 in that period and involved in the day-to-day operations of
5 those decisions.

6 JUDGE THOMPSON: Very well. Are there any
7 Commissioners who have questions for him?

8 COMMISSIONER GAW: I will I think, but I would
9 rather listen to some of the others first. Unless he has an
10 appointment. If he does, that would be different.

11 MR. FISCHER: He's available today.

12 JUDGE THOMPSON: Come on up.

13 COMMISSIONER GAW: I'd rather hear from --

14 JUDGE THOMPSON: Oh, the other witnesses first?

15 COMMISSIONER GAW: Yes. And then come back.

16 COMMISSIONER APPLING: What are you going to do
17 about lunch, Judge?

18 JUDGE THOMPSON: We can break, whatever you all
19 would like.

20 COMMISSIONER APPLING: No, I'm just asking.

21 JUDGE THOMPSON: I thought since we broke for
22 two hours this morning, that we would just continue.

23 COMMISSIONER GAW: Nobody ate.

24 JUDGE THOMPSON: Well, I ate.

25 COMMISSIONER APPLING: Okay. Go on for a

1 while.

2 JUDGE THOMPSON: Well, if we're going to break,
3 this would be a good time to do it. Why don't we go ahead and
4 take a 45-minute lunch break at this time.

5 (A recess was taken.)

6 JUDGE THOMPSON: Let's go ahead and reconvene
7 and go back on the record.

8 Ms. Shemwell, I think we'd like a witness from
9 you. Now, you say you had three witnesses here, Mr. Imhoff,
10 Mr. Sommerer and Mr. Wood. And which of the three
11 calculated -- did the calculations to review the PGA?

12 MS. SHEMWELL: Mr. Imhoff. And we were
13 prepared to call him first, Judge.

14 JUDGE THOMPSON: Very well. Mr. Imhoff. Go
15 ahead and spell your last name for the reporter, if you would.

16 THE WITNESS: Okay. It is I-m-h-o-f-f.

17 (Witness sworn.)

18 JUDGE THOMPSON: Please take your seat. You
19 may inquire.

20 MS. SHEMWELL: Thank you.

21 THOMAS IMHOFF testified as follows:

22 DIRECT EXAMINATION BY MS. SHEMWELL:

23 Q. Mr. Imhoff, where do you work?

24 A. I work for the Missouri Public Service
25 Commission in their -- in the energy department tariffs,

1 slash, rate design section.

2 Q. And, generally, what are your duties?

3 A. My duties is to review most, if not all, of the
4 energy tariffs that are filed with the Commission, among other
5 things, but I do review all those as well as work on rate
6 cases, complaint cases, etc.

7 Q. Was the Staff recommendation in this case,
8 which has been marked as Exhibit 2, prepared by you or at your
9 direction?

10 A. The Staff's recommendation is for these PG--
11 these PGA rates to go into effect.

12 Q. And was it prepared by you or at your
13 direction?

14 A. Yes, it was.

15 Q. Are you familiar with that pleading or that
16 filing?

17 A. Yes.

18 Q. SMGC has expressed some concern with how you
19 determined the typical customer usage that's shown on the
20 attachments. Do you have those attachments before you?

21 A. Yes, I do.

22 Q. And could you explain how those were prepared
23 and how the estimates for customer usage were determined?

24 A. Yes. These estimates for the winter of 888
25 CCFs were developed a number of years ago. And the reason why

1 we use this particular number, we use them for all of the LDCs
2 as a file. It's basically a statewide average and we use it
3 so we can make the comparison apples to apples, so to speak,
4 between all of the various LDCs. Whenever we make the
5 comparison of their PGA rates, the percentage increases, that
6 gives us a feel for where they all rate -- where they rank at.

7 Q. Are you, sir, able to estimate what an
8 individual customer on the SMGC system will use next winter?

9 A. No.

10 Q. Mr. Imhoff, can you state that the tariff filed
11 by SMGC, the PGA tariff, was calculated in conformance with
12 SMGC's tariffs?

13 A. Yes, it was.

14 MS. SHEMWELL: I don't have anything further
15 for this witness. Thank you.

16 JUDGE THOMPSON: Thank you, Ms. Shemwell.

17 Mr. Fischer.

18 CROSS-EXAMINATION BY MR. FISCHER:

19 Q. Just briefly. Mr. Imhoff, as I understand it,
20 the Staff is recommending that the tariff sheets that were
21 filed on September 15th, 2005, be approved on an interim
22 subject to refund basis?

23 A. Yes, sir.

24 Q. Okay. And that continues to be your
25 recommendation?

1 A. Yes, sir.

2 Q. Okay. Were you also involved in the Ameren PGA
3 proceeding that resulted in an approval of the Ameren PGA
4 August 31st or about that time of this year?

5 A. Yes. I was involved with it.

6 Q. Okay. Did you recommend approval of that PGA
7 as well?

8 A. Yes.

9 Q. Is it correct that that PGA was approximately
10 the same level as the one that's currently pending in front of
11 the Commission?

12 A. Which one?

13 Q. I'm sorry.

14 A. They had three.

15 Q. Yeah, the eastern system. On Exhibit 3, we had
16 a press release that announced the approval of the PGA for
17 Ameren of the eastern district in Phelps County. I can show
18 you that or --

19 MS. SHEMWELL: If I may approach.

20 JUDGE THOMPSON: You may.

21 MR. FISCHER: Judge, could I ask, the Ameren
22 press release, was that Exhibit 4?

23 MR. WHEATLEY: Yes.

24 MS. SHEMWELL: That's what I have.

25 JUDGE THOMPSON: Exhibit 4.

1 MR. FISCHER: I'm sorry. I used the wrong
2 number.

3 BY MR. FISCHER:

4 Q. Mr. Imhoff, if you look at the next to the last
5 paragraph on Exhibit 4, does that indicate that the Ameren PGA
6 for that particular system will increase to \$1.3102 per CCF?

7 A. Yes, it does.

8 Q. And is that approximately the same or slightly
9 more than the PGA that's being requested by Southern Missouri
10 Gas in this case?

11 A. It is slightly more, yes.

12 Q. Okay.

13 MR. FISCHER: That's all I have. Thank you
14 very much.

15 JUDGE THOMPSON: Thank you, Mr. Fischer.

16 Mr. Wheatley.

17 MR. WHEATLEY: No questions, your Honor.

18 JUDGE THOMPSON: Thank you.

19 Questions from the Bench, Commissioner Gaw.

20 COMMISSIONER GAW: Thank you, Judge.

21 QUESTIONS BY COMMISSIONER GAW:

22 Q. Mr. Imhoff, what is your role in this PGA?

23 A. My role was to review what a member of my staff
24 had actually performed the analysis itself.

25 Q. What analysis would that have been?

1 A. Looking at the company's work papers,
2 requesting additional information other than what the work
3 papers had, taking a look at the NYMEX strip price or the
4 Henry Hub price just to -- just to get a feel to make sure
5 that the -- that the requested amounts weren't in excess of
6 the -- of those rates at that particular point in time.

7 Q. What was your role? Was it to make some sort
8 of calculation to ensure that there was not some difference
9 between that NYMEX strip and what the PGA was that was
10 proposed or something different than that?

11 A. No. Our -- our role was to review the
12 calculations itself, make sure that it was in compliance with
13 the tariff. And as part of our review, we also would take a
14 look at the strip price itself to ensure that -- that when
15 they stated that the strip price was this amount per MCF, we
16 wanted to make sure that that's what was reflected --

17 Q. Was it --

18 A. -- to where it --

19 Q. Was it basically an accounting exercise what
20 your staff did, the staff that you were reviewing their
21 results? Was it just basically an accounting exercise?

22 A. It was basically an accounting exercise, but we
23 did look at the information to ensure that the -- that the
24 requested price per month off of the worksheets that they had
25 provided us weren't in excess of what the strip price was.

1 Q. Why did you do that?

2 A. Because we wanted to ensure that there would be
3 no prices that were -- we didn't want them charging a price
4 that would be 1, 2 or 3 dollars above what the actual strip
5 price was at that -- at that point in time when they -- when
6 they did their calculation. Also, we didn't want them to use
7 just one particular -- like the highest price and say that
8 this is what our PGA rate is going to be.

9 Q. Why did you review to see whether or not they
10 were -- what did you say, 1, 2 or 3 dollars higher than the
11 NYMEX strip? Why did you do that?

12 A. Well, in the past, we have had some LDCs that
13 have actually filed a PGA rate that -- that we -- whenever we
14 did our review, it was actually above the NYMEX strip price
15 and we didn't believe that was reasonable. So we had
16 contacted the LDC at that time and they would pull that. So
17 just kind of as a matter of -- of inspection, we like to make
18 sure that there's nothing that's in excess of that.

19 Q. Did you do any review that had any relevance to
20 the question of how this company had done in regard to its
21 hedging practices?

22 A. No, sir.

23 Q. So your role was entirely one of determining
24 whether or not the amount they sought to charge was tied in to
25 the amount that appeared to be what they were paying for their

1 gas?

2 A. Our main role is to ensure that -- that what
3 they file would be in compliance with the tariff itself.
4 And -- and --

5 Q. With the tariff -- when you say "the tariff,"
6 what tariff are you referring to?

7 A. The PGA tariff.

8 Q. Do you know what the number is on that tariff?

9 A. Just a second.

10 It would be tariff sheets
11 No. 20 through No. 27.

12 Q. 20 through 27?

13 A. Yes.

14 MS. SHEMWELL: Commissioner, that's been marked
15 as Exhibit 3.

16 COMMISSIONER GAW: Thank you.

17 BY COMMISSIONER GAW:

18 Q. Could you tell me what in those pages you do --
19 what you look at in regard to those pages when you're
20 reviewing the information and submitting to -- specifically
21 give me the things that you look at.

22 A. Tariff sheet No. 23, which describes the
23 computation of the regular purchased gas adjustment factor.

24 Q. Okay. What does that mean?

25 A. Okay. What that -- what that means is we look

1 at the various components, various estimated costs that --
2 that the company is estimating that they are going to incur
3 for the projected period of time such as the winter period.
4 And we also --

5 Q. What kinds of costs are you talking about?

6 A. Any. Whether it be -- they could be -- let's
7 see here -- costs such as producer gas supply, commodity
8 charges, pipeline transmission and gathering commodity
9 charges, expected cost or costs, reductions to be realized,
10 related storage withdrawals, gas purchases under fixed price
11 contracts.

12 It's -- it's pretty much standard language for
13 all the LDCs. So we take a look at all of their calculations
14 as far as what they estimate their gas costs to be.

15 Q. Okay. And you see whether or not you agree
16 with their calculations?

17 A. We ensure that they are in compliance with the
18 tariff, so yes.

19 Q. Okay. What's the next thing that you look at?

20 A. Once we review those --

21 Q. In the tariff, what's next in the tariff?

22 A. Okay. In the tariff? Okay. If there's any
23 refunds, we -- we'll look at those as well. And -- and then
24 we make the comparison of the proposed rates with the current
25 rates into effect, which was the -- I can't remember what the

1 exhibit number was.

2 MS. SHEMWELL: 3.

3 THE WITNESS: Exhibit No. 3, the -- it shows
4 the winter impact.

5 BY COMMISSIONER GAW:

6 Q. Okay. And how do you calculate winter impact,
7 again?

8 A. We -- we take what -- what we, as a staff,
9 perceives to be the statewide winter average, in this case
10 which is the 888 CCFs. And then we apply all the tariff rates
11 that apply to that, the customer charge, the margin rates and
12 we also use the -- the current PGA rate as well as -- as well
13 as the proposed PGA rate. And what that difference is is --
14 is how that's -- that's calculated.

