

In the Matter of:

SPIRE MISSOURI, INC.'s d/b/a SPIRE REQUEST FOR AUTHORITY, etc.

GR-2021-0108, VOL. XII

August 04, 2021



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'BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

August 4, 2021

Jefferson City, Missouri

Volume 12

In The Matter Of Spire Missouri Inc.'s)
d/b/a Spire Request for Authority to)
Implement a General Rate Increase for) File No. GR-2021-0108
Natural Gas Service Provided in the)
Company's Missouri Service Areas)

CHARLES HATCHER, Presiding
REGULATORY LAW JUDGE.
RYAN SILVEY, Chairman,
SCOTT RUPP,
JASON HOLSMAN,
GLEN KOLKMEYER,
MAIDA COLEMAN,
Commissioners.

REPORTED BY:
Lisa M. Banks, CCR
TIGER COURT REPORTING, LLC

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P R O C E E D I N G S

JUDGE HATCHER: Let's go on the record.

Good morning everyone. Today is August 4th. The Commission has continued to set this time aside for an evidentiary hearing in File Number GR-2021-0108. We begin today, Wednesday, with mini opening statements on the issue of Number 30, that's WNAR and RNA. We will begin opening statements with Spire. If you'd like to come on up.

MS. CALLENBACH: Good morning. Is my mic on?

JUDGE HATCHER: It should be.

OPENING STATEMENT BY MS. CALLENBACH:

MS. CALLENBACH: Okay. Good morning, Judge. May it please the Commission. My name is Anne Callenbach and I am outside counsel representing Spire in this proceeding. In this case Spire proposed a rate normalization adjustment rider to replace its weather normalization adjustment rider. Spire's proposed RNA was prepared and submitted in accordance with Section 386.366(3) of the Missouri Revised Statutes which permits a utility to file a tariff to account for the impact on utility revenues of increases or decreases in residential and commercial customer usage due to variations in either weather, conversation -- conservation, excuse me, or both.

1 As you will hear from Spire witnesses Scott
2 Weitzel and Tim Lyons, Spire's proposed RNA is designed as a
3 2-block rate mechanism where Block 1 represents monthly
4 customer usage and revenues up to a set threshold; and Block
5 2 represents the remaining monthly customer usage and
6 revenues.

7 The RNA is designed to expose Spire to the
8 benefits or risks or variations between actual and normal
9 usage and revenues and insulate Spire to an extent and its
10 customers in Block 2 to the benefits or risks of variations
11 between actual and normal usage and revenues. RNA has two
12 primary benefits. First, to limit the degree to which
13 customers collectively under or over contribute to Spire's
14 revenue requirement; and second, to pass customers the
15 benefits or detriments or increases or decreases in usage
16 associated with customer growth.

17 Staff filed a similar RNA mechanism in this
18 case. The primary difference between Spire and Staff is
19 where to set the breakpoint of the block break between
20 Blocks 1 and 2 for the residential class and similarly where
21 to set the threshold breakpoint for the small general
22 service class. For residential customers, Spire is
23 proposing a breakpoint at 30 CCF and Staff is proposing a
24 breakpoint at 50 CCF. For the SGS class, Spire is proposing
25 the breakpoint of 100 CCF as compared to the range of 300 to

1 500 CCF proposed by Staff.

2 OPC will set forth several arguments in an
3 attempt to resurrect and revise the WNAR, but Staff and
4 Spire agree the RNA rider is a better approach. Spire
5 maintains that the RNA it proposes is the appropriate rider
6 to implement and will demonstrate that its proposed block
7 breaks and not those proposed by Staff minimize the Block 1
8 sales that would be subject to fluctuations due to weather
9 and conservation by the residential and SGS classes as
10 contemplated by Missouri law. Thank you. I have nothing
11 further unless there are questions.

12 JUDGE HATCHER: No. Thank you, Counsel. We
13 will move on to Staff.

14 Mr. Stokes, come on up.

15 OPENING STATEMENT BY MR. STOKES:

16 MR. STOKES: May it please the Commission.
17 Curt Stokes for the staff of the Commission. Good morning,
18 Chairman Silvey, Commissioner Kolkmeier, and Judge Hatcher.
19 Staff is asking the Commission this morning to approve
20 Staff's version of the rate normalization adjustment
21 mechanism for RNA. Section 386.266.3 of the Revised
22 Statutes of Missouri --

23 (WHEREIN; Microphone interruption.)

24 MR. STOKES: I will start again. Section
25 386.266.3 of the Revised Statutes of Missouri authorizes the

1 Commission to approve for the residential class and the
2 small general service class, quote, Rate schedules
3 authorizing periodic rate adjustments outside of general
4 rate proceedings to adjust rates of customers. The statute
5 continues, quote, To account for the impact on utility
6 revenues of increases or decreases in residential and
7 commercial customer usage due to variations in the weather
8 -- in either weather, conservation, or both.

9 Under Staff's proposed RNA residential usage
10 is separated into two blocks, Blocks 1 and 2. Small general
11 service or SGS customer usage is separated into three
12 blocks, what Staff refers to as 1A, 1B, and 2. The Company
13 would retain the risk on the first block of volumetric
14 recovery for residential customers and for Block 1A and
15 Block 2 for SGS customers. The RNA insulates the Company
16 from fluctuations in sales due to weather and conservation
17 compared to what is normal for residential Block 2 and SGS
18 Block 1B.

19 Under Staff's proposal Block 1 would be zero
20 to 50 CCFs for residential customers and Block B -- 1B would
21 be 300 to 599 CCFs for SGS customers. Under Staff's RNA,
22 the Company retains the opportunity to increase its return
23 by increasing the numbers of customers taking service, but
24 the Company retains the risk derived from customers leaving
25 the service. Staff's proposal therefore most closely

1 reflects the intent and purpose of the statute which is
2 limited usage fluctuations due to weather and conservation.

3 Spire's definition of conservation is too
4 broad and includes, quote, Energy efficiency measures,
5 comma, as well as any other factors inducing changes to the
6 volumes of gas sold. Spire's proposed -- Spire's proposed
7 blocks of 30 CCFs and 100 CCFs are too low. Spire's
8 proposal creates the risk of insulating the Company from
9 more than just weather and conservation.

10 There is an alternative request in this case
11 for continuing of Spire's currently existing weather
12 normalization adjustment rider or WNAR. Staff requests if
13 the WNAR is continued in this case, that tariffs be filed
14 within 60-day effective date rather than 30. The purpose of
15 this request is to give Staff time to perform the review and
16 work for the Company on any corrections to the tariff
17 filing. The reason we are asking this is that currently 30
18 days gives Staff approximately ten to 15 days to make those
19 corrections and that has not proven sufficient. And every
20 WNAR filing to date has required some back and forth between
21 Company and Staff to get clarifications or corrections. If
22 there are no further questions, that is all I have.

23 JUDGE HATCHER: Thank you, Mr. Stokes.

24 MR. STOKES: Thank you.

25 JUDGE HATCHER: And for Office of the Public

1 Counsel, Mr. Clizer?

2 OPENING STATEMENT BY MR. CLIZER:

3 MR. CLIZER: If it pleases the Commission.
4 Check mic. May it please the Commission. Good morning.
5 You heard Spire say that the OPC is going to argue that we
6 want to resurrect or revive the WNAR. Let me start off by
7 saying that is not actually what we are asking. The first
8 thing I want to point out here is that the statutes that
9 you've been -- heard quoted from do not require the
10 Commission to approve anything. There is no obligation that
11 Spire had a WNAR and RNA or any mechanism. We believe Spire
12 has failed to demonstrate why it should have any mechanism
13 at all at this point. In fact, over the last year Spire has
14 demonstrated that apparently it doesn't actually need the
15 revenue from the WNAR as it failed to update its WNAR to
16 account for changes in revenues it was supposed to be
17 collecting.

18 But if the Commission does choose to grant
19 Spire a mechanism, it should use the existing WNAR, which
20 has been in place for a while now. There is nothing wrong
21 with it. It works perfectly. There are a few modifications
22 that have been recommended by both Staff and OPC and I think
23 we agree with all of the recommendations that both Staff and
24 of course we have put forth for the WNAR.

25 As far as RNA goes, I'm going to keep it

1 simple: This decoupling by another name. The Commission
2 previously determined it doesn't have a statutory authority
3 to grant such a mechanism and we would ask the Commission to
4 make that determination again. Are there any questions?

5 JUDGE HATCHER: Just one. Can you provide
6 me the citation for that decision?

7 MR. CLIZER: It is the last rate case.

8 JUDGE HATCHER: Oh, the GR-17 --

9 MR. CLIZER: GR-2017-0215, yeah.

10 JUDGE HATCHER: Okay.

11 MR. CLIZER: And I believe 0216.

12 JUDGE HATCHER: Thank you. No other
13 questions. Thank you, Mr. Clizer.

14 Let's move on to our first witness,
15 Mr. Weitzel. I believe you have already been sworn in, sir.

16 THE WITNESS: No.

17 JUDGE HATCHER: Okay.

18 (Witness sworn.)

19 JUDGE HATCHER: Thank you. Please have a
20 seat. Would you please state and spell your name for the
21 court reporter.

22 THE WITNESS: Scott Weitzel, W-E-I-T-Z-E-L.

23 JUDGE HATCHER: And Spire, your witness.

24 MS. CALLENBACH: Thank you, Judge.

25 SCOTT WEITZEL, having been first duly sworn, testifies as

1 follows:

2 DIRECT EXAMINATION BY MS. CALLENBACH:

3 Q. Good morning, Mr. Weitzel.

4 A. Good morning.

5 Q. Would you provide your business address for
6 the record?

7 A. 700 Market Street, St. Louis, Missouri.

8 Q. And by whom are you employed and what is
9 your title?

10 A. Spire Missouri, managing director of
11 regulatory legislative affairs.

12 Q. Are you the same Scott Weitzel who filed
13 direct, supplemental direct, class cost of service rebuttal,
14 revenue requirement rebuttal, and surrebuttal testimony in
15 this proceeding on December 11th, 2020, March 12, 2021, June
16 17, 2021, and July 14th, 2021 respectively?

17 A. Yes.

18 Q. And did you also adopt the direct testimony
19 of Wes Selinger filed on December 11, 2020?

20 A. That is correct.

21 Q. Do you have any additions or corrections to
22 any of your testimony at this time?

23 A. Not at this moment.

24 Q. If I asked you the same questions today,
25 would your answers remain the same?

1 A. They would.

2 MS. CALLENBACH: Thank you. Your Honor, I
3 move for the admission of all of Mr. Weitzel's testimony
4 into the record as Exhibits 39, 40, 41, 42 and 43, and
5 Exhibit Number 34, which is Mr. Selinger's direct testimony
6 that has been adopted by Mr. Weitzel. And with that, I
7 tender the witness for cross.

8 (WHEREIN; Spire Exhibits 39, 40, 41, 42, 43,
9 and 34 were offered into evidence.)

10 JUDGE HATCHER: Okay. We will cover the
11 exhibits first. Do we have any objections to admitting
12 Exhibits 39, 40, 41, 42, and 43, all the various testimonies
13 of Mr. Weitzel and Exhibit 34, which is the direct testimony
14 of Mr. Selinger, which is adopted by Mr. Weitzel? Are there
15 any objections? Hearing no objections, it is so admitted.

16 (WHEREIN; Spire Exhibits 39, 40, 41, 42, 43,
17 and 34 were received into evidence.)

18 JUDGE HATCHER: The witness has been
19 tendered.

20 Mr. Stokes, your witness.

21 MR. STOKES: Staff has no cross-examination.

22 JUDGE HATCHER: Thank you, sir.

23 Mr. Clizer?

24 CROSS-EXAMINATION BY MR. CLIZER:

25 Q. Good morning Mr. Weitzel.

1 A. Good morning, sir.

2 Q. I would just like to briefly kind of walk
3 through exactly how the RNA works. So as I understand it,
4 the RNA is going to set an assumed usage for a given block.
5 Correct? And obviously, what block that is, is sort of up
6 to debate, but that's effectively how it works. Right?

7 A. Correct.

8 Q. And then if the actual usage is more than
9 the assumed usage that is set in the rate case, the RNA
10 rates will be increased and customers will get lower bills.
11 Right?

12 A. If there is a colder winter and the usage
13 and revenue produces more than the billing determinant site
14 in this case, yes.

15 Q. And the same is true in reverse; if the
16 actual usage is less than what's set in this case, the rates
17 will be higher and customers will have a higher bill.
18 Right?

19 A. Yes.

20 Q. So the RNA is based on usage effectively in
21 that block?

22 A. The RNA is based on usage to a point and
23 then once you get to that second tier block it then reverts
24 to a revenue reset.

25 Q. It's -- okay. But within the block it's

1 based on usage?

2 A. Yes.

3 Q. And so obviously --

4 A. The first block.

5 Q. -- a change in usage will change the RNA.

6 Correct?

7 A. A change in usage will impact the first
8 block, but not necessarily the second block, which that is
9 what the RNA rate is derived from.

10 Q. If someone changes the amount of usage in
11 the second block, it will affect the RNA?

12 A. Correct.

13 Q. Right. So if a customer who is in that
14 second block leaves because, for example, they stopped
15 taking gas service, that will change the RNA. Correct?

16 A. Correct.

17 Q. And if a customer who is in that second
18 block leaves because they switched to a different class
19 that's not subject to the RNA, that will affect the RNA.

20 Correct?

21 A. For the SGS customers more than likely that
22 is a possibility.

23 Q. If a customer is in that block, they leave
24 because they change class, that will affect the RNA?

25 A. Sure.

1 Q. Okay. Sure, that is a yes?

2 A. Yes, Mr. Clizer.

3 Q. All right. Thank you. Let's say that we
4 have another lockdown, for example, and we have a bunch of
5 people at home during the winter. Is that going to affect
6 -- if you have a bunch of people at home and they're in that
7 second block, you have more usage, is that going to affect
8 the RNA?

9 A. Yes.

10 Q. And then like, if we end the lockdown,
11 people come back out, and we have the less usage in that
12 second block, that is going to affect the RNA?

13 A. Yes.

14 Q. And if we go into a recession and people
15 literally can't afford gas and you have less usage in that
16 second block, that's going to affect the RNA?

17 A. Yes.

18 Q. All right. Last question for now: Does
19 Spire have a problem with people switching classes?

20 A. I don't think we have a problem switching
21 classes. You know, most of our classes are based on usage,
22 and if a customer falls within a new usage class then that
23 is there right per the tariff provision.

24 Q. Fair enough. Let me change the word
25 "problem." Does Spire see a lot of class switching?

1 A. Per our tariffs, every year we have to go in
2 and reclass SGS and LGS customers. So amongst those, there
3 are class switching but residential to other classes is
4 rare.

5 Q. Fair enough.

6 MR. CLIZER: I have no further cross. Thank
7 you.

8 JUDGE HATCHER: Thank you, Mr. Clizer.

9 That leads us to bench questions. I do want
10 to state for the record here in person -- again, we are
11 having a hybrid hearing, so we have some participants on
12 WebEx and some participants here in the courtroom. For the
13 record, I would like to state that we are joined in person
14 by the chairman, Chairman Ryan Silvey and also Commissioner
15 Glenn Kolkmeyer.

16 Also, a reminder for those on WebEx to
17 unmute yourself from the phone it is *6.

18 We are at the testimony of Mr. Weitzel on
19 the issue of WNAR/RNA. Are there any questions from the
20 commissioners? Hearing none, the Bench also has no
21 questions.

22 Mr. Weitzel, I believe that leaves you
23 dismissed. Thank you, sir.

24 THE WITNESS: Thank you, Judge.

25 JUDGE HATCHER: Mr. Michael Stahlman.

1 (Witness sworn.)

2 JUDGE HATCHER: Thank you, sir. Please have
3 a seat. State and spell your name for the court reporter.

4 THE WITNESS: Michael Stahlman,
5 S-T-A-H-L-M-A-N.

6 MR. CLIZER: Your Honor?

7 JUDGE HATCHER: I believe there is a second
8 Spire witness for this issue.

9 JUDGE HATCHER: I don't have one, but we
10 will. Mr. Stahlman, would you please excuse me for calling
11 you up. I apologize. However, you're already sworn in so
12 there was an advantage.

13 Let me go get on the computer and I will
14 bring up the witness. We have the witness computer set up
15 here in the courtroom because our witness -- this will be
16 our first WebEx witness. So those listening on the
17 livestream, that is what will be happening for the next few
18 minutes. And those on WebEx you will be able to see those
19 in the courtroom. Give me a few minutes and you will also
20 be able to see the witness.

21 Mr. Lyons, welcome. Can you hear me?

22 THE WITNESS: Yes, I can. Good morning,
23 Judge.

24 JUDGE HATCHER: Would you please raise your
25 right hand, sir.

1 (Witness sworn.)

2 JUDGE HATCHER: Thank you, sir. Would you
3 please state and spell your last name for the court
4 reporter.

5 THE WITNESS: Yes. Tim Lyons, L-Y-O-N-S.

6 JUDGE HATCHER: Thank you.

7 And Spire, your witness.

8 MS. CALLENBACH: Thank you, Judge.

9 TIM LYONS, having been first duly sworn, testifies as
10 follows:

11 DIRECT EXAMINATION BY MS. CALLENBACH:

12 Q. Good morning, Mr. Lyons. Can you hear me
13 all right?

14 A. Good morning. Yes, I can. Thank you.

15 Q. Thank you. Would you please state your
16 business address for the record?

17 A. Yes. It's 1900 West Park Drive in
18 Westborough, Massachusetts 01581.

19 Q. And by whom are you employed and in what
20 capacity?

21 A. ScottMadden, and I am a partner.

22 Q. Are you the same Tim Lyons who filed direct
23 testimony, rebuttal testimony, both class cost of the
24 revenue and revenue requirement and surrebuttal testimony in
25 this proceeding on December 11, 2020, June 17, 2021, and

1 July 14, 2021 respectively?

2 A. Yes, I am.

3 Q. And do you have any additions or corrections
4 to make to your testimony at this time?

5 A. No, I don't.

6 Q. Thank you. If I asked you the same
7 questions again today, would your answers remain the same?

8 A. Yes, they would.

9 Q. Thank you.

10 MS. CALLENBACH: Judge, I move to enter all
11 of Mr. Lyons testimony into the record as Exhibits 25, 26,
12 27, and 28.

13 (WHEREIN; Spire Exhibits 25, 26, 27, and 28
14 were offered into evidence.)

15 JUDGE HATCHER: You have heard the list read
16 by counsel. Does anyone having any objections to the
17 admission of said testimony? Hearing no objections, it is
18 so admitted.

19 (WHEREIN; Spire Exhibits 25, 26, 27, and 28
20 were received into evidence.)

21 MS. CALLENBACH: And we would tender the
22 witness for cross-examination.

23 JUDGE HATCHER: I Believe that goes to
24 Staff.

25 MR. STOKES: Curt Stokes for Staff.

1 CROSS-EXAMINATION BY MR. STOKES:

2 Q. Mr. Lyons, is the RNA designed to be a
3 decoupling mechanism?

4 A. No.

5 Q. And is the RNA designed similar to a
6 mechanism approved by the Commission for Ameren Missouri
7 gas?

8 A. Yes. My understanding of the Ameren
9 mechanism is yes. It is very similar to that RNA.

10 MR. STOKES: I have no further questions.

11 JUDGE HATCHER: Thank you.

12 Mr. Clizer?

13 CROSS-EXAMINATION BY MR. CLIZER:

14 Q. With regard to the Ameren mechanism -- well,
15 sorry. Let me start by saying good morning, Mr. Lyons.
16 Now, with regard --

17 A. Good morning.

18 Q. -- to the Ameren mechanism that you just
19 described, that was approved in a case in which the
20 mechanism was part of a stipulation. Correct?

21 A. I will accept that.

22 Q. So that would be yes?

23 A. Yes, I believe so. It has been a while
24 since I looked at that, but I believe that was part of a
25 settlement.

1 MR. CLIZER: That is my question. Thank
2 you.

3 JUDGE HATCHER: Thank you, Mr. Clizer.
4 That brings us to any commissioner
5 questions. Hearing none, the judge has no questions and I
6 believe that takes us to redirect.

7 MS. CALLENBACH: Thank you, Judge.
8 REDIRECT EXAMINATION BY MS. CALLENBACH:

9 Q. Mr. Lyons, you were just asked by Staff if
10 the RNA is a decoupling mechanism. Would you please explain
11 why it is not a revenue decoupling mechanism?

12 A. Sure. Typically a revenue decoupling
13 mechanism is a full reconciliation mechanism whereas the RNA
14 is a partial reconciliation mechanism. So for example, with
15 revenue decoupling, that reconciliation of revenues between
16 what the Company actually receives versus what is authorized
17 in a rate case is really done in two ways. It's either
18 there's a comparison of the absolute revenues. So for
19 example, if the authorized revenues were 100 million,
20 there's a comparison between the actual revenues versus that
21 100 million target or a second way that it is done is on a
22 revenue-per-customer basis. So for example, there might be
23 authorized revenue of \$500 per customer and then the actual
24 revenue per customer is compared to that. But in both cases
25 it's a full reconciliation mechanism of all revenues whether

1 it is done on a total revenue or it's done on a
2 revenue-per-customer basis.

3 Under the RNA, it is a little bit different
4 because the reconciliation, that difference between actual
5 revenues authorized revenues is only done for the second
6 block. So the certain amount of usage where that
7 reconciliation is not done and then if the remainder is done
8 in that second block. So it's not a full or complete
9 reconciling of revenues between actuals and authorized.

10 MS. CALLENBACH: Great. Thank you.

11 JUDGE HATCHER: Thank you, Mr. Lyons. You
12 are dismissed from the virtual witness stand. Please feel
13 free to stay on the WebEx and listen as we go along.

14 THE WITNESS: Thank you very much.

15 JUDGE HATCHER: Mr. Stahlman, if you would
16 be so kind as to come back to the witness stand.

17 Mr. Stahlman has already been sworn and so
18 we will get him over to Mr. Stokes.

19 MICHAEL STAHLMAN, having been first duly sworn, testifies as
20 follows:

21 DIRECT EXAMINATION BY MR. STOKES:

22 Q. Good morning, Mr. Stahlman.

23 A. Good morning.

24 Q. Could you spell your name, again, for the
25 record one more time?

1 A. Michael L. Stahlman, S-T-A-H-L-M-A-N.

2 Q. Thank you. And how are you employed?

3 A. With the Missouri Public Service Commission
4 as a regulatory economist.

5 Q. Have you prepared in this proceeding direct
6 testimony prefiled in EFIS and marked as Exhibit 103?

7 A. Yes.

8 Q. And have you prepared in this proceeding
9 rebuttal testimony, prefiled in EFIS and marked as Exhibit
10 123 and surrebuttal testimony prefiled in EFIS and marked as
11 Exhibit 138?

12 A. Yes.

13 Q. Did you contribute to the Staff Cost of
14 Service Report marked as Exhibit 101?

15 A. Yes.

16 Q. And did you contribute to the Staff's Class
17 Cost of Service Report marked as Exhibit 104 and the
18 corrected Staff Class Cost of Service marked as Exhibit 105?

19 A. Yes.

20 Q. Do you have any corrections to make to your
21 contributions to the Cost of Service Report, Class Cost of
22 Service Report, the corrected Class Cost of Service Report,
23 direct, rebuttal, or surrebuttal testimony?

24 A. No.

25 Q. And if I were to ask you the questions in

1 those documents, would your answers be the same as
2 corrected?

3 A. Yes.

4 Q. Okay. And are those answers true and
5 correct to the best of your knowledge and belief?

6 A. Yes.

7 MR. STOKES: No further -- I apologize. I
8 would like to move Exhibits 103, 123, and 138 into evidence.

9 (WHEREIN; Staff Exhibits 103, 123, and 138
10 were offered into evidence.)

11 JUDGE HATCHER: You heard the list of
12 exhibits, which are Michael Stahlman's various testimonies,
13 Exhibit 103, Exhibit 123, and Exhibit 138. Are there any
14 objections to the admission of that testimony onto the
15 record? No objections. It's so admitted.

16 MR. STOKES: No further questions.

17 JUDGE HATCHER: And the witness has been
18 tendered. That goes, I believe, to Spire. Thank you.

19 CROSS-EXAMINATION BY MS. CALLENBACH:

20 Q. Good morning, Mr. Stahlman. How are you
21 today?

22 A. Good. Thank you.

23 Q. Good. I just handed you what has been
24 previously marked as Spire Exhibit 48 and I'll just wait a
25 minute to make sure that copies are distributed.

1 Mr. Stahlman, have you seen this document
2 before?

3 A. Yes.

4 Q. And is this the AmerenUE delivery charge
5 adjustment rider or the DCA?

6 A. Yes.

7 Q. And if I could get you to -- if you turn to
8 Page 2 under, Rate Base Information, would you please just
9 read that first sentence into the record?

10 A. From GR-2019-0077, the normalized annual
11 natural gas usage in Block 2, greater than 30 CCF for
12 residential customers is 44,385,230 CCF and Block 1B between
13 101 and 400 CCF for general service customers is 10,215,167
14 CCF.

15 Q. Thank you. So this has the block break for
16 this tariff at 30 CCF; is that correct?

17 A. Yes.

18 Q. And is this tariff similar to the RNA that
19 has been proposed in this case for both Spire and Staff?

20 A. It is similar, yes.

21 Q. Thank you.

22 MS. CALLENBACH: We have no further
23 questions, but I would for the admission of Spire Exhibit
24 48.

25 (WHEREIN; Spire Exhibit 48 was offered into

1 evidence.)

2 JUDGE HATCHER: Spire Exhibit 48 has been
3 asked to be admitted as evidence onto the hearing record.
4 This is a tariff sheet from Union Electric Company gas
5 service, the delivery charge adjustment rider, the DCA
6 rider. Are there any objections to the admission of Spire's
7 Exhibit 48 on the hearing record?

8 MR. CLIZER: Is the currently effective
9 tariff?

10 JUDGE HATCHER: Is this currently effective
11 was the question.

12 MS. CALLENBACH: Yes, it is. I believe it
13 is on their website currently.

14 MR. CLIZER: If that is the case, it's
15 currently effective, then no objections.

16 JUDGE HATCHER: No objections heard. It is
17 so admitted onto the record.

18 (WHEREIN; Spire Exhibit 48 was received into
19 evidence.)

20 MS. CALLENBACH: I apologize. Would you
21 would repeat that, Judge?

22 JUDGE HATCHER: Your exhibit was admitted
23 onto the record.

24 MS. CALLENBACH: Thank you.

25 JUDGE HATCHER: Do you have any further

1 questions?

2 MS. CALLENBACH: We just have one additional
3 question.

4 BY MS. CALLENBACH:

5 Q. Mr. Stahlman, do gas utilities have -- is
6 their Missouri Energy Efficiency Investment Act in place?

7 A. For natural gas utilities?

8 Q. Yes?

9 A. There's currently not a Natural Gas Energy
10 Efficiency Investment Act authorized by statute.

11 Q. Okay. But there is one in place for
12 electric utilities. Correct?

13 A. Correct.

14 Q. Thank you. And I'm sorry I have one more.
15 So the RNA is designed to extend the conservation
16 protections that would be similar to the act to natural gas
17 utilities?

18 MR. STOKES: Objection; calls for legal
19 conclusion.

20 MS. CALLENBACH: I'll withdraw. Thank you.
21 Nothing further.

22 JUDGE HATCHER: Mr. Clizer, your witness.

23 CROSS-EXAMINATION BY MR. CLIZER:

24 Q. Good morning, Mr. Stahlman.

25 A. Good morning.

1 Q. I wanted to ask you a series of questions
2 regarding the proposed RNA. Now, I know that there is a
3 disagreement among the parties as to what the appropriate
4 block break should be. I'm just going to refer to the block
5 and I mean whatever block is approved by the Commission
6 assuming the RNA is put into place. Do you follow me?

7 A. So, when you refer to block you're basically
8 going to be referring to Block 2 residential, and Block 1B
9 of the small general customer class?

10 Q. Correct. I want to make sure I am not
11 sticking to a specific number because that number is still
12 in flux.

13 A. Okay.

14 Q. So for residential usage within the block,
15 would the RNA make adjustments for fuel switching?

16 A. It could.

17 Q. Would it normalize for fuel switching?

18 A. I don't know.

19 Q. Would it differentiate between fuel
20 switching and weather or conservation?

21 A. Could you explain -- can you explain the
22 question please?

23 Q. If a customer left the block because they
24 made a decision to switch from gas to electric or otherwise
25 stop taking gas services, would that affect the RNA?

1 A. It could.

2 Q. For that block, would the RNA make
3 adjustments for rate class switching?

4 A. I know there is discussion with some -- with
5 Ms. Mantle. She had proposed some for the SGS customers a
6 way to correct for the customers leaving.

7 Q. Without that correction, though, it would
8 have -- the RNA would be affected by rate class switching.
9 Correct?

10 A. It could. It depends. That's one of the
11 important things on having the cap for the SGS class as
12 proposed by Staff.

13 Q. I'm talking about just the residential
14 class. I'm sorry. I did not make that clear. For just the
15 residential class, if the customer leaves that block, would
16 Staff propose it be above 50 CCF block?

17 A. I would be unaware of why -- how a
18 residential customer would switch to a different class.

19 Q. Okay. Fair enough. For residential
20 customers in that block, which again Staff proposed above 50
21 CCF block, would the RNA make adjustments for economic
22 factors?

23 A. It depends on what you would define as
24 economic factors. I would see a lot of economic factors
25 actually impact under the definition of what Staff used for

1 conservation.

2 Q. You were asked questions about the Union
3 Electric Company's delivery charge adjustment rider,
4 effectively the tariff provision that was entered into
5 evidence. Do you recall?

6 A. Yes.

7 Q. Were you a part of the Ameren gas case where
8 that was put into place?

9 A. Yes.

10 Q. Did you propose a volume and difference
11 reconciliation to normal rider in that case?

12 A. I'm trying to remember if it was
13 specifically my testimony or it was Staff. I think the
14 answer is yes.

15 Q. And did the parties to that case stipulate
16 or enter a stipulation that agreed to adopt that mechanism
17 with adjustments?

18 A. I don't recall.

19 MR. CLIZER: Your Honor I would like to mark
20 an exhibit, which I believe is --

21 JUDGE HATCHER: 232 is my number.

22 MR. CLIZER: As is mine. Thank you.

23 JUDGE HATCHER: So marked.

24 MR. CLIZER: Unfortunately, we had to do
25 this in the rush job and I only have the one copy, which I

1 am going to hand to the witness. I will explain that this
2 is something in EFIS. If you would like, give me five
3 minutes and we can make some additional copies. I do
4 apologize.

5 JUDGE HATCHER: Mr. Clizer, someone in your
6 office is listening, I assume.

7 MR. CLIZER: I kind of hope so.

8 JUDGE HATCHER: Would you request the person
9 that you think would be best suited to go ahead and in the
10 background get those copies made and run down to the
11 courtroom while we continue with the questioning of
12 Mr. Stahlman?

13 MR. CLIZER: Certainly. And I will as soon
14 as I am done here, text somebody in my office to make
15 absolutely certain. So I need 12 copies of Attachment A to
16 the Order approving stipulations and agreements and
17 compliance tariffs for case GR-2019-0077.

18 JUDGE HATCHER: Go ahead.

19 BY MR. CLIZER:

20 Q. Mr. Stahlman, can you find the section
21 regarding the VRIN?

22 A. I have the Paragraph 15, of -- titled,
23 Modified VRIN on Page 6.

24 Q. And I'm going to paraphrase here to make
25 this as quick as possible. You would agreed that that

1 paragraph is referencing what ultimately became the delivery
2 charge adjustment rider referenced in this tariff?

3 A. Yes.

4 Q. Can you turn to the first paragraph under
5 the header, General provisions of the agreement? I believe
6 it is Paragraph 28.

7 A. I have a Paragraph 27 under --

8 Q. That is it. Normally, I'd like to read them
9 out loud because I don't want the witnesses to have to read,
10 but unfortunately in this circumstance, can you just read
11 that paragraph out loud?

12 A. Paragraph 27?

13 Q. Correct.

14 A. Okay. On Page 9. This agreement is being
15 entered into solely for the purpose of settling the issues
16 in this case explicitly set forth above between the
17 signatories. Unless otherwise explicitly provided herein,
18 none of the signatories to this agreement shall be deemed to
19 have approved or acquiesced in any ratemaking or
20 procedural principle including, without limitation, any cost
21 of service methodology or determination, depreciation
22 principal or method, method of cost determination or cost
23 allocation while revenue related methodology. Except as
24 explicitly provided herein, none of the signatories shall be
25 prejudice or bound in any manner by the terms of this

1 agreement and this or any other proceeding regardless of
2 whether this agreement is approved.

3 Q. Thank you.

4 MR. CLIZER: I would like to offer OPC
5 Exhibit 232, which again is attachment B -- Attachment A,
6 sorry -- to the Order approving the unanimous stipulation --
7 non-unanimous stipulation agreement filed in case
8 GR-2019-0077.

9 (WHEREIN; OPC Exhibit 232 was offered into
10 evidence.)

11 JUDGE HATCHER: Are there any objections to
12 the admission of Exhibit 232? No objection, so admitted.

13 (WHEREIN; Exhibit 232 was received into
14 evidence.)

15 MR. CLIZER: I have no further cross. Thank
16 you.

17 JUDGE HATCHER: Thank you, Mr. Clizer.

18 I would like to just make a quick
19 announcement. Again, for those listening on our livestream
20 and those on the WebEx, we will be taking a recess at ten
21 o'clock. I have my alarm at the bench set, so when we hear
22 the car foghorn then we will be taking a break at that time.
23 The commissioners need to get to their agenda. This will
24 provide them time to get back to their office, trade this
25 paperwork for that paperwork. And then we will come back

1 after agenda.

2 Mr. Clizer, has just finished his
3 cross-examination of Staff's witness Stahlman on Issue 30.
4 This now leads to commissioner questions, if there are any
5 commissioner questions for Mr. Stahlman? Hearing none, we
6 will go to other questions. The judge some questions.

7 QUESTIONS BY JUDGE HATCHER:

8 Q. Mr. Stahlman, in your rebuttal testimony you
9 indicated that Staff has some issues with Spire's WNAR
10 filings. Why have those issues been?

11 A. There has been getting some of the source
12 data to justify the numbers that they used and there has
13 been issues just on reconciling one, the prior rates with
14 the current rates. And occasionally, there will just be
15 like a missed calculation, if I recall correctly. I should
16 also mention there was a large case where how weather was
17 ranked was in dispute at the initial onset of the WNAR.

18 Q. I think that is more what I'm trying to get.
19 Could you describe to me what Staff's issues are with the
20 WNAR?

21 A. I would agree that the WNAR does work as a
22 mechanism. There's just -- I think there's difficulty
23 understanding how the WNAR works in the context of the
24 difference between a calendar month and a billing cycle
25 month. So you will see changes in like a February -- the

1 February weather ended up being really cold, but that was
2 more in the middle to end of that calendar month. So if
3 you're filing for a new rate and you don't include that or
4 if it only goes through January, or even part of the
5 February bill cycle, it may not see that just because of the
6 way the billing cycles overlap differently from what the
7 actual calendar month. And so -- I think it was in rebuttal
8 testimony I noted on Page 3 that the first billing cycle --
9 and this is February 2020 -- only had 6.3 percent of the
10 calendar dates in February. So that is generally a January
11 weather month, but not understanding that difference creates
12 a lot of confusion on, it was really cold why are we not
13 seeing this rate reflecting in the rates that are being
14 proposed.

15 Q. Were there any other issues?

16 A. I can't recall any other issues. It was
17 just basically not understanding how the ranking works and
18 in the context of billing cycle versus a calendar month.

19 Q. Staff recommended an RNA. How is that going
20 to address the issues that Staff had with the WNAR?

21 A. In large part, there's going to be -- this
22 is information that the Company is going to have. They're
23 going to -- they seem to understand it a lot better than
24 they do the ranking of the weather and how that impacts
25 things. I should also mention there -- not with Spire's

1 WNAR, but with another company there was a problem of the
2 weather station just no longer recording the actual
3 temperature differences. And that trying to find a
4 substitute for that took several months of doing some
5 research. And I mean, I think the Company just inherently
6 understands revenues a lot better than they do ranked
7 weather. So that I would expect the filings to be much more
8 smoother, that the data will be presented on a lot better
9 than what they had for the WNAR.

10 Q. Okay. So the switch, not only Staff's
11 recommended switch not only addresses procedural background
12 issues, but it would also address the more substantive
13 issues of how the actual mechanism works?

14 A. I think so. Yes.

15 Q. I'm making that distinction because when you
16 first -- when I first asked you about issues, you had
17 described their filings had focus on maybe some errors or
18 miscalculations in those filings. And I would consider
19 those more procedural types of issues. So your fix is
20 addressing both those and the underlying mechanism itself?

21 A. Yes.

22 Q. Thank you. I appreciate that. In -- I'm
23 going to ask you about Ms. Mantle's surrebuttal testimony.
24 Do you have that in front of you?

25 A. I do not have a copy of her surrebuttal.

1 Q. I see a copy is getting ready to be brought
2 over to you. We will wait for a second.

3 A. Thank you. I do have a copy.

4 Q. Excellent. I'm going to ask you to turn to
5 Page 10 and I am going to focus on Lines 3 through 5.

6 JUDGE HATCHER: While everyone is turning to
7 that, I do notice that the technology gods have come to
8 visit our hearing again inside the courtroom. Right over
9 the judge we have a lightbulb flittering. I'm just
10 announcing that for everyone on the livestream so they can
11 also anticipate in our technology challenges or follow along
12 at least.

13 MR. CLIZER: Judge, what was the page and
14 line numbers?

15 JUDGE HATCHER: Page 10, Lines 3 through 5
16 surrebuttal.

17 BY JUDGE HATCHER:

18 Q. Okay. Ms. Mantle raised the concern that
19 the Staff's proposed RNA not only addresses the impact of
20 weather and conservation, but, quote, Everything else that
21 impacts revenue, end quote. Does Staff's RNA have the
22 possibility to respond to not only weather and conservation,
23 but other factors?

24 A. There's going to be a legal argument on what
25 the other factors may be. I -- under Staff's definition of

1 conservation, it was provided from Webster's Third New
2 International Dictionary that the wide utilization of a
3 natural product especially by a manufacturer so as to
4 prevent waste and ensure future use of resources that have
5 been depleted. That is a fairly broad definition. So
6 there's a lot of economic factors that are going to be
7 included in there. There are some factors that are largely
8 not going to be included such as if a customer leaves the
9 system. That's primarily going to be more at the first
10 block issue. That's where Spire retains risk. But as far
11 as some -- some factors with -- under that definition of
12 conservation. So with -- as an example of the Corona
13 outbreak. You had, in this case, people were spending more
14 time at home rather than at work and so what you see is that
15 the industrials -- and would include small general services,
16 that rate would -- or the usage would have gone down and the
17 residential would have gone up.

18 So the RNA would impact that because it's
19 ba-- it's under -- that would still be a conservation thing.
20 Nobody's going to the store, so I'm going to turn down the
21 heater or whatever. That is a choice that the people make.
22 Where at home, it's I'm spending more time here, so I'm not
23 going to lower the thermostat as much as I did in the
24 daytime and instead raise it, that I would consider under
25 the conservation definition.

1 Q. Would it also capture other issues, rate
2 switching, between, I guess, the SGS class or also consumer
3 decisions not to use gas? Would either of those also be
4 caught up in one of the adjustment factors?

5 A. Rate switching, this is -- with the
6 residential I don't see rate switching being an issue. With
7 STS, there was a modification proposed by OPC witness Lena
8 Mantle, that I think Staff was very open to on correcting
9 for any rate switching from SGS to LGS or vice versa. That
10 was also a large point of why we wanted that cap on the
11 blocks for the Block 1B. And the other half of your
12 question was to -- was it fuel switching?

13 Q. Yes, a consumer decision either not to take
14 natural gas at that their new home construction or some
15 consumer switched to another energy product?