15 Q. Okay. That's in the tariff that you're to do
16 that?

17 A. I don't believe that the actual computation as
18 far as what the difference is is actually specified in the
19 tariff itself.

20 Q. But you do something -- you do make the
21 calculation?

22 A. Yes, we do. To provide what the impact is
23 going to be.

24 Q. Even though it's not in the tariff?

25 A. Correct.

1 Q. Okay. So it is possible that Staff would be
2 looking at some things that might not be contained in the
3 exact language of the tariff. Wouldn't you agree with that?
4 If you disagree with me, show me where it is in the tariff
5 that you're to make that calculation.

6 A. It's not in the tariff.

7 Q. Then don't you agree with me?

8 A. We do the calculation to provide the Commission
9 information as far as what the actual dollar impact's going to
10 be, but no, it is not in the tariff that tells us to do that.

11 Q. Okay. So you agree with me. Right?

12 A. Yes.

13 Q. Thank you. Now, in moving -- what else is
14 there in the tariff that you're supposed to do?

15 A. From a PGA standpoint, that's about all that we
16 do.

17 Q. Okay.

18 A. There's a lot of it then that ties back to the
19 ACA process.

20 Q. Do you do that now?

21 A. No.

22 Q. And if you were looking at this PGA, do you do
23 the rest of those things in the ACA process now?

24 A. No.

25 Q. Those things that occur in the ACA process, are

1 they spelled out in the tariff?

2 A. What it spec-- what it specifies is the way
3 items that will be -- that will be -- that will be reviewed in
4 the ACA process such as the interest computation for any
5 over- or under-collections. They also would receive work
6 papers that we actually receive just -- just for the PGA
7 calculation itself.

8 Q. Where is -- excuse me. Where is the portion of
9 that tariff that deals with the prudence review by the
10 Commission Staff?

11 A. It's not specified in the tariff.

12 Q. You don't have it in the tariff that you're to
13 do a prudence review?

14 A. Just a second, please.

15 Q. Take your time.

16 A. Okay. I -- I stand corrected.

17 Q. Where is it?

18 A. Sheet No. 26.4 under the record keeping.

19 Q. 26?

20 A. .4, No. 3, record keeping. If you look at the
21 second paragraph towards the bottom, it says, In the event the
22 off-CGS assigned to the off-system sale is less than the
23 highest price as described herein, nothing in this tariff
24 shall preclude the review of such transaction or impair a
25 party's right to propose an adjustment in connection with such

1 transaction in the relevant ACA proceeding.

2 Q. What does that -- off -- what was that?

3 A. Okay. I'm sorry. Let's see here. Off-system
4 cost of gas supply and then you have the off-system sales.
5 But that is reviewed in the context of the ACA.

6 Q. The off-system sales are?

7 A. Yes. As well --

8 Q. Where's the part --

9 A. As well as the gas costs.

10 Q. -- about the purchase practices and the
11 prudence review of the purchase practices in this tariff?

12 MS. SHEMWELL: Might I jump in?

13 COMMISSIONER GAW: Yes, in the interest of
14 time.

15 MS. SHEMWELL: In the interest of time, if we
16 look on page 1, and it is just a sentence in the third
17 paragraph.

18 COMMISSIONER GAW: Okay. Is this on the
19 exhibit?

20 MS. SHEMWELL: Sheet 20, Exhibit 3, sheet 20.

21 COMMISSIONER GAW: All right.

22 MS. SHEMWELL: Under I, the third paragraph
23 indicates that all PGA factors are interim and subject to
24 adjustment as part of the ACA review.

25 Now, that does not specifically set out what

1 will be the ACA review, but it does indicate that these
2 numbers are interim subject to refund.

3 COMMISSIONER GAW: There's nothing in the ACA
4 review portion of this tariff that refers to adjustment based
5 on hedging practices or prudence review other than off-system
6 sales. Correct?

7 MS. SHEMWELL: I think that's right.

8 BY COMMISSIONER GAW:

9 Q. Mr. Imhoff, would you agree with that?

10 A. Yes.

11 Q. So as I understand it, Staff's position is that
12 because there's nothing in the tariff that says this
13 Commission can look at whether or not a company has -- is in
14 compliance with its -- with the Commission's rule regarding
15 hedging practices, we're unable to do anything about it at
16 this point in time. Isn't that Staff's position? And if you
17 don't know, that's okay.

18 A. Okay.

19 Q. You're not up here to testify to that, so --

20 A. Okay. I -- I'm not sure on that, so I think --

21 Q. All right. I'll ask somebody else.

22 I mean, it just strikes me that under this
23 logic, the Commission may not be able to do anything at any
24 time about prudence. And I would suggest that Staff would
25 have an interesting time explaining that position to me in a

1 little bit.

2 So your review of this basically deals with
3 calculations of purchases and setting the price based on the
4 actual purchases that the company has made?

5 A. Well, based off of what their --

6 Q. I'm talking about --

7 A. -- estimate is.

8 Q. -- your review, your -- the person that you
9 reviewed their work, that was their main focus?

10 A. Yes.

11 Q. Okay. You did not look at whether or not, nor
12 did the Staff person whose work you reviewed did not look to
13 see or evaluate whether or not the hedging practices of this
14 company were prudent?

15 A. That is correct.

16 Q. All right. And I'm not talking about other
17 staff members you did not supervise now. I'm just asking
18 about your work and the work of the individual you supervised.

19 A. Yes.

20 Q. Who was that individual, by the way?

21 A. His name is Jim Gray.

22 Q. All right.

23 COMMISSIONER GAW: I have no further questions
24 right now of this witness. Thank you.

25 JUDGE THOMPSON: Thank you, Commissioner.

1 Well, I'm the only one left on the Bench now
2 other than Commissioner Gaw and I don't have any questions for
3 you. So let's go on to recross based on questions from the
4 Bench. Mr. Fischer.

5 MR. FISCHER: Thank you, Judge.

6 RECROSS-EXAMINATION BY MR. FISCHER:

7 Q. Mr. Imhoff, Commissioner Gaw was asking you
8 about your role in this process. I'd like to ask you, did you
9 also participate in a conference call on September 26th with
10 the company and Staff and Public Counsel to review -- or
11 really to give the Staff and Public Counsel opportunities to
12 ask questions regarding the filing?

13 A. I did participate. And I believe that it was
14 in response to your letter to Mr. Henderson.

15 Q. Okay. As a part of that process, didn't we
16 spend quite a bit of time talking about the hedging exhibit,
17 which I believe is Exhibit No. 7? We had that up on the
18 screen and we went through that in a lot of detail.

19 A. I believe it was, yes.

20 Q. Would you agree with me there were quite a
21 number of folks that were assisting you in that process?

22 A. Yes.

23 Q. Would you agree that the following were all in
24 attendance: Dave Sommerer, Lesa Jenkins, Tim Schwarz, Phil
25 Lock, Jim Gray, Russ Trippensee of the Public Counsel's

1 office, Lewis Mills of the Public Counsel's office, Jim Busch,
2 Mike Ensrud, Lera Shemwell, Tom Imhoff, Kwang -- and I can
3 never say his name -- Kwang Choe or Kwang -- well, you know
4 who I mean I think. Can you pronounce it?

5 A. No.

6 COMMISSIONER GAW: The question is whether the
7 court reporter can spell it.

8 MS. SHEMWELL: C-h-o-e.

9 BY MR. FISCHER:

10 Q. And Mr. Schallenberg?

11 A. Yes.

12 Q. And I was also in attendance; is that right?

13 A. Yes.

14 Q. And did Randy Maffett and Bill Walker join us
15 by telephone?

16 A. Yes, they did.

17 Q. And is it correct that we talked about the PGA
18 filings and we talked about more specifically the hedging
19 exhibit that we walked through about the warm, cold and normal
20 weather?

21 A. We did talk about it, yes.

22 Q. And that's really the basis for the comments of
23 the Staff regarding the hedging practices in this proceeding;
24 isn't that true?

25 A. I think it all -- that it had something to do

1 with it, yes.

2 Q. Okay. And in your Staff recommendation, is it
3 correct that in the -- on page 2 of 2, the very last
4 paragraph, the Staff specifically says, Staff does not render
5 an opinion as to the gas purchasing practices of SMGC at this
6 time. This will be addressed in the PAD's recommendation
7 concerning the prudence of SMGC's procurement of its gas
8 supplies for the upcoming winter season; is that right?

9 A. Yes. That's what it says.

10 Q. And when you're talking about that PAD
11 recommendation, you're talking about your recommendation in
12 the ACA proceeding that will be following this; is that right?

13 A. Yes.

14 Q. Is it true that the Staff has traditionally
15 done prudence reviews of LDC's purchasing practices in the ACA
16 process?

17 A. I believe so, yes.

18 Q. And I'd like to refer you to -- if I could find
19 it, I'd like to refer you to Exhibit 1, which is that website
20 fact sheet on how gas prices are reviewed by the Commission.
21 Do you have that?

22 A. No.

23 JUDGE THOMPSON: You may approach.

24 MS. SHEMWELL: Thank you.

25 THE WITNESS: Okay. I have it.

1 BY MR. FISCHER:

2 Q. Would you look at the very bottom of the first
3 page of Exhibit 1 where it says, At the end of every 12-month
4 period, the Commission conducts a thorough review of the
5 purchasing practices of your natural gas company. Many
6 factors are examined, including -- and then it goes over, Did
7 the company purchase gas supplies for their customers
8 prudently? Did the company make reasonable decisions given
9 the facts and circumstances that existed at the time purchase
10 decisions were made? Is that right?

11 A. Yes, it is.

12 Q. Is that consistent with your experience here at
13 the Public Service Commission, that's where these kinds of
14 issues are raised?

15 A. Yes, it is.

16 Q. And then it goes on to say, The Commission also
17 conducts an annual audit of the company's wholesale supplier's
18 natural gas costs. This is performed to ensure that what the
19 company paid the wholesale suppliers is, in fact, what it
20 received from its customers. Customer rates are adjusted to
21 reflect any over- or under-collection of gas costs; is that
22 correct?

23 A. That's what it states, yes.

24 Q. And is that typically done, historically done
25 at that stage, at the ACA stage of the process?

1 A. Yes, it is.

2 Q. Mr. Imhoff, how many years have you been at the
3 Commission Staff?

4 A. Almost 24 years.

5 Q. In all the 24 years that you've been at the
6 Commission Staff, have you ever participated in a hearing
7 regarding a PGA proposed increase that was being asked to be
8 put into effect subject to refund on an interim basis?

9 A. No, sir.

10 Q. This is unique, isn't it?

11 A. You could say that, yes.

12 MR. FISCHER: Thank you. That's all I have.

13 JUDGE THOMPSON: Thank you, Mr. Fischer.

14 Mr. Wheatley.

15 MR. WHEATLEY: No questions, your Honor.

16 JUDGE THOMPSON: Ms. Shemwell.

17 REDIRECT EXAMINATION BY MS. SHEMWELL:

18 Q. Mr. Imhoff, did you start at the Commission
19 when you were 10 years old?

20 A. Yes. No.

21 Q. Seriously, Mr. Imhoff, have you followed, in
22 this filing, the Commission's current PGA practices and rules?

23 A. Yes, I have.

24 Q. Do you have an opinion as to whether or not
25 SMGC's current tariff is just and reasonable?

1 A. As of today, I believe it is.

2 Q. Who will review SMGC's hedging practices?

3 A. That will be performed by the Commission's
4 procurement analysis department.

5 Q. In the past, let's say, 10 years, are you aware
6 of any instance in which a PGA has been filed and an ACA
7 review has not been done?