16 A. And part of that could be still seen under
17 the broader conservation definition that they are making a
18 decision to choose which one -- which form of fuel, you
19 know, that best suits them. So it's a wisely used and not
20 waste. If they think that having a natural gas furnace is
21 more efficient than an electric furnace, then they can make
22 that decision and that would probably be under conservation.
23 It's kind of under that economic calculation.

24 Q. Okay. And you actually brought up one last
25 question. Ms. Mantle in her testimony, surrebuttal, had

1 recommended several changes to Staff's proposed RNA tariff.
2 And I am referring to Ms. Mantle's Schedule MM-S-2. Does
3 Staff agree with those proposed changes?

4 A. I don't think we had any opposition to the
5 changes. There was a question on such as the billing of
6 blocks whether Spire's billing system could do it and so we
7 largely remain neutral on whether that would be something
8 they can do or can't do. Yeah.

9 JUDGE HATCHER: Okay. Thank you,
10 Mr. Stahlman. That inquiry now takes us back to recross
11 examination. For Staff's witness I believe we start with
12 Mr. Clizer for cross. No. We started with Spire for cross.

13 MS. CALLENBACH: No questions.

14 JUDGE HATCHER: Thank you.

15 Mr. Clizer on recross?

16 RE CROSS EXAMINATION BY MR. CLIZER:

17 Q. You were asked about a series of questions
18 by the Bench about your issues with the WNAR. Do you
19 recall?

20 A. Yes.

21 Q. Are the issues you addressed issues with the
22 WNAR mechanism itself or with Spire's understanding of the
23 WNAR mechanism and how it works?

24 A. I think it was Spire's understanding and
25 implementation of the mechanism.

1 Q. You were asked a question -- or rather I
2 think in response to a question you mentioned issues
3 regarding weather data. Do you recall that?

4 A. Yes.

5 Q. The weather data issues that you addressed
6 related to other utilities. From whom did they receive
7 weather data?

8 A. All -- both of the utilities I provide them
9 the weather data and the weather data comes from the Midwest
10 Regional Climate Center, which is a -- I am not sure if
11 subsidy is the right word, but there under the NOAA --
12 National Oceanic and Atmospheric Administration. I cannot
13 remember the acronym right offhand.

14 Q. Where are the stations that you receive data
15 located from? Do you know?

16 A. There's --

17 Q. For Spire?

18 A. For Spire it is St. Louis at Lambert
19 Airfield and Kansas City International Airport.

20 Q. Is that the same location for the other
21 utility you mentioned that you had the data problems with?

22 A. No.

23 Q. Do think that KCI International or Lambert
24 is going to stop reporting weather data anytime soon?

25 MR. STOKES: Objection; calls for

1 speculation.

2 MR. CLIZER: Withdrawn. No further recross.
3 Thank you.

4 JUDGE HATCHER: I will just ask if there is
5 any redirect. I don't want any questions because it's 9:59.
6 Staff's witness, I'm sorry, Mr. Stokes.

7 MR. STOKES: Yeah. We will have some
8 redirect, but I see we have is one minute until 10:00.

9 JUDGE HATCHER: Will your question and
10 answer take longer than one minute?

11 MR. STOKES: I think it would. Yes.

12 JUDGE HATCHER: Okay. Let's go on a recess.
13 I'm a little hesitant how I want to structure the time.
14 Across the street we used to say about adjournment of the
15 agenda meeting we will meet back here. That seems to
16 require that everyone in this room also pay attention to the
17 agenda, which may not be applicable. Let's call it 10:45 or
18 11:00?

19 CHAIRMAN SILVEY: 10:45, 30 minutes.

20 JUDGE HATCHER: Let's call it 10:45 to get
21 up and down the stairs. We are on recess until 10:45.
22 Thank you all. We are off the record.

23 (OFF THE RECORD.)

24 JUDGE HATCHER: Thank you all. The hour of
25 recess having expired, let's go back on the record. Just to

1 recap for those on WebEx and listening to the livestream, we
2 are in the middle of the testimony of Michael Stahlman of
3 PSC Staff on the issue of WNARs and RNAs. This is issue
4 Number 30.

5 Mr. Stahlman, you have already been sworn.
6 I just want to inform you that is still in affect. We have
7 already gone through direct, cross, bench questions, recross
8 and we are now at redirect.

9 Mr. Stokes, go ahead.

10 REDIRECT EXAMINATION BY MR. STOKES:

11 Q. Thank you. Curt Stokes for Staff.
12 Mr. Stahlman, do you remember on cross earlier you were
13 asked about Ameren's DCA rider.

14 A. Yes.

15 Q. Are you still familiar with the Ameren DCA
16 rider?

17 A. Yes.

18 Q. And were you involved in the design of
19 Ameren's DCA rider?

20 A. Yes.

21 Q. And from your understanding, was that rider
22 based on -- were the blocks in that rider based on analysis
23 of Ameren usage?

24 A. Yes, I believe that's correct.

25 Q. Okay. And you were also involved in,

1 Staff's development of the RNA -- Staff proposed RNA in this
2 case. Correct?

3 A. Correct.

4 Q. And did you base your design of the RNA on
5 Spire usage?

6 A. To be clear, Ms. Sarah Lange designed the
7 blocks for the RNA, but it was based off usage.

8 Q. And you are also asked about a way that
9 economic factors might encourage conservation efforts. Can
10 you provide some examples that might help clarify or
11 illustrate what you meant by that?

12 A. Where economic factors can impact
13 conservation? Sure. If something broadly happens like the
14 natural gas price goes up just on the -- would reflect in a
15 customer's bill that could provide incentive for them to
16 invest in energy efficiency devices and the reason why the
17 price could go up for natural gas could be any number of
18 reasons including just legislation on restricting pipeline
19 throughout the nation or other issues dealing with, you
20 know, green energy promotion and other fiscal policies.

21 Q. Is natural gas a finite resource?

22 A. Generally, yes.

23 Q. And it's possible to deplete storage of
24 natural gas?

25 A. Yes.

1 Q. So if somebody uses less natural gas, would
2 you consider that conservation?

3 A. Largely, yes.

4 Q. Earlier from the Bench you were asked -- or
5 you mentioned some issues with that WNAR source data. Do
6 you recall that?

7 A. Yes.

8 Q. When you say source data, one of that was
9 weather data. Correct?

10 A. Yes.

11 Q. And you had mentioned some issues with
12 another utility's weather data. Can you tell me who that
13 utility was?

14 A. It was Liberty Utilities and they had used a
15 weather station in Kirksville Missouri that for an unknown
16 reason -- I tried to contacting the weather agencies
17 responsible and there was no indication of why it went down
18 or how long it was going to be down. I checked the station
19 just yesterday and it's still -- there's spontaneous
20 recording of the temperature. It's mostly missing data, but
21 there is occasionally an entry for a day's temperature.

22 Q. But for a long time that Kirksville weather
23 station was, in fact, not recording the data needed to --

24 A. Right. I would --

25 Q. -- calculate the --

1 A. -- say that it is still not recording the
2 data needed.

3 Q. And did Staff, in fact, anticipate that that
4 weather station would go down before it went?

5 A. No.

6 Q. Do you anticipate that the RNA would have
7 similar issues with source data?

8 A. No.

9 Q. You were also asked earlier about other
10 factors that might impact the RNA other than weather and
11 conservation. Do you recall that?

12 A. Yes.

13 Q. Is it possible to design a mechanism that
14 completely avoids being affected by other incidental
15 factors?

16 A. I do not think so.

17 Q. Okay. You were also asked a question
18 earlier about -- there was an example about new construction
19 and what effect that might have on the RNA. Do you recall
20 that?

21 A. Not exactly.

22 Q. Okay. So hypothetically, would new
23 construction be reflected in the current case's billing
24 determinants?

25 A. That exist now or exists after this case?

1 Q. That will exist after this case?

2 A. So that would not be reflected in the
3 current billing determinants.

4 Q. Okay. And would the current billing
5 determinants be one of the elements of the RNA?

6 A. Yes.

7 Q. Okay. And earlier you had mentioned not
8 knowing about certain changes in usage but -- can you tell
9 me what offsetting means?

10 A. I'm trying to recall the context in which I
11 said it. But generally offsetting means as one factor goes
12 up, there may be another indication, like another factor
13 goes down, so it counteracts each other.

14 Q. Can you give like an example of that?

15 A. So let me try to think of a good example.
16 Unfortunately, I'm going back to the nuclear reactor
17 analysis. And so an example in that case would be with
18 reactor power on most reactors, at least all of the United
19 States reactors, as the power goes up that causes the
20 temperature of the reactor to go up, which that moderates
21 less neutrons, which causes the -- drives the reactor power
22 to go back down. That's causes -- positive alpha
23 temperature coefficient of reactivity.

24 Q. In the weather and conservation context if
25 one customer were to leave the system and another customer

1 comes onto the system, would that be an offsetting affect?

2 A. Yes.

3 Q. Earlier you were also asked about the
4 possibility of fuel switching, for example, from natural gas
5 to electric. Do you recall that?

6 A. Yes.

7 Q. Would the customer charges in the first
8 block of Staff's proposal be protected -- or would the
9 Company be protected from fuel switching from customers in
10 that first block?

11 A. No.

12 Q. And the currently effective WNAR, there's a
13 coefficient for weather. Right?

14 A. Yes.

15 Q. And so would the currently effective WNAR be
16 completely insulated from customer growth or customer
17 attrition?

18 A. No, it would not. That would have an impact
19 on the coefficient potentially.

20 MR. STOKES: No further questions.

21 JUDGE HATCHER: Thank you. Mr. Stahlman,
22 you are excused from the witness stand.

23 That brings us to Ms. Mantle. If you would
24 please approach the witness stand.

25 (Witness sworn.)

1 JUDGE HATCHER: Please be seated. Would you
2 please state and spell your name for the court reporter.

3 THE WITNESS: My name is Lena Mantle,
4 L-E-N-A is my first name, and Mantle is M-A-N-T-L-E.

5 JUDGE HATCHER: Thank you. Mr. Clizer, your
6 witness.

7 LENA MANTLE, having first been duly sworn, testifies as
8 follows:

9 DIRECT EXAMINATION BY MR. CLIZER:

10 Q. Good morning, Ms. Mantle. Could you please
11 tell us by whom you are employed and in what capacity?

12 A. I'm employed by the Office of the Public
13 Counsel as a senior analyst.

14 Q. And did you prepare or cause to be prepared
15 direct, rebuttal, and surrebuttal testimony for this case?

16 A. Yes.

17 Q. Do you have any changes to make to that
18 direct, rebuttal, or surrebuttal testimony?

19 A. No, I do not.

20 Q. And if I asked you the same questions that
21 were posed to you in the direct, rebuttal, and surrebuttal
22 testimony, would your answers today be the same or
23 substantially similar?

24 A. Yes.

25 MR. CLIZER: Your Honor, I would offer what

1 has been premarked as OPC Exhibit 212, the direct testimony
2 of Lena Mantle; 213P and 213, the public and confidential
3 respective versions of our rebuttal testimony; and 214, the
4 surrebuttal testimony of Lena Mantle.

5 (WHEREIN; OPC Exhibits 212, 213P, 213C, and
6 214 were offered into evidence.)

7 JUDGE HATCHER: There has been four exhibits
8 offered into evidence, Exhibit 212; 213, both public and
9 confidential; and 214. All of those are the various
10 testimonies of Ms. Mantle. Are there any objections to the
11 admission onto the hearing record? Hearing no objections,
12 so admitted.

13 (WHEREIN; OPC Exhibits 212, 213P, 213C, and
14 214 were received into evidence.)

15 JUDGE HATCHER: Mr. Clizer, go ahead.

16 MR. CLIZER: I tender the witness for cross.

17 JUDGE HATCHER: And I believe that goes to
18 Staff for cross-examination.

19 MR. STOKES: Staff asked no questions.

20 JUDGE HATCHER: And we turn to the Company.

21 MS. NIEMEIER: Spire has no questions, Your
22 Honor.

23 JUDGE HATCHER: Are there any commissioner
24 questions? And I do want to state again, we have all five
25 commissioners attending this meeting either on the WebEx

1 listening or in person. To unmute yourself if you are the
2 phone is *6. Now I turn to any Commissioner questions for
3 Ms. Mantle? Hearing none, the judge has no questions.

4 I believe you are dismissed then. Thank
5 you, Ms. Mantle.

6 We are -- I'm just going to announce a
7 little bit of where we are at. We do have an audience
8 listening again on WebEx and on the stream. This is a
9 hybrid hearing. We are moving to our next issue, which
10 according to my schedule and I am going to look for nods, is
11 cash working capital. Yes. It is Issue 8. That will be
12 next. We will start with mini opening statements.

13 Counsel for Spire, if you will give me just
14 a second before you begin.

15 MS. NIEMEIER: Sure.

16 JUDGE HATCHER: Counsel, please go ahead.

17 OPENING STATEMENT BY MS. NIEMEIER:

18 MS. NIEMEIER: Make it please the
19 Commission. My name is Rachel Niemeier and I am appearing
20 before you today on behalf of Spire Missouri, Incorporated
21 to discuss cash working capital sometimes referred to CWC.
22 Cash working capital refers to the net funds required by the
23 Company to finance goods and services used to provide
24 service to customers from the time those goods are paid for
25 by the Company to the time that payment is received from

1 customers. A lead-lag study compares the differences
2 between the Company's revenue lag and expense lead. The
3 revenue lag represents the number of days from the time
4 customers receive service to the time customers pay for
5 their service. The longer the revenue lag the more cash the
6 Company needs to finance its day-to-day operations.

7 The main issue of dispute focuses on the
8 lead-lag time for income taxes. On this issue, the Company
9 and Staff are aligned in their position that the appropriate
10 lag time is 38 days. OPC has taken a very different
11 position that the appropriate lag time is negative 365-day
12 lag time and argues that since the Company is not making
13 quarterly income tax payments the lag should be an entire
14 year. Staff and the Company agree that a 38-day lag time is
15 appropriate and in accordance with the Internal Revenue
16 Service's payment schedules for income taxes.

17 Spire's witness Timothy Lyons who you heard
18 from this morning provided a lead-lag study with his direct
19 testimony and also commented on this issue in his revenue
20 requirement rebuttal testimony filed on behalf of Spire
21 Missouri. As his expert testimony shows, the appropriate
22 lead-lag time is 38 days because it is consistent with the
23 Internal Revenue Code requirement for filing and paying
24 corporate income taxes on a quarterly basis.

25 Staff witness Nieto's testimony also

1 supports this position. On Page 4 of the rebuttal testimony
2 it states: Staff has historically assigned or accepted
3 federal and state income tax lags based on statutory
4 required quarterly equal tax payments.

5 The Company asks that you decide the
6 appropriate lag time in this case is 38 days and agrees with
7 Staff and the Company. Thank you.

8 JUDGE HATCHER: Thank you and we turn to
9 Staff for their opening.

10 OPENING STATEMENT BY MR. IRVING:

11 MR. IRVING: Make it please the Commission.
12 I am Ron Irving on behalf of the commission staff. Good
13 morning. Cash working capital is the net funds required by
14 the utility to finance goods and services used to provide to
15 ratepayers from the time those goods and services are paid
16 by the utility to the time that payment is received from the
17 ratepayers.

18 In this case Spire conducted a lead-lag
19 study to determine the cash working capital requirements for
20 the Company. Staff reviewed the lead-lag study and made
21 changes where appropriate. The lead-lag study was used to
22 compare the differences between the revenue lag and the
23 expense lead. One component of expense lead is income
24 taxes. The lead days for income taxes is determined by the
25 midpoint of the taxing period of the quarterly scheduled

1 payment dates determined by the IRS code. The lead days is
2 then multiplied by the estimated income taxes to arrive at
3 the cash working capital component for income taxes.

4 Based on the IRS code requirement for filing
5 and paying corporate income taxes on a quarterly basis,
6 Staff would recommend that the expense lag for income taxes
7 within cash working capital calculation should be 38 days.
8 Staff witness Antonija Nieto will further explain lead days
9 for income taxes.

10 OPC witness John Riley believes that since
11 Spire has not paid income taxes for the last three years
12 that the 38-day expense lag for income taxes should be 365
13 days instead. This is faulty logic since whether the
14 utility paid taxes in the last three years or not estimated
15 payments were still due each quarter. Thank you.

16 JUDGE HATCHER: Counselor, I want to make
17 sure -- I have a question and I want to make sure it is your
18 witness I need to ask.

19 MR. IRVING: Yes.

20 JUDGE HATCHER: That last statement has me a
21 little confused. They are required to make estimated
22 payments?

23 MR. IRVING: The IRS code requires
24 corporations to make estimated payments every quarter, yes.

25 JUDGE HATCHER: Did they estimate theirs to

1 be zero?

2 MR. IRVING: For the last year -- Staff
3 witness will be able to answer that question.

4 JUDGE HATCHER: Okay. Thank you.

5 MR. IRVING: Any other questions?

6 JUDGE HATCHER: No other questions. Thank
7 you. Mr. Clizer's opening.

8 OPENING STATEMENT BY MR. CLIZER:

9 MR. CLIZER: I swear every time I get up
10 here it does not seem like this mic is picking me up, but
11 I'm just going to go for it. May it please the Commission.
12 John Clizer, once again on behalf of the OPC.

13 This is perhaps one of the most ridiculous
14 issues I feel like I've had to bring up here. You've
15 already heard explained cash working capital is the amount
16 of money that's included in rates to cover day-to-day
17 expenses by the Company. The key is that the Company
18 actually has to have an expense in order to justify
19 concluding the cash in rates. In this case the expense we
20 are talking about, the payment of quarterly income tax, or
21 it's actually the payment of income taxes. Staff and the
22 Company are saying the Company pays taxes on a quarterly
23 basis so we have to include cash so that they can meet those
24 quarterly basis payments. The Company has authoritatively
25 admitted they quote, No income tax payments were made on a

1 quarterly basis. That is the Company's own words. They are
2 not making quarterly income tax payments, therefore you
3 should not measure cash working capital as if they are
4 making cash quarterly update payments.

5 If they are not making payments, you should
6 not give them money to cover the cost of making payments.

7 I'm just going to repeat that. You do not need to give the
8 Company money to cover the cost of making payments that they
9 don't make, that they acknowledge they don't make. This
10 issue shouldn't be here. Once you establish they are not
11 making the payments you should stop giving them the money
12 for covering the cost to make those payments. That's it.

13 Mr. Riley has put forward what the correct
14 adjustment is, which is a 365-day lag. Why is that correct?
15 Because the Company is receiving money from taxpayers to
16 make the payments that they are not making because they
17 don't pay anything to the IRS. Thus, you should treat them
18 as if they are collecting the money and holding it for a
19 whole year because that is exactly what is happening.

20 The Commission should adopt reality, not a
21 fiction that has been -- that's what we've done in the past,
22 so that's what we are going to continue doing. I would
23 repeat myself, but again, to summarize the Company is not
24 making quarterly income tax payments. You don't need to
25 include cash working capital to cover those quarterly income

1 tax payments. That's it. Thank you.

2 JUDGE HATCHER: Thank you, Mr. Clizer. I do
3 have a question. It seems only fair since I previewed my
4 witness question for Staff. For the Office of the Public
5 Counsel my question is what about future years?

6 MR. CLIZER: The Company is not going to
7 pay --

8 JUDGE HATCHER: Let me back up. Let me back
9 up to make sure I understand this first, before you start.
10 Is OPC's position that they are not paying income taxes
11 because of an NOL position?

12 MR. CLIZER: Let me check on confidentiality
13 for one moment please.

14 JUDGE HATCHER: Thank you. I appreciate
15 that.

16 MR. CLIZER: It is OPC's position and we
17 believe the evidence supports that the Company is not going
18 to be making payment. And I would strongly encourage you to
19 ask Mr. Riley as to the exact rationale for that. But it is
20 in my opinion effectively guaranteed.

21 JUDGE HATCHER: Okay. Thank you. No
22 questions. We move now to witness Lyons, I believe. He's
23 already on screen. Let me take a moment while we all
24 shuffle and get ready for witness testimony.

25 Mr. Lyons, can you hear me?

1 THE WITNESS: Yes, good morning. Thank you.

2 JUDGE HATCHER: You have already been sworn
3 in. I just remind you of that and that obligation is
4 continuing. It is Spire's witness. Go ahead.

5 MS. NIEMEIER: Just a moment, Your Honor. I
6 apologize for the delay, Your Honor.

7 JUDGE HATCHER: No problem.

8 MS. NIEMEIER: Timothy Lyons has already
9 been sworn in and his testimony has already been admitted
10 into the record, so I tender him for cross.

11 JUDGE HATCHER: I believe that goes to
12 Staff.

13 MR. IRVING: Thank you, Your Honor. We just
14 have one question.

15 TIMOTHY LYONS, having first been duly sworn, testifies as
16 follows:

17 CROSS-EXAMINATION BY MR. IRVING:

18 Q. In your rebuttal testimony on Page 4, Lines
19 19 through 22, you state: If the Commission determines in
20 this rate case proceeding that the Company has no income tax
21 expense, then the Company's cash working capital requirement
22 related to income taxes would be zero. Does OPC's
23 recommendation using a 365-day result in a zero cash working
24 capital requirement?

25 A. No, it doesn't.

1 MR. IRVING: We have no other questions.

2 JUDGE HATCHER: Thank you. Mr. Clizer, your
3 witness.

4 CROSS-EXAMINATION BY MR. CLIZER:

5 Q. Mr. Lyons, you would agree with me that
6 there is current income tax expense built into this case.
7 Correct?

8 A. Yes.

9 Q. Therefore you would agree with me that the
10 rates approved by the Commission will include costs to pay
11 income taxes. Correct?

12 A. If the expenses that were included in the
13 direct filing were approved, then yes, that would be a cash
14 working capital requirement.

15 Q. That is not the question asked, so let me
16 repeat myself. You would agree with me that the income --
17 the rates that will be approved by the Commission if they
18 include current income tax expense will include money to pay
19 income taxes. Correct?

20 A. I'm not sure what the current income tax
21 expense is. I only have the income taxes that were filed by
22 the Company, which was on the federal side 12.4 million and
23 on the state side 2.2 million. That's in Schedule 2 of my
24 direct filing.

25 Q. Let me try to rephrase this yet again. If

1 the Commission approves rates that include expenses to pay
2 income taxes and the Company collects money from customers
3 based on those rates, the Company will collect money to pay
4 income taxes. Correct?

5 A. Yes. The rates will recover dollars
6 associated with income tax.

7 MR. CLIZER: Thank you. No further cross.

8 JUDGE HATCHER: Thank you. I will ask for
9 any commissioner questions for Mr. Lyons. Hearing none, the
10 Bench does have a couple of questions, a few.

11 QUESTIONS BY JUDGE HATCHER:

12 Q. Has Spire made quarterly payments during the
13 test period out through true-up?

14 A. I am not aware of that. I know later on
15 there is a witness that is going to be handling all of the
16 tax issues. So I would just kind of defer all of the tax
17 specific questions to that witness.

18 Q. Which witness are you referring to?

19 MS. NIEMEIER: Spire witness Chuck Kuper,
20 Your Honor.

21 JUDGE HATCHER: Thank you. And that looks
22 like Thursday on my schedule. Okay. Thank you. I'm sorry.
23 The judge needs to take a minute. His computer has
24 challenged him.

25 BY JUDGE HATCHER:

1 Q. Mr. Lyons, a corporation must have taxable
2 income before income taxes are assessed; is that correct?

3 A. Yes. Let me elaborate a little bit. So the
4 IRS publication, the one that is referenced in my rebuttal
5 testimony, that Publication 542, it basically says that if a
6 corporation estimates that its tax for the year would be
7 \$500 or greater then it must make estimated tax payments in
8 four equal installments.

9 Q. Can a corporation that pays no income tax
10 through quarterly payments and has no carryover of excess
11 taxes paid from prior years to be applied to the current
12 year, can that corporation receive a tax refund?

13 A. Now, these are all really good tax
14 questions, but I really have to defer to Spire's witness.
15 I'm not really trained in the area of tax. I know it is a
16 very complicated topic with a lot of provisions. And
17 really, the focus here around the cash working capital was
18 just very simply if the Company is going to make tax
19 payments, what is the schedule that it would need to follow
20 relative to the cash working capital. And so from there we
21 can determine what is the cash working capital requirement.
22 The nuances around what gets paid, and the amounts and the
23 carryforward and so forth, it would be better handled by, I
24 think, Spire's expert witness in the tax area.

25 Q. Okay. Thank you very much.

1 JUDGE HATCHER: The judge has no further
2 questions. That does take us to recross and we go to Staff
3 for recross.

4 MR. IRVING: Staff has no questions.

5 JUDGE HATCHER: Thank you. Mr. Clizer.

6 MR. CLIZER: No questions. Thank you.

7 JUDGE HATCHER: And that brings up redirect.

8 MS. NIEMEIER: Just a few, Your Honor.

9 REDIRECT EXAMINATION BY MS. NIEMEIER:

10 Q. Mr. Lyons, can you hear me okay?

11 A. Yes.

12 Q. Is the Company's proposal consistent with
13 the historical treatment of cash working capital?

14 A. Yes, it is. It's always looked at with what
15 the estimated payments are over the course of a year and
16 look at the timing of that, between that and the revenue
17 lag.

18 MS. NIEMEIER: Thank you. That is all I
19 have, Your Honor.

20 JUDGE HATCHER: Thank you, Mr. Lyons.
21 Again, you are excused from our virtual witness stand.
22 Please feel free to continue participating in the WebEx.

23 THE WITNESS: Thank you.

24 JUDGE HATCHER: The next witness on my list
25 is for Staff; is that correct?

1 MR. IRVING: Yes.

2 JUDGE HATCHER: I believe it is Antonija
3 Nieto. Can you come to the witness stand please?

4 (Witness sworn.)

5 JUDGE HATCHER: Thank you. Please take a
6 seat. Will you state and spell your name for the court
7 reporter.

8 THE WITNESS: My name is Antonija Nieto.
9 Last name is spelled N-I-E-T-O.

10 JUDGE HATCHER: Thank you and Staff's
11 witness. Go ahead.

12 MR. IRVING: Yes. Okay.

13 ANTONIJA NIETO, having been first duly sworn testifies as
14 follows:

15 DIRECT EXAMINATION BY MR. IRVING:

16 Q. Ms. Nieto, by whom are you employed and in
17 what capacity?

18 A. I am employed by Missouri Public Service
19 Commission and I am a senior utility regulatory officer.

20 Q. Have you caused to be prepared for the
21 purposes of this proceeding certain rebuttal and surrebuttal
22 testimony in question and answer form?

23 A. Yes.

24 Q. Do you have any changes that you would like
25 to make to that testimony at this time?

1 A. I actually do have one change. This change
2 would be in my rebuttal testimony. The change would be on
3 Page Number 4, Line 7, the word "rebuttal" would be replaced
4 -- or needs to be replaced with the word "direct."

5 Q. Thank you. Do you have any other changes
6 that you would like to make?

7 A. I do not.

8 Q. Okay. If I were to ask you the questions
9 contained in the testimony today, would your answers to
10 those questions be the same?

11 A. Yes.

12 Q. Are those answers true and correct to the
13 best of your information, knowledge, and belief?

14 A. Yes.

15 MR. IRVING: Your Honor, I would like to
16 offer Ms. Nieto's testimony into evidence and tender her for
17 cross-examination.

18 (WHEREIN; Staff Exhibits 119 and 136 were
19 offered into evidence.)

20 JUDGE HATCHER: Thank you counsel. I also
21 want to stop for just a second. I pause and make a quick
22 request. On the issues that we're talking about with cash
23 working capital it sounded like some of the questions that
24 the Commission had would be addressed by the Company witness
25 tomorrow perhaps under the NOL issue. The Commission would

1 request that the witnesses that we have had today on cash
2 working capital be made available just in case we would have
3 questions for them tomorrow. I apologize.

4 Where we were at is Staff has finished their
5 direct. Staff has moved for the adoption of the witnesses
6 two testimonies, 119 and 136?

7 MR. IRVING: Correct. Yes.

8 JUDGE HATCHER: Any objection to the
9 admission of Ms. Nieto's testimonies, rebuttal and
10 surrebuttal, Exhibits 119 and 136 respectively? No
11 objection, so admitted.

12 (WHEREIN; Staff Exhibits 119 and 136 were
13 received into evidence.)

14 JUDGE HATCHER: The witness has been
15 tendered and it goes to the Company.

16 CROSS-EXAMINATION BY MS. NIEMEIER:

17 Q. Good morning, Ms. Nieto?

18 A. Good morning.

19 Q. Can you hear me all right?

20 A. Yes.

21 Q. So your position on the appropriate cash
22 working capital expensive lag for income tax of 38 days is
23 consistent with the Internal Revenue Code. Correct?

24 A. Correct.

25 Q. Isn't it true that your position is

1 consistent with Staff's historical treatment of developing
2 federal and state income tax lags based on the statutorily
3 required quarterly equal tax payments?

4 A. That is correct.

5 Q. And in this case your position of a 38-day
6 lag for income tax expense is the same as the Company's
7 position. Correct?

8 A. Correct.

9 Q. And is there a policy reason to include your
10 Staff's and the Company's position in this case?

11 A. Well, Staff has traditionally used this
12 approach to develop the expense lag for income taxes. It's
13 a statutory requirement for quarterly payments.

14 Q. And is it good policy to follow the Internal
15 Revenue Service publications on cash working capital and tax
16 payments?

17 A. Yes.

18 Q. And is it good policy to follow the Internal
19 Revenue Code on income taxes?

20 A. Yes.

21 MS. NIEMEIER: Thank you. I have nothing
22 further.

23 JUDGE HATCHER: Thank you.

24 And Mr. Clizer.

25 MR. CLIZER: Your Honor, I'm going to hand

1 something out. It is currently a schedule in Mr. Riley's
2 testimony. So I would ask that it not be marked as an
3 exhibit and if Mr. Riley's testimony would be offered and
4 accepted without objection I will have no problem. However,
5 if there is an objection to Mr. Riley's testimony, I would
6 like to then be permitted to offer this item, which I am
7 about to handout. Does that make sense?

8 JUDGE HATCHER: Yes, you want to use the
9 exhibit now, and call dibs that you can ask for it to be
10 admitted later on if there are objections to the testimony
11 in which it is contained?

12 MR. CLIZER: That's exactly correct.

13 JUDGE HATCHER: Excellent. I'm following
14 you.

15 MR. CLIZER: Thank you. I felt like this
16 would help not burden the record with extra exhibits.

17 JUDGE HATCHER: I am purposely using
18 non-legal times to help all of those in our listening
19 audience on the livestream and the WebEx.

20 MR. CLIZER: This has been marked
21 confidential. However, the line that I am about to discuss
22 I believe is the Company's waived confidentiality as to that
23 one line.

24 JUDGE HATCHER: Mr. Clizer, say that last
25 sentence one more time.

1 MR. CLIZER: This has been marked
2 confidential. However, I believe the Company has waived
3 confidentiality as to the one line that I am going to cross
4 the witness on.

5 JUDGE HATCHER: Okay. Go ahead.

6 CROSS-EXAMINATION BY MR. CLIZER:

7 Q. Ms. Nieto, would you agree with me that this
8 is a response to OPC Data Request 1312 supplied by Spire?

9 A. Yes.

10 Q. And signed by Charles Kuper?

11 A. Yes.

12 Q. And would you agree with me that in the
13 second -- the first paragraph, that second block under,
14 Response. Do you follow where I am referring to?

15 A. Okay.

16 Q. The second sentence reads: No income tax
17 payments were made on a quarterly basis?

18 A. Yes, I see that.

19 Q. I'm going to do my best to avoid
20 confidentiality, so I'm going to proceed very slowly. Has
21 Staff included a net operating loss in company -- in the
22 rates that it is proposing for the Company?

23 A. I believe Staff has included net operating
24 losses.

25 JUDGE HATCHER: Ms. Nieto, I just want to

1 say more clearly what Mr. Clizer is saying. Please no
2 numbers.

3 THE WITNESS: Yes.

4 MR. CLIZER: And more importantly allow time
5 if Spire does need to raise a confidentiality.

6 JUDGE HATCHER: Yes, thank you. Go ahead.
7 I'm sorry to interrupt.

8 THE WITNESS: I believe Staff did include
9 net operating losses but that issue was covered by Staff
10 witness Matthew Young and I would direct any questions about
11 that, if you would have, to him.

12 BY MR. CLIZER:

13 Q. So just to be clear, if I were to ask you
14 why Staff included a net operating loss, that would be a
15 question for Mr. Young?

16 A. That's correct.

17 MR. CLIZER: Judge, I note that Mr. Young is
18 also on the schedule for NOL tomorrow. Can we have the same
19 treatment regarding Mr. Young as Mr. Kuper?

20 JUDGE HATCHER: I thought that your question
21 would be to make sure that Ms. Nieto is available tomorrow.

22 MR. CLIZER: That is a good point.

23 JUDGE HATCHER: Are you wanting to ask
24 Ms. Nieto about an exhibit that is continued in Mr. Young's
25 testimony that you would like to --

1 MR. CLIZER: No. I'm wishing to ask a
2 question that I believe bears on this issue, which she has
3 identified Mr. Young would be the appropriate person to ask.
4 I'm not sure that it's absolutely necessary to ask this
5 question, but may I posit the solution that, if necessary,
6 the issue may be brought up to Mr. Young tomorrow?

7 JUDGE HATCHER: Of course.

8 MR. CLIZER: Well, in that case, I have no
9 further questions if I could potentially pose this question
10 to Mr. Young, which effectively would just be why has Staff
11 concluded a net operating loss and any necessary follow-up
12 to that.

13 JUDGE HATCHER: Okay. That's kind of what I
14 was going at. I just wanted to get the question out there
15 so the witness is prepared. We've all agreed that Ms. Nieto
16 is not answering that question. I don't believe we have a
17 question on the table.

18 MR. CLIZER: I have no further questions.

19 JUDGE HATCHER: Okay. We have no
20 objections.

21 MS. NIEMEIER: No objection. The Company is
22 fine having a discussion on federal taxes tomorrow with our
23 witnesses subject to Mr. Lyons availability. We have to
24 check on that.

25 JUDGE HATCHER: Okay. Moving on

1 cross-examination is to the Bench. Are there any
2 commissioner questions for Ms. Nieto? Again, we do have all
3 of our commissioners participating. If you are on the phone
4 it is *6 to unmute. Hearing no questions, the Bench does
5 have a couple of its own.

6 QUESTIONS BY JUDGE HATCHER:

7 Q. Ms. Nieto, do you have a copy of Staff's
8 accounting schedules for Spire East?

9 A. I do not have the full EMS run. I do have
10 cash working capital schedule in front of me.

11 Q. Does that include Schedule 8?

12 A. Yes.

13 Q. The cash working capital?

14 A. Accounting Schedule 8 is the cash working
15 capital requirement.

16 Q. My question: Why not for purposes of the
17 cash working capital calculation, have the test year
18 adjusted federal and state income tax offset expense be zero
19 when no income tax quarterly payments were made in the test
20 year through the true-up period of the rate case. That is a
21 long sentence. Let me try and break that up a little
22 better.

23 Why not, for the purposes of the cash
24 working capital calculation, why not have the test year
25 adjusted federal and state income tax offset expense be zero

1 when there is no income tax quarterly payments being made in
2 the test year running out through the true-up period rather
3 than the amounts from the calculation of the federal and
4 state income taxes from Staff Accounting Schedule 11?

5 A. So federal tax Column B in Staff's
6 Accounting Schedule 8, that is pulled directly through
7 income tax expense calculation Staff schedules. Staff has
8 based its recommendation on those statutory required
9 quarterly statements and that is how we came up with the 38
10 days and agreed with the Company with the 38 days. In case
11 the Commission decides that OPC's argument stands, Staff
12 does not believe that 365-day lag is the correct lag to use,
13 Staff would recommend the Commission consider zero lag,
14 which would have zero effect on cash working capital
15 requirement for this line item.

16 Q. Okay. Are you aware of any USOA prohibition
17 from using zero in the cash working capital calculation?

18 A. No, I am not.

19 Q. Okay.

20 JUDGE HATCHER: Judge has no further
21 questions. That takes us to recross. That would be the
22 Company, your witness.

23 MS. NIEMEIER: We have nothing, Your Honor.

24 JUDGE HATCHER: Thank you. That goes to
25 Mr. Clizer then for recross.

1 RE-CROSS-EXAMINATION BY MR. CLIZER:

2 Q. Ms. Nieto, are you familiar with the IRS
3 normalization rules?

4 A. In general.

5 Q. I ask that because I wasn't sure if this
6 would be a question for Mr. Young or yourself.

7 A. I would assume it would be, yes.

8 Q. I was thinking as much.

9 A. Yes.

10 MR. CLIZER: All right. Nevermind. I have
11 no further cross or recross.

12 JUDGE HATCHER: That takes us to redirect.

13 REDIRECT EXAMINATION BY MR. IRVING:

14 Q. Ms. Nieto, OPC indicated that no tax
15 payments were made on a quarterly basis. In the future, do
16 you know what quarterly payments Spire Missouri will make in
17 the future?

18 A. I would have no way to know that.

19 Q. All right. Thank you.

20 MR. IRVING: I have no further questions.

21 JUDGE HATCHER: Thank you. I believe that
22 wraps up the testimony for Ms. Nieto. You are excused for
23 the moment and we invite you to come back tomorrow.

24 THE WITNESS: Thank you.

25 JUDGE HATCHER: Thanks, I have on my witness

1 list Mr. Riley. That seems correct. He will make his way
2 up to the witness stand.

3 (Witness sworn.)

4 JUDGE HATCHER: Thank you. Please take a
5 seat and would you state and spell your name for the court
6 reporter?

7 THE WITNESS: John Riley, R-I-L-E-Y.

8 JUDGE HATCHER: Thank you.

9 Mr. Clizer, your witness's.

10 JOHN RILEY, having first been duly sworn, testifies as
11 follows:

12 DIRECT EXAMINATION BY MR. CLIZER:

13 Q. Mr. Riley, by whom are you employed and in
14 what capacity?

15 A. I am employed with the Office of the Public
16 Counsel as a senior utility auditor.

17 Q. And did you prepare or cause to be prepared
18 direct testimony?

19 A. Yes.

20 Q. Did you also prepare or cause to be prepared
21 rebuttal testimony and surrebuttal testimony?

22 A. Yes, I have.

23 Q. And you adopted the direct testimony of a
24 Amanda C. Connor?

25 A. That's correct.

1 Q. Do you have any changes to make to your
2 direct, rebuttal, or surrebuttal testimony?

3 A. Yes, I do.

4 Q. What changes would those be?

5 A. In the direct testimony Page 8, Line 17, I
6 refer to a footnote Number 6. Is it incorrectly placed. It
7 should be on Line 14 at the end of the sentence that reads,
8 the ending of sentence is: Lag is consistent multiplier in
9 the calculation. And then it should be the Footnote 6.

10 Q. Are there any other corrections?

11 A. The other correction is a schedule in
12 rebuttal, Schedule JSRR-02. I have received information
13 from the Company after surrebuttal, which indicated to me
14 that I needed to recalculate the schedule. So I reapplied
15 the numbers and the information that they gave me and in my
16 -- in their answer to one of my data requests and
17 recalculated the schedule.

18 MR. CLIZER: Judge, on a procedural matter
19 because you were taking charge of the filing of testimony,
20 we have prepared an updated version of the schedule
21 electronically that I can send to you and opposing counsel
22 to facilitate that error correction.

23 JUDGE HATCHER: I would rather take it as
24 its own exhibit.

25 MR. CLIZER: Okay. I could take it as its

1 own exhibit, the only problem is I don't have ten copies
2 with me because it is a rather long schedule and I was
3 operating under the --

4 JUDGE HATCHER: Let me back up. Does anyone
5 have any objections to the substitution?

6 MR. CLIZER: It's a correction not unlike
7 any other corrections done during testimony. It's just that
8 you have to do it across the entire schedule.