8 A. No.

9 Q. Do you in any way, in your PGA filing, approve
10 what the company has described as its hedging practices?

11 A. No.

12 Q. In the meeting that we had, did you in any way
13 pre-approve the company's self-described hedging practices?

14 A. No.

15 MS. SHEMWELL: Thank you, sir. That's all I
16 have.

17 JUDGE THOMPSON: Thank you. You may step down,
18 Mr. Imhoff. You're excused. Thank you very much for your
19 testimony.

20 I guess we could hear from Mr. Wood or we could
21 hear from Mr. Sommerer. Any preference?

22 MS. SHEMWELL: If the Commission has a
23 preference, that would be fine. I'm planning to call
24 Mr. Sommerer next.

25 JUDGE THOMPSON: Step up, Mr. Sommerer, as I

1 understood, employee of the month.

2 THE WITNESS: As of yesterday, sir.

3 JUDGE THOMPSON: You don't think that holds
4 good today?

5 THE WITNESS: We hope so.

6 JUDGE THOMPSON: Spell your last name for the
7 reporter, please.

8 THE WITNESS: Sommerer, S-o-m-m-e-r-e-r.

9 (Witness sworn.)

10 JUDGE THOMPSON: Please take your seat.

11 You may inquire when you're ready,

12 Ms. Shemwell.

13 MS. SHEMWELL: Thank you. Give me just a
14 moment, please.

15 DAVID SOMMERER testified as follows:

16 DIRECT EXAMINATION BY MS. SHEMWELL:

17 Q. Mr. Sommerer, where do you work?

18 A. I work for the Public Service Commission in the
19 Commission's procurement analysis department.

20 Q. What is your title?

21 A. I'm a regulatory manager.

22 Q. How long have you had that responsibility?

23 A. For approximately 13 years.

24 Q. Could you please briefly describe the PGA/ACA
25 process?

1 A. The purchase gas adjustment process allows a
2 utility company to estimate their gas cost and charge the
3 customer a rate on an interim subject to refund basis. After
4 a 12-month period, the company is required to make a filing.
5 That filing will either have an over-recovery or an
6 under-recovery.

7 An over-recovery would be a situation where the
8 purchased gas adjustment rates over-collected as compared to
9 actual gas costs. And under-collection would be a situation
10 where actual gas costs were greater than the revenues
11 collected from the PGA factor.

12 During the ACA process after the company's
13 filing, the Staff will ask the Commission for time to conduct
14 a review. That review will include a prudence evaluation,
15 compliance review to make sure that the invoices were paid and
16 represent actual gas costs. It also includes a reliability
17 review to make sure that the company has adequate capacity,
18 but not too much capacity. In general, that's the ACA
19 process.

20 Q. Can you state what types of information you
21 review, for example, gas supply contracts?

22 A. Certainly.

23 Q. We'll review natural gas supply contracts,
24 we'll make sure that we know the provisions and understand
25 where the gas is flowing. We'll also ask for transportation

1 contracts, storage contracts, we will review storage balances,
2 make sure that the storage has been completely filled pursuant
3 with not only FERC tariffs, but with practices of reliability.

4 We will review invoices to make sure that they
5 indeed have been paid. We will take a sample of customer
6 billings to make sure that the bills and the revenues that the
7 company is reporting in the filing are indeed what has been
8 billed to the customer. We will also review the company's
9 request for proposal practices, which pertains to their
10 obtaining reliable supply and a number of other areas.

11 Q. Is your department involved in any sort of
12 prudence review when the PGA is first filed?

13 A. No. There is no prudence review when the PGA
14 is first filed.

15 Q. Would you have information at that point to do
16 a prudence review?

17 A. No. The company usually files its estimate of
18 gas cost, which would obviously include where they're at in
19 the current contracts. But since the gas has not been
20 purchased, hasn't been delivered, hasn't been paid for, there
21 aren't any invoices related to the cost, you would be auditing
22 estimates to try and figure out whether those estimates were
23 prudent and reasonable, not the actual gas cost.

24 Q. Do you agree with Staff's suggestion that SMGC
25 be asked to file throughout the winter the current status of

1 their PGA and costs so that an adjustment may be made promptly
2 if there is an over-recovery?

3 A. Yes, I do.

4 Q. Are you familiar with the history of the SMGC
5 system?

6 A. Yes, I am.

7 Q. Could you briefly describe the history of their
8 purchasing practices?

9 A. SMG is a relatively small LDC. Traditionally
10 they have been owned by a much larger company in Michigan
11 known as DTE. The operations were guided by an individual who
12 worked for DTE as well as Mr. Walker, who is in the field and
13 actually makes the nominations.

14 The company has intense competition from
15 propane. It has limited options in terms of diversifying
16 their gas supply portfolio. Since they are a small company,
17 there's not a tremendous amount of tools that are available in
18 the financial markets that can be used to hedge gas costs.

19 As was testified earlier today, they do not
20 have access to storage, which is a tremendous asset that is
21 used by the larger local distribution companies in the state.
22 So they must be order their gas prior to the winter beginning.
23 And, generally speaking, everything is on a flowing basis,
24 which means you can't pull out of storage.

25 Q. And what does that inability to pull out of

1 storage -- what is that likely to do to prices? Or perhaps I
2 should ask it a different way. What's the benefit to having
3 storage for other LDCs?

4 A. Storage allows you to inject during the summer,
5 typically when prices are lower, and withdraw that same gas
6 during the winter during colder weather when prices are often
7 higher. So it acts as a natural hedge or a physical hedge.
8 You don't have to do anything special.

9 In fact, a lot of times the interstate
10 pipeline's tariffs require you to adhere to a certain
11 injection schedule. So almost by default by following the
12 pipeline's tariffs, you're going to have your storage full and
13 you'll have that available to help mitigate winter pricing.

14 Q. Would you describe that as a form of dollar
15 cost averaging?

16 A. Well, certainly to the extent that the
17 injection schedules started in April and went through October,
18 which is the typical seasonal injection month or time period,
19 you would have dollar cost averaging by definition.

20 Q. And would you please define for us what is a
21 fixed price contract?

22 A. A fixed price contract is when you know with
23 certainty what your price will be before you take the gas.
24 Often, pricing provisions are tied to a formula, first of the
25 month index pricing or a NYMEX based pricing. It's unknown at

1 the time you sign the gas contract and not really known until
2 that price is ultimately set later on.

3 Q. You talked about options for SMGC. Would you
4 describe their transportation arrangements and any options
5 they have that might affect pricing?

6 A. Well, their transportation is provided by one
7 interstate pipeline company, Southern Star Central. They may
8 have access over the long term to other pipelines, but it
9 would take certain pipeline interconnects and extensions that
10 aren't available right now. So they are captive to Southern
11 Star.

12 Q. So what's the impact on pricing?

13 A. In terms of pricing, I think it means that,
14 again, you don't have storage so if you're going to do any
15 hedging, it's going to have to be with a gas producer. That's
16 basically the option that they have.

17 Q. Mr. Sommerer, you worked on the case of the
18 sale by DTE of SMGC to Sendero. Correct?

19 A. Yes.

20 Q. And was one of the requirements of the
21 Stipulation and Agreement in that case that they provide a
22 detailed gas supply plan?

23 A. Yes.

24 Q. That has been filed as Exhibit No. 8. Do you
25 have a copy of that?

1 A. Yes.

2 Q. Are you familiar with it?

3 A. Generally, yes.

4 Q. Have you reviewed this plan for prudence as of
5 this point?

6 A. No.

7 Q. Mr. Sommerer, if your department determines a
8 company has not filed prudent hedging practices, what steps do
9 you take?

10 A. Well, we would make sure that we had adequate
11 and substantial evidence to support our finding. And we would
12 make a recommendation to the Commission through our ACA
13 recommendation that a disallowance be made. That disallowance
14 would be in the form of a reduction in the company's actual
15 gas cost. At that point, the company would have an
16 opportunity to respond and the case would have a procedural
17 schedule set.

18 Q. Mr. Imhoff was asked questions about I believe
19 it is Exhibit 11, the attachment to the letter to
20 Mr. Henderson. We had a meeting about that. Did Staff in any
21 way pre-approve what the company has described as its hedging
22 plan?

23 A. No.

24 MS. SHEMWELL: That's all I have for this
25 witness. Thank you.

1 JUDGE THOMPSON: Thank you, Ms. Shemwell.

2 Cross-examination, Mr. Fischer

3 MR. FISCHER: Just very briefly.

4 CROSS-EXAMINATION BY MR. FISCHER:

5 Q. You were visiting with Ms. Shemwell about the
6 use of storage in the summertime where you can put in
7 lower-priced summer gas and then use it in the winter if you
8 have that storage option available.

9 A. That's --

10 Q. Do you recall that?

11 A. That's correct.

12 Q. That's the way it typically has worked. Right?
13 You've been able to use lower-priced gas in the summer and
14 then take it out in the winter for LDCs that have that option?

15 A. That certainly is one of the major tools that
16 is used by most LDCs in Missouri.

17 Q. Would you agree with me that in this particular
18 summer, the price of gas has generally been higher than it was
19 last winter?

20 A. I think, generally speaking, that's correct.

21 Q. Have you ever seen a summer before where we had
22 10 and 12 dollar gas?

23 A. I cannot think of a situation where during the
24 course of a summer the winter pricing was at \$10.

25 MR. FISCHER: Thank you very much. That's all

1 I have.

2 JUDGE THOMPSON: Thank you.

3 Mr. Wheatley.

4 MR. WHEATLEY: No questions, your Honor.

5 JUDGE THOMPSON: Questions from the Bench.

6 Commissioner Gaw.

7 QUESTIONS BY COMMISSIONER GAW:

8 Q. Mr. Sommerer, are you suggesting that this
9 event that we have -- that's going on here in the last couple
10 of months is unique?

11 A. I certainly would say it's a unique situation,
12 yes.

13 Q. Okay. Let me ask you this. First of all,
14 since I didn't get to ask you any questions yesterday --

15 A. I appreciate that.

16 Q. -- I saved some off for today.

17 A. Thank you.

18 Q. Let me start with -- there have been some
19 questions about a comparison to prices on one of the Ameren
20 lines in Phelps County, I believe?

21 A. That's correct.

22 Q. And, first of all, is that a line that Ameren
23 has owned very long?

24 A. No.

25 Q. About how long has it been -- operated an LDC

1 in that area?

2 A. I would say approximately a year.

3 Q. And where did that -- those assets come from?

4 A. They were purchased from Aquila.

5 Q. Okay. And are there some things regarding that
6 particular set of facilities that are different than other
7 LDCs have in the state?

8 A. Yes.

9 Q. Tell me what that is. And why I'm asking that,
10 I'm really talking about that impact price.

11 A. Right.

12 Q. Okay. Go ahead.

13 A. That system requires three pipelines in order
14 to deliver the gas. It really results in a pancaking of
15 various transportation rates. They need Panhandle Eastern,
16 they need Missouri Pipeline Company, they need Missouri Gas
17 Company, which has higher rates than Missouri Pipeline
18 Company. So it tends to have and traditionally has had higher
19 PGA rates because of that reason.

20 Q. All right. That has nothing to do -- that
21 element has nothing to do with the cost of gas itself at the
22 wellhead. Correct?

23 A. That's correct.

24 Q. This is an issue regarding something that
25 impacts the cost of transportation?

1 A. That's correct.

2 Q. And does that exist on the Southern Missouri
3 Gas facility?

4 A. No. There's just one pipeline that delivers
5 gas to the Southern Missouri Gas facility.

6 Q. So when you look at the comparison of those two
7 systems, would you say that it may be difficult to make a
8 direct comparison between the two if you're just looking at
9 the final PGA price and making conclusions that that -- that
10 because one is a certain price, that the other one being that
11 price makes it obviously a reasonable price?

12 A. It would be difficult to make that statement.
13 I think you're dealing with apples and oranges.

14 Q. Okay. In looking at -- first of all, tell me
15 what your role is in regard to this case, just generally.

16 A. Normally, we don't get involved in a filing at
17 this stage except to assist the energy department to make sure
18 that they've incorporated -- "they" being the company --
19 everything they have at their disposal. If they have storage,
20 we'll try and make sure that that's been factored in.

21 And this is a unique situation so we're trying
22 to work as a team to make sure that these PGA rates reflect at
23 least what the company has, that they're no higher than what
24 the company has available to keep the rates down. But
25 typically my department won't get involved until the ACA

1 filing, which is about 12 months after the PGA rate is filed.

2 Q. Tell me what your department is and what it
3 does generally so that fits together for me.

4 A. Okay. My department's called the procurement
5 analysis department. And we basically serve an audit
6 function. We have three auditors and one engineer and one
7 economist.

8 And we will review the company's actual gas
9 costs to make sure they represent what's actually been
10 incurred, that the revenues are an accurate representation of
11 what the company has billed out, that the costs that have been
12 incurred are prudent, that the company has used prudent
13 purchasing procurement policies to obtain those -- those
14 packages of gas.

15 We'll look at reliability, which is a pretty
16 critical function, to make sure the company hasn't
17 over-subscribed for capacity, that it's considered the
18 appropriate alternatives, that the company hasn't
19 under-subscribed for capacity so there's not a reliability
20 situation down the road.

21 We will look at the company's actual filing,
22 make sure that the contracted costs are reflected in invoices,
23 that the invoices have truly been paid, that they're not just
24 invoices that haven't been paid. So there's a compliance
25 aspect, there's a reliability aspect, there's an economic

1 choice aspect to the review.

2 Q. And normally are those -- are all of those
3 things done in the ACA process?

4 A. Yes.

5 Q. But you have at least done some analysis at
6 this point in the PGA process. Would that be accurate?

7 A. This winter, given the high gas prices, we
8 decided to send out letters. This was done by Mr. Henderson.
9 In early July I think the first letter went out. Another
10 letter went out in August. And we have worked with the energy
11 department and Mr. Henderson to try and understand what the
12 companies have done.

13 Q. Mr. Henderson has what role with the Public
14 Service Commission?

15 A. He is the executive director.

16 Q. All right. And in that role of gathering
17 information, does Staff have concerns about what you have seen
18 in regard to, first of all, the hedging practices of Southern
19 Missouri Gas for this winter?

20 A. Yes.

21 Q. Okay. And without going into a lot of detail,
22 can you give me the general concerns that you have at this
23 point?

24 A. The general concern relates to the fact that
25 the company does not appear to have done any significant

1 hedging, in our view. I know they've done this instrument or
2 this process of hedging the basis, which is hedging a
3 subset -- a very small subset of the total gas price where the
4 bulk of the gas price has been allowed to flow with the
5 market.

6 And that practice by itself does cause some
7 concern. The market could be unlimited and you would expect,
8 given the Commission's rule and given various Commission
9 statements and orders over the years, that you need to do some
10 hedging. Not just an incremental basis hedge, which is a very
11 small piece of the total supply, but you need to have some
12 fixed pricing if that's your only option for a hedging tool.

13 We don't see any fixed pricing here, so not
14 only is the company subject to the current high prices, they
15 are subject to higher prices as this winter goes on
16 potentially. It could be worse.

17 Q. Okay. And this practice for this year, is it
18 different than the practice the company has had in past years?

19 A. Yes.

20 Q. And describe the difference for me, please.

21 A. Well, the major difference is the company
22 traditionally has entered into fixed price contracts, which
23 would hedge the total wellhead commodity price of cost. It's
24 a fixed number, there's no uncertainty about it. And, in
25 fact, they usually achieved anywhere from 60 to 80 percent of

1 their normal requirements using fixed price contracts. We
2 don't have that, so that's a major change.

3 And then the second thing we have, which
4 requires more discovery, but the company appears to have
5 placed hedges earlier, at least in the audit period that I
6 looked at, the most recent one, 2003/2004. And I can share
7 some details about the timing of those hedges, but we'd have
8 to go in-camera to do that.

9 COMMISSIONER GAW: Okay. I would like to have
10 that information, but, Judge, I'll leave it to your discretion
11 about when we do that.

12 JUDGE THOMPSON: Well, now would be good. Why
13 don't we go in-camera right now.

14 The attorneys are going to have to make sure
15 there's no one present who is not permitted to hear this
16 information. Okay. Is the back door shut? Let's see. We
17 want to put this on intermission so they can't see us.

18 (Reporter's Note: At this time, an in-camera
19 session was held, which is contained in Volume No. 2, pages
20 144 through 151 of the transcript.)

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1 COMMISSIONER GAW: Okay. I forgot where I was.
2 Court reporter?

3 THE COURT REPORTER: "Question: All right.
4 Any other hedging mechanisms?

5 "Answer: Another example would be a swap,
6 which works very much like a fixed price contract. It might
7 not be done with an actual producer where you get your
8 physical supply. It may be done through the over-the-counter
9 market through a financial institution, but it lets you tie
10 your fixed price more to the physical market. It lets you
11 align your fixed price to the pricing point that you may be
12 buying the gas from on a physical basis."

13 BY COMMISSIONER GAW:

14 Q. And would you consider that a hedge?

15 A. Yes.

16 Q. And did that mechanism -- was that mechanism
17 used by the company for this winter?

18 A. No.

19 Q. Okay. Anything else? And I don't mean to try
20 to make you think of every single one, Mr. Sommerer, but if
21 there's anything else obvious that comes to your mind.

22 A. Those are the major tools that are used by our
23 LDCs in Missouri.

24 Q. Okay. And, again, of all those hedging
25 mechanisms that you consider to be truly hedging mechanisms,

1 the company did none of them?

2 A. That's correct.

3 Q. You would consider the market today volatile?

4 A. Yes.

5 Q. Extremely volatile?

6 A. Yes.

7 Q. How long would you say that the market has been
8 volatile, looking back from now?

9 A. The natural gas market is always characterized
10 as one of the most volatile commodities that is traded.
11 However, in the last four months, not only have we experienced
12 volatility, we've experienced upward volatility and
13 significant upward volatility.

14 Q. Okay. Is the nature of the market being
15 volatile one of the reasons that the Commission has a rule on
16 hedging?

17 A. Yes.

18 Q. Would you say it's an important reason --

19 A. Yes.

20 Q. -- that rule?

21 Do you know how much of a role DTE played in
22 the gas purchasing practices of Southern Missouri Gas prior to
23 the sale of the company?

24 A. I think it was a significant role. Mr. Klemm
25 was basically the president of Southern Missouri Gas or he

1 certainly was the chief executive or director of their
2 operations. He was the point person for DTE. So although he
3 reported to other people at DTE, he was responsible for this
4 asset.

5 Q. So in his -- he is no longer being accessed in
6 any way since the sale of the company in regard to gas
7 procurement by Southern Missouri Gas?

8 A. Based upon testimony we heard today, that's my
9 understanding.

10 Q. Okay. You don't know of anything different
11 than that?

12 A. That's correct.

13 COMMISSIONER GAW: I think I'm done. Thanks,
14 Judge.

15 JUDGE THOMPSON: Thank you, Commissioner.

16 Commissioner Appling.

17 QUESTIONS BY COMMISSIONER APPLING:

18 Q. How are you doing, Mr. Sommerer?

19 A. Very well. How are you, sir?

20 Q. Super.

21 Look, I'm going to apologize for not being here
22 when you came in. You probably already said this, but you
23 support the Staff -- or does Staff support the tariff?

24 A. The Staff supports the PGA filing, yes.

25 Q. Why?

1 A. We believe that it follows the tariff
2 requirements and that it has been filed consistent with those
3 tariffs. It also reflects the company's best estimate of what
4 its actual gas costs will be.

5 COMMISSIONER APPLING: Okay. Thank you.

6 THE WITNESS: Thank you, sir.

7 JUDGE THOMPSON: Thank you, Commissioner.

8 Recross based on questions from the Bench,
9 Mr. Fischer.

10 RE CROSS-EXAMINATION BY MR. FISCHER:

11 Q. Once again, just briefly, Mr. Sommerer. I've
12 got a couple questions related, first of all, I think to the
13 questions from Commissioner Gaw regarding Ameren's eastern
14 system. We were the comparing PGA rate that was a little bit
15 higher than what we proposed here.

16 Is it your understanding that under the PGA or
17 under the purchased gas adjustment tariffs of all the LDCs in
18 the state, they're required to do a winter filing?

19 A. That's correct.

20 Q. And is it your understanding that this case is
21 involving Southern Missouri Gas's winter filing?

22 A. That's correct.

23 Q. Is this the first winter filing that's been
24 done by LDCs?

25 A. That's correct.

1 Q. Would it be correct that you would expect if
2 Ameren follows its PGA tariffs, that it will also be required
3 to do a winter filing on that eastern system at some point
4 later in the fall?

5 A. That's correct.

6 Q. Given the way you've seen prices going in the
7 market, would you expect that that PGA rate for the eastern
8 system of Ameren will be going down or up?

9 A. It's difficult to say at this point. They --
10 they made a summer filing. It was later than some other
11 interim PGA filings that were made. In my opinion, they've
12 done quite a bit of hedging, which means their portfolio is
13 less subject to market volatility, so you may not see the
14 types of increase that you would associate with those market
15 prices.

16 Q. Is it also correct that Ameren is an electric
17 company as well as a gas company and would, therefore, have
18 more options available for hedging its gas supplies?

19 A. I think as a larger company, potentially they
20 may have greater access to the futures market and financial
21 instruments than Southern Missouri Gas would have.

22 Q. Now, earlier in your statements you indicated
23 that small companies like Southern Missouri Gas Company really
24 do have some limitations on their ability to hedge. You went
25 through a list of things they really can't do. Believe one of

1 the areas that you did say we could do would be fixed price
2 contracts; is that right?

3 A. That is correct.

4 Q. And if I understand your answers to
5 Commissioner Gaw's questions, you went back to the year 2003
6 for some of the fixed price contracts that that -- that the
7 company did at that time; is that right?

8 A. That's correct.

9 Q. Could you give me just briefly what the prices
10 were in July 24th, 2003 that was fixed at that time? Do you
11 have that?

12 A. I will be referring to the company's response
13 to DR 70, which has been marked confidential in its entirety.

14 Q. Okay. That was in 2003. We can go in-camera.
15 I don't think it would probably be confidential anymore. We'd
16 waive that. If you'd like to read that into the record, I'd
17 appreciate it.

18 A. July the 24th '03, \$5; July the 24th, '03,
19 \$4.78; August 15th, '03, \$5.11; August 15th, '03, \$5.23;
20 September '02, 2003, \$5.04; October '07, 2003, \$4.79.

21 Q. Okay. Now, have you been following the market
22 this summer?

23 A. Yes.

24 Q. If a company had tried to lock in on July 24th
25 of this year, would you expect the prices to range from in the

1 upper 8's to 9.50 or so?