9 JUDGE HATCHER: Right. I would rather have
10 the commissioners and the parties be able to see what the
11 new numbers are in complete rather than having to go back.
12 I don't know --

13 MR. CLIZER: No. That's fine.

14 JUDGE HATCHER: -- what the schedule is
15 specifically to know how that would all work.

16 MR. CLIZER: Let me think about the fastest
17 way to do this.

18 JUDGE HATCHER: He has an update based on
19 the numbers that Spire provided. I would assume we could
20 get through offering and accepting the exhibit without the
21 distribution as long as Mr. Clizer made sure to follow up by
22 the end of business today to distribute copies?

23 MS. NIEMEIER: The Company would be okay
24 with that, with the corrected. However, if there are
25 questions about the corrected schedule, we've not seen it so

1 we are at a disadvantage so we would reserve the right to
2 inquire about that --

3 MR. CLIZER: If I may --

4 MS. NIEMEIER: -- perhaps making him
5 available tomorrow when we're have the other discussion
6 should be sufficient.

7 MR. CLIZER: I apologize. I did not mean to
8 interrupt.

9 BY MR. CLIZER:

10 Q. If I may, Mr. Riley, the schedule in
11 question concerns the gross receipts tax issue. Correct?

12 A. That's correct.

13 MR. CLIZER: Which is scheduled for
14 tomorrow. So more than happy to table that.

15 JUDGE HATCHER: Problem solved. For
16 tomorrow, would you prepare the one whole exhibit. I'm only
17 concerned about the commissioners are reviewing that, their
18 advisors are going to review, the other parties and myself.
19 Flipping back through the pages I'm just thinking, let's
20 give them the new set.

21 MR. CLIZER: Absolutely. And to be clear, I
22 mean, if we're going to do it the old way he would be up on
23 the stand just changing numbers on the schedule throughout
24 the entire thing, which would have been a very tedious
25 exercise.

1 JUDGE HATCHER: I can envision myself
2 interrupting that as well.

3 MR. CLIZER: Yes.

4 JUDGE HATCHER: I have had a couple of cases
5 where parties have filed errata sheets and those struck me
6 as a very lovely tool. Let's move on.

7 MR. CLIZER: Yes. Please.

8 BY MR. CLIZER:

9 Q. Notwithstanding those changes, if I were to
10 ask you the same questions that were posed to you in your
11 direct, rebuttal, and surrebuttal, would your answers today
12 be the same or substantially similar?

13 A. Yes, they would.

14 MR. CLIZER: At this time I would offer the
15 direct, rebuttal, and surrebuttal of Mr. John Riley, which
16 is 209 for the direct; 210 for the rebuttal; and 211P and
17 211C seen for the surrebuttal, public and confidential
18 respectively; and I will also offer the direct testimony of
19 Amanda Connor, which I neglected to premark, so that would
20 be 233.

21 (WHEREIN; OPC Exhibits 209, 210, 211P, 211C,
22 and 233 were offered into evidence.)

23 JUDGE HATCHER: Perhaps I am new or perhaps
24 this procedure is new. I'm unfamiliar with the practice of
25 adopting someone else's testimony and it being a separate

1 exhibit. Or you just stating he adopted it?

2 MR. CLIZER: For what it's worth, we
3 actually did this earlier today with Mr. Weitzel --

4 JUDGE HATCHER: Yeah. Right.

5 MR. CLIZER: -- adopting Mr. Selinger's
6 testimony. I believe they adopted it as a separate exhibit.
7 Correct?

8 MS. NIEMEIER: We did.

9 JUDGE HATCHER: Right. I understand. I had
10 the question then and I just wasn't quite sure if I should
11 ask it, but now I am. I'm just curious. We're going to go
12 ahead.

13 MR. APLINGTON: Your Honor, it's the only
14 procedural mechanism we have when a witness leaves
15 employment of either the Company or an agency's unless we
16 want to subpoena them.

17 JUDGE HATCHER: Thank you.

18 MR. APLINGTON: It makes that easier.

19 JUDGE HATCHER: I appreciate that. What's
20 the issue?

21 MR. CLIZER: With --

22 JUDGE HATCHER: Adopting Amanda Connor's
23 233?

24 MR. CLIZER: Yes.

25 JUDGE HATCHER: Okay. Any objections to the

1 admission of Exhibits 209, 210, 211P and C, and Exhibit 233,
2 Mr. Riley's adoption of Amanda Connor's testimony?

3 MR. IRVING: No objections.

4 JUDGE HATCHER: All right. No objections,
5 it is so received into evidence.

6 (WHEREIN; OPC Exhibits 209, 210, 211P, 211C,
7 and 233 were received into evidence.)

8 MR. CLIZER: I apologize for all of the
9 difficulty of getting through that. I tender the witness
10 for cross.

11 JUDGE HATCHER: Okay. I am just noticing
12 the time 11:43. I'll just make everyone aware of that.
13 Let's get to cross-examination. We will go to Staff first.

14 MR. IRVING: Thank you, Your Honor. We have
15 no questions.

16 JUDGE HATCHER: Thank you.

17 And Spire.

18 MS. NIEMEIER: Thank you, Your Honor. Just
19 a few.

20 CROSS-EXAMINATION BY MS. NIEMEIER:

21 Q. Good morning, Mr. Riley.

22 A. Morning.

23 Q. Are you aware of payment schedule for income
24 taxes as determined by the IRS?

25 A. I did read that in his testimony and I have

1 reviewed it, yes.

2 Q. And by "him" you mean Mr. Lyons?

3 A. Yes.

4 Q. I am going to give you an exhibit, which has
5 already been marked. This is Spire Exhibit 49.

6 JUDGE HATCHER: So marked.

7 MS. NIEMEIER: And we are handing them out
8 to everyone.

9 BY MS. NIEMEIER:

10 Q. Do you recognize what I've handed you
11 Mr. Riley as IRS Publication 542?

12 A. Yes, ma'am.

13 Q. We will let everybody get it and then I will
14 ask questions. Can you turn to Page 6 of this document,
15 please?

16 A. Yes, ma'am.

17 Q. Do you see at the bottom right column,
18 there's an --

19 JUDGE HATCHER: Ms. Niemeier? Could -- I'm
20 sorry to interrupt. Could you please move the microphone a
21 little bit closer to your mouth? Thank you.

22 MS. NIEMEIER: Yes, I can. Is this better,
23 Judge?

24 JUDGE HATCHER: Yes.

25 BY MS. NIEMEIER:

1 Q. Page 6, the bottom, right column where it
2 says: Estimated tax. Do you see that?

3 A. Yes, ma'am.

4 Q. And the following two paragraphs: Generally
5 a corporation must make installment payments if it expects
6 its estimated tax for the year to be \$500 or more. If the
7 corporation does not pay the installments when they are due,
8 it could be subject to an underpayment penalty. This
9 section will explain how to avoid this penalty. When to pay
10 estimated tax: Installment payments are due by the 5th day
11 of the 4th, 6th, 9th, and 12th months of the corporations
12 tax year. Did I read that correctly?

13 A. Yes, ma'am.

14 Q. So if Spire has an income tax liability, it
15 would be subject to that schedule that I just read to you.
16 Correct?

17 A. If Spire had an income tax liability, that
18 would be correct.

19 MS. NIEMEIER: Your Honor, I move to admit
20 Spire Exhibit 49 into the record.

21 (WHEREIN; Spire Exhibit 49 was offered into
22 evidence.)

23 JUDGE HATCHER: Any objections to the
24 admission of Exhibit 49? No objection, so admitted.

25 (WHEREIN; Spire Exhibit 49 was received into

1 evidence.)

2 MS. NIEMEIER: No further questions for the
3 witness. Thank you, Mr. Riley.

4 JUDGE HATCHER: And now we go to
5 commissioner questions. Are there any commissioner
6 questions for Mr. Riley? All right. Hearing none, the
7 judge does have a couple. And these are going to repeat a
8 couple of the questions that I've asked previously.

9 QUESTIONS BY JUDGE HATCHER:

10 Q. Do you have a copy of Schedule 8? That's
11 the cash working capital requirement calculation?

12 A. Yes, I have a copy.

13 Q. This is the same question I asked Ms. Nieto.
14 Why not, for purposes of the cash working capital
15 calculation, why not have the test year adjusted federal and
16 state income tax offset expense be zero? I'll stop there.
17 Why not have it be zero?

18 A. Well, if you zero you out this entry, it
19 doesn't completely take in the entire calculation. Because
20 of tax normalization rules, and Staff follows those rules,
21 they include an amount for income tax expense in the rate
22 case even though the Company is not paying income taxes
23 correctly. That's a requirement that we really do not get
24 around, which is completely different than most any other
25 expense built into the case. Even the Staff had mentioned

1 earlier that they did not include earnings tax. So
2 basically they zeroed it out because the Company wasn't
3 paying, it wasn't required to pay any earnings tax.
4 However, that's different with income tax because they have
5 to include them. So what we have is not just the fact that
6 they aren't paying income tax; we have the fact that the
7 money is coming in, which is different than what I said like
8 the earnings tax or some other expenses built into the case.

9 If you don't have an expense, you generally
10 don't include, you know, a payment. But with income tax, we
11 can't get around that.

12 Q. Would you, for the record, give me the
13 citation that says you can't get around that? Is that a
14 federal statute or a federal rule?

15 A. That would be the -- it's footnote 2, Page 4
16 of my surrebuttal.

17 Q. Okay.

18 A. I quoted the IRC, Internal Revenue Code 168,
19 I9AI generally referred to as the normalization rules.

20 Q. Thank you.

21 A. So to finish that up, if you just zero it
22 out you aren't taking into account that the ratepayer has
23 actually put the money up. So to zero it out doesn't give
24 the credit to the ratepayer.

25 Q. Okay. I see where you're coming from, but

1 you cited, as you said, the Internal Revenue Code. Does the
2 IRS dictate the Commission's cash working capital treatment
3 in a rate case?

4 A. If I understand the question correctly, yes,
5 they do. Because if I understand that correctly, they --
6 the word -- they -- their IRC rule calls for the utility to
7 pay -- to actually, I guess the -- I guess the commissions
8 to install income tax expense into the rate, into the rates.
9 If they don't, that's a normalization violation, you know.
10 The IRS would seek to -- I mean if it continued, it's not
11 like it happens instantaneously, but they would move to, for
12 lack of a better term, punish the Company for not following
13 their rules.

14 Q. I am having a problem following how you got
15 to a negative. I'm with the explanation of the Company has
16 certain expenses. And I'm hearing you testify that one of
17 those expenses is income taxes and we have to account for
18 that. I'm sorry for using a term of art. But we have to
19 include that. What I am hearing the Company and Staff
20 saying is, yes, you have to include it in 38 days because
21 that is the day that we would normally do our quarterly
22 payments to get our cash lined up to make those payments.

23 And you're saying, what I am understanding,
24 is, yes, you have to include income tax and we're going to
25 account for it by saying -- by acknowledging that you are

1 not actually making any. And that's where I'm having a
2 problem. Why didn't you go to zero. And you get to
3 negative 365?

4 A. Okay. If I can refer you back to the
5 Schedule 8 we'll kind of review a couple of columns.

6 Q. Okay.

7 A. Because we have revenue lags and we have
8 expense lags. Generally, the revenue lag is when the money
9 comes in from the ratepayer. The expense lag is generally
10 when the expense is expected to be paid. So let's -- to get
11 an idea what I'm saying is income taxes never get paid, but
12 they do get collected. They have to. It's a normalization
13 rule. Just about everybody will tell you we've got to do
14 that. So instead of being zero, the expense lag has to be
15 365 days because of the incoming money but no outgoing
16 money.

17 Now, let's look at a couple of other ones
18 that are out of the normal and maybe I can -- it will help
19 illuminate why it has to be 365 days. If you could go to
20 Line 16 in the cash working capital Schedule 8 you will see
21 that it is property taxes. Property taxes have --
22 historically are paid at the end of the year. So we're
23 talking all the way to the end. However, to complicate
24 things there is a midpoint and this sort of thing and it
25 ends up the expense lag is calculated to be 185 days. Well,

1 you can look at a lot of other things there and we're only
2 talking about 38 days.

3 Now with -- of course, my argument is that
4 they never get paid so they shouldn't be at 38 days. But
5 you can see that the cash working capital schedule
6 recognizes late payments and early payments by its expense
7 lag. So late payments like incentive compensation on Line 8
8 is 258 days. If you carry that on out, your net lag is a
9 negative 207 days and the cash working capital requirement
10 is a negative \$546,895. So what I'm getting at is that
11 incentive compensation doesn't get paid for a very long
12 time.

13 Now, with income taxes, not only is it --
14 they don't get paid in a very long time, they never get
15 paid. We are talking about a year. This is a test year, so
16 the entire year they aren't not paid so the entire year
17 needs to be recognized, which is why it is a 365-day expense
18 lag, which would compute into minus 50 -- 50.85, so you're
19 at 310 or however it works. And then multiply that --
20 multiply the tax amount to come up with the negative revenue
21 requirement.

22 Q. I'm confused by what I see as two topics.
23 One being the income tax, which may or may not be paid or
24 eliminated and the other being the cash working capital. I
25 am not involved in large businesses. I have no background

1 in large businesses. My understanding though, is that cash
2 working capital is the amount of money a large business has
3 to have on hand to pay whatever expenses it has. In the
4 meantime or in between time until it gets the revenues or
5 enough revenues to actually cover those bills. So kind of
6 that middle ground and the cash working capital is really
7 just to help that large business allow the customer 30 days
8 to pay and tell there supplier I'm going to pay you this
9 week. That's going to be a bad example.

10 How come you seem to be proposing
11 eliminating the cash working capital?

12 A. Well, I'm not eliminating the cash working
13 capital but because of -- it this is really the only expense
14 in the case that throws this off is that we have to include
15 this expense, but the expense never gets paid. So that's
16 where that negative number comes from is because of that.
17 If we brought it to zero, basically what we would probably
18 be saying is, well, you don't pay it so we're not going to
19 charge it. Unfortunately, with income tax we have to charge
20 it. We have to make the ratepayer pay. That's where that
21 -- as that gets longer -- as I pointed out with the 258
22 days for incentive comp and the 185 days with property
23 taxes, as we get longer that number gets bigger. And with
24 this particular expense, because it never gets paid in the
25 test year, it's an entire year, so 365 days whereas,

1 property taxes are just 185. They eventually get paid. We
2 all pay our property taxes at the end of the year. With
3 incentive compensation, I don't know much about incentive
4 compensation, but looking at cash working capital, it
5 doesn't get paid very often either.

6 Q. Okay. I want to stop you. We're talking
7 about income taxes and I just want to stop at this point. I
8 have a question. You say they never get paid. I'm having a
9 problem with the word "never." Mom always told me don't
10 speak in absolutes. But my more serious question is: At
11 some point -- and maybe it is a question, maybe they won't
12 ever pay taxes, but what is your answer to a scenario where
13 the Commission sides with you on cash working capital, Spire
14 doesn't come in for a rate case for five years, ten years.
15 And before they come in for a rate case something happens to
16 trigger them paying income taxes and all of the sudden
17 they're paying quarterly income taxes and they don't have
18 the cash working capital to cover it because they aren't
19 effectively collecting it. We have now set up on a negative
20 365. So they're collecting it and sending it right back out
21 somehow. What is your solution?

22 A. Okay. Now, it's my understanding with an
23 ISRS they will have to come in every three years.

24 Q. I understand. From my example not doing
25 ISRS?

1 A. Okay. Yeah. There's going to be
2 speculation on how that gets covered. Generally, most every
3 company comes in fair-- well, depending on how you want to
4 look at it, fairly often, you know, four/five years. It is
5 not a far stretch to understand that Spire will probably not
6 owe federal taxes for several years. Exactly how many is
7 subject to debate. But it appears that they will not pay
8 federal and state income taxes before they come back in.
9 I'm going to guess three or four years.

10 So if they were, as you posed the
11 hypothetical question, if they did end up having to pay
12 taxes before they came back in, I think there is some sort
13 of mechanism to -- you know, an AAO or something like that.
14 I'm kind of reaching here. There's kind of a legal question
15 on that. But to acknowledge that they've -- they have a gap
16 so to speak.

17 Q. Do you see that as the responsibility of the
18 Commission when setting just and reasonable rates and making
19 sure to set the utility in a position where it can attract
20 capital and continue operating? Are we setting the utility
21 -- would the Commission be setting the utility up in good a
22 position meeting all of those requirements if it allowed
23 Spire to go forward without a mechanism to pay income taxes?

24 A. I would say that adjusting cash working
25 capital to reflect the collection of income taxes, which is

1 -- will be in rates, and acknowledging that they don't pay
2 them is -- would not really affect their, I don't know,
3 ability to attract capital. I don't think correctly
4 identifying this particular issue is a gamebreaker. I think
5 the correct way to do it is to acknowledge that money is
6 coming in and not going out, which is how the 365-day
7 expense lag recognizes that.

8 Q. I'm going to just make a general statement
9 to see if you agree. The amount of money that is in the
10 cash working capital is too much because it currently
11 accounts for taxes. The Company does need a cash working
12 capital system and we need to lower that number somehow.
13 Would you agree with that?

14 A. Well, I'm feeling like you're confusing the
15 actual collection of income taxes, which they will get each
16 year over the course of the entire year with the calculation
17 of cash working capital, which according to my calculations
18 would be negative. However, that doesn't mean they don't
19 have the money. The cash working capital is a recognition
20 of who's paying -- who's paying for this expense first.
21 It's not a question of is the expense getting paid. It does
22 get paid. Well, income taxes aren't being paid because
23 that's just how that --

24 Q. The bucket of money is there?

25 A. Is there. Who's paying it first.

1 Q. Okay.

2 A. Ratepayer or the shareholder.

3 Q. Okay.

4 A. So what we are looking at here is that the
5 ratepayer is paying this money all year and it never goes
6 out. That's -- so, I mean, it gets kind of confusing but
7 you don't want to confuse the fact that rates are set here
8 in this calculation of cash working capital because that is
9 a function of who is paying it first. And with this
10 particular argument that I have on federal and state income
11 taxes is that the ratepayer is paying it first and, in fact,
12 the ratepayer is the only person paying this because it
13 never goes back out.

14 It's all built in -- it -- you look at it
15 and go, my gosh, the cash working capital requirement is
16 going to be negative but we are talking about cash working
17 capital. It is just a funding mechanism as opposed to a
18 real expense. Like I said, this is who's paying it first,
19 the ratepayer or the shareholder. So it is -- in that
20 context, it's not really going to affect the Company that
21 much.

22 Q. So my true question if I was following the
23 actual dollar would be ratepayers are paying it each month,
24 Spire is collecting it. My question should be what is Spire
25 doing with that category of collections? Are they waiting

1 -- is that earmarked for lack of a better word for taxes and
2 we are just waiting until that event happens or is this not
3 a question for your area? I know this might be quite
4 off-topic so --

5 A. It might be a -- I mean, I could probably
6 answer it, but it is probably a question for tomorrow.

7 Q. Okay. Thank you, sir. Let me see if I have
8 any others. Are you aware of any USOA prohibition from
9 using zero as the cash working capital calculation?

10 A. I am not aware, no.

11 Q. Okay.

12 JUDGE HATCHER: I have no further questions.
13 You are not excused yet. This takes us back to recross. We
14 start with Staff.

15 MR. IRVING: Thank you, Your Honor.

16 RECROSS EXAMINATION BY MR. IRVING:

17 Q. Mr. Riley, are you aware of any other
18 non-cash cost of service components in the cash working
19 capital schedule that has a zero cash working capital
20 requirement? Would you like me to restate that?

21 A. Go ahead and repeat that if you would, sir.

22 Q. Are you aware of other non-cash cost of
23 service components in the cash working capital schedule that
24 has a zero cash working capital requirement?

25 A. Well, Staff has included bad debt as a

1 neutral expense. There isn't any -- there isn't a cash
2 component to bad debt. It is a lack of cash, I guess. But
3 that would be a zero -- that's a zero requirement of cash
4 working capital. And then I mentioned city taxes before,
5 that they weren't collecting them so they zeroed that out.

6 Q. So you would agree that bad debt has a --
7 has a -- a zero cash working capital requirement. You would
8 agree with that?