2 A. What was the time period you were looking at?

3 Q. Around July 24.

4 A. It looks like NYMEX was trading around \$8.50 at
5 that time.

6 Q. And if you went further out in the winter, it
7 was up to 9.54, wasn't it?

8 A. By mid-August it looked like the winter was
9 trading anywhere from about 9.50 to 10.25.

10 Q. Okay. And if we went to September, which was
11 another date that in 2003 there was a fixed price contract,
12 would you agree that the NYMEX was trading at 11.60 to over
13 \$12?

14 A. From early September until the middle of
15 September it looks like it traded from about 11.50 to perhaps
16 12.50.

17 Q. Do you happen to have yesterday's prices or
18 some time earlier this week?

19 A. I have yesterday's prices for November through
20 March.

21 Q. Around 13.00, 13.50 dollar level?

22 A. Around the 14 to 15 dollar level.

23 Q. Okay. Mr. Sommerer, would you recommend that
24 the company lock in its gas supply at this time?

25 A. I would not make a recommendation either way

1 for the company's purchasing practices since they haven't been
2 made and it's inappropriate for me to make that
3 recommendation.

4 Q. In fact, in the Staff recommendation it
5 indicates Staff does not render an opinion as to the gas
6 purchasing practices of SMGC at this time; is that right?

7 A. That's correct.

8 Q. And you haven't changed your position on that?

9 A. No.

10 Q. Volatility means markets go up and markets go
11 down; is that right?

12 A. That's correct.

13 Q. Is the Staff projecting that markets are going
14 to continue to go up the rest of winter?

15 A. No.

16 Q. Do you think they're going to come down?

17 A. I don't know.

18 Q. Had the company locked in at the 8, 9 dollar
19 range, would you agree that that would have been higher than
20 the whole winter cost of last year?

21 A. Based upon my recollection, I think that would
22 be the case, yes.

23 Q. And that would be -- if we locked in today, it
24 probably be more than twice what it was last year; is that
25 correct?

1 A. Depending on whether you included
2 transportation, but I think those percentages are within the
3 ballpark.

4 Q. It's an unregulated market. Correct?

5 A. The natural gas and wellhead market is
6 unregulated.

7 Q. And you're confident that the numbers that are
8 included in the PGA reflect the company's best judgment about
9 what the prices are likely to be? That's the standard and
10 that's -- and you're recommending approval of the PGA.
11 Correct?

12 A. That's my belief, yes.

13 MR. FISCHER: Okay. I think that's all I have.
14 Thank you.

15 THE WITNESS: You're welcome.

16 JUDGE THOMPSON: Thank you Mr. Fischer.

17 Mr. Wheatley.

18 MR. WHEATLEY: No questions, your Honor.

19 JUDGE THOMPSON: Thank you.

20 Ms. Shemwell, redirect.

21 MS. SHEMWELL: Thank you.

22 REDIRECT EXAMINATION BY MS. SHEMWELL:

23 Q. Mr. Sommerer, Commissioner Gaw was asking you
24 questions about hedging practices. Are futures contracts a
25 form of hedging?

1 A. Yes.

2 Q. Are you aware of whether or not Mr. Maffett has
3 used futures contracts in purchases for SMGC?

4 A. He has not done so.

5 Q. The gas purchase rates in this case, in this
6 tariff, when would they become final?

7 A. They would only be final until the Commission
8 closed the actual cost adjustment case that they pertain to.

9 Q. So when the Commission issues a final decision
10 in this case?

11 A. A final decision regarding the actual cost,
12 yes.

13 MS. SHEMWELL: If I may approach.

14 JUDGE THOMPSON: You may.

15 MS. SHEMWELL: I've handed the witness
16 Exhibit 3 and I will be referring the witness to sheet No. 21,
17 the second paragraph under capital A, PGA filings.

18 BY MS. SHEMWELL:

19 Q. Sub 2, Mr. Sommerer, are you there?

20 A. Yes.

21 Q. The company's ACA adjustment factor relating to
22 or arising during the immediate preceding 12-month ACA period
23 including any interest adjustments. And it says, The winter
24 PGA shall continue; isn't that correct?

25 A. That's correct.

1 Q. I'm going to hand you now a copy of Staff's
2 memo, Staff's recommendation in this case.

3 MS. SHEMWELL: This has been marked as
4 Exhibit 2.

5 JUDGE THOMPSON: This has been marked as
6 Exhibit 2, offered and received.

7 BY MS. SHEMWELL:

8 Q. Mr. Sommerer, would you read that paragraph,
9 please, that I've marked?

10 A. Due to the limited time available to review the
11 documentation supporting the ACA factor represented in this
12 filing, the procurement analysis department has requested
13 permission to submit its results and recommendations regarding
14 the information including in this ACA filing to the Commission
15 on or before December 29th, 2006.

16 Q. That was on page 2 of 2?

17 A. Yes.

18 Q. Would you agree then that approval of this
19 tariff is not final -- final Commission decision?

20 A. Approval of the PGA factor is not final, that's
21 correct.

22 Q. And that the items that we have read into the
23 record provide for your PGA review?

24 A. Yes.

25 Q. To determine an actual cost adjustment?

1 A. That's correct.

2 Q. Mr. Sommerer, have you seen prices spike in the
3 summer compared to historical levels and then spike again in
4 the following winter?

5 A. In summers previous to this summer?

6 Q. Yes, sir.

7 A. I would not be surprised. I don't know offhand
8 if that happened in a particular summer, but I would not be
9 surprised.

10 MS. SHEMWELL: Just a moment, please.

11 BY MS. SHEMWELL:

12 Q. Mr. Sommerer, do you remember a letter from Ken
13 Niceese (ph.) in the summer of 2000?

14 A. Yes.

15 Q. And does that assist you in responding to that
16 question?

17 A. Yes, it does.

18 Q. And would you state your recollection?

19 A. My recollection is that prices went to higher
20 levels than they had been in the spring. And although they
21 stabilized in the fall, they ultimately went up to some of the
22 highest winter prices that the nation had experienced.

23 Q. Sir, can you predict what the prices are going
24 to do this winter?

25 A. No.

1 MS. SHEMWELL: Thank you. That's all I have.

2 JUDGE THOMPSON: Thank you, Ms. Shemwell.

3 You may step down, Mr. Sommerer. You're
4 excused.

5 We've been going a little bit over 90 minutes
6 since we got back from the lunch break. We're ready for a
7 recess at this time. We'll come back and have Mr. Wood on the
8 stand.

9 (A recess was taken.)

10 (Witness sworn.)

11 JUDGE THOMPSON: Very good. Take your seat.

12 Good. Somebody want to inquire?

13 MS. SHEMWELL: Sure. Thank you, Judge.

14 WARREN WOOD testified as follows:

15 DIRECT EXAMINATION BY MS. SHEMWELL:

16 Q. Would you please state your name for the
17 record?

18 A. Warren Wood.

19 Q. Spell your last name for the reporter.

20 A. W-o-o-d.

21 Q. Where do you work?

22 JUDGE THOMPSON: She can do easy ones. That's
23 why I didn't ask her.

24 MS. SHEMWELL: A lot of people like to put an S
25 on it.

1 THE WITNESS: Missouri Public Service
2 Commission.

3 BY MS. SHEMWELL:

4 Q. What's your title?

5 A. I'm the utility operations division director.

6 Q. How long have you held that position?

7 A. Since July.

8 Q. What did you do prior to that?

9 A. Energy department manager.

10 Q. What are your responsibilities, Mr. Wood?

11 A. I oversee the operations of our manufactured
12 housing, telecommunications, water and sewer, gas and electric
13 departments and several sub-departments related to engineering
14 and tariffs.

15 Q. As a part of your responsibilities, have you
16 been monitoring the recent market for natural gas?

17 A. Yes. Actually, I started employment with the
18 Public Service Commission on the day that market prices closed
19 at \$9.98 in 2000. And I have been very aware of natural gas
20 price -- the situation since that day. We have held countless
21 public meetings, press interviews related to the natural gas
22 price situation and it continues to climb.

23 Actually, I think it would be good for this
24 record if we had a NYMEX chart and graph entered in the case
25 and where the market is currently and where it's been since

1 19-- since the mid-1990s.

2 Q. Thank you, Mr. Wood.

3 JUDGE THOMPSON: Do you happen to have such a
4 chart on your person?

5 THE WITNESS: I believe Lera has such diagrams.

6 JUDGE THOMPSON: We will mark this as Exhibit
7 12. Shall we call this a NYMEX chart?

8 MS. SHEMWELL: Yes.

9 JUDGE THOMPSON: Oh, there's another one.
10 What's a Henry Hub?

11 MS. SHEMWELL: Mr. Wood will be happy to
12 explain to you what the Henry Hub is.

13 JUDGE THOMPSON: That will be Exhibit No. 13.

14 MS. SHEMWELL: Let me get these handed out
15 before you say anything else. This is 13.

16 (Exhibit Nos. 12 and 13 were marked for
17 identification.)

18 BY MS. SHEMWELL:

19 Q. Mr. Wood, would you describe the chart that's
20 been marked 12 and the information that's described in that
21 chart?

22 A. Certainly. What this illustrates is from
23 mid-1996 through August 31st the monthly closing prices on the
24 New York Metro Exchange as referenced out of Henry Hub
25 Louisiana.

1 And this shows the gas price spike in 2000,
2 2001 and the steady climb in prices since then that's yielded
3 double digit increases in percentages in customer bills since
4 then. And actually if you were to take this graph up to
5 include the closing price of yesterday, you would have to add
6 two more dollars onto the top of this chart to show nearly
7 \$14.

8 Q. And what would that \$14 represent?

9 A. Well, it would represent a record natural gas
10 price for any monthly closing price in the history of NYMEX.
11 It represents record high bills likely to the customers
12 subject to those prices as well.

13 Q. Are those prices regulated?

14 A. No.

15 Q. If we could turn to Exhibit 13, we will label
16 it NYMEX Henry Hub. And it contains information. If you
17 would describe that, please?

18 A. Certainly. It's -- this is the monthly price
19 as of this morning when I came in. They hadn't -- there
20 hadn't been any activity in the contracts for the day yet, but
21 at that time, October was shown at 13.91. My understanding
22 that's close to where the closing price was for the October
23 contract. And it shows January at just under 15. It's my
24 understanding that market prices have moved up through the day
25 from the numbers shown in this chart.

1 Q. These are estimates of future prices; is that
2 correct?

3 A. Yes. Or at least it's -- I should probably
4 clarify. It's a trading price for the contract on that day.

5 Q. Do you see any break in the prices?

6 A. Well, if you consider dropping down to 10-plus
7 dollars a break, I do see one there.

8 Q. In May?

9 A. Yeah, in May after the winter.

10 Q. Mr. Wood, were you here in the winter of
11 2000/2001 when gas prices spiked to \$10 and above?

12 A. Yes, I was. That was the -- at that time we
13 were doing quite a bit of work figuring out customer bill
14 impacts, looking at many customers likely seeing changes in
15 their bill. That winter versus the winter before of about a
16 factor of 2 or about 100 percent increase in their bills.

17 Q. What did the Commission do in response to that
18 price spike?

19 A. The Commission created the Natural Gas
20 Commodity Price Task Force in January of 2001.

21 Q. Were you a member of that task force?

22 A. Yes, I was.

23 Q. What was your role?

24 A. I was chair of that task force. We had, I
25 would say, a broad representation from a lot of different

1 interests in that task force. In looking at -- well, go
2 ahead.

3 Q. If the Commission has an interest in a full
4 copy of that, can you provide it?

5 A. Certainly. Actually, there's -- it is
6 available electronically on our Internet site under natural
7 gas publications. And it is -- its title is The Final Report
8 of the Missouri Public Service Commission's Natural Gas
9 Commodity Price Task Force. It was issued August 29th of 2001
10 in Case GW-2001-398.

11 MS. SHEMWELL: If I may approach.

12 JUDGE THOMPSON: You may.

13 MS. SHEMWELL: I'd like to have an exhibit
14 marked, please.

15 JUDGE THOMPSON: What's this one? Policy
16 statement. This will be Exhibit No. 14.

17 (Exhibit No. 14 was marked for identification.)

18 MS. SHEMWELL: Would this be Exhibit 14, Judge?

19 JUDGE THOMPSON: Yes, it would.

20 MS. SHEMWELL: Thank you. If I may proceed.

21 JUDGE THOMPSON: You may.

22 MS. SHEMWELL: Thank you.

23 BY MS. SHEMWELL:

24 Q. Would you identify what's been marked as
25 Exhibit 14, please?

1 A. Yes. During the proceedings of the Natural Gas
2 Commodity Price Task Force and, as I indicated, there was
3 broad representation, we had utilities, consumer groups,
4 Staff, Department of Natural Resources and other, one of the
5 things that was identified by the task force members following
6 that price spike in the winter of 2000/2001 was the lack of an
7 overall policy statement by the State of Missouri or the
8 Commission regarding a formal policy of broad applicability in
9 place regarding the use of financial instruments for gas
10 supplied gas hedging purposes prior to the winter of
11 2000/2001.

12 And one of the thought -- things that we
13 decided would be appropriate for the task force is to -- given
14 the broad representation in that group, try to develop a task
15 force policy statement for -- for adoption into a rule.
16 What Exhibit 14 provides is that policy statement.

17 Q. And did it eventually -- was it eventually
18 developed into a rule?

19 A. Yes, it was. It was eventually developed into
20 Rule 4 CSR 240-40.018 natural gas price volatility mitigation
21 rule referenced by Office of Public Counsel in their motion
22 for GW-2006-0110.

23 Q. Thank you.

24 MS. SHEMWELL: If I may approach.

25 JUDGE THOMPSON: You may.

1 MS. SHEMWELL: If we could have this marked.

2 JUDGE THOMPSON: This is Exhibit 15, the
3 referenced rule.

4 (Exhibit No. 15 was marked for identification.)

5 BY MS. SHEMWELL:

6 Q. Mr. Wood, would you describe how the policy
7 then evolved into the rule, please, and the provisions of the
8 rule?

9 A. Certainly. The task force policy statement, as
10 I've noted, was indicated -- was believed to be an appropriate
11 policy statement in light of several comments by the utilities
12 primarily, regarding a concern that if they would proceed into
13 some sort of hedging programs in a significant way and, in
14 particular, if those resulted in gas prices that might exceed
15 the market at times, would that be viewed as an imprudent
16 action.

17 The volatility mitigation rule in its final
18 form, it's very similar actually to task force policy
19 statement if you look through it. Its purpose as stated in
20 the rules is that this rule represents a statement of
21 Commission policy that natural gas local distribution
22 companies should undertake diversified natural gas purchasing
23 activities as part of a prudent effort to mitigate upward
24 natural gas price volatility and secure adequate natural gas
25 supplies for their customers.

1 It goes through several different aspects of
2 the planning effort natural gas utilities should consider,
3 lists pricing structures mechanisms and instruments A through
4 H at the end of the rule.

5 Q. You described this as a policy statement.
6 Would you consider it advisory or mandatory?

7 A. It's advisory. It provides a statement of
8 Commission policy that utilities should conduct these sorts of
9 reviews in planning their -- planning their gas purchasing for
10 their winter or for their -- for year.

11 Q. As chairman of the task force, did you make any
12 recommendations to adopt changes to the PGA process at the end
13 of the investigatory period?

14 A. That's one of the items appointed to that task
15 force was to review the PGA process. There were several
16 concerns coming into the winter prior to 2000/2001 and in the
17 2000/2001 winter period related to the frequency of PGA
18 changes or lack thereof.

19 At that time they were changing twice per year.
20 And it -- that frequency of changes, given the magnitude of
21 swings in the natural gas market, we were seeing relatively
22 large under- over-recovery balances that were being added to
23 or deleted or reducing PGA amounts. They -- the ACA balances
24 were getting to where they were becoming a troubling factor.
25 And at the same time, there was a desire not to go to monthly

1 PGAs.

2 In the end, we adopted changes to the PGA/ACA
3 process that moved it to four times per year. And in addition
4 to that, and probably more importantly, in looking at how the
5 PGA was calculated, there was -- I would say there were some
6 changes between different utility tariffs as to how the PGA
7 was calculated and what factors had to be considered in that
8 calculation.

9 Staff and other parties in that task force were
10 concerned that while it provided for consideration of some
11 factors in calculating the actual cost of gas the utility
12 would be incurring in the forecasted period to deliver gas to
13 its customers, it wasn't considering all factors.

14 And in looking at the recommended policy
15 statement, it was appropriate to note that index contracts,
16 fixed contracts, swaps, collars, other things like that become
17 a part of that PGA calculation so that it -- it was really an
18 effort to refine the process and really get to where when you
19 calculate the PGA, you are as -- as reasonably as possible
20 calculating what the gas cost the utility will incur to
21 deliver gas to its customers for the time frame the PGA is
22 being applied to. It's an effort to try to match the revenues
23 and the cost.

24 Q. But it is an estimate of future costs?

25 A. Yes, it is.

1 Q. Did you look at alternatives to the PGA?

2 A. Yes. There were -- there were a lot of
3 different ideas put out. Some of them more reasonable than
4 others. I think one of them included the Public Service
5 Commission or the state of the government -- state government
6 taking over gas purchasing.

7 And in the end, looking at -- and this involved
8 a look at a lot of other states as to what they were doing in
9 their PGA process. And in the end, our -- we made the
10 adjustments to how it was calculated, the frequency of the
11 changes, but didn't have recommendations to abandon the
12 process. And that's -- that's still where the policy now
13 stands is it's still consistent with those tariffs that are in
14 effect.

15 Q. You mentioned other states. Would you describe
16 the Commission's PGA process here in Missouri as similar to
17 other states?

18 A. There's differences in the -- in the frequency
19 of changes, but generally, it's very similar to this process.

20 Q. When you say "the frequency of changes," you're
21 describing the number of times that a company files for a
22 change to the rate that they're changing their customers?

23 A. Yeah. Maybe twice per -- anywhere from twice
24 per year to every month.

25 MS. SHEMWELL: Thank you. That's all I have

1 for this witness.

2 JUDGE THOMPSON: Thank you, Ms. Shemwell.

3 Cross-examination, Mr. Fischer.

4 MR. FISCHER: In the interest of brevity, I'll
5 pass the witness. Thank you.

6 JUDGE THOMPSON: Thank you.

7 Mr. Wheatley.

8 MR. WHEATLEY: No questions, your Honor.

9 JUDGE THOMPSON: Questions from the Bench,
10 Commissioner Gaw.

11 COMMISSIONER GAW: If the Chairman wants to go
12 first.

13 JUDGE THOMPSON: I understand the Chairman
14 would prefer to go last.

15 CHAIRMAN DAVIS: Actually, the Chairman doesn't
16 have any questions at this time.

17 JUDGE THOMPSON: Very well.

18 CHAIRMAN DAVIS: Wait. Can I ask one question?

19 JUDGE THOMPSON: You may. As many as you want.

20 CHAIRMAN DAVIS: And I forget, what exhibit is
21 this, Judge?

22 JUDGE THOMPSON: The Henry Hub, that is
23 Exhibit 13.

24 QUESTIONS BY CHAIRMAN DAVIS:

25 Q. And is there -- I can't see on this page. Is

1 there any indication of what day this page was printed off?

2 Was this today?

3 A. It was -- this was this morning about 7:00 in
4 the morning.

5 Q. Mr. Wood, these prices are not good.

6 A. And they've gone up since then. I understand
7 January is now over 15.

8 MR. SCHWARZ: It was at noon.

9 THE WITNESS: Yeah, it was at noon.
10 Unfortunately, saw a significant climb in the prices right
11 before the October contract closed.

12 CHAIRMAN DAVIS: Okay. I don't have any
13 suggestions. I'm open to suggestions though, Mr. Wood, if you
14 have any, but I don't have any further questions.

15 JUDGE THOMPSON: Thank you.

16 Commissioner Gaw.

17 QUESTIONS BY COMMISSIONER GAW:

18 Q. Mr. Wood, the rule that you've provided us a
19 copy of is 4 CSR 240-40.018 --

20 A. Yes.

21 Q. -- am I right?

22 A. Yes, sir.

23 Q. Okay. You've looked at the purchasing
24 practices of Southern Missouri Gas for this winter, in
25 general, have you not?

1 A. We've looked at the information provided in
2 response to the letter by Wes Henderson and I've seen the
3 exhibits that were entered today regarding past planning
4 practices and also attended the phone conference last week
5 with Southern Missouri Gas where Mr. Maffett, Mr. Walker were
6 available to answer questions regarding their gas purchasing
7 practices, their estimate of delivered prices this winter.
8 And so to the degree that is responsive to your question, I am
9 aware of that information.

10 Q. Okay. Is it your opinion that they have -- the
11 company has entered into any hedging practices for this winter
12 based on that information that you just stated?

13 A. If I may give it in relative terms. And
14 hopefully that answers your question specifically. If not,
15 please feel free to ask for clarification. I know you will.

16 Q. Do you disagree with Mr. Sommerer's testimony
17 in that regard?

18 A. No, I do not.

19 Q. All right.

20 A. Maybe that's the fastest way to do it.

21 Q. All right. Based upon the information that you
22 have, do you believe that the company has been practicing the
23 Commission policy under 4 CSR 240-40.018 for this winter?

24 A. I am aware of their past practices and the
25 fixed price contract trend that they were participating in in

1 the past that was along the lines of a dollar cost averaging
2 approach.

3 And today I've heard -- and frankly before
4 today I hadn't heard much in the way of an explanation as to
5 why the approach that we now see before us was being pursued.
6 It appeared to be a largely decision based on some
7 anticipation of where market prices were at the time and where
8 they were likely to go later in the year. The answer to that
9 question is --

10 Q. I think it was a yes or no.

11 A. Well, in order to answer the -- and the answer
12 is --

13 Q. I can't recall my question now.

14 A. -- I do not know. The answer is I do not know.
15 And the reason I don't know is because the rule says that --
16 let me go find the portion here that's appropriate. In making
17 this planning effort -- it's subsection B of the rule. It
18 says, In making this planning effort, natural gas utilities
19 should consider the use of a broad array of pricing
20 structures, mechanisms and instruments, including but not
21 limited to the items described in 2A through 2H.

22 Today I've heard an explanation, when
23 Mr. Maffett was on the stand, I believe Mr. Fischer walked him
24 through the different items in 2A through H that indicated
25 that he had considered them, but had made a decision to not

1 buy his fixed price contracts based on the impression that
2 prices were probably higher than they were going to be in the
3 future and waiting. And that fixed price -- and that fixed
4 price contracts at that time would be inappropriate and that
5 this approach would yield lower prices.

6 If that's -- if that's -- I would need to see
7 more information to say if that was -- you know, what
8 information was he looking at to say that that was really the
9 best approach for his customers.

10 And I'm hoping that we will see more of that
11 kind of information in the current GW-2006-0110 docket in our
12 Staff recommendation. That's why we included a reference to
13 possibly more information being brought to the Commission
14 relative to these purchasing practices in GW-2006-0110.