9 A. Yes, I would have to agree with that.

10 Q. One second. One last question. Would you
11 also agree that for non-cash components that the customer
12 pays in rates with no company cash outlay for --

13 A. For a non-cash --

14 Q. -- component?

15 A. -- that the customer pays.

16 Q. That the amount would go into rates?

17 A. Well, there's a calculation for bad debt,
18 yes.

19 Q. All right.

20 MR. IRVING: I have no other questions.

21 JUDGE HATCHER: Spire.

22 MS. NIEMEIER: Thank you, Judge. Just a few
23 questions, Mr. Riley.

24 RECROSS EXAMINATION MS. NIEMEIER:

25 Q. Congress can change the tax code at any

1 time. Correct?

2 A. I am not expert on what Congress can do, but
3 I am sure they could probably pass a law pretty quick if
4 they care too.

5 Q. And if they pass that law, corporations are
6 required to follow the law. Correct?

7 A. That would be correct.

8 Q. And if the Company started paying quarterly
9 taxes would 38 days be the correct lag for income tax?

10 A. If they were paying?

11 Q. Yes?

12 A. I haven't argued that.

13 Q. I'm asking you if that is correct?

14 A. If they were paying, then 38 days would
15 probably be correct.

16 Q. Thank you. And would you agree that the
17 normalization rules are designed to incentivize the Company
18 to invest into capital projects?

19 A. I would probably agree with that. Yes.

20 Q. And that a violation of a normalization rule
21 is -- the Company would receive a penalty. Do you agree
22 with that?

23 A. That's a direct possibility. Yes.

24 MS. NIEMEIER: I have nothing further, Your
25 Honor. Thank you.

1 JUDGE HATCHER: Thank you.

2 And redirect.

3 REDIRECT EXAMINATION BY MR. CLIZER:

4 Q. All right. There are a couple of things I'd
5 like to cover. First, I think this was hopefully cleared
6 up, but there was some confusion when you were talking to
7 the judge regarding the difference between current income
8 tax expense and cash working capital to pay income tax
9 expense. Do you recall that confusion?

10 A. Yes, sir.

11 Q. Those two things are different. Right?
12 Could you explain the difference? Let's just do it that
13 way.

14 A. Well, income tax expense is built in the
15 rates and they are collected. Now, they are collected as
16 ratemaking goes, they are collected all year. Now, with
17 your revenue and expense lags it's calculated, you know, how
18 much -- when it is coming in from the ratepayer and when it
19 is going back out. So when you are talking about income tax
20 expense, you're talking about rates and an annualized
21 amount. When you're talking about cash working capital
22 you're calculating how much money the Company actually needs
23 in order to pay daily expenses or weekly expenses. Whereas,
24 my basic contention is they do not have an expense to pay.

25 Q. Here is that critical question. Of those

1 two buckets, which are actually meant to pay the income
2 taxes due to the federal government, current income tax
3 expense or cash working capital?

4 A. To actually pay? If I'm -- it would be in
5 rates. I'm a little confused because cash working capital
6 doesn't pay the -- there's no income tax expense to pay.

7 Q. If the Company was going to pay income
8 taxes, the money to pay the income taxes is collected
9 through which, current income tax expense or cash working
10 capital?

11 A. Current income tax expense.

12 Q. Thank you. So your adjustment to cash
13 working capital will not affect the amount they are
14 collecting to pay income taxes?

15 A. No, it will not.

16 Q. All right. The judge asked a lot of
17 questions about are we setting the Company up for a bad
18 time. You know, they're going to come back in in five years
19 -- what happens if they start paying. Do recall that?

20 A. Yes.

21 Q. You had questions from Spire about what
22 happens if the law changes. Do you recall that?

23 A. Yes.

24 Q. Is there a mechanism by which a company can
25 request a change to its rates when it needs to?

1 A. I would think that if we would get Congress
2 changing the tax laws, that would require Spire to -- well,
3 in fact, we had the 2017 tax law changes.

4 Q. What is this case we are in right now?

5 A. It's a general rate case.

6 Q. Right. So if the Company needed to get more
7 money because something in the calculation of their current
8 rates was wrong, could the Company come in for a rate case?

9 A. Yes.

10 Q. And you mentioned the ISRS in your response
11 to that. Your understanding is that the Company is going to
12 come in every three years for that ISRS?

13 A. That is my understanding.

14 Q. Mr. Riley, is it your understanding that the
15 Company currently has a net operating loss carryforward
16 balance that would prevent them from having to pay income
17 taxes for the next three years?

18 A. That is my understanding. Yes.

19 Q. So it is highly unlikely that the Company
20 would need to be taxes for the next three years?

21 A. Very unlikely.

22 Q. All right. You were asked questions by the
23 judge trying to get to the understanding of why you were
24 excluding the cash working capital for income tax expense.
25 Do you recall that line of questioning?

1 A. Yes.

2 Q. I feel like part of the problem here is that
3 cash working capital for income tax expense was being taken
4 in isolation. Cash working capital at the end of the day is
5 a single adjustment to rate base. Right?

6 A. Yes, it is. It is included in the -- in
7 that schedule as a line item.

8 Q. And as we can see from this schedule there's
9 positives and negatives all across it. Right?

10 A. Yes.

11 Q. So what we're looking at at the end of the
12 day is just the total amount of money the Company needs to
13 have on-hand to meet all of its obligations. Right?

14 A. Yes. That is correct.

15 Q. So the income tax expense being just one
16 component of that is a potential offset to other components.
17 Right?

18 A. Yes.

19 Q. And having a negative cash working capital
20 overall, that's effectively just like ratepayers are giving
21 a loan to the Company to meet day-to-day expenses. Is that
22 a fair way to phrase it?

23 A. That would be a fair way to phrase it.

24 Q. Now, there was a lot of questioning about
25 setting the cash working capital to zero. Let's split this

1 up because it's important. You could set two different
2 numbers to zero. You could set the expense lag to zero or
3 you could set the actual dollar amount that is being
4 included for that issue to zero. Would you agree with that?
5 Well, let me say: Is That two different ways that you could
6 approach the issue, not what you should do?

7 A. You could approach it that way. What
8 Company and Staff have proposed is that zero it out, which
9 would make the revenue and expense lags equal.

10 Q. And you believe that would not be fair to
11 customers for what reason?

12 A. Well, because the customer in their rates --
13 it is built in to rates, so it is an -- you know, it's an
14 increase in rates by the amount of income tax and they're
15 paying it. And Staff -- Staff and the Company would like
16 you to think, well, if we set it to zero that's okay. That
17 just kind of makes it all right, we don't make any
18 adjustment to cash working capital. But, the ratepayer is
19 paying, so they're not getting any benefit out of that. If
20 you're looking at it to set it to zero as opposed to saying
21 I'm footing the bill, it's coming -- it's me, the ratepayer,
22 paying for this and you're just going to pretend it doesn't
23 exist by making it zero. Whereas, it should be a negative
24 adjustment because of the incoming money and no money going
25 out.

1 So it should be -- and mind you, if you go
2 with this, which I don't believe you should -- no way do I
3 ever every think it should be zero because of how much money
4 they are paying, but, yeah, if the Commission accepts my
5 argument, cash working capital will be negative. I mean,
6 because income taxes are a huge expense. You know, it's
7 basically \$40 million. It never gets paid so that
8 calculation is big. Everything else is -- there are some
9 large numbers in there. There's purchase gas cost at 10
10 million. You know, there's 7 million for payroll and that
11 sort of thing. But those things all have a ratepayer paying
12 and a company spending.

13 Whereas, in this case, I mean unless we want
14 to suddenly decide we need to change the calculation formula
15 of cash working capital because there is going to be a
16 little bit of pain -- and just a little bit of pain that the
17 Company is going to have because of a big negative number
18 for income taxes than -- you know, I just don't think that
19 is right.

20 Q. That brings me to my next question. Because
21 you were asked at cross by Commission Staff about other
22 items in the cash capital working calculation that had a
23 zero. Do you remember that?

24 A. Yes.

25 Q. But your position is the cash working

1 capital for income taxes is unique.

2 A. Yes.

3 Q. I think you sort of answered that, but let
4 me redirect and ask you to more clearly elaborate on that
5 point.

6 A. Yes. Cash working capital is unique. They
7 mentioned bad debt and there's a calculation in there that
8 -- of a -- an estimate of how much the bad debt will be.
9 But there is not a cash outlay, which is why that is zero.
10 But with income taxes, like I said with earning taxes and
11 the city taxes, Staff has recognize that Spire doesn't spend
12 any money on it so they zeroed it out. They just said,
13 okay, we're not putting this in cash working capital because
14 you don't have to spend any money. So you also don't have
15 to collect it. That's an important point there is you have
16 things that you don't spend money on but you don't have to
17 collect either. That is the big difference between income
18 taxes because income taxes have to be collected. That is
19 the big throw there. That's the 365-day number is because
20 they have to collect it. Can't get around it. If you can
21 get around, you'd just make it zero, but you can't.

22 Q. And they have to be collected because of the
23 IRS normalization rules. Correct?

24 A. Yes.

25 MR. CLIZER: I apologize for that. I will

1 get closer to the mic.

2 BY MR. CLIZER:

3 Q. And when you were asked a question by the
4 judge about whether the IRS dictates Commission rules, there
5 will be very bad consequences if the Commission deviates
6 from those normalization rules potentially. Correct?

7 A. That's my understanding is Spire would face
8 the brunt of the Internal Revenue Service.

9 MR. CLIZER: I have no further redirect.
10 Thank you.

11 JUDGE HATCHER: Thank you. The time is
12 12:22. I intend to break for lunch right now until 1:30.
13 Excellent. We are at lunch until 1:30.

14 (OFF THE RECORD.)

15 JUDGE HATCHER: The hour of recess having
16 expired, let's go back on the record. As I stated the
17 livestream has been -- the livestream has been turned back
18 on as has the audio for the WebEx. We have finished two of
19 our three issues scheduled for today. Our last issue for
20 today -- and I do not intend to bump up the schedule to try
21 and fit more issues in today. I plan to end with incentive
22 compensation, but I do plan to finish incentive
23 compensation.

24 This is Issue 13 for those listening on the
25 streaming or WebEx. We have scheduled witnesses, but first

1 we will be going to our mini opening statements and we will
2 begin with Spire.

3 OPENING STATEMENT BY MS. CALLENBACH:

4 MS. CALLENBACH: Thank you and good
5 afternoon, Judge. Spire believes that incentive
6 compensation plans are an integral part of a majority of
7 corporations' total compensation package. Base salary,
8 short-term incentives, long-term incentives, health and
9 wellness plans, as well as retirement and savings plans are
10 important tools to recruit, motivate, incent and retain a
11 talented and qualified workforce.

12 In the fall of 2018, Spire's management
13 conducted a detailed review of the Company's current annual
14 incentive plan design sometimes referred to in this opening
15 statement and throughout the day as the AIP. That review
16 focused on the utility's then current business unit metric,
17 which was utility operating income. After considerable
18 review and discussion by Spire management the decision was
19 made to eliminate this metric for all non-officer plan
20 participants and established two new metrics. The first one
21 is utility contribution margin or non-gas revenue. The
22 second, utility adjusted O&M per customer. These two new
23 metrics offer benefits that impact both our valued customers
24 and our employees.

25 Spire believes that these customer-focused

1 metrics contribute to more affordable rates for our
2 customers while aligning and complementing Spire's customer
3 satisfaction and safety metrics. Overall, Spire feels this
4 change reinforces our continued commitment to continuous
5 improvement and creates better lines of sight for our
6 employees and our customers. These new metrics incentivize
7 employees to reduce expenses or increase revenues while
8 providing safe and reliable service which they deem customer
9 service is also a measure.

10 Staff agrees that Spire's two proposed
11 metrics should be implemented. In its cost of service
12 report Staff including a level of non-earnings based AIP
13 expense that Staff believes will be representative of
14 Spire's incentive compensation expense for the year
15 following this rate case.

16 OPC will argue, however, that no amount of
17 incentive compensation expense should be included in Spire's
18 cost of service. OPC's position is not supported by the
19 evidence and is contrary to the Commission's long-standing
20 precedent of allowing inclusion of non-earnings based
21 incentive compensation to be recovered in a regulated
22 entity's cost of service. Unless there are any questions,
23 that is all I have.

24 JUDGE HATCHER: Thank you counsel. No
25 questions. Let's move on to Staff's opening.

1 MR. STOKES: May it please the Commission.
2 Curt Stokes for Staff and with the Commission's lead we
3 would like our Rule 13 student Madeline McKernan, a
4 third-year law student at the University of Missouri School
5 of Law, to provide our opening statement.

6 JUDGE HATCHER: Lead granted.

7 Ms. McKernan, please.

8 MS. MCKERNAN: May it please the Commission.
9 Good afternoon Chairman Silvey, commissioners, and Judge
10 Hatcher. My name is Madeline McKernan. I am a Rule 13 law
11 student and I represent the staff of the Missouri Public
12 Service Commission concerning the issue of incentive
13 compensation in this proceeding.

14 Staff recommends a level of non-earnings
15 based -- I'm sorry. Staff recommends a level of
16 non-earnings based annual incentive plans or AIP expense to
17 be included in rates. Staff believes this to be
18 representative of Spire's incentive compensation expense.
19 Staff further recommends that the two new metrics
20 implemented by Spire in 2018 utility contribution margin and
21 utility adjusted O&M per customer be included in rates
22 because the metrics provide benefits to ratepayers by
23 incentivizing employees to reduce expenses or increase
24 revenues while providing safe and reliable service.

25 Staff is recommending that only non-earning

1 based AIP expense be recovered through rates because the
2 Commission has previously found that earning-based
3 incentives primarily benefit shareholders. If a utility
4 wishes to employ an earning-based incentive plan, it is
5 welcome to do so. However, because such plans primarily
6 benefit shareholders, it is shareholders that should bear
7 the cost of such plans.

8 Staff witness Jeremy Juliette is available
9 today to answer any questions you may have as to how and why
10 Spire reached its recommendation in this matter. I implore
11 you ask him any questions you may have about the risk of
12 double recovery. Mr. Juliette can help you understand that
13 such assertions regarding non-earnings based incentive
14 compensation are unreasonable. Thank you.

15 JUDGE HATCHER: Thank you, Ms. McKernan.
16 Excellent job. No questions. We'll move on to the Office
17 of the Public Counsel.

18 MR. CLIZER: If it pleases the Commission.
19 John Clizer on behalf of the Office of the Public Counsel.
20 Inclusion of the cost of incentive plans is not necessary in
21 rates because a properly designed incentive plan will
22 produce earnings that exceed the cost of the plan itself.
23 This means the incentive plan will pay for itself through
24 positive regulatory lag. Because it will pay for itself, it
25 is not necessary to have customers further pay for it by

1 including it in rates.

2 Let me give you an example. Imagine, if you
3 will, a small distribution company with local regional
4 offices. One office in particular is allocated a budget of,
5 say, a million dollars. This office has a manager and they
6 have a policy that if the office comes in under budget the
7 manager gets to retain 5 percent of the difference. So for
8 example, if this office in one year comes in under budget of
9 say, \$900,000, the \$100,000 difference -- there is \$100,000
10 difference. The officer retains 5,000; 95,000 goes to the
11 company. That \$5,000, that's the incentive plan. But you
12 see it works out in the company's interest because they are
13 getting the \$95,000 difference.

14 Spire is no different. Right now you're
15 going to have a bunch of costs built into rates. The
16 incentive plan will reduce those O&M costs, but the Company
17 will still earn the money for them through rates from
18 customers. That increase to the Company's bottom line
19 generated because it is reducing its expenses while still
20 collecting them, will pay the cost of the program so you
21 don't need to include the cost of the program in rates.

22 This is basically the entire argument from
23 the OPC's perspective. Unless there's any questions --
24 well, there's one other issue I will address and that is we
25 believe that the plans are not known and measurable because

1 they could be discontinued at any time and there's a lot of
2 variables involved. But between these two issues, we would
3 ask for the Commission to not include the cost of incentive
4 plans in the rates. Are there any questions?

5 JUDGE HATCHER: No. Thank you, Mr. Clizer.

6 MR. CLIZER: Thank you.

7 JUDGE HATCHER: We will go to our first
8 witness, Mr. Weitzel. As he makes his way up, we'll take
9 just a moment for some technical setup.

10 Mr. Weitzel, you have been sworn in. I am
11 just reminding you, you are still under oath.

12 THE WITNESS: Thank you, sir.

13 JUDGE HATCHER: I tender the witness.
14 Spire's witness.

15 MS. CALLENBACH: Mr. Weitzel, since your
16 testimony has been sworn in and you're under oath, I will
17 tender you for cross-examination.

18 THE WITNESS: Thank you.

19 JUDGE HATCHER: Staff.

20 MS. MCKERNAN: Thank you, Judge. No
21 questions.

22 JUDGE HATCHER: Thank you, Ms. McKernan.
23 And Mr. Clizer.

24 MR. CLIZER: Thank you, Your Honor.

25 SCOTT WEITZEL, having first been duly sworn, testifies as

1 follows:

2 CROSS-EXAMINATION BY MR. CLIZER:

3 Q. Good afternoon, Mr. Weitzel.

4 A. Hello, sir.

5 Q. Would you agree with me that a prudently
6 developed plan will generate more in benefits that it will
7 cost?

8 A. What do you mean by benefits?

9 Q. Reductions to O&M, increase to revenues?

10 A. Increase to customer service would be
11 included in that or safety?

12 Q. Sure.

13 A. Okay. Yes.

14 Q. Benefits achieved are going to be greater
15 than the cost of operating the program. You would agree
16 with that?

17 A. Sure. Yes.

18 Q. So let's talk about benefits stemming from
19 reduction -- well, would you agree me that benefits in the
20 Company's incentive programs include reduction expense or
21 increases to revenue?

22 A. Yes.

23 Q. And you would agree with me that expenses
24 and revenues are currently fixed in rates during a rate
25 case?

1 A. Yes.

2 Q. So if the Company increases revenues from
3 what's in rates or decreases expenses from what is in rates,
4 in between a rate case that is going to create earnings for
5 the Company. Correct?

6 A. Not necessarily. When we're talking revenue
7 you could have a lot of revenue and make zero dollars. Uber
8 is one of the largest companies and they might have just
9 turned a profit. So earnings tied to revenue is not a
10 direct correlation. And keeping expenses low would, you
11 know -- without having any revenue isn't necessarily tied to
12 earnings either.

13 Q. If a company's revenue -- if Spire's revenue
14 increases above what's set in this rate case, with no other
15 changes, all else things being held equal will Spire have
16 increased its earnings?

17 A. Minus tax and ADIT and all that, all else --
18 then directionally I could probably agree with you,
19 Mr. Clizer.

20 Q. Right. Whatever increase in revenue will go
21 to Spire's bottom line. You would agree with that.
22 Correct?

23 A. If we are just talking revenue and all else
24 being constant, which isn't in reality of utility operation,
25 I will agree with you.

1 Q. And if Spire's expenses as they were built
2 into rates were to decrease with everything else being held
3 constant, that would increase Spire's earnings. Correct?

4 A. All else being held constant equal, I can
5 probably agree with you, Mr. Clizer.

6 Q. And the more that you increase revenues or
7 the more that you decrease expenses, the more affect it will
8 have on earnings. Correct?

9 A. Can you repeat that question, please?

10 Q. The more the Company increases its revenues
11 or decreases its expenses, the greater the affect will be on
12 earnings. Correct?

13 MS. CALLENBACH: Judge, I'm going to object
14 to this. I think this question has been asked and answered
15 multiple times.

16 MR. CLIZER: If I may respond. I am really
17 just trying to tie the fact that the greater the impact will
18 be. That's the key that I want to get in there. I can
19 attempt to rephrase, but I don't know really know how to be
20 honest.

21 JUDGE HATCHER: Has the witness already
22 testified to that greater affect?

23 MR. CLIZER: Let me try and move past it.
24 Okay. I think I can try and move past this.

25 BY MR. CLIZER:

1 Q. So if a prud-- would you agree with me that
2 a prudently -- if a prudently incurred plan generates more
3 revenue for a company that what is in rates than it costs
4 the plan to operate, it will generate more earnings for the
5 Company than the cost of plans to operate -- that the plan
6 costs to operate?

7 A. Yeah. I'm just getting tripped up here,
8 Mr. Clizer, because you are focused on one element of our
9 plan and not the plan in totality. And when you're talking
10 about all moving parts of revenue and expense, I'm not --
11 I'm not seeing the connection or correlation so maybe
12 rephrase it for me, please.