15 Q. Mr. Wood, did this company for this winter
16 enter in or have any natural gas storage?

17 A. No.

18 Q. Did it have any fixed price contracts?

19 A. No.

20 Q. Did it have any call options?

21 A. No.

22 Q. Did it have any collars?

23 A. No.

24 Q. Did it have any out-sourcing or agency
25 agreements?

1 A. Not in regards to price hedging, no.

2 Q. Did it have any futures contracts?

3 A. No.

4 Q. Did it have any financial swaps and options
5 from over-the-counter markets?

6 A. No.

7 Q. Did it utilize other tools utilized in the
8 market for cost effective management of price and/or usage
9 volatility?

10 A. They used basis -- they locked in basis
11 differentials. And is that a cost effective mechanism?
12 That's the final question that I -- I hope to have an opinion
13 on before long, but I do not have one today.

14 Q. Did it do anything -- that mechanism do
15 anything to ensure an insulation from the volatility in the
16 market other than give a discount off of market price?

17 A. No.

18 Q. Was there -- well, I just read all of the
19 provisions under subdivision 2 of the rule and I didn't hear
20 any clear yeses to any of them being done. Right?

21 A. 2A through G, the answer to all of those was
22 no. 2H was -- that is the provision -- if there's any in here
23 that they would potentially fall under, it would be H. And as
24 you have clarified, I wouldn't necessarily view that as a
25 hedging mechanism.

1 Q. If a company can come in and suggest that they
2 chose to speculate on the market's performance rather than
3 enter into hedging, I ask you, Mr. Wood, what good is it to
4 have any rule at all? What good is it if you can do that,
5 come in here and tell us that no hedging mechanism was
6 utilized because they chose to speculate on the market? If
7 that is satisfactory under this rule, what is not?

8 A. Well, I would not say it's necessarily
9 satisfactory not to participate in hedging. In looking at the
10 rule, it -- its intent and I believe it achieves stating the
11 Commission policy that a -- that pursuing hedging programs and
12 certainly consideration of those hedging programs in an effort
13 to provide price volatility to their customers is completely
14 appropriate.

15 Without the rule, you potentially do not have
16 any policy statement of Commission. And I think the utilities
17 would be less likely to participate. If there's any final
18 barrier in a utility's mind to participating in hedging
19 programs, the intent was that this rule would clarify that
20 those barriers are removed. You have a clear statement that
21 you should be doing it.

22 Q. But what incentive is there for them to do it
23 if we will pass through the cost regardless of whether they
24 participate or not?

25 A. And what you are addressing is a timing issue

1 which is related to when --

2 Q. No, no, no. I'm not --

3 A. -- you do the prudence assessments.

4 Q. I want to know the answer to my question,
5 Mr. Wood.

6 A. Your question would be?

7 Q. What incentive is there for a company to
8 participate in hedging if this Commission and its Staff will
9 say it's okay to pass along these costs of gas regardless of
10 how -- whether you did or did not participate in any hedging
11 mechanism?

12 A. Their incentive is to avoid a prudence
13 adjustment to remove that money.

14 Q. What authority do we have to do that?

15 A. I mean, our procurement analysis department
16 audit and our actual cost adjustment process. If there were
17 determinations those costs were unreasonably or imprudently
18 incurred, you have the authority to throw -- take those out.

19 Q. Does the authority to do that derive from this
20 rule or from somewhere else?

21 A. I would say the rule certainly provides for a
22 statement of Commission policy that you should be -- that as
23 part of your prudent planning effort, you would consider the
24 use of these mechanisms to provide gas -- to let me -- here,
25 to -- let me find the term here.

1 You know, it's basically section A. As part of
2 a prudent planning effort to secure natural gas to their
3 customers, natural gas utilities should structure their
4 portfolios -- I'm sorry, I'll read slower -- their portfolios
5 of contracts with various supply and pricing provisions in an
6 effort to mitigate upward natural gas price spikes and provide
7 a level of stability of delivered natural gas prices.

8 Q. Where does it use the word in that paragraph
9 "consider using" -- or the words "consider using" or "think
10 about"? Does it say that they should speculate about it?

11 A. No, it does not say they should speculate.

12 Q. Does not sub-A say this is what a prudent
13 planning effort will be?

14 A. They should structure it, yes.

15 Q. And has this company done that for this winter?

16 A. They have not taken the approach of an
17 aggressive hedging program. They have used one of -- in using
18 your terminology earlier, it's a speculation that natural gas
19 prices were higher. That at a particular time they would have
20 been putting these fixed price contracts and they should have
21 been and that it will drop.

22 So to some -- to -- largely that's a
23 speculation. I wouldn't necessarily refer to that as a hedge,
24 which is why we indicated yesterday -- or Tuesday in agenda we
25 had a concern and why you've heard that we have concerns

1 today.

2 Q. And have they complied with this rule in regard
3 to hedging?

4 MR. FISCHER: Your Honor, I'm going to object
5 at my peril. The Commissioner's asking the question but, your
6 Honor, this is a largely irrelevant question that's being
7 asked at this juncture.

8 That kind of a question will be taken up in the
9 context of the ACA analysis and I expect, based upon what I've
10 heard today, that it will probably be hotly litigated. But at
11 this point in time the question that's before the Commission
12 is whether the company's PGA tariff has complied with the
13 language in that PGA tariff, with all due respect.

14 JUDGE THOMPSON: I'm going to overrule your
15 objection, Mr. Fischer.

16 BY COMMISSIONER GAW:

17 Q. Mr. Wood?

18 A. Are they in compliance with this rule. Is that
19 your question?

20 Q. I'm not in compliance with our rule by letting
21 this phone ring.

22 A. This rule is advisory. It's not -- it doesn't
23 say, Thousand shalt or there's this penalty.

24 Q. Does it not say that as a part of a prudent
25 planning effort to secure adequate natural gas supplies for

1 their customers, natural gas utilities should structure their
2 portfolios of contracts with various supply and pricing
3 provisions in an effort to mitigate upward natural gas prices
4 and provide a level of stability of delivered natural gas
5 prices?

6 A. It -- and as you've said, it --

7 Q. Does it not --

8 A. -- it says you shall consider. It does say
9 that, yes.

10 Q. I don't think I read the words "should
11 consider."

12 A. Okay. Did you say should structure? Were you
13 reading A?

14 Q. I said should structure.

15 A. Okay. Yes, it is in A, the should structure.
16 And then in B it refers to should consider.

17 Q. Doesn't say that in A, does it?

18 A. No. You're right.

19 Q. Is this Staff representing to the Commission
20 that it believes it is unable to do anything about a company
21 that has not engaged in any hedging?

22 A. I'm sorry. What was the question?

23 Q. Does this Commission Staff represent to this
24 Commission that it is unable to do anything in regard to a gas
25 company that has not participated in any hedging for a winter

1 season?

2 A. I would not say you can't do anything.
3 Obviously you can deny it, you can suspend it, you could order
4 a complaint be filed.

5 Q. I'm not talking about the PGA specifically
6 necessarily. I'm asking you whether the Commission has the
7 authority to do anything, in your opinion, as to whether the
8 Staff views it to be that, about the lack of hedging by a
9 particular LDC?

10 A. No. I would -- you know, you have the
11 ability -- Staff could file a complaint, Office of Public
12 Counsel could file a complaint and say a utility has been
13 imprudent in its purchasing practices and the proceeding would
14 go from there.

15 COMMISSIONER GAW: I'm done. Thank you.

16 JUDGE THOMPSON: Other questions from the
17 Bench? Commissioner Appling.

18 QUESTIONS BY COMMISSIONER APPLING:

19 Q. Mr. Wood, would you repeat again because I
20 didn't -- didn't catch the last question that Commissioner Gaw
21 asked, was there anything that you could do here other
22 than -- and I think you said there was nothing we can do other
23 than -- what was your answer then? Would you repeat it again
24 for me if you could remember what you said or what the
25 question was?

1 A. The question was, does the Commission have any
2 alternatives regarding this -- if I'm repeating it correctly,
3 the PGA filing that's before them.

4 The answer is, well, there's several
5 alternatives. You could approve it, as the Staff has
6 suggested. You could deny it or suspend it. You could
7 order -- order a complaint -- Staff and Office of Public
8 Counsel could file a complaint regarding what is perceived to
9 be a lack of hedging or a lack of prudent purchasing practices
10 at this time.

11 As noted in the Staff rec, we have concerns
12 right now, but, you know, once -- this information's become
13 available to us in just over the last week. And, you know,
14 several days of that were just done calculating what a
15 reasonable PGA is given the market conditions.

16 So I don't have the information, evidence,
17 documentation in front of me today to tell you that this
18 utility's been imprudent in its purchasing practices. That's
19 why we made the reference to the GW-2006-0110 case. That is
20 one -- that is the next most immediate place where data would
21 be provided to the Staff and other parties if such a
22 determination was desired by the Commission.

23 Q. Taking everything that we've heard in
24 consideration in their request for this tariff or PGA --

25 A. Uh-huh.

1 Q. -- what's your recommendation?

2 A. My recommendation regarding this PGA filing is
3 that it is calculated in compliance with their tariffs. And I
4 should note that the tariff is not an intent -- this PGA
5 calculation at that time, it's not -- there's no intent there
6 that there be a determination of prudence.

7 You know, what comes in, it's on a 10-day
8 filing. By the time we get the people working on it and have
9 the time frame necessary to do a Staff recommendation in front
10 of you with time to look at it before it goes into effect, we
11 typically have three or four days to look at it.

12 With many utilities, this is a stack of
13 documentation four to six inches thick and we quite often have
14 more than one here at a time. What we are doing at that time
15 is looking at does this genuinely represent what we think the
16 gas utility will be paying over the forecasted period for the
17 gas that it will deliver to its customers.

18 It's not -- there's not an effort -- there
19 should be no reading into that that we believe it was
20 necessarily prudently purchased, but does it represent what
21 the utility will be paying for gas, you know. Does it have
22 some built in factor that results in an over- under-recovery?
23 And the intent is no. It does represent the real cost.

24 COMMISSIONER APPLING: Thank you, sir.

25 JUDGE THOMPSON: Mr. Chairman?

1 QUESTIONS BY MR. CHAIRMAN DAVIS:

2 Q. Sir, just got to get this straight, Mr. Wood.

3 You're saying approve the tariff?

4 A. That is our recommendation.

5 Q. That is your recommendation?

6 A. Uh-huh.

7 Q. And let me flip that argument over for a
8 moment. Why do you not recommend suspending or rejecting the
9 tariff?

10 A. It -- the PGA was calculated in compliance with
11 their tariff. It's as simple as that. I'm not a legal -- I'm
12 not an attorney and prefer not to act as legal scholar.

13 Q. I understand that. Okay. Let me ask you this.

14 A. Okay.

15 Q. Would you have concerns that if we rejected
16 this tariff, that they might not be able to supply their
17 customers with gas this winter?

18 A. Yes.

19 CHAIRMAN DAVIS: Thank you. No further
20 questions.

21 JUDGE THOMPSON: Other questions from the
22 Bench. Commissioner Gaw.

23 FURTHER QUESTIONS BY COMMISSIONER GAW:

24 Q. Mr. Wood, it's nice to see that you know how to
25 answer a yes or no question.

1 A. Sorry.

2 Q. Let me ask you this. Is there -- on a
3 secondary level here and I aimed to ask you this earlier, does
4 Staff have any concerns in regard to whether or not this
5 company currently has the ability to supply gas for the entire
6 winter regardless of what's done with this PGA?

7 A. I do have some concern in that area, yes, sir.

8 Q. And what is that about?

9 A. It is related to the -- you know, there is a
10 time frame that they buy gas before they receive recovery from
11 their customers assuming they can pay -- pay the bills they
12 receive.

13 And with these high gas costs and the volumes
14 involved, there will be a significant outlay of cash just to
15 buy the gas in order to serve their customers through the
16 winter outside of the current contract provisions they're
17 under. There's additional purchases they need to make.

18 And, you know, each month as we go into the
19 winter, they will be laying out a significant amount of money
20 to purchase gas for their customers. And I do have some
21 concerns in that areas given how high gas prices have gone to.

22 Q. And is that concern based upon the fact that
23 they did nothing to hedge their prices for this winter?

24 A. That concern is increased by the fact that they
25 have the high exposure to the market that they do have.

1 Q. And their exposure to the market is basically
2 100 percent, is it not? The price may not be at market, but
3 their exposure to the market as -- for the setting of their
4 price is 100 percent, isn't it?

5 A. Yes. I can answer a yes.

6 COMMISSIONER GAW: Thank you. No further
7 questions.

8 JUDGE THOMPSON: Other questions from the
9 Bench?

10 Very well, recross, Mr. Fischer.

11 RECROSS-EXAMINATION BY MR. FISCHER:

12 Q. Thank you, Mr. Wood. I thought your
13 explanation of Exhibit 12 was very helpful. And it certainly
14 is a volatile market. You would agree with that?

15 A. Absolutely.

16 Q. And as I understand your testimony, the Staff
17 hasn't filed a complaint that there's been a violation of any
18 rule. That's not really the subject of this proceeding; isn't
19 it -- isn't that true?

20 A. That's true.

21 Q. And it would be highly unusual to ask a company
22 to defend a complaint like that on two days notice, wouldn't
23 you agree?

24 A. You mean a complaint about PG -- you know, the
25 time frame over which we've had to look at this and then reach

1 a conclusion that there's --

2 Q. Exactly.

3 A. -- this is a prudent and file a complaint?

4 Q. A prudence disallowance of any sort generally
5 comes up in the context of a case where you have a chance to
6 look at the data, exchange DRs and the company has a chance to
7 file an answer and explain why they did what they did. And
8 that's usually the typical kind of prudence case, wouldn't you
9 agree?

10 A. Yes. Typically it would start with these kinds
11 of concerns you've heard today resulting in data requests,
12 face-to-face meetings, depositions, whatever, and development
13 of a full record before you move forward to a complaint.

14 Q. And you mentioned that Public Counsel or Staff
15 could file a complaint on a rule violation if they felt that
16 was the case; is that correct?

17 A. Yes. Yes.

18 Q. And that hasn't happened here, has it?

19 A. No.

20 Q. And, of course, if they did do that, then the
21 company would typically have 30 days to file an answer and
22 there would be a procedural schedule for talking about these
23 issues and it wouldn't be done on the fly where you're trying
24 to defend it basically two days after they got notice of a
25 hearing; is that right?

1 A. That's right.

2 Q. Now, I think you had some questions about the
3 financial impact if the Commission did suspend the PGA tariff.
4 And the answers that you provided are basically answers that
5 are going to apply to any LDC in the state if we just ended up
6 having PGAs routinely suspended and they'd have to deal with
7 those kind of financial impacts; is that right?

8 A. Given the percentage of costs, total percentage
9 of operations, that's generally true.

10 Q. Okay. And I think there's credit worthiness
11 problems, there's financial viability concerns and all those
12 kinds of things would come about if we significantly changed
13 the process so that these -- that the PGA was not permitted to
14 go into effect and then we'll have some time to take a look at
15 what prudence adjustments should be done in a more leisurely
16 fashion, make adjustments accordingly?

17 A. Generally true, but more true for some
18 utilities than others, depending on the financial situation,
19 size and other operations.

20 Q. Right. Maybe larger utilities have more
21 options available from a financial standpoint as well. If you
22 have a lot of electric operations, you might not have as many
23 financial concerns as a gas company that has 7,000 customers;
24 is that right?

25 A. True.

1 Q. Okay. And I believe you characterized both the
2 policy statement and the natural gas price volatility
3 mitigation rule as advisory; is that right?

4 A. Yes.

5 Q. Okay. And I note Commissioner Gaw has talked
6 to you a lot about paragraph A. Paragraph B basically says
7 you have to consider those areas. And I guess that's a topic
8 we can debate at some time in the future, but did you hear
9 Randy Maffett describe the things that he did consider?

10 A. Yeah. As I -- as I testified, I heard -- this
11 is the first time today I've heard what some of those
12 considerations were.

13 Q. And H indicates other tools utilized in the
14 market for cost effective management of price, is that
15 correct, and/or usage volatility?

16 A. Yes.

17 Q. I guess it will be a topic for another time
18 about whether the use of a mechanism that reduces the NYMEX
19 price by almost a dollar is going to be considered one of
20 those tools utilized for cost effective management of price.
21 Would you agree?

22 A. I would.

23 Q. Okay. Well, I appreciate your testimony here
24 today. And I did notice whenever I looked at Exhibit No. 12
25 whenever the price spiked in 2000 -- at the end of 2000, looks

1 like it went from \$10 and then the next month it went down
2 below 6; is that correct?

3 A. That is true.

4 Q. And I guess today you've said that the prices
5 are at \$14?

6 A. Yes, they are.

7 Q. Would you agree with David Sommerer whenever he
8 declined to recommend that this company lock in at today's
9 prices?

10 A. I would say I'm not providing any appropri--
11 any opinion one way or the other on what the utility should
12 do.

13 Q. I appreciate that. I appreciate your patience.

14 MR. FISCHER: And, again, I appreciate the
15 indulgence of the Commission in having the hearing today.
16 Thank you very much.

17 JUDGE THOMPSON: Thank you, Mr. Fischer.

18 Mr. Wheatley.

19 MR. WHEATLEY: No questions, your Honor.

20 JUDGE THOMPSON: Ms. Shemwell, redirect.

21 MS. SHEMWELL: No questions. Thank you.

22 JUDGE THOMPSON: You may step down. You're
23 excused, Mr. Wood.

24 Mr. Wheatley, do you have anybody that wants to
25 take the stand or --

1 MR. WHEATLEY: Your Honor, we have not intended
2 to call a witness, however, Mr. Trippensee from our office is
3 here and is available to answer any questions if there are
4 some from the Bench.

5 JUDGE THOMPSON: Anybody want to make
6 Mr. Trippensee get up there?

7 CHAIRMAN DAVIS: Well, he's here.

8 JUDGE THOMPSON: Come on up.

9 CHAIRMAN DAVIS: It's four o'clock. We've got
10 another hour.

11 JUDGE THOMPSON: Go ahead and spell your last
12 name for the reporter, if you would.

13 THE WITNESS: Trippensee, T-r-i-p-p-e-n-s-e-e.

14 (Witness sworn.)

15 JUDGE THOMPSON: Go ahead and take your seat.
16 You may inquire.

17 RUSSELL TRIPPENSEE testified as follows:

18 DIRECT EXAMINATION BY MR. WHEATLEY:

19 Q. For the record, would you state your full name
20 and your current business address?

21 A. Russell Trippensee, PO Box 2230, Jefferson
22 City, Missouri 65102. I work for the Office of Public
23 Counsel.

24 Q. And what is your position with the Office of
25 Public Counsel?

1 A. I'm the chief utility accountant.

2 Q. And, Mr. Trippensee, you're familiar with
3 Public Counsel's position in this particular case?

4 A. Yes, I am.

5 Q. And what is that position?

6 A. The Office of the Public Counsel believes that
7 the tariff for the PGA should go into effect as filed. We do
8 have concerns regarding some of the actions of the company.
9 We do not believe at this point in time that this is the
10 appropriate forum in which to address those concerns.

11 We have some concerns also as to the
12 sustainability of an order denying the PGA. That's based on
13 discussions I've had with counsel, including yourself. And
14 the effect of a subsequent reversible on some of the
15 clients -- our client, customers of the company who are least
16 able to respond to price increases.

17 If -- if there's a delay, in all likelihood,
18 that price increase will be greater in a month or two months
19 or 45 days at which point in time the people least able to pay
20 often are not able to plan for that type of delay and that
21 additional increase. So they would be facing higher prices at
22 the time their usage would be the highest and make it very
23 difficult for them to maintain service.

24 Q. And that is your concern if the Commission
25 should determine to not approve this tariff?

1 A. That is correct

2 MR. WHEATLEY: All right. I have no further

3 questions for this witness.

4 JUDGE THOMPSON: Thank you, Mr. Wheatley.

5 Cross-examination, Ms. Shemwell.

6 MS. SHEMWELL: No questions. Thank you.

7 JUDGE THOMPSON: Mr. Fischer.

8 MR. FISCHER: No questions, your Honor.

9 JUDGE THOMPSON: Questions from the Bench.

10 Mr. Chairman.

11 QUESTIONS BY MR. CHAIRMAN DAVIS:

12 Q. Mr. Trippensee, it's good to see you today.

13 A. Pleasure to see you on this beautiful day

14 outside, I heard.

15 Q. I wouldn't know.

16 So you're saying approve the tariff?

17 A. That is correct. We will be reviewing the

18 record with regard to a possible complaint, which I think --

19 Q. And you think in that venue would be the

20 most -- you think another forum in front of this Commission

21 would be the best venue for airing that; is that correct?

22 A. That is correct.

23 CHAIRMAN DAVIS: No further questions, Judge.

24 JUDGE THOMPSON: Thank you, Mr. Chairman.

25 Commissioner Appling.

1 COMMISSIONER APPLING: No questions.

2 JUDGE THOMPSON: I have no questions for you,

3 Mr. Trippensee.

4 Recross based on questions from the Bench,

5 Ms. Shemwell.

6 MS. SHEMWELL: No questions, thank you.

7 JUDGE THOMPSON: Mr. Fischer.

8 MR. FISCHER: No, thank you.

9 JUDGE THOMPSON: Redirect, Mr. Wheatley.

10 MR. WHEATLEY: No further questions, your

11 Honor.

12 JUDGE THOMPSON: Thank you. You may step down,

13 Mr. Trippensee. You're excused.

14 I believe that that concludes the evidence

15 today. Would counsel like an opportunity for closing

16 argument?

17 MS. SHEMWELL: No, thank you.

18 JUDGE THOMPSON: Said everything you need to

19 say?

20 Mr. Wheatley.

21 MR. WHEATLEY: Just one record keeping matter.

22 JUDGE THOMPSON: What's that, sir?

23 MR. WHEATLEY: I'm unclear on whether Exhibits

24 12 through 15 were offered into evidence.

25 JUDGE THOMPSON: They have never been offered

1 and so not received.

2 MS. SHEMWELL: I'd like to offer them at this
3 point.

4 JUDGE THOMPSON: Oh, okay. Does anyone have an
5 objection to the receipt of Exhibit 12, 13, 14 and/or 15?

6 MR. FISCHER: No, your Honor.

7 JUDGE THOMPSON: Very well. Hearing no
8 objections, the same are received and made a part of the
9 record of this proceeding.

10 (Exhibit Nos. 12, 13, 14 and 15 were received
11 into evidence.)

12 JUDGE THOMPSON: Mr. Fischer, do you have any
13 closing remarks?

14 MR. FISCHER: Your Honor, I would just ask the
15 Commission to approve the tariff following the recommendation
16 of Staff and Public Counsel or at a minimum let it go into
17 effect by operation of law. Thank you very much.

18 JUDGE THOMPSON: I believe the tariff is
19 currently set for an agenda session tomorrow afternoon where
20 the Commission will have an opportunity to act on it.

21 At this time, there being nothing further, this
22 hearing is adjourned. Thank you.

23 WHEREUPON, the hearing was adjourned.

24

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