13 Q. One of your plans involves reducing O&M
14 expenses. Right?

15 A. That is correct.

16 Q. And if you reduce O&M expenses beyond what's
17 currently in rates, you're going to increase the Company's
18 earnings?

19 A. Not necessarily.

20 Q. Do you have a copy of Mr. Juliette's
21 surrebuttal testimony in front of you?

22 A. Let's see here. I do not. It is one that
23 is missing.

24 MS. CALLENBACH: Did you say rebuttal?

25 MR. CLIZER: Surrebuttal.

1 THE WITNESS: Thank you.

2 BY MR. CLIZER:

3 Q. Could you turn to Page 10 for me?

4 A. Yep.

5 Q. Would you see that at Lines 10 through 11 on
6 Page 10 of Mr. Juliette's says: Yes, reducing expenses and
7 increasing revenues would increase Spire's bottom line. Do
8 you disagree with this statement by Staff witness?

9 A. Yeah, I'm going to finish the rest of his
10 answer there and I will let you know if I agree. Yes,
11 reducing expenses and increasing revenues would increase
12 Spire's bottom line. However, the path employees use to
13 reach these targets benefit ratepayers.

14 Q. I agree, but the important part here is that
15 it will increase Spire's bottom line. Do you agree with
16 that? I believe you already have agreed to that?

17 A. Yes.

18 Q. Turned to Line 17 through 18: Yes, an
19 increments of cost redu-- any incremental cost reductions
20 that occur in between general rate increases would increase
21 Spire's earnings. Do you disagree with that statement?

22 A. Yes.

23 Q. And if we've already established that a
24 prudently --

25 A. All else being held constant with revenue

1 and such.

2 Q. We've already established that a prudently
3 designed plan is going to generate increased revenue or
4 decreased earnings greater than the cost of the plan.
5 Correct?

6 A. Can you repeat the question please?

7 Q. The irony is I believe I already have asked
8 this question at the beginning. A prudently developed plan
9 will generate greater increased revenues or decreased
10 expenses than the cost of the plan itself?

11 A. Do you want me to confirm that statement?

12 Q. Yes?

13 A. Okay.

14 Q. Is that a yes or are you thinking about it?

15 A. I'm thinking about it.

16 Q. Okay.

17 A. The third time might be a charm, Mr. Clizer.
18 I apologize for you repeating.

19 Q. Would you agree that a prudently inc-- the
20 -- I'm going to start that question over so I can get this
21 straight.

22 Would you agree me that a prudently designed
23 plan would increase revenues or decrease expenses by an
24 amount greater than the cost of the plan itself?

25 A. Yes. There needs to be -- in designing a

1 plan, there needs to be an ultimate benefit.

2 MR. CLIZER: Okay. No further cross. Thank
3 you.

4 JUDGE HATCHER: Thank you, Mr. Clizer. That
5 brings us to commissioner questions. Again, we do have
6 commissioners listening both on livestream and on WebEx. If
7 you do need to unmute that is *6, if you are on the phone.
8 Are there any commissioner questions for Mr. Weitzel on the
9 issue of incentive compensation, Issue 13? Hearing none,
10 the Bench does have a couple of questions.

11 QUESTIONS BY JUDGE HATCHER:

12 Q. I would like to follow up just a bit on
13 Mr. Clizer's last inquiry?

14 A. Okay.

15 Q. I heard a lot of absolutes in his question
16 and I am wondering if your consideration included perhaps
17 the expenses of implementing the program or unintended
18 expenses or lost revenue that are tied to the program but
19 weren't planned for. Is that what your hesitancy was?

20 A. Yes. It's that the questions were absolute
21 and in a vacuum. And these are intended to reduce costs for
22 our customers so that you don't have to see us as much as
23 you need to in this hearing room or a rate case, so that's a
24 component. Making sure that our customer base is growing is
25 a component so that our revenue is not shrinking so that

1 there is not limited customers to spread any cost to them.
2 More customers is a greater base to spread these costs out.
3 And so when you look at all of our components -- and these
4 are just two of our components of many. Maybe just 20 to 30
5 percent of our total incentive compensation that has been
6 discussed with the Office of the Public Counsel. So when
7 you look at all of these moving parts in totality, it paints
8 a lot different story than just earnings-based
9 revenue-based. There's balance there and that's why it is
10 designed that with the customer in mind.

11 We made these changes after the last rate
12 case because we heard what the Commission said and we wanted
13 to have that focus on benefiting the customer.

14 Q. Would you explain for the record why Spire
15 should be earning a rate of return on a program that, as
16 Mr. Clizer suggests, if it works as it is intended would
17 already save the Company money?

18 A. I believe -- I am not an accountant by trade
19 -- this is an expense. I don't think we're -- for union
20 folks we might be capitalizing some of this incentive. I
21 don't know, Judge, right now what we are doing for the
22 common rank and file. But a lot of this is expense and not
23 necessarily earning a return on these programs.

24 Q. Okay. Thank you. I have some other
25 prepared questions. I would like to ask about your direct

1 testimony. Do you have a copy?

2 A. Yes, sir.

3 Q. And I'd like to turn on to Page 23.

4 A. Okay.

5 Q. You state that Spire management conducted a
6 review of the AIP that was focused on the utility's business
7 unit metric.

8 A. Uh-huh.

9 Q. Can you define the utility's business units
10 whose employees participate in the annual incentive plan?

11 A. Yes. These are utility employees that
12 participate in this. Specifically, Spire Missouri in this
13 case.

14 Q. All of the business units within Spire
15 Missouri?

16 A. There is a utility business unit that looks
17 at all regulated utilities in the state, people that work
18 for gas utilities.

19 Q. Okay.

20 A. It -- excluding all of the other entities or
21 affiliates that Spire Inc. has.

22 Q. I see. How is the new utility contribution
23 margin metric different from the prior utility operating
24 income metric?

25 A. The utility operating income is closer to

1 what some of the questions I got from the Office of Public
2 Counsel. It is looking at revenue and expenses together and
3 that is your income. That -- that is more earnings, profit,
4 revenue-base. This breaks it down to make it easier for our
5 employees to achieve. They understand connect -- laying new
6 pipe, connecting new services, retaining customers. Again,
7 in the spirit of having a solid and growing customer base to
8 further spread any costs out than a decreasing customer
9 base. And so this looks at non-gas revenue only, which the
10 big driver of that is any type of customer growth.

11 Q. Have the new metrics been in place for
12 Spire's fiscal year beginning October 1st, 2019 through the
13 current period ending May 31st, 2021?

14 A. I believe that is correct, Judge.
15 Definitely during this test year.

16 Q. Okay. And going back or staying on Page 23,
17 how is the utility adjusted O&M per customer metric
18 benchmarked or compared to prior periods and what type of
19 reduction in the metric is required for bonuses to be paid
20 to employees?

21 A. We look at the previous year. There could
22 be an inflation index to that, 2 to 3 percent. But it is
23 looking at those experiences and that operation. Property
24 tax is involved in that because we -- you know, we're trying
25 to keep expenses down for our customers as much as we can.

1 And if -- once you add up the customer but divided by the
2 customer base, our total customer base, that gets you the
3 O&M per customer. And so we look at maybe an inflationary
4 index to the previous year and that is kind of our benchmark
5 of maintaining expenses. That's one of the highlights in
6 this case is we've try to maintain expenses, I think to
7 about 1.7 percent a year in trying to manage 2 to 3 percent
8 pay raises or other benefits that are going up
9 substantially. That is trying to reflect in there and keep
10 our employees focused on those expenses.

11 Q. That leads perfectly into my next question.
12 How do the employees have the ability to influence the
13 utility contribution margin metric since it is fundamentally
14 dependent on revenues?

15 A. Well, the -- can you repeat that, Judge?

16 Q. Absolutely. How do employees have the
17 ability to influence the utility contribution margin metric?

18 A. I kind of alluded to the begin with (sic) is
19 retaining customers. You know, a customer calls in in the
20 call center struggling, offer programs, try to keep them on
21 the system and see what we have. Also new business and
22 expansion. Talk to builders, talk to developers, see where
23 it makes sense for Spire to overlap with that and increase
24 our customer base.

25 You know, when I say that, you know, you've

1 got business development groups looking at that. You've got
2 engineering groups looking at that. Regulatory has been
3 helping out with CCNs. So there are a lot of teams that
4 could -- that could help and assist some of these goals.

5 Q. Okay. This is going to be hypothetical.

6 A. Okay.

7 Q. Example is if O&M were \$1M and the customer
8 count was 10,000, the metric would be 100, meaning each
9 customer requires or required \$100 of O&M. If O&M fell to
10 800,000, the metric would be 80 assuming the customer count
11 stays the same. Would that justify bonuses of up to
12 \$100,000, which is half of the savings, the 800 to 1
13 million. Would that justify bonuses of up to 100,000 or as
14 high as 200,000, all of the savings?

15 A. I have never thought about it like that. I
16 think that spread in savings would be justifiable. So in
17 your example that 800,000 to the million.

18 Q. So it would justify bonuses of the 200,000,
19 the saved money?

20 A. (Witness nodded.)

21 Q. Okay. I have two more. Why are property
22 taxes included in this metric?

23 A. That I don't have all of the background
24 information on that. I think it's just keeping an eye on a
25 large expense for the Company, making sure that we're

1 watching tax rates, we are involved with that -- with
2 property tax. I know there's previous cases going on right
3 now where we're -- you know, people are trying to increase
4 20, 50 percent of some of our property tax base. So we are
5 trying to manage that expense for our customers and I think
6 that's probably why it's in there.

7 Q. You said employees are trying to manage our
8 property tax base.

9 A. Yes.

10 Q. Can you expound on that? Is that increasing
11 your property holdings?

12 A. Increasing our property taxes. This goes to
13 legacy appeals or, you know, legal property tax debates that
14 are I'm not necessarily close to. But again, if all of a
15 the sudden your property taxes increase of 50 percent, you
16 know, Spire could be like okay, we are done, pass on. But
17 we are involved in those disputes. We're trying to educate
18 on why that would increase. And so I think it is just
19 another form of expense they're putting in there for
20 everyone to be mindful of.

21 Q. It brought up a question for me as I was
22 reading over the testimony only because this case also had
23 at one point, I think it is on the settled issues list, the
24 Kansas state -- the state of Kansas tax tracker was an
25 issue. And as I recall in the testimony, it boiled down to

1 Kansas assesses the tax on the holdings as of January 1st.
2 So if Spire got caught with a large amount of gas in one of
3 their storage areas, there would be a very unusual and very
4 large property tax bill. And that got me thinking to this
5 issue. Because now we're including property taxes as part
6 of that employee incentive. I didn't know if the two were
7 related?

8 A. I would say probably not on that one.

9 Q. Okay.

10 A. I think this is more county property value
11 of our pipe in the state of Missouri than that specific
12 issue, Judge.

13 Q. Thank you very much. Let me see where we
14 are on the list. Last question from me. Does the 12-month
15 average customers used as the denominator in this metric,
16 does that include all rate classes or just residential?

17 A. I don't know to be honest with you, Judge.

18 Q. That's okay.

19 A. We can try to follow-up with all parties.

20 Q. It sounds like we will be back tomorrow, so
21 you just put a pin in it. Not a problem. As I said that is
22 all the questions I have.

23 JUDGE HATCHER: We now have recross. Let me
24 think through this. Recross we go to Staff, Ms. McKernan.

25 MS. MCKERNAN: Thank you, Judge. Staff does

1 not have any questions.

2 JUDGE HATCHER: Thank you.

3 And Mr. Clizer.

4 MR. CLIZER: Yes.

5 RECROSS EXAMINATION BY MR. CLIZER:

6 Q. Mr. Weitzel, you asked a question by the
7 judge regarding an example of O&M reductions. Do you recall
8 that example?

9 A. Yes.

10 Q. Okay. And I might need to rely on the judge
11 if the numbers come up because I didn't have the exact
12 numbers written down. But would that example have justified
13 bonuses of \$300,000 an amount greater than the savings?

14 A. I could see where that would be called into
15 question.

16 Q. Okay. Going back to the very first question
17 you were asked by the judge, you know, the other expenses.
18 I think there might be some hangup on the term earnings and
19 I can understand why. So let me back this up and ask it a
20 lot simpler. Your O&M plan, is it going to generate cost
21 savings for the Company greater than the cost of the plan
22 itself?

23 A. The way that we see this it's per customer
24 and not total O&M savings, so I would have to -- I would
25 have to know that net savings is. When we look at it, it's

1 per customer so 200, 300.

2 Q. So you don't know if the plan you are
3 proposing might actually end up cost customers an average in
4 the aggregate more than they will see in savings?

5 A. I would hope not, Mr. Clizer.

6 Q. You would hope that the cost, the plan in
7 the aggregate would generate cost savings greater than the
8 cost of the plan itself. Right?

9 A. For O&M reduction, yes.

10 Q. Right. And for the other one, the utility
11 contribution margin, that should increase company revenues.
12 Right?

13 A. Correct.

14 Q. And it should increase revenues by more than
15 the plan costs. Correct?

16 A. An ideal incentive comp makeup, yes.

17 Q. You say ideal. Wouldn't it be imprudent to
18 have a plan that doesn't generate more revenues than it
19 costs?

20 A. That would be a problematic compensation
21 plan.

22 Q. Right. So we would agree that a prudent
23 compensation plan is going to generate more revenues than it
24 costs to run?

25 A. Or reduce expenses.

1 Q. Okay. I think we already covered this, but
2 just to be sure, nevermind. We've already covered it. I
3 don't need to ask that question.

4 Do you know how much the Company increased
5 or decreased its O&M costs in this case due to the 2021
6 incentive plan?

7 A. The 2021 incentive plan is not out there yet
8 for us.

9 MR. CLIZER: Thank you. I have no further
10 questions.

11 JUDGE HATCHER: And back to the Company for
12 redirect.

13 MS. CALLENBACH: Just one minute, Judge.

14 JUDGE HATCHER: Go ahead.

15 MS. CALLENBACH: No redirect.

16 JUDGE HATCHER: Thank you. Mr. Weitzel, you
17 are excused for the moment. I think as saw your name for
18 tomorrow, so we'll see you then.

19 THE WITNESS: All right.

20 JUDGE HATCHER: We move now to Mr. Jeremy
21 Juliette for Staff. If he could come onto the witness
22 stand.

23 (Witness sworn.)

24 JUDGE HATCHER: Thank you. Please take a
25 seat and state and spell your name for the court reporter.

1 THE WITNESS: My name is Jeremy Juliette.
2 My last name is spelled J-U-L-I-E-T-T-E.

3 JUDGE HATCHER: Staff's witness.
4 Ms. McKernan.

5 JEREMY JULIETTE, having first been duly sworn, testifies as
6 follows:

7 DIRECT EXAMINATION BY MS. MCKERNAN:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. By whom are you employed and in what
11 capacity?

12 A. I am employed by the Missouri Public Service
13 Commission as a senior regulatory auditor.

14 Q. Are you the same Jeremy Juliette who
15 contributed to the cost of service report?

16 A. Yes.

17 Q. Are you the same Jeremy Juliette who filed
18 rebuttal and surrebuttal testimony in this matter?

19 A. Yes.

20 Q. Do you have any additions or corrections
21 regarding the cost of service report or your filed
22 testimony?

23 A. I do not.

24 Q. If I were ask you about your contribution to
25 the cost of service report, would your conclusions be so

1 similar or substantially similar?

2 A. Yes, they would.

3 Q. And if I were to ask you the same questions
4 contained in your rebuttal and your surrebuttal testimony,
5 would it be similar or substantially similar?

6 A. Yes.

7 Q. Are your conclusions and answers true and
8 correct to the best of your knowledge and belief?

9 A. Yes, they are.

10 MS. MCKERNAN: Staff would like to offer the
11 rebuttal testimony of Jeremy Juliette as Exhibit Number 112.

12 JUDGE HATCHER: Did you want to do both
13 exhibits at once?

14 MS. MCKERNAN: Yeah, I was going to do both.
15 And then Staff would also like to offer the surrebuttal
16 testimony of Jeremy Juliette as Exhibit Number 131.

17 (WHEREIN; Staff Exhibits 112 and 131 were
18 offered into evidence.)

19 JUDGE HATCHER: All right. Counsel, you
20 have heard the request for admission onto the hearing record
21 of Exhibit 112 and Exhibit 131. Do I hear any objections?
22 Hearing none, those two exhibits are admitted onto the
23 hearing record. Go ahead.

24 (WHEREIN; Staff Exhibits 112 and 131 were
25 received into evidence.)

1 MS. MCKERNAN: Thank you, Judge. At this
2 time I tender the witness for cross-examination.

3 JUDGE HATCHER: Thank you. I believe we go
4 to the Company, Spire next for cross.

5 MS. CALLENBACH: Thank you, Judge we just
6 have a few questions.

7 CROSS-EXAMINATION BY MS. CALLENBACH:

8 Q. Good afternoon, Mr. Juliette.

9 A. Good afternoon.

10 Q. How are you today?

11 A. Good. How are you?

12 Q. I'm good. Thank you. So in Staff's cost of
13 service report you included a level of incentive
14 compensation expense that you believe is representative of
15 Spire's incentive comp expense for the year following this
16 rate case; is that correct?

17 A. That is correct.

18 Q. And that levelage included did not include
19 any earnings-based compensation?

20 A. That is correct.

21 Q. And removal of earnings-based incentive
22 compensation is consistent with long-standing Commission
23 precedent. Correct?

24 A. Correct.

25 Q. But the Commission does routinely approve

1 incentive compensation expense that's based upon consumer or
2 operational metrics. Right?

3 A. That is correct.

4 Q. Okay. And it is Staff's position the two
5 new metrics proposed by Spire are based upon consumer or
6 operational metrics?

7 A. Yes.

8 Q. Do you believe that they should be approved
9 by the Commission in this case?

10 A. That is Staff's recommendation.

11 MS. CALLENBACH: Thank you.

12 JUDGE HATCHER: Thank you.

13 Mr. Clizer.

14 CROSS-EXAMINATION BY MR. CLIZER:

15 Q. Good afternoon, Mr. Juliette?

16 A. Good afternoon.

17 Q. Is it Staff's position that once the Company
18 has achieved a benefit either from cost reduction or a
19 revenue increase, it needs to annual pay the same incentive
20 to the employee who achieved the benefit in order to
21 maintain the benefit?

22 A. Can repeat that one more time?

23 Q. Absolutely. Is it Staff's position that
24 once the Company has achieved a benefit either from a cost
25 reduction or a revenue increase it needs to annually pay the

1 same incentive to that employee who achieved the benefit in
2 order to maintain the benefit?

3 A. Staff's level of -- recommended level of
4 incentive comp is to incentivize employees to capture
5 additional savings, and so each year it's incentivizing
6 employees to capture further savings past the year
7 previously.

8 Q. New benefits. Right?

9 A. Correct.

10 Q. Okay. So let's run this down to make sure
11 we are clear. Let's say I work for Spire, I do something
12 that lowers O&M costs by say \$30,000. I receive a bonus as
13 a reward. It is not your position that I should keep
14 receiving that same bonus indefinitely as long as I work for
15 Spire and that customers should keep paying for it. Right?

16 A. Explain that one more time. Sorry.

17 Q. If I generate a benefit by reducing O&M, I
18 get a one-time bonus. I don't keep getting the same bonus
19 year after year?

20 A. The expectation is that you would continue
21 to attempt to get more savings.

22 Q. Right. Incentive payments are paid out
23 once. You have to generate new savings in order to get
24 another further incentive payment?

25 A. That is correct.

1 Q. Okay. So the benefits that have already
2 been achieved, they're built into rates. We do not need to
3 worry about them. Right?

4 A. When you say benefits, you're talking about
5 the cost savings?

6 Q. Either reduced O&M or -- just reduced costs
7 or increased revenue. Either way, the ones that have
8 already achieved, they are already in rates. We don't need
9 to worry about them?

10 A. As long as they are in the test year. Yes.

11 Q. We don't have to include costs to pay for
12 those benefits we've already achieved. We're looking for
13 cost to achieve new benefits. Right?

14 A. That is correct.

15 Q. Okay. Would you agree with me that a
16 prudent incentive plan will generate more earnings for a
17 company than the plan costs to run?

18 A. Yes.

19 Q. This is a long shot. Do you have a copy of
20 Staff's surrebuttal testimony for Witness Nieto, whose first
21 name I will mispronounce if I attempt to say it.

22 A. No, I do not.

23 Q. Could you hop on EFIS right there and pull
24 it up?

25 A. I can or if someone has a copy. They are

1 looking.

2 Q. That is there surrebuttal of Nieto, which
3 was introduced into the record earlier today.

4 JUDGE HATCHER: There is a paper copy coming
5 forward. Thank you, Ms. McKernan.

6 MR. CLIZER: Thank you.

7 BY MR. CLIZER:

8 Q. Can you turn to Page 6 of Ms. Nieto
9 surrebuttal testimony?

10 A. I am there.

11 Q. All right. At Line 6 through 7 would you
12 agree with me that it reads: Regulatory lag simply stated
13 is the time between the occurrence of a cost or revenue by a
14 utility and a reflection of that expense or revenue in
15 rates?

16 A. You're asking if that's what it states?

17 Q. Yes.

18 A. Yes.

19 Q. Do you agree with that definition of
20 regulatory lag?

21 A. Yes.

22 Q. Okay. So in your surrebuttal testimony you
23 acknowledge the fact that the Company is going to increase
24 its bottom line in between rate cases because of the
25 incentive plan. Do you agree with that?

1 A. Yes.

2 Q. Would you qualify that increase to bottom
3 line as regulatory lag?

4 A. As my surrebuttal stated, if the Company
5 recognizes revenues greater than what is built into rates,
6 then yes, they would get to keep that in between rate cases.

7 Q. So would you agree with me that we could use
8 the term positive regulatory lag to describe that
9 phenomenon?

10 A. Positive for the Company?

11 Q. Yes.

12 A. Yes.

13 Q. All right. So on that same page of
14 Mr. Nieto's surrebuttal at Lines 19 through 22 it reads: In
15 this case, the Company could have experienced what is
16 commonly known as a positive regulatory lag. Meaning that
17 by that time current rates are changed from this rate case
18 Spire will have recovered directly in rates more dollars
19 from terminated employee salaries and benefit compensation
20 than experienced in severance costs. Would you agree me
21 that is what that says?

22 A. I would change the -- you said "experience"
23 and it says "expended in severance costs."

24 Q. Thank you.

25 A. Other than that, yes, I agree.

1 Q. Okay. Are you aware that it is Staff's
2 position that severance costs not be recovered?

3 A. In general, yes, I am aware of that.

4 Q. Okay.

5 MR. CLIZER: No further cross. Thank you.

6 JUDGE HATCHER: Thank you, Mr. Clizer. That
7 brings up commissioner questions. Are there any
8 commissioner questions for Mr. Juliette? All right.
9 Hearing none, the judge does have a few questions.

10 QUESTIONS BY JUDGE HATCHER:

11 Q. Mr. Juliette, when does Spire pay out the
12 bonuses associated with the short-term AIP incentive plan?

13 A. From my understanding in review of the
14 paperwork it would be -- so their fiscal year ends September
15 and typically it is paid out, I believe, in November of that
16 same calendar year, but a different fiscal year. So it
17 would be the beginning of the next fiscal year.

18 Q. Okay. When does the annual short-term AIP
19 incentive plan start each year?

20 A. I believe it is with the start of each new
21 fiscal year, so it would be October 1st.

22 Q. October 1st?

23 A. Correct.

24 Q. What short-term AIP incentive plan years
25 were reviewed for this rate case?

1 A. It would have been the test year.

2 Q. Okay. Does that mean that the AIP bonus
3 payouts that we just identified occurring typically the
4 following fiscal year, but the same calendar year i.e.,
5 November, am I correct in believing that the bonuses you
6 said were reviewed for the test year all occurred both
7 earned and paid out within the test year?

8 A. No. So --

9 Q. I'm sorry. I meant to include through the
10 true-up period.

11 A. Okay. Then yes.

12 Q. Okay. Did any of those AIP bonus payouts
13 occur outside of the test year with the true-up period? And
14 I am meaning either they were earned before the test year
15 and then paid out during -- including the true up period --
16 or they were earned during the test year and true-up, but
17 not paid out until after? In any of those variations?

18 A. No.

19 Q. Okay. And does the 12-month average
20 customers used as the denominator in this metric include all
21 rate classes or just residential? I asked this earlier of
22 Mr. Weitzel.

23 A. From my review, I believe it includes all
24 customers, but I would rely on Mr. Weitzel to verify that
25 when he gets back to you on that.

1 JUDGE HATCHER: Okay. That is all the
2 questions I have. That takes us to recross. We start with
3 the Company.

4 RE CROSS EXAMINATION BY MS. CALLENBACH:

5 Q. So you were just asked about whether the
6 12-month average customer denominator is all customer
7 classes or just residential. Do you recall that?

8 A. I do.

9 Q. Mr. Weitzel has confirmed that that is all
10 customers.

11 JUDGE HATCHER: How about I offer a solution
12 to what I perceive is the issue. How about after
13 Mr. Juliette, we will briefly call up Mr. Weitzel for this
14 question and then open that question to cross.

15 MR. CLIZER: I do not need to perform cross
16 if Mr. Weitzel is just confirming that it applies to --

17 JUDGE HATCHER: I want to make sure and get
18 it on the record.

19 MR. CLIZER: Fair enough.

20 JUDGE HATCHER: Okay. I appreciate that,
21 but I don't know if that would get it on the record such
22 that we could all cite to it, but I appreciate your offer.
23 We are still in the middle of --

24 MR. CLIZER: Recross.

25 JUDGE HATCHER: Recross. Thank you. Go

1 ahead and continue and we plan to call Mr. Weitzel for just
2 a question after this.

3 MS. CALLENBACH: Great. Thank you.

4 BY MS. CALLENBACH:

5 Q. Mr. Juliette, isn't it true that there are
6 nonmonetary benefits to customers associated with Spire's
7 incentive compensation plan?

8 A. Yes.

9 Q. Can you elaborate on that? In your opinion,
10 what are those benefits?

11 A. So customer safety, response lead times,
12 those -- that specifically does not provide a monetary
13 value, but it helps ensure that the customer is safe.

14 Q. Thank you.

15 MS. NIEMEIER: Nothing further.

16 JUDGE HATCHER: Thank you. And we will have
17 recross from Mr. Clizer.

18 RECROSS-EXAMINATION BY MR. CLIZER:

19 Q. Regarding that question you were just asked
20 about other benefits. If a plan is put into place but not
21 including in rates, would the customer still see benefits
22 from the plan?

23 A. Say that one more time. Sorry.

24 Q. If the Company continues the plan, but it's
25 not paid for in rates, but it is still continued, will

1 customers still see those benefits?

2 A. Yes.

3 Q. Did Staff make an adjustment to the true-up
4 for the benefits from the 2021 AIP?

5 A. No.

6 MR. CLIZER: No further recross.

7 JUDGE HATCHER: Thank you. Redirect.

8 MS. MCKERNAN: Thank you, Judge.

9 REDIRECT EXAMINATION BY MS. MCKERNAN:

10 Q. Are there benefits from the incentive plans
11 that are in the test year?

12 A. Yes.

13 Q. Mr. Clizer asked if the incentive plans were
14 not including in cost of service, would there being a
15 mismatch of cost and benefit?

16 A. Can you ask that again?

17 Q. If the incentive plans were not included in
18 the cost of service, would there be a mismatch of cost and
19 benefits?

20 A. No.

21 Q. So then would it be fair to say that the
22 customers are receiving the benefits but not paying the
23 cost?

24 A. Yes, that is true.

25 Q. And that wouldn't be fair, would it?

1 A. No. That is correct. That would not be
2 fair.

3 JUDGE HATCHER: Counsel, I am unable to hear
4 you but we are transmitting live on the Internet. You may
5 want to mute your mic as you talk to your advisor.

6 BY MS. MCKERMAN:

7 Q. Mr. Clizer asked about new benefits. Could
8 Staff reasonably separate test year benefits with new
9 benefits going forward?

10 A. Yes.

11 Q. Is it guaranteed that earnings will increase
12 and achievements in the incentive -- from achievements of
13 the incentive plans?

14 A. No. It is not guaranteed.

15 Q. Would some nonmonetary benefits have some
16 monetary benefits?

17 A. Yes.

18 Q. Could you explain? Like, maybe an example.

19 A. Of nonmonetary benefit providing a monetary
20 benefit?

21 Q. Yes.

22 A. So the average lead time expense that I
23 talked about earlier, though it's mostly nonmonetary, if
24 they respond faster to the leak, then they would be able to
25 keep the customer -- turn the customer back on faster which

1 would then increase the revenues over a longer response
2 time.

3 MS. MCKERNAN: Thank you, Judge. Nothing
4 further.

5 JUDGE HATCHER: Thank you. Mr. Juliette, I
6 appreciate your testimony. You are excused from the witness
7 stand.

8 Mr. Weitzel, I would appreciate your
9 presence once more on the witness stand. We have a single
10 question to clear up. I remind you that you have already
11 been sworn in. That is still applicable. Please take a
12 seat. Spire's witness.

13 MS. CALLENBACH: Thank you, Judge.

14 REDIRECT EXAMINATION BY MS. CALLENBACH:

15 Q. Mr. Weitzel, do you recall a series of
16 questions that the judge asked you based upon Page 23 of
17 your direct testimony?

18 A. Yes.

19 Q. And specifically the denominator, the
20 12-month average customers in the fully adjusted O&M per
21 customer formula; is that right?

22 A. Correct.

23 Q. And the question I believe was is that
24 12-month average for all customers or just residential
25 customers?

1 A. I recall that question and that is all
2 customers.

3 Q. Thank you.

4 MS. CALLENBACH: Nothing further.

5 JUDGE HATCHER: We'll go to cross. Staff.

6 MS. MCKERNAN: No questions. Thank you.

7 JUDGE HATCHER: Thank you.

8 Mr. Clizer.

9 MR. CLIZER: No questions.

10 JUDGE HATCHER: Any commissioner questions?
11 Hearing none, any Bench questions? I have none. Thank you
12 Mr. Weitzel. You are excused. We will see you tomorrow.

13 Mr. Schallenberg, please return to our
14 witness stand. And you also have already been sworn. No
15 need to repeat. I'll just remind you that still applies.
16 Go ahead and have a seat.

17 Mr. Clizer.

18 MR. CLIZER: I tender the witness for cross.

19 JUDGE HATCHER: Ms. McKernan.

20 MS. MCKERNAN: No cross at this time.

21 JUDGE HATCHER: And the Company.

22 MS. CALLENBACH: Thank you, Judge.

23 CROSS-EXAMINATION BY MS. CALLENBACH:

24 Q. Good afternoon, Mr. Schallenberg.

25 A. Good afternoon.

1 Q. It's OPC's position that there should be no
2 inclusion in Spire's cost of service of any incentive
3 compensation expense; is that correct?

4 A. Yes.

5 Q. And does that mean that OPC opposes AIP
6 expenses for all employees including union employees?

7 A. Yes.

8 Q. Thank you. Is it your opinion that Spire's
9 incentive compensation program offers no customer benefits?

10 A. I am not sure.

11 Q. For example, would there be a customer
12 benefit to reducing the average leak response time?

13 A. Yes.

14 Q. Could there be a customer benefit for having
15 an increased customer satisfaction score?

16 A. Yes.

17 Q. Could there be a customer benefit of having
18 service call quality score increases?

19 A. Yes.

20 Q. Or calls in response time being reduced?

21 A. Yes.

22 Q. Thank you.

23 MS. CALLENBACH: Nothing further.

24 JUDGE HATCHER: Thank you. That leads us to
25 commissioner questions. And again, we do have all of our

1 commissions either listening on the livestream or on the
2 WebEx. If you are on the phone it is *6 to unmute. Are
3 there any commissioner questions for Witness Schallenberg?
4 I don't hear any. The judge does have a few questions.

5 QUESTIONS BY JUDGE HATCHER:

6 Q. Mr. Schallenberg, your testimonies I think
7 main -- one of its main points was with this incentive
8 program the Company would be saving money and that savings
9 is reward enough? They should not be earning a return on
10 the investment?

11 A. If you -- yes. In answering I define reward
12 recovery of the cost.

13 Q. Okay. Thank you for understanding my
14 nomenclature. In your recollection, has the Commission ever
15 directed a company to undergo an incentive program without
16 there being a recovery? Has the Commission ever taken the
17 stance that OPC is suggesting and said, no, your benefit is
18 the money you are saving?

19 A. Yes, if -- they've never said that you have
20 to do an incentive plan that you are not going to recover
21 your cost order. Now, they allow the companies to decide
22 their plans and they may choose to design a plan that does
23 that, but the Commission has never required a certain plan
24 be put in place that they aren't going to be allowed to
25 recover either through the savings the plan generates or

1 through some differential going into rates or in a
2 regulatory asset for recovery.

3 Q. Can you give me any examples of where a
4 company has come up with a program as we're talking where
5 the Company says, This is our program. We just need
6 approval, but the money will pay for itself and that goes
7 forward?

8 A. Well, I don't remember a preapproved
9 incentive plan but there have been incentive plans put in
10 place --

11 Q. Can you point me to those?

12 A. -- that have been reviewed after. I
13 remember Southwestern Bell had several plans. There were
14 what I call incentive plans was global in the sense that if
15 the Company earned so much that they could keep it. Then as
16 they earned more, there was a sharing plan that would 50
17 percent of the earnings this range would go to customers as
18 refunds and then staggered until there was a point in time
19 when all of the benefits would go to customers. They are
20 all acronyms. I don't remember them now. But they were all
21 acronyms that the Commission would order. But in those
22 cases the Company had to accept it. It wasn't you're going
23 to do it no matter what. They would put it in as an
24 alternative to a rate decision and the Company would say,
25 yeah we'll take it or no, we won't.

1 Q. Okay.

2 JUDGE HATCHER: Thank you. That was all the
3 questions I had, but that does cause us to have recross.
4 We'll start with Ms. McKernan.

5 RECROSS EXAMINATION BY MS. MCKERNAN:

6 Q. Staff just has one question. Were the
7 incentive plans from Southwestern Bell a part of employee
8 compensation?

9 A. I don't recall whether the plan -- there was
10 one with Union Electric as well. I don't remember if the
11 Company put in place employee incentive plans to support the
12 global incentive plans.

13 MS. MCKERNAN: Nothing further.

14 JUDGE HATCHER: Thank you. From Spire?

15 MS. CALLENBACH: Nothing further. Thank
16 you.

17 JUDGE HATCHER: And redirect.

18 REDIRECT EXAMINATION BY MR. CLIZER:

19 Q. Good afternoon, Mr. Schallenberg. Let's
20 start with the question from the judge about whether or not
21 the Commission has ever approved for plans that don't seek
22 recovery. To your knowledge, does a utility need to seek
23 approval for an incentive plan if they are not asking for
24 recovery?

25 A. Normally it would be no, unless it is a

1 waiver of some rule, it involves a waiver of some rule that
2 the incentive plans operation would need to achieve to be
3 able to be implemented.

4 Q. So utilities could already have these kind
5 of plans in place? They just would not have come to the
6 Commission for approval?

7 A. Yes, there are more that are done as just a
8 company-initiated plan.

9 Q. You were asked a question about whether the
10 Commission has ever directed a company to undergo costs
11 without recovery. Are there other situations that are
12 similar to the incentive plan situation where the Commission
13 has said positive regulatory lag is going to cover your
14 costs, you don't need it in rates?

15 A. I remember cases where an employee
16 determination plans and the severance packages they did make
17 that decision. I don't remember the application of that,
18 but that same principle to an employee incentive plan. But
19 there could be. I can't say I know all of the cases.

20 Q. But the Commission has for severance, for
21 example, adopted the exact logic you are implying here?

22 A. Certainly.

23 Q. And to your knowledge, is that not also the
24 same position Staff has taken with regard to severance?

25 A. Yes, except we've got a broader objection

1 than just the one for the severance plans.

2 Q. But the same logic still applies?

3 A. It does.

4 Q. I think you were asked by the judge kind of
5 the understanding of your issue. Is it correct -- well, can
6 you briefly explain, just make sure it is clear, what your
7 opposition is to their recovering incentive plans?

8 A. Well, the first one would be it's because
9 the cost implementation is put into rates before the related
10 -- without related benefits. So that in essence causes a
11 double recovery, something that the net to the Company is
12 going to be its cost less its benefits. So just by doing it
13 piecemeal you cause an over collection. You get it twice.

14 There is another one, is these incentive
15 plans usually have what I call a trigger that the whole
16 plan, whether you get payments or not, is based on an
17 earnings target -- or income target for the enterprise. And
18 that part, if it is not met, none of the futures will be
19 paid. It shuts down the plan. And because of the variation
20 that occurs from year-to-year the percentages of the payout
21 will vary. And there is no provision to pick up whether the
22 amount drops or increases. Excuse me. So that's the known
23 and measurable piece. If you don't hit the earnings target
24 the whole plan is shut down. Depending on the variability
25 of what the achievement level is, the amount of the payout

1 will vary. And the last piece is because the fact that it's
2 a year-to-year deal it could be terminated at any year.

3 Q. You were asked a series of cross questions
4 by the Company about customer benefits. You know, whether
5 or not customers would see a benefit from these plans.
6 Would you agree -- well, if the plans increase revenue or
7 decrease expenses the Company is always going to see a
8 benefit regardless of whether or not the customers benefit.
9 Right?

10 A. Yes.

11 Q. In fact, it is your position that the
12 Company's benefit will be greater than the cost of the plan
13 itself. Right?

14 A. It should be, by design.

15 Q. So these plans will be paid for by the
16 implementation of the plan itself?

17 A. Yes.

18 Q. So is it fair to ask customers to foot the
19 bill for something that the Company has already got paid
20 for?

21 A. I would say yes, I would define it being
22 fair would mean there's no double recovering.

23 Q. So it's fair if there's no double recovery?

24 A. Right.

25 Q. And you consider it is double recovery if

1 you include the plans in rates. Correct?

2 A. Yes, or if you include the plans in rates
3 less the related benefits.

4 Q. And you were asked a question by the Company
5 regarding incentive comp and whether or not it would involve
6 unions. The OPC's position is not to disallow the incentive
7 plans. Correct?

8 A. Yes.

9 Q. We are only asking for disallowance of the
10 cost recovery. Correct?

11 A. Yes.

12 Q. So the Company can still put in place. It
13 can still benefit the unions. Correct?

14 A. Yes. In the sense that it will make its
15 union payments that is committed to by contract.

16 Q. And the Company will receive the benefits of
17 these plans and have every reason to put them in place
18 regardless of whether or not their costs are included in
19 rates. Right?

20 A. That's assuming they design a prudent
21 performance plan.

22 MR. CLIZER: Thank you. No further
23 redirect.

24 JUDGE HATCHER: Thank you, Mr. Clizer.
25 Thank you, Mr. Schallenberg.

1 Mr. Schallenberg, you are excused from our witness stand.

2 I would like to give a five-minute warning
3 for everyone. It appears that our hearing today will be
4 concluded in the next five minutes. Just to give everyone a
5 head's up.

6 Does anyone, looking at counsel in the room,
7 does any counsel have on their schedule another witness
8 under this issue for today? Okay. My question is on
9 Witness Meyer of Vicinity and MIEC?

10 MR. CLIZER: Yes, they did withdraw their
11 witness in a later filing of this updated witness schedule.

12 JUDGE HATCHER: Thank you. Problem solved.
13 Let's talk about announcements for tomorrow. 9:00 a.m.
14 tomorrow is when we begin. Tomorrow's issues, I'm just
15 going to look for any nos; residential rate design, that's
16 Issue 51; NOL carryforward, Issue 16; and gross receipts
17 tax, Issue 18. Tomorrow is going to be the exciting day.

18 That said, I'm trying a blank. Are there
19 any other announcements we need to make? Okay. We are
20 adjourned for the day and off the record. I will see you
21 all tomorrow at 9:00 a.m.

22 (OFF THE RECORD.)
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CERTIFICATE OF REPORTER

I, Lisa M. Banks, CCR within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing hearing was duly sworn; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



